

Thinking about Race Differently: Reflections on the 2013 Martin Luther King Jr. Commemoration

By Megan Davis ('14)

On January 21, DePaul College of Law hosted the 15th annual Dr. Martin Luther King Jr. Commemoration and Luncheon. Students, faculty and community members attended the event, which featured distinguished critical race theorist and UCLA Law Professor Cheryl Harris as the keynote speaker. This year's theme, "Theorizing Racial Justice: Reflections on *'Whiteness as Property,'* 1993-2013," was a tribute to the 20th anniversary of the publication of Professor Harris's prominent article on race and property.

The College of Law Diversity Committee, under the leadership of Professor Sumi Cho, coordinated the event. Professor Cho, who teaches employment discrimination and critical race theory at DePaul, viewed the Commemoration as "a unique opportunity for students, staff, faculty and community members in the DePaul law community to come together on equal terms and to engage in 'race talk' and to consider how race and law are mutually constituted in this society."

Though the Diversity Committee consists of DePaul faculty, staff and students, Professor Cho notes that student activism has contributed to the success of the MLK Commemoration. "It was a first-year Black Law Student Association member on the Diversity Committee that suggested the cessation of classes," during the MLK celebration, which allows students to attend the event.

In addition to attending the commemorating symposium, students are also encouraged to participate in a scholarship essay that connects Dr. King's work to contemporary civil rights issues. The prompt for this year's essay incorporated themes from Cheryl Harris's *'Whiteness as Property'* article, and the winner of the 2013 Dr. Martin Luther King Jr. Essay-Leadership Award was Tori Nicholson ('15), a former music teacher at Chicago Public Schools.

The commemoration began with a documentary screening of *"Race—The Power of an Illusion: The House We Live In."* Following the film, Dean Gregory Mark gave introductory remarks to a crowded room before Professor Harris delivered her address. Professor Harris, whose 1993 Harvard Law Review article *Whiteness as Property* is among the most influential within critical race academics, discussed her theory that rights in property are "contingent on and entwined with conceptions of race." She described how the Supreme Court decision of *Plessy v. Ferguson*, which upheld racial segregation in public areas, inspired her to explore the relationship between race and property.

Professor Harris framed the legal idea of property as rooted in capitalism: the right of ownership entails the right to control, which thus entails the right to exclude others from ownership. From a racial perspective, she



Professor Cheryl Harris delivers keynote address on "Whiteness as Property"

noted how whites have historically enjoyed the inherent privileges of 'being white' as a form of personal property, and that whites have successfully been able to exclude nonwhites from enjoying the same benefits that a white identity provides.

Professor Harris concluded her remarks by challenging the notion that we have progressed to a 'post-racial' society where race no longer matters. "To say that race is no more important than eye color or height is to deny the historical significance of race," she declared. For Professor Harris, post-racialism does not mean that we ignore race, but rather think about race differently—a task society has yet to accomplish in view of the persistent injustices that minority groups suffer.

Following a buffet lunch, the program resumed with a performance by Alexis Rogers-Jackson and Kelvin Roston Jr. of the Congo Square Theatre Company, and was followed by afternoon panel moderated by Professor Cho. Four guest professors served as the afternoon panelists: Kimberly Tallbear, UC Berkeley College of Natural Resources; David Stovall, University of Illinois at Chicago College of Education; Nancy Leong, University of Denver Sturm College of Law; and Devon Carbado, UCLA School of Law.

Professor Tallbear described how scientists often exploit indigenous groups for social research, a disturbing practice that has raised legal and ethical concerns. Professor Stovall passionately advocated for community organizing as a tool for demanding racial equality in Chicago public schools and housing. Professor Leong addressed the present constitutional concerns regarding affirmative action in *Fisher v. Texas*, which is currently before the Supreme Court. Finally, Professor Carbado discussed the process of "racial accumulation," which describes the transference of racial stigma across generations of nonwhite families.

ALUMNI PROFILE: Karyn Bass Ehler

By Renee Gross ('13)

Photo Courtesy of Hughes, Socol, Piers, Resnick, & Dym, Ltd.



Karyn Bass Ehler ('05) was honored with DePaul College of Law's 2013 Outstanding Young Alumna Award for her litigation achievements in the areas of civil rights and constitutional law. After graduating, Bass Ehler started her career clerking for Judge William Bauer in the 7th Circuit Court of Appeals, and Judge Matthew Kennelly in the Northern District of

Illinois. In 2007, she joined the Chicago law firm, Hughes Socol Piers Resnick & Dym Ltd.

What advice did you learn in law school that has helped you in your career?

One lesson I learned at DePaul was how to be a good member of the bar. A professor told us during first year:

"Look to your left. That person is going to be your opposing counsel someday, so be nice to them because you might need an extension on discovery one day. Look to your right. That person is going to be your judge. You want her to think you're ethical and an upstanding person."

It was refreshing to hear those words at the outset of my legal education; he illustrated that high ethical standards are key to being an effective advocate for clients and reaching resolutions favorable to them.

You were one of four students that helped start the public interest law certificate program at DePaul, and eventually the Center for Public Interest Law. What advice would you give to students who want to address a need in their legal program?

If you see a situation where there is a problem, approach it with a solution. There is no harm asking for additional programs or changes to existing ones. The worst thing that someone can say is "no," but someone could also say "yes," or "maybe," or "let's talk more about that." The worst thing to do is complain and then do nothing about the issue.

At DePaul, we had all of these fantastic course offerings, but graduating law students were facing a difficult job landscape given the struggling economy. We knew that we didn't have the same competitive edge as top tier schools, but we did have tremendous programs in public interest. We thought, why not put all those assets under one umbrella and create a public interest law certificate? In the process of creating the certificate, we brought together a community of folks to support each other. We looked for solutions that made sense given the existing framework and it didn't require a huge financial investment to start the program.

Did your professional work experience, prior to law school, inform your decision to pursue a career in public interest law?

Yes, before law school I worked in politics for about a year and half, mostly on political campaigns. I worked as a press secretary and director of communications. I also did a variety of political consulting jobs nationwide. After that, I worked as a project assistant for H. Candace Gorman, the principal at a civil rights firm in Chicago, to give myself a glimpse at what it was like to work in civil rights law. I decided to go to law school because law provided greater depth to my advocacy work - in a way that I couldn't reach (by working) in politics. I chose DePaul, in part, because it offered so much in the way of public interest work. I wanted to eventually practice in Chicago and among many of the benefits of a DePaul education is the connection to the city's legal community.

How did you decide to pursue a career working in public interest litigation with a private firm?

Part of why I chose to go to my firm, instead of the traditional public interest route of nonprofit work, was a result of nonprofits' inability to hire law students en masse. There are only a handful of firms where you can do impact litigation on public interest topics. The sort of firm I'm at is a rare find and I sought them out because they practice civil rights law. I wanted a combination of public interest work, civil rights litigation and commercial litigation. Day in and day out, I get to shape legal strategy, conduct legal research and write briefs—all processes that are exciting to me no matter the subject matter. I am so happy to get paid to do this type of work and focus on constitutional law and civil rights, especially because many firms only have this as a piece of their pro bono practice.

DePaul University recently awarded you the 2013 Outstanding Young Alumna Award. Since graduating, you've worked on a wide array of civil rights and constitutional law cases. What do you suggest to students interested in breaking into these areas of law?

Try to take as many litigation opportunities as you can—whether it is working in a legal clinic, externing for a judge or working for a firm or government agency—because at the end of the day, civil rights litigation is just like any other form of litigation. Litigation skills are universal, so you can take jobs that are hybrids between private and public work if it means challenging work assignments. Employers just want to see great work, so if you're able to dig in during law school and get experience doing complex litigation or challenging legal work, then you're setting yourself on a path for a great career.

Trans Realities Study Launches in the Civil Rights Clinic

By **Maria Pahl** ('13)

DePaul clinical adjunct professors Joey Mogul and Owen Daniel-McCarter saw a vast need for documenting the injustices transgender and gender nonconforming people face in their experiences with the Chicago Police Department and within the Cook County Jail. To address this need, Mogul, an attorney with the People's Law Office and Director of the Civil Rights Clinic, and Daniel-McCarter, collective member and staff attorney with the Transformative Justice Law Project of Illinois, designed the Trans Realities project.

Mogul said, "It is crucial we hear directly from transgender and gender non-conforming people about how they have been treated within these systems. Their experiences and recommendations need to be taken into account when advocating for transgender and gender non-conforming people."

The Trans Realities project will survey 30 transgender or gender non-conforming individuals who have experience with the Chicago criminal system in order to learn more about the treatment of transgender and gender non-conforming individuals by the Chicago Police Department and Cook County Jail. The study provides opportunities for DePaul Civil Rights Clinical students to conduct participant interviews and assist in compiling the collected data.

Reports of police misconduct against transgender men and women are well known among transgender individuals and advocates. In a 2011 survey published by the National Gay and Lesbian Task Force and the National Center for Transgender Equality, 22 percent of transgender respondents who interacted with police reported being harassed. Transgender respondents of color reported substantially higher rates of police harassment at 29 to 38 percent. Currently, there is no data that specifically addresses the experiences of transgender and gender non-conforming individuals with the Chicago Police or Cook County Jail. One of the goals of Trans Realities is to begin to fill this gap.

Trans Realities' confidential survey process will recruit volunteer participants from across Chicago to share their experiences with clinic students. The survey questions are geared toward understanding issues surrounding arrests, searches and detainment of transgender and gender non-

conforming individuals. During interviews, respondents will be asked to describe their placement when taken into custody, their access to medical treatment, and whether they experienced physical or sexual violence at the hands of officers, staff or other inmates.

"Transgender and gender nonconforming people confront distinct, unique and, in many cases, troubling encounters when arrested and incarcerated that others do not face," said Mogul. Some transgender individuals have reported officers profiling them as sex workers on the basis of their gender identity. Others have reported abusive and harassing strip searches. Additional issues include the protection of transgender individuals within lock-up and access to gender-affirming medical treatment while incarcerated.

Community members and advocates across the country have voiced concerns about the heightened mistreatment of transgender individuals in criminal systems. Daniel-McCarter said, "[I] hope that Trans Realities will be used to push the Chicago Police Department to do trainings, potentially leading to city council enacting policy change." In response to studies nationwide, a few police departments and jails have enacted policies on the treatment of transgender and gender non-conforming individuals.

In 2011 the Cook County Sheriff's Department enacted an administrative directive, and in 2012 the Chicago Police Department enacted a general order on the treatment of transgender arrestees. "One of the potential flaws we saw in the process to get the general order passed is that trans people were not directly involved in drafting the order," said Daniel-McCarter. "We want to facilitate the stories of trans people being told in order to impact administrative rules like the general order that was passed."

Trans Realities will analyze and disseminate the data collected by attorneys and clinic students over the course of the study. The final report may offer recommendations for best practices to protect transgender and gender non-conforming populations in Chicago from violence, abuse and harassment in the context of their arrest and detainment.

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Martin Luther King Jr. Commemoration

The theme of racial justice resonated with DePaul students who attended the event. "I cannot think of a better way to celebrate the legacy of Dr. King," said Catherine Ryan ('15). "Cheryl Harris, along with the guest panelists, provided amazing insight into the diverse issues surrounding the quest for racial equality in our country."

The Diversity Committee received outstanding feedback from this year's commemoration. Planning has already begun for the 2014 program, which will mark the 50th anniversary of the Civil Rights Act.

The College of Law Auction Builds Community and Supports Students

By Robin Wagner ('14)

The student auction team raised \$28,000 this year, which an anonymous donor matched for a total of \$56,000 for summer public interest stipends! More than 350 students, alumni, faculty and staff attended.

Professor Wayne Lewis served as emcee, along with professional auctioneer Steve Lacy, bringing in record amounts for dinner with Professor Zoe Robinson, movie night with Professor Lewis, and a night at the horse races with Professor Len Cavise.

Restaurants Pazzo's, Abou Andre, Dunton House Restaurant and Cafecito Chicago donated delicious food for the event.

This year's event featured an art auction, "power lunch" auction for one-on-one time with leaders in the legal community, as well as a silent and live auction.



LSRJ Brings Reproductive Rights to the Forefront

By Anna Szymczak ('14)

The same week in late January that marked the 40th anniversary of the landmark and controversial ruling of *Roe v. Wade*, the DePaul chapter of Law Students for Reproductive Justice (LSRJ) was proud to host the organization's Midwest Regional Conference. The all-day event brought to the forefront the issues and challenges specific to women in the region. Attendees heard from attorneys, policymakers, doctors, ministers, advocacy groups, researchers, social media experts and the College of Law's own LSRJ faculty advisor, Professor Deborah Tuerkheimer.



Executive board from left to right: Katie Filous ('15), Megan Davis ('14), Sarah Hunter ('14), Anna Szymczak ('14), Catherine Ryan ('14), and Lauren Dreifuss ('14).

Organizations represented by these panelists included: the Illinois ACLU, NARAL, the Family Defense Center, Chicago Legal Advocacy for Incarcerated Mothers (CLAIM), the Young Women's Empowerment Project, Illinois Caucus for Adolescent Health, Seminarists for Reproductive Justice, and Catholics for Choice. Attendees ranged from interested citizens to nursing students to LSRJ members from nearly 10 colleges and universities throughout the region.

The conference opened by exploring the legal and medical issues surrounding reproductive justice. This conversation focused on the necessity of limiting exemptions to laws protecting the constitutional rights of religiously diverse employees. Leah Bartelt, staff counsel at the ACLU, summarized the legislation enacted in 2011 and 2012 that restricts access to abortion and comprehensive sexual health education. Benita Ulisano, founder of the Illinois Choice Action Team Clinic Escort Program, revealed how anti-choice terrorism, including harassment, assault, clinic bombings and murders, has led to more than 13,000 arrests in the past 30 years.

Professor Tuerkheimer examined the tensions arising when criminal law intersects with pregnancy, such as the prosecution of women for prenatal abuse, and of battered women for failure to protect their children. Tuerkheimer identified and linked the widespread problems in criminal law's response to violence against women—problems that begin during pregnancy and continue throughout motherhood.

Perhaps the most harrowing portion of the conference was hearing from Ladonna Hopkins, member of Phi Theta Kappa honor society and CLAIM's Visible Voices empowerment group. Hopkins, a former female prisoner, shared her tragic experience of being shackled before, during and after childbirth. She described the chaining of her ankles, wrists and pregnant belly, the struggle to walk, and the physical and emotional pain of giving birth while bound to a hospital bed. Hopkins reflected, "They treated me like a wild animal. I was convicted of shoplifting, not a violent crime. I have no record of violent activity." Lightheartedly, Hopkins continued, "Realistically, what did they think I was going to do? I was giving birth to my child; it's not like I could just get up and run away!"

While buzzword politics surrounding reproductive rights may present the issues otherwise, reproductive justice reaches far beyond abortion and birth control. "I have always seen LSRJ as more than simply supporting reproductive rights, women's rights or even family rights," stated Margaret Kuzma ('12), staff attorney at the Legal Assistance Foundation. "Rather, LSRJ supports and protects basic human rights."

The conference helped expose attendees to the interdisciplinary approach that LSRJ utilizes to better understand the wide-ranging impact that reproductive choices have on our society as a whole. Conference organizers were pleased with the turn out at the event, and thought it was a huge success.

To get involved with LSRJ at DePaul, email lsrj.depaul@gmail.com or visit the office located in Lewis room 217. Join the LSRJ mailing list to receive updates on speaker events and volunteer opportunities.

Death Penalty Clinic Success

By Sami Silverstein ('13)

Stephen McDaniel faced the death penalty in Georgia for the alleged murder of fellow Mercer law student Lauren Giddings in June 2011, a mere three months after Illinois abolished the death penalty. The closeness in proximity of events inspired the DePaul Death Penalty Clinic to challenge the death penalty outside of Illinois.

On February 21, 2013, six months after the clinic took McDaniel's case, Georgia's Bibb County District Attorney announced he would no longer seek the death penalty for McDaniel if convicted.

The Lauren Giddings case attracted media attention when her dismembered torso was found in black trash bags dumped inside a trashcan next to her Macon, Ga., apartment. Giddings had been missing for five days. McDaniel and Giddings were neighbors and recent graduates of Mercer University's Walter F. George School of Law and studying for their upcoming bar exams.

"Working on such an intense case with a ton of possible motions, and so much at stake really put on the pressure to produce your best work, but there is such a great reward for the hard work and diligence," said clinic student Kelly Parry ('13). "There is a lot of satisfaction in knowing the work we did together—all the motions, the research, reading file after file—cumulated in death being off the table."

The clinic began working on McDaniel's behalf during the fall 2012 semester. Students sifted through thousands of pages of discovery to develop an investigation and mitigation plan, and authored numerous pretrial motions.

Many of the motions written by the death penalty clinic were included in the stack of 31 motions that lead defense attorney Franklin J. Hogue filed on December 14, 2012. The motions challenged the legality of police procedures, the relevancy of evidence, and the constitutionality of the death penalty. Hogue also filed a memo with the motion to the court acknowledging the work that clinic students had completed on McDaniel's behalf.

"Writing the motions was a totally different type of experience than anything I had done for class before because there is a whole new level of pressure and intensity involved when you realize that your motions are going to be filed in a real court, read by a real judge, and contested by a real prosecutor," said Parry. "It was powerful to realize my arguments could lead to the exclusion of pieces of evidence and ultimately have a huge impact on the case."

McDaniel's case has been eye opening for many students who have only had the chance to debate the death penalty within the walls of DePaul classrooms, and highlights the importance of the clinical experience.

"Working on McDaniel's case has really shown me the difference between learning theory in class and working in the real world," said Alexandra Hochhauser ('13), a third-year clinic student. "This case in particular has highlighted the arbitrariness of the death penalty and how one person and one case is completely overshadowed by the punishment and not the facts or the charge."



By Cindy Bedrosian ('14)

On January 31, the Center for Public Interest Law partnered with the International Human Rights Institute, International Law Society, and Society for Asylum and Immigration Law to screen "Beneath the Blindfold," a documentary locally produced by Kathy Berger and Ines Sommer. "Beneath the Blindfold" follows the stories of four torture survivors living in the United States and coping with the after-effects of trauma.

Filmmakers Berger and Sommer sought to facilitate a national conversation on torture by spotlighting survivors' personal stories, insights and daily struggles to move forward. With media constantly promoting torture as a viable method to obtain information, "Beneath the Blindfold" promotes a much-welcomed discussion on the human rights abuses surrounding torture.

Students gathered to watch the documentary and begin a conversation on the ethics of torture. One survivor's story was particularly shocking: a U.S.

Navy veteran was working as a private security contractor in Iraq and contacted the FBI after he noticed suspicious transactions of money and weapons. As a result of acting as a whistleblower, he was subsequently detained, denied access to a lawyer, and tortured in Iraq.

Shaye Loughlin, executive director of the Center for Public Interest Law, was glad to screen the documentary: "Law students often discuss legal issues related to torture, but the documentary gave students the opportunity to hear about the human side of torture through the stories of survivors. The event was a great collaboration between centers and students organizations all dedicated to supporting human rights."

For additional information on the documentary, or to find a screening near you, visit beneaththeblindfold.com.

The Necessity of Service

By **Beckee Birger** ('13) and **Sam Keen** ('14)

Recently, the New York Bar Association announced a new initiative implementing a prerequisite that bar admission applicants complete 50 pro bono hours in order to gain admission to the bar. As proponents of the new rule are quick to point out, the definition of “pro bono” is quite generous, and includes time spent working in a clinic, externship, judicial or government internship, or volunteering for any nonprofit.

The policy behind such a requirement is clear: lawyers are called to a higher standard. It is time we started acting like it, if for no other reason than our own professional sustainability. Of course, the new requirement has been met with backlash. The arguments against the requirement, predictable as they may be, require our attention.

The new requirement has been likened by some to indentured servitude. Such a statement certainly has some rhetorical force, but why is this additional requirement any different than, say, the predetermined curriculum of a first-year student or the requirement that all students take a class on ethics? Just as a basic understanding of the rules of our legal system (as measured by the bar exam) is required for admission to the bar, there should also be an understanding that pro bono work is a core value of our chosen profession. This requirement is not meant to punish students, but to make students better lawyers.

Pro bono service connects students to opportunities to apply practical skills in real situations, such as client interviewing and document drafting. This work is important to the practice of law, but many law schools completely neglect the need for students to garner real skills prior to entering the field. A pro bono requirement mends this gap in legal education.

This requirement also helps instill in us the importance of service as a core ethical principal of the legal profession from the beginning of our careers. As New York’s Chief Judge Jonathan Lippman, a main proponent of the new requirement, puts it, “If pro bono is a core value of our profession, and it is — and if we aspire for all practicing attorneys to devote a meaningful portion of their time to public service, and they should—these ideals ought to be instilled from the start ...”

As our legal system becomes less accessible, as popular portrayals of our pay-to-play legal system move further outside the realm of cynicism and further into the realm of reality, our profession must do more to preserve the aura of legitimacy that allows our legal system to work. This means law schools must graduate aspiring lawyers with the core value that the law is here to work for everybody, not just the super wealthy. Lawyers should be willing to work for everybody, not just those who can afford it.



Dean Erwin Chemerinsky, founding dean and distinguished professor of law at the University of California Irvine School of Law, is also a proponent of requiring both law students and faculty to complete a small number of pro bono

hours each year. He recently spoke on the subject at DePaul, saying, “Lawyers have a moral duty to provide services to those who can’t afford them.” There are practical arguments for such a standpoint. Lawyers have a monopoly on legal services; thus, lawyers should aid those who cannot afford legal services.

Our law school should not stray from the reasoning offered by people like Judge Lippman and Dean Chemerinsky. In fact, it could benefit greatly by adopting the type of requirement recently announced by the New York State Court of Appeals. DePaul is in a unique position to distinguish itself from other Chicago-area law schools by making public service a core value that is instilled in all of its graduates. St. Vincent de Paul believed that it was the duty of more privileged people to serve the poor and needy. Our law school should not miss an opportunity to further this mission and should adopt policies that will put us on the leading edge of public interest work in Illinois.

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UPCOMING EVENT April 17, 2013

The Journal for Social Justice and the Center for Public Interest Law host their annual symposium on April 17, 2013. The symposium, "Take Shelter: Keep Shelter," will highlight the difficulties underrepresented populations face when acquiring and maintaining housing in Chicago. Free coffee and lunch will be provided and up to 4 hours of free CLE credit will be available. Registration starts at 9:30 at 1 E. Jackson Blvd., Room 8005. RSVP to sloughli@depaul.edu.

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