
HARVARD LAW REVIEW

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IN MEMORIAM: PROFESSOR LANI GUINIER

The editors of the *Harvard Law Review* respectfully dedicate this issue to Professor Lani Guinier.

*Sherrilyn Ifill**

I first met Lani Guinier in the summer of 1988. She was distracted. It was understandable. She was just weeks away from her departure from the NAACP Legal Defense and Educational Fund, Inc. (LDF), and on her way to begin her academic career at the University of Pennsylvania Law School. I was ushered into her office — the first office directly on the right as you entered LDF’s lower Manhattan offices at 99 Hudson Street.

I had come in response to a call. LDF was looking for someone to fill a one-year fellowship in their Voting Rights Project. The two lawyers who had anchored their voting rights work were both departing LDF — the Director of the Project Lani Guinier, and Pamela Karlan, the brilliant and irreverent litigator who was leaving LDF to teach at the University of Virginia School of Law. LDF was looking for a placeholder. A fellow who, with the continued consultation of Guinier and Karlan, could keep the work of the project going until they could hire a new permanent voting rights attorney. If I wanted the job, I was told I had to come over right away. I was finishing up a fellowship at the national office of the American Civil Liberties Union, and I wanted the job.

And so I arrived, wearing a striped drop-waist summer dress. I was hot and sweaty from the subway, which I’d taken from Times Square down to Tribeca. I had a resume in a folder but otherwise no papers. I had little time to even familiarize myself with the bio of the person who would interview me. Just a little over a year out of law school, I was surely in over my head.

* Former President and Director-Counsel, NAACP Legal Defense and Educational Fund.

As Lani was interviewing me, she was looking for things in desk drawers. That she was moving was obvious from the boxes in the offices, and that she had other things on her mind was clear as well. She was starting a new job, and I knew that she had a young child (now Harvard Law Professor Niko Bowie). I remember little about our interview except that I was self-conscious in my nonprofessional attire, and that she was mature and pleasant, but not effusive. She was (as I later learned she always was) clear and direct. She seemed relieved that I was there, and not a total idiot. Most of all, I remember that she deemed me competent enough to be kicked upstairs for an interview with Julius Chambers, the then-Director-Counsel of LDF, a week later.

I got the job, and ended up remaining as LDF's lead voting rights attorney for five years. For the first eighteen months, I worked intensely with Lani, as she continued to act as a consultant. She taught me how to write sound, persuasive briefs (crushing), pressure-tested my theories on cases I wished to file (humbling), and opened me up to the world of voter suppression in the South and the tools we had to fight it. Even more powerfully, Lani opened me up to the possibilities of being both litigator and theorist, of centering the stories and accounts of discrimination faced by our clients not just in the paragraphs of a complaint or pages of a brief, but even in how we talked about what was at stake in our cases. She modeled for me how critical it was to get to the meat of the thing. Not just to present a cognizable claim that would meet the standards for challenges to vote dilution under the Voting Rights Act. But how to try and infuse into your litigation strategy what the clients *really* wanted. They didn't just want majority-Black electoral districts. Or to just be able to elect Black officials. The struggle for voting rights, Lani helped me see, was a struggle of Black people in the South to give meaning to their lives as full and first-class citizens, and to be empowered to change the material conditions of their lives. The stakes were higher than winning or losing a case.

You could understand what your clients wanted only by talking with them. By listening closely. And by respecting that they were the experts about how power worked in the states, towns, and communities where they lived. Their experiences of racism and disenfranchisement gave them an expertise to which we had to defer. We knew the law. But they knew their lives. Traveling through the South, as LDF lawyers did and still do, compelled us to reckon with the lived experiences of our clients. It was Lani who taught me how to give voice to their truths in our litigation.

At the same time that Lani was reviewing my draft complaints and briefs, she was making her mark as a brilliant and consequential scholar, writing some of the most important and influential academic articles about voting rights. With the trilogy of articles she published between 1989 and 1992, Guinier announced her entry into the scholarly world with a unique, fearless, and powerful voice. *Keeping the Faith: Black*

*Voters in the Post-Reagan Era*¹ published in the *Harvard Civil Rights–Civil Liberties Law Review*; *The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Electoral Success*² in the *Michigan Law Review*; and *No Two Seats: The Elusive Quest for Political Equality*³ in the *Virginia Law Review* were earth-shattering for me. They were my first introduction to a certain kind of legal scholarship, written by a Black woman, grounded in civil rights history and litigation, richly footnoted, and drawing on a wide range of sources from little-known cases,⁴ to legal philosophers,⁵ to grassroots activists,⁶ to the television show *Star Search*.⁷ Although she went on to write many other, more influential articles and books, it was those three initial law review articles, published by Guinier as she transitioned from her life as a full-time civil rights lawyer, that forever shaped and grounded my understanding of what it meant to fuse the work of scholarship, litigation, and activism into an identity and voice as a law professor and public intellectual.

I still have my personally inscribed and well-worn reprints of these important articles. Their publication during those years shaped me as civil rights lawyer. They set a standard for how I wanted to be as a litigator, teacher, and scholar. I wanted to dig deep, as Lani did. I wanted to fully realize the ambitions and aspirations of my clients. There is no doubt that I would not have decided to enter the academy myself, had I not had the example of Lani to show me that I could litigate, theorize, write, and teach. In fact, through Lani, it became clear to me that I could further realize the ambitions of my clients by exploring in my scholarship that which I could not say in the courtroom, but which often more powerfully and accurately addressed the demands and conditions of those I was privileged to represent.

¹ Lani Guinier, Commentary, *Keeping the Faith: Black Voters in the Post-Reagan Era*, 24 HARV. C.R.-C.L. L. REV. 393 (1989).

² Lani Guinier, *The Triumph of Tokenism: The Voting Rights Act and the Theory of Black Electoral Success*, 89 MICH. L. REV. 1077 (1991).

³ Lani Guinier, *No Two Seats: The Elusive Quest for Political Equality*, 77 VA. L. REV. 1413 (1991).

⁴ See, e.g., *id.* at 1486 n.258 (citing *Parker v. Hoefler*, 100 A.2d 434, 447–48 (Vt. 1953)); Guinier, *supra* note 1, at 420 (discussing *Miss. State Chapter, Operation Push v. Allain*, 674 F. Supp. 1245, 1254–55 (N.D. Miss. 1987)).

⁵ See, e.g., Guinier, *supra* note 3, at 1415 n.2 (citing RONALD DWORKIN, *LAW'S EMPIRE* 177–78 (1986); MAX WEBER, *ECONOMY AND SOCIETY* 31–38 (Guenther Roth & Claus Wittich eds., Ephraim Fischhoff et al. trans., Bedminster Press 1968) (1922); Jeremy Waldron, *Rights and Majorities: Rousseau Revisited*, in *MAJORITIES AND MINORITIES: NOMOS XXXII* 44, 45 (John W. Chapman & Alan Wertheimer eds., 1990)).

⁶ See, e.g., Guinier, *supra* note 2, at 1087–88 (quoting JUAN WILLIAMS, *EYES ON THE PRIZE: AMERICA'S CIVIL RIGHTS YEARS, 1954–1965*, at 244 (1987) (statement of Fannie Lou Hamer); HOWELL RAINES, *MY SOUL IS RESTED: MOVEMENT DAYS IN THE DEEP SOUTH REMEMBERED* 249 (1977) (statement of Fannie Lou Hamer)).

⁷ *Id.* at 1079 n.4 (citing *Star Search* (Television Program Enterprises 1991)).

When I returned to LDF as Director-Counsel some twenty years later, Lani was one of the people who was, for me, a touchstone. If she thought I was doing a good job, I would know that I was fulfilling the demands of the enormous mantle placed upon me. Her approval, which she offered generously, meant everything to me. Her offer, after President Donald Trump was elected and announced his first cabinet picks, to just sit in the Senate Judiciary Committee hearing room with me during the Attorney General confirmation hearings for Jeff Sessions, with whom she had tangled some thirty years prior in Alabama (an episode she chronicles powerfully in her book *Lift Every Voice*⁸), had us both giggling with gallows humor on the phone. But she knew what was at stake and wanted to help in any way she could.

Lani Guinier set a standard that I tried to emulate and pass on to the thousands of students I had the privilege of teaching, and that I reinforced during my decade of leadership at LDF. Civil rights lawyer, advocate, scholar, teacher, mentor, leader. Lani Guinier's influence and pathbreaking contributions to our profession set a standard that continues to resonate across generations.

John F. Manning & Martha Minow***

Professor Lani Guinier was a giant — a historic figure in American law, in American legal education, and in the life of Harvard Law School. Her scholarship changed our understanding of democracy and what it takes to have a meaningful right to vote. Lani devoted her life to justice, equality, empowerment, and democracy and made the world better as a result. Her voice, her wisdom, her integrity, her bravery, her caring for others, her imagination and rigorous thinking, and her unerring sense of justice will inspire those who knew her and those who come to know of her life and legacy in the years to come. Reflecting as her colleagues and friends, we also write as a former and current dean, ever grateful to Lani for her distinctive and enduring significance as an invaluable teacher, colleague, and community builder.

⁸ LANI GUINIER, *LIFT EVERY VOICE: TURNING A CIVIL RIGHTS SETBACK INTO A NEW VISION FOR SOCIAL JUSTICE* 183–219 (1998).

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The author or coauthor of six books and dozens of articles,⁹ Lani Guinier's work — often imagined and written in collaboration with others — reshaped the way we think about democracy, education, and the possibilities of constructing legal and institutional rules and practices to maximize human and social flourishing. Creative and also grounded in evidence, she took nothing for granted and was prepared to question everything. In one of her most influential books, Lani challenged us to consider the very definition of merit, insisting that definitions grounded in “individual competition above all else”¹⁰ should give way to an understanding rooted in “good service, such as working for the benefit of community rather than simply for personal advantage.”¹¹ In her path-breaking work on the pedagogy of legal education, which was a focus throughout her career, she asked whether a “one-size-fits-all” approach to legal education marginalized women and students of color¹² while also overlooking “a changing and changed environment” that called for a range of cooperative, team-oriented problem-solving skills that had not been emphasized in traditional legal curricula.¹³ In all her work, Lani eschewed “winner-take-all” approaches in favor of those that gave everyone an opportunity to participate fairly and productively.¹⁴

This philosophy came through with particular clarity in Lani's work on democracy. To her, “fair play mean[t] that the rules encourage everyone to play.”¹⁵ Echoing Madison's concerns about the “tyranny of the majority” — the possibility that a democratically elected majority will disregard the interests of the minority¹⁶ — she called for a “Golden Rule principle of reciprocity,”¹⁷ one that emphasizes “self-government, fairness, deliberation, compromise, and consensus.”¹⁸ Lani aspired to a democracy built on the “principle of taking turns” — the idea that the majority cooperates with the minority with the expectation that this cooperation would be reciprocated when the majority shifts.¹⁹ Especially in a heterogeneous democracy with “a fixed majority” that might have little incentive to exercise such reciprocity, Lani believed that democratic institutions should make sure that “those with 51 percent of the votes are not assured 100 percent of the power,”²⁰ so that “even adversely affected parties believe in the system because they believe the process is

⁹ Brett Milano, *In Memoriam: Lani Guinier 1950-2022*, HARV. L. TODAY (Jan. 8, 2022), <https://hls.harvard.edu/today/in-memoriam-lani-guinier-1950-2022> [<https://perma.cc/YJMJ5-D5A6>].

¹⁰ LANI GUINIER, *THE TYRANNY OF THE MERITOCRACY* xi (2015).

¹¹ *Id.* at xii.

¹² LANI GUINIER, MICHELLE FINE & JANE BALIN, *BECOMING GENTLEMEN* 4 (1997).

¹³ *Id.* at 18.

¹⁴ *Id.* at 1.

¹⁵ LANI GUINIER, *THE TYRANNY OF THE MAJORITY* 1 (1994).

¹⁶ *Id.* at 3.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 5.

¹⁹ *Id.*

²⁰ *Id.*

fair and . . . inclusive.”²¹ Lani Guinier’s democracy involved “public dialogue . . . represent[ing] all perspectives,”²² “consensus and positive-sum solutions,” “broad public conversation about issues of racial justice in which we seek win-win solutions to real-life problems,” and robust participation of “blacks and whites, and women and men, and Republicans and Democrats” in the discussion.²³ Her vision of a polity that brings people together across differences and is built on cooperation rather than conflict offers a powerful and enduring aspiration for a well-functioning democracy. Indeed, amid heightened divisions within the United States, that vision is especially compelling at this time.

Lani lived her values as a teacher, colleague, and friend. She brought all of her talents and imagination to unlocking the creativity and collaborative possibilities of both her colleagues and her students. Rejecting a one-size-fits-all approach in the classroom as in her scholarship, she explained, “I can’t say that I have a single [teaching style],” adding, “I am committed to experimenting.”²⁴ She invited students to help construct the classroom and prepared them not only to be collaborators and have agency in that process, but also to reach constantly higher levels of analysis and understanding. Emphasizing cooperation and turn-taking, she asked her students to prepare for class in small groups and to choose for themselves both syllabus topics and collaborating classmates.²⁵ This, Lani said, unlocked the potential of students from traditionally marginalized groups — students who might be “reluctant partners in the Socratic exchange” but who could “thrive once they have a chance to talk through their ideas in smaller, less formal settings.”²⁶ But even that was not one size fits all. “Part of the challenge,” she said, “is not to be rigid, either rigidly collaborative or rigidly Socratic.”²⁷ In one class, she brought huge rolls of paper and challenged the students to draw images of better social arrangements — and in so doing, invited students to get out of their comfort zones, to laugh, and to imagine in ways that fueled the rest of the course. Lani aspired to meet her students, all her students, where they were — to find approaches that accommodated *their* particular learning styles. She modeled for her students what it meant to trust their instincts, to be partners in the creative enterprise, and to work together to develop better ideas, engage in more inclusive learning, and lift up community in the classroom as more critical than individual success. She taught her values and principles in a way that made others embrace them joyfully.

²¹ *Id.* at 19.

²² *Id.*

²³ *Id.* at 20.

²⁴ Nancy Waring, *Lani Guinier: Present and Visible*, HARV. L. TODAY (Feb. 25, 1999), <https://today.law.harvard.edu/lani-guinier-present-visible> [<https://perma.cc/FVH9-YSPJ>].

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

Lani's genius and impact as a teacher also came from her determination to help her students learn not only how to navigate the law but also how to navigate a profession in which it is easy to lose one's way. She wanted her students to have faith in themselves. She worked to give them the tools to be, and to remain, true to themselves. In her class on the responsibilities of public lawyers, for example, she asked students to write their "political autobiograph[ies]"²⁸ — an exercise in self-reflection that "integrate[d] their intellectual, professional, and personal identities and aspirations."²⁹ In so doing, she sought to make each student more conscious of, and more accountable to, themselves, for who and how they wanted to be and what they wanted to contribute. Or as her son Niko Bowie, now the Louis D. Brandeis Professor of Law at Harvard Law School, shared with his students when he received, as his mother had before him, the Sacks-Freund Award for Teaching Excellence, Lani advised students to create a "personal board of directors"³⁰ — a set of friends, colleagues, and family "who share your vision and can hold you accountable" to your own principles, goals, and values.³¹ Lani offered these tools to help students not only to find personal fulfillment, but also to discover how they could best contribute to the well-being of society.

Lani's generosity and wisdom extended, too, to her countless professional relationships. She understood that she was a role model — as one student put it, "a trailblazer for all people interested in racial justice and gender equity."³² Still, Lani preferred to understand herself as a mentor, as someone who connected with people, taught and learned from them, collaborated with them, and helped bring out the best in those whose lives she touched.³³ The list of her coauthors and intellectual collaborators is too long to recount. Her dedication to brainstorming and her gifts for framing illuminating questions and together refining ideas always to allow joint ownership made collaborations memorable, delightful, and repeatedly generative of finely honed arguments and bold ideas. She theorized about collaboration, too; her writings often explicitly examined how institutional and organizational change works through

²⁸ *Course Catalog — Legal Profession: Responsibilities of Public Lawyers*, HARV. L. SCH., <https://hls.harvard.edu/academics/curriculum/catalog/index.html?o=67601> [<https://web.archive.org/web/20220226173621/https://hls.harvard.edu/academics/curriculum/catalog/index.html?o=67601>].

²⁹ Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 544 n.63 (2007).

³⁰ Harvard Law School, *Nikolas Bowie Accepts the Sacks-Freund Award for Teaching Excellence*, YOUTUBE, at 8:16 (May 27, 2021), <https://youtu.be/yadcCWKnhFk> [<https://perma.cc/QMG6-FXCT>].

³¹ Lani Guinier, Bennett Boskey Professor of L., Harvard L. Sch., Commencement Speech at the University of Illinois Urbana-Champaign (May 16, 2004), <https://commencement.illinois.edu/wp-content/uploads/2019/10/LaniGuinierCommencementAddress.pdf> [<https://perma.cc/9XP6-4H4V>].

³² Harvard Law School, *Thank You, Lani*, YOUTUBE, at 2:14 (Apr. 4, 2016), <https://youtu.be/UovJQz4-q64> [<https://perma.cc/CKT2-CJ5B>] (remarks of Laura Lane-Steele, Harvard Law School Class of 2016).

³³ GUINIER, FINE & BALIN, *supra* note 12, at 95–97.

networks of people and mentoring, not the actions of one individual, and through alteration of ongoing operations, rather than the introduction of different actors playing the same roles.³⁴

As Lani entered retirement, the tributes that poured in from friends and colleagues sounded common themes of integrity, caring, and inspiration.³⁵ Recalling her early days as a junior faculty member at Harvard Law School, Jeannie Suk Gersen, the John H. Watson, Jr., Professor of Law, described Lani as “the kind of mentor who would sit with you for hours talking about ideas. I don’t know how she had the time. . . . Those were the most intellectually formative hours that I spent in my education.”³⁶ Similarly, Ken Mack, the Lawrence D. Biele Professor of Law, said, “She became a friend, someone who could stop by your office when other people didn’t stop by your office, someone who wanted to make everything about her colleagues better.”³⁷ Or as then–President of the NAACP Legal Defense and Educational Fund Sherrilyn Ifill wrote:

She was not only an indefatigable leader in the hard-fought quest to perfect our democracy, but also a teacher of many who have gone on to do that work She trained me as a voting rights lawyer, and set an example for me of our obligation to respect and elevate the voices of our clients in our work. She set the standard as an intellectual, a scholar, and a civil rights advocate.³⁸

Lani was also brave. In a life of great accomplishment and fulfillment, she also dealt with obstacles and hardships. She made meaning of them, turning negative and even potentially devastating experiences into occasions for deeper learning. As a law student, Lani found legal education alienating.³⁹ As a law professor, she recruited colleagues and students to study academic performance data, self-reported survey data, written narratives, and interview data to examine how gender and race affected students’ law school experiences and to propose reforms that would improve the law school experience for all.⁴⁰ And when President Bill Clinton withdrew her nomination to become Assistant Attorney General for Civil Rights in the face of political opposition that one-time

³⁴ *E.g., id.* at 4; GUINIER, *supra* note 10, at xi, 33.

³⁵ See Brett Milano, *Celebrating Lani*, HARV. L. TODAY (June 26, 2018), <https://today.law.harvard.edu/celebrating-lani> [<https://perma.cc/ZP9W-DA3V>]; *Symposium Honors Professor and Civil Rights Lawyer Lani Guinier ’74*, YALE L. SCH. (Nov. 18, 2021), <https://law.yale.edu/yls-today/news/symposium-honors-professor-and-civil-rights-lawyer-lani-guinier-74> [<https://perma.cc/J534-WLXY>].

³⁶ Harvard Law School, *supra* note 32, at 0:50.

³⁷ *Id.* at 1:21.

³⁸ *LDF Mourns the Passing of Trailblazing Harvard Law Professor and Voting Rights Defender Lani Guinier*, NAACP LEGAL DEF. FUND (Jan. 7, 2022), <https://www.naacpldf.org/press-release/ldf-mourns-the-passing-of-trailblazing-harvard-law-professor-and-voting-rights-defender-lani-guinier> [<https://perma.cc/7MC5-SYYD>].

³⁹ See GUINIER, FINE & BALIN, *supra* note 12, at 86.

⁴⁰ *See id.* at 1–2.

Republican Secretary of Transportation William T. Coleman, Jr., described as “shrill” and “unsubstantiated,”⁴¹ Lani dedicated herself to finding out what she could learn, and teach others, based on the experience. With grace, strength, and clarity, Lani wrote *Lift Every Voice: Turning a Civil Rights Setback into a New Vision of Social Justice*,⁴² and used her own experience to reflect upon the civil rights movement — not in “an effort to settle scores,” but to tell “the story of the efforts of men and women who believe fundamentally in the promise of the American creed and who act on that belief in their everyday lives.”⁴³

Through rigorous analysis, data, common sense, empathy, and moral vision, Lani Guinier changed the way we think. Lani demonstrated how failures to include and respect historically marginalized people spell enduring problems not just for them but for everyone else — and how altering political processes, schools, and other institutions to be fully inclusive pays dividends for and reflects the promise of our democracy. Lani wore her countless awards and accolades with humility. She draped on her office door handle the hoods from her ten honorary degrees⁴⁴ and filled her office with colorful pictures, pillows, laughter, and conversations. Always asking how to make the world better, she made her colleagues, the legal system, and our aspirations to work toward a more perfect democracy better by bringing challenging questions, a towering intellect, enormous compassion, tenacity, and creativity every day. May her memory be a blessing.

*Jeannie Suk Gersen**

When I enrolled at Harvard Law School in 1999, the only law professor whose name and ideas I already knew was Lani Guinier. That was because of the public scrutiny she’d received six years before, when President Bill Clinton nominated her to be Assistant Attorney General for Civil Rights but withdrew the nomination in response to political attacks that distorted her law review articles. I had been an undergraduate then, but reading about her ordeal in newspapers, I’d identified so strongly with this civil rights lawyer whose dignity shone in the face of public betrayal. Professor Guinier soon joined the Harvard Law

⁴¹ William T. Coleman Jr., Op-Ed, *Three’s Company: Guinier, Reagan, Bush*, N.Y. TIMES, June 4, 1993, at A31.

⁴² GUINIER, *supra* note 8.

⁴³ *Id.* at 17.

⁴⁴ Milano, *supra* note 9.

* John H. Watson, Jr., Professor of Law, Harvard Law School.

School faculty, and having read all her writing, I set out to enroll with the idea that I would work with her.

Even before my 1L classes began that fall, I applied to be her research assistant. When I stepped into her office for the interview, I was nervous, and what I blurted out was, “I grew up in Queens!” I’d read in her memoir, *Lift Every Voice*,⁴⁵ that as a child she lived in Hollis,⁴⁶ the neighborhood where my family lived when we immigrated from Korea. For years afterward, Lani laughingly recounted, as she introduced me to people, that I applied to work for her by saying I was from Queens.

That’s not exactly *all* that transpired. At the interview, she handed me a draft paper and asked me to spend some time reading it and send her comments. Instead of relying on applicants’ credentials, she explained, she was giving them a chance to show how they would perform the work that the job entailed. This was consistent with what she had previously written about merit and qualifications — that selection for educational and professional opportunities should be based on three-dimensional criteria and individualized assessments that allow candidates to demonstrate an ability to excel when given the chance. For the next several days, I tackled the trial assignment like my life depended on it. I sent her a long email criticizing her draft. She wrote back, “YOU ARE HIRED!”

That kicked off an intellectual relationship with Lani that wrapped me like a blanket and sustained me through law school. As she produced draft after draft of chapters of her book, *The Miner’s Canary*,⁴⁷ with her co-author Gerald Torres, I spent hours holed up in Lani’s office discussing each iteration with her. What she wanted was for me to criticize the work and push her to make the arguments better. We sat facing each other and our many hours-long sessions felt like a cross between a tennis match and open-heart surgery. I had not grown up in a home of exploratory discourse. Lani was the teacher who taught me how, and she did it by treating me as an equal. Our marathon talks would spin off from an initial topic and range everywhere without restraint. These were the formative hours of my education as a lawyer and future academic, and it was intellectual heaven.

Lani was indefatigable. She was the opposite of glib. She was visionary, generating and refining ideas while in deliberate verbal dialogue, listening with all of her attention, and then, eyes closed and fingers pressed into her temple, unlocking her superpower as a seer. I was privileged to take part in this process in real time. Lani was also a workaholic. We worked late, through dinnertime, and there were often

⁴⁵ GUINIER, *supra* note 8.

⁴⁶ *Id.* at 64.

⁴⁷ LANI GUINIER & GERALD TORRES, *THE MINER’S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY* (2002).

phone calls in the middle of our sessions from her twelve-year-old son, who, decades later, is now my colleague Niko Bowie.

When Lani learned that I was staying in Cambridge during the December break of my 1L year, she invited me to her house for a New Year's Day brunch. I didn't know what to expect, but it was a sizable party of mainly professors. I didn't have a moment to feel awkward and out of place, because Lani swooped me up, her flowing outfit like a superhero cape, and took me around introducing me to her colleagues. She even told one of them that I was going to be on the faculty in a few years. A few months later, she hugged me when I wept about my first-semester exam grades and told her that one of my professors had said that a B+ might be the "nail in the coffin" of an academic career. Lani told me that was nonsense and her confidence made me believe her.

During my 3L year, my doctoral dissertation on French literature was published as a book. I had a small celebratory gathering of my friends in my apartment in Lowell House where I was a resident tutor. I'd told Lani about it but didn't exactly invite her; she was a professor, and I didn't think she'd want to come to a student party in a fourth-floor walk-up dorm with no air conditioning on a sweaty-hot day. Lani came. When she insisted on giving a spontaneous toast, she had the air of a fairy godmother who would make aspirations reality. My memory of that event is of a bunch of students looking up with wonder at this giant in their midst — and not only because she was a head taller than most of us.

At my graduation from Harvard Law School, she and I were ecstatic as my class honored Lani with the Sacks-Freund Award for Teaching Excellence. When I received the same award fourteen years later, Lani was there, and I was able to give tribute to her as my beloved mentor. I knew that I would not have my career if Lani had not given me a chance and pressed others to give me a chance. When I arrived on campus as an Assistant Professor in 2006, she said with a big smile that since my appointment, she was no longer the only woman of color on the tenure-track faculty at Harvard Law School. She had been the first and I was the second.

In the years that we were colleagues, Lani was not only a mentor but also a close friend. We schemed and debriefed over endless lunches, went to the symphony together, and laughed and cried over personal triumphs and heartaches. She encouraged me to stand up and have "a backbone" in my engagement with senior figures, and I tried to do what she taught me — to think independently and not be scared to disagree, but also to see ways beyond polarizing conflict and find common ground.

Several years ago, I saw suddenly that Lani was having difficulties with memory. We were speaking on a lunchtime panel together. She told the student audience a story about her friendship with Clarence Thomas when they were both students at Yale Law School. Ten minutes

later, she told the same story again, not realizing that she was repeating herself.

Some time afterward, she asked me for help. She said that Harvard had taken her off the teaching schedule for the coming semester, and she requested that I go with her to meet with the administration to ask why and request that they give her back her classes. I accompanied her. But it was clear by then that her Alzheimer's disease had progressed so much that she was not able to do the teaching she loved so much. She had been such a powerful advocate for me whenever I needed her, and I wept at my powerlessness to be the advocate she wanted at this time when she had asked for my help.

I realize that I am now the same age that Lani was when we first met. That is humbling. She was a once-in-a-lifetime visionary intellectual but also an entirely down-to-earth human being who lived her life breaking down hierarchies of all kinds. I was privileged to have Lani the scholar, teacher, mentor, and friend as my guardian angel for two decades. I miss her more than I can express. This is the most difficult thing I've ever had to write, because I know that the words to describe what Lani was to me have escaped me. My grief at the loss has left me as tongue-tied as when I first walked into her office, and all I can think to say is that we were two girls from Queens at Harvard Law School.

LANI GUINIER — A REQUIEM

*Gerald Torres**

“Scratch a theory, and you’ll find a biography.” I don’t know if that was original with Lani, but it was something she commonly said to me. She believed that life’s attendant struggles, joys, victories, and defeats always informed theory. So you could see in her resistance to Mrs. Buxton in fourth grade or in her belief that she had an obligation to stand up for the new Black girls who transferred into her class in middle school the deep roots of her commitment to a small “d” democratic vision of the world around her.

Lani described Mrs. Buxton as a formidable figure, a blue-haired teacher who conducted the class with great formality. You could almost hear her low heels click on the wooden aisle floor between the seats as

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she patrolled the classroom. The day in question began with a discussion of the history of the Founding. As Mrs. Buxton extolled the virtues of Thomas Jefferson and George Washington and their far-sighted wisdom, Lani raised her hand to ask how they could celebrate slaveholders who sold their children. Mrs. Buxton asserted that their slaveholding had nothing to do with the virtues they brought to governance. Lani defiantly argued that it did. The debate grew heated, but Lani would not retreat in the face of mere authority. As I recall, she did not change Mrs. Buxton's mind, but she did affect how others heard the history.

The lesson from that story is not just Lani's call for a fuller historical accounting but her challenge to using authority to smother inquiry. The illegitimate imposition of authority inhibits learning. Her challenge was to the substance and to the procedure of the investigation the class had begun. Lani would later bring both parts of that inquiry to her work. As her friend Susan Sturm could undoubtedly attest, their experiments in pedagogy would reflect that view of authority and knowledge creation.⁴⁸

The second story is about Lani's sense of responsibility to her community. In Queens, the neighborhoods were changing, and the schools reflected it. The new composition of the classes meant that one day a group of Black girls joined Lani's middle school class. The girls were friends from the neighborhood but were viewed as outsiders by the teacher. Humiliation was a form of discipline in those days, but Lani was having none of it. The teacher's attempt to put the girls in their place was met with resistance, not from the girls but from Lani. She knew that the classroom had to accommodate competing cultures and that learning would stop if discipline did not reflect respect on both sides. For school to work, it had to work for everyone.

If you transpose those stories into a broader political context, you can follow the through line to Lani's political theory. Many other stories illustrate this, but the formative nature of those years makes the two exemplary. Of course, if Lani were here telling us those stories, they would include the reaction of her father and mother. The first lessons she learned about equality and justice came from them. They also taught her self-reliance and the kind of fearlessness that most of us imagine that we have, but too few do.

The ironic thing about the claims derailing Lani's nomination for Assistant Attorney General for Civil Rights is that they completely misrepresented her democratic commitments. Her early work reflected on and justified the doctrinal cases, but she would not be satisfied with remedies that cured one historic defect but left others intact. While securing the integrity of single-member districts and the capacity of formerly excluded groups to share power, she also challenged the idea that a simple majority should convey one hundred percent of the power. She

⁴⁸ See generally, e.g., Sturm & Guinier, *supra* note 29.

questioned the agenda-setting rules once representatives were chosen. Then, in a heretical move, she asked why power should be distributed according to districts. Her survey of democratic regimes worldwide illuminated the simple truth that there are many ways to select those who will govern and that we ought to opt for the most democratically representative system. Her final mantra was “one-vote, one-value”⁴⁹ — in general, each vote should weigh the same. Political procedures should be judged by how closely they achieve that result.

In many ways, her life’s work was refashioning our political system so that it might truly reflect the people’s will. Once she entered the academy, Lani was not an activist in the conventional sense. Of course, her experience with the NAACP Legal Defense and Educational Fund informed all her work. The time she spent connecting with community members or litigating in Southern courthouses taught her what a commitment to democracy means. Her activism did lead to her efforts to understand social movements’ role in constructing our democratic culture. That work is part of her continuing legacy. When she and I coined the term “demosprudence,”⁵⁰ we wanted to emphasize our desire to understand the informal ways in which durable legal change is created.

Again, biography informed this choice. Lani knew that winning in court, while necessary, was only meaningful if there was a community to transform the legal victory into political action. Her work went on outside of the courthouse. She listened to the people who were committed to the struggle. She appreciated the space she allowed them to work. She often recalled Bill Quigley’s sentiment that lawyers for the movement created the crawl space for activists.⁵¹ Lani felt that she was helping to construct those crawl spaces. For her, the hard work was always done on the ground.

Lani was a good listener, and she would invariably ask people to talk about themselves. She felt that the stories they told about themselves would give her insight into the lifeworld her conversational partners were inhabiting. Lani could be difficult, but it was usually in the service of something important. What Lani wanted more than anything, and this is reflected in all she did, was to increase the democratic potential in the world. That was her work.

⁴⁹ GUINIER, *supra* note 15, at 122.

⁵⁰ Lani Guinier & Gerald Torres, *Changing the Wind: Notes Toward a Demosprudence of Law and Social Movements*, 123 YALE L.J. 2740, 2749 (2014).

⁵¹ Cf. William Quigley, *Ten Questions for Social Change Lawyers*, 17 LOY. PUB. INT. L. REP. 204, 206–08 (2012).

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