

THE YALE LAW JOURNAL

CORRESPONDENCE

We, the Yale Black Law Students Association (BLSA), believe that individuals who have used racial slurs should not be welcomed into the Yale Law School community. We therefore submit this letter to oppose *The Yale Law Journal's* decision to invite K.A.D. Camara to our campus.

Mr. Camara is one of the co-authors of *Quasipublic Executives* in this Symposium Issue of *The Yale Law Journal*. While a student at Harvard Law School, Mr. Camara publicized a course outline in which he repeatedly referred to Black people as “nigs.” Although the *Journal's* editors made a cursory investigation into Mr. Camara's background prior to extending the invitation,¹ they did not discover this history until weeks later, when an anonymous e-mailer provided them with the details.

Rather than notifying the entire Law School that a significant issue had landed on our community's doorstep, the *Journal's* leadership deliberated and ultimately decided without first hearing what the Law School community had to say. BLSA, however, also received the anonymous e-mail about Mr. Camara's actions at Harvard and informed the *Journal* of its official position, which remains the same today: BLSA did not and does not support the publication of Mr. Camara's essay. Our position seems not seriously to have been taken into consideration. Furthermore, it was left to another anonymous e-mailer to bring the rest of the Yale Law School community into the discussion.

Faced with controversy, the *Journal* made public overtures suggesting a willingness to reconsider the matter. However, it treated the decision to invite Mr. Camara as a foregone conclusion. A select group of *Journal* leaders agreed that the invitation could not be revoked lest the *Journal* be accused of censorship. Such fear of criticism demonstrates timid leadership and, in this case, was little more than a faint-hearted excuse. As *Journal* Editor-in-Chief C.J. Mahoney acknowledged in a school-wide forum, the *Journal* would have had much less of a problem rejecting Mr. Camara's proposal had it initially

1. Because Symposium Issue authors are invited to speak at the Yale Law School in addition to being published, their submissions are subject to a non-blind screening.

conducted a more thorough investigation and discovered his checkered history. It is therefore clear that the real reason for the *Journal's* decision was neither a lofty belief in Mr. Camara's freedom of expression nor a desire to conform to academic norms. Rather, the *Journal's* editors knew that rescinding Mr. Camara's invitation would have public relations consequences, and they simply did not find Mr. Camara's use of hate speech to be a severe enough offense to warrant dealing with them.

There was a better way. The Law School's history of rejecting hate speech and embracing open debate should have led the *Journal* to solicit guidance from the broader community from which it derives its reputation, talent, and preeminent position in legal academia. To forget this constituency is to forsake that which makes the *Journal* great.

Our words should not be construed solely as criticism of the Volume 115 *Journal* leadership. We urge future editors of the *Journal* to question whether being a leader in legal academia demands blind fidelity to unwritten principles—principles that are supposedly neutral, but that always seem to operate to the detriment of those with the most at stake. Real leadership requires that we ask these questions when an issue implicates the cohesiveness of the Law School community. It should further require that we learn lessons from incidents such as these, in order to make our community stronger, rather than fumble and leave the rest of us wondering where to point the finger.

Signed,

The Yale Black Law Students Association

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We write to highlight how professed principles of “neutrality” often lead to practices that are patently offensive and disempowering to minority voices. The way *The Yale Law Journal* convened its Symposium on executive power is the most recent iteration of this dynamic.

The *Journal* invited K.A.D. Camara,¹ a young lawyer, to present a paper in its Symposium. Mr. Camara previously made racist remarks about African-

1. K.A.D. Camara, also known as Kiwi Camara, graduated from the Harvard Law School in 2004. He then clerked for the Honorable Harris L. Hartz, United States Court of Appeals for the Tenth Circuit. He has published three articles: *Classifying Institutional Investors*, 30 J. CORP. L. 219 (2005); *Costs of Sovereignty*, 107 W. VA. L. REV. 385 (2005); and *Shareholder Voting and the Bundling Problem in Corporate Law*, 2004 WIS. L. REV. 1425. For more on the

Americans while he was a student at Harvard Law School. His remarks were abhorrent. Faced with the growing threat that the *Journal* would withdraw its prestigious offer, Mr. Camara issued a half-hearted apology.

The issue here is much larger than Mr. Camara or his beliefs. By failing to reconsider its decision after a perfunctory consultation with a few members of the Yale Law School community, the *Journal* demonstrated the extent to which minority viewpoints were absent from its decision-making process. Internally, the *Journal's* process was poor enough that fourteen members took their names off the masthead. These events reflect a *Journal* structure that does not acknowledge or appreciate that—particularly in circumstances such as those surrounding the Symposium's organization—neutrality is a false standard that fails to include minorities' voices in substantive ways when they are most needed.

Neutrality is a false standard of objectivity and fairness because it is not universally employed and because the playing field is not even. Neutrality, for instance, could mean "identity blindness." Normally, *Journal* editors are blind to the identity of the author. They judge submissions based on ideas, style, and originality—which is laudable in many ways. But when the *Journal* solicits and accepts Symposium papers with knowledge of their authors' identities, the process ceases to be blind. The *Journal* accepted Mr. Camara's submission with knowledge of his academic pedigree. But it remained blind to the more troubling aspects of his background. And when the issue became public, minorities raised their voices to express concern; yet their voices were disregarded as personal viewpoints of little consequence.

If the *Journal* had widely consulted the minority members of the community *before* making the decision on whether to retract the invitation, it would have allowed for a substantive contribution on a matter concerning issues of particular importance to them. Instead, the *Journal* consulted with "members of the faculty," only two of whom have chosen to be named, and the Yale Black Law Students Association, whose recommendation the *Journal* ignored. The *Journal* acted as if talking to BLSA allowed it to place a check in the "consulted minority voices" box. In short, the *Journal's* "consultation" reduced voices of dissent to mere tokens of diversity.

This problem is not new, but it need not endure. We are disappointed that *The Yale Law Journal*—a part of one of the most liberal, inclusive, forward-looking, and progressive law schools—fails as a leader on issues of race. And we are not alone. Twenty-seven law school organizations co-sponsored a

controversy, see The YLJ Debate, <http://yljdebate.blogspot.com/> (last visited Aug. 31, 2006).

standing-room-only discussion of the issues underlying the *Journal's* decision.² We implore the *Journal* to make conscious efforts to address these problems internally by revising its policies and making efforts to be more inclusive of minority voices in substantive ways. Perhaps this incident can also be the impetus for the *Journal* to explore these problems externally, by inviting others in the academy to participate in a symposium on decision-making, neutrality, and disempowerment. No matter what form it takes, we are hopeful that the new *Journal* leadership will address the problems made so obvious by the old.

Sincerely,

Muslim Law Students Association
Yale Journal of Law and Feminism
Latino Law Students Association
Allard K. Lowenstein International Human Rights Project
Pissed-Off People
Workers' Rights Project

2. The sponsoring organizations were as follows: 2006 Rebellious Lawyering Conference Directors; Allard K. Lowenstein International Human Rights Project; American Constitution Society for Law and Policy; Capital Assistance Project; Coalition for Faculty Diversity; Greenhaven; Harvard Black Law Students Association; Latino Law Students Association; Legal Services Organization Student Board; Muslim Law Students Association; Orville H. Schell, Jr. Center for International Human Rights; Outlaws; Pacific Islander, Asian, and Native American Law Students Association; Pissed-Off People; Project for Law and Education at Yale; Social Change Network; South Asian Law Students Association; Street Law; University of Connecticut Black Law Students Association; Women and Youth Supporting Each Other; Workers' Rights Project; Yale Black Law Students Association; Yale Civil Rights Project; Yale Human Rights & Development Law Journal; Yale Journal of Law and Feminism; Yale Law Democrats; and Yale Law Women.