

Ahead of the Curve: With Human Rights Under Attack, Can Law Schools Help?

This week, we're examining the role and responsibility of law schools at a time when human rights are increasingly in danger.

By Christine Charnosky | July 11, 2022

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Welcome back to Ahead of the Curve. I'm Christine Charnosky, legal education reporter for Law.com, and I'll be your host for this week's look at innovation and notable developments in legal education.

This week, we're examining the role and responsibility of law schools at a time when human rights are increasingly in danger.

As always, please share your thoughts and feedback with me at ccharnosky@alm.com.

I had planned to write a column about gay rights during Pride Month, but then the U.S. Supreme Court overturned two landmark precedents protecting abortion as a constitutional right on June 24, which led to my [column about abortion on June 27](#).

However, while that decision delayed this column, it also brought the issue of human rights into even sharper focus.

“Too often, reproductive health care is framed as a ‘women’s issue.’ While women are clearly affected most significantly and directly, this is a human rights issue,” according to a letter written by more than [2,000 male partners](#) in a call to action following the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*.

“As members of the bar, we took an oath to uphold the Constitution and its promise of liberty and equality for all,” they wrote.

In the wake of the *Dobbs* decision, [the LGBTQ+ community has expressed growing concern](#) about what will happen next, particularly since a concurring opinion by Justice Clarence Thomas suggested that the court should reconsider past decisions granting access to contraceptives, the right to engage in consensual same-sex relations and same-sex marriage.

Gay rights and abortion rights have a similar timeline dating back approximately 50 years.

And gay rights, like abortion rights, have arguably been moving backwards in the U.S.

In late June, I [spoke with several openly gay law deans](#), all of whom told me that being out was integral to their ability to lead.

“I feel it is important for me to be openly gay as a dean because representation matters,” Anthony Niedwiecki, president and dean of Mitchell Hamline School of Law, said.

“I’ve been given the gift of being able to be a dean, and I want to show other LGBTQ+ people that you can be your authentic self and still be in leadership positions,” Niedwiecki said. “I honestly believe I’m a much better leader because I’m openly gay and authentic. I couldn’t imagine leading and not being openly gay.”

Anthony W. Crowell, dean and president of New York Law School, told me that having a leader who brings their authentic selves to their role is “especially critical for students who may be struggling and don’t have the kind of support needed at home or from friends to be out, and who need to embrace self-acceptance and to bring it forward powerfully in their careers.”

“I have had many LGBTQ+ students, as well as many of their parents, thank me for being so open and willing to share my journey, and to be there for them,” Crowell said. “Often LGBTQ+ students or young alumni need the perspective and the ear or shoulder of someone who has walked a similar path, and confronted similar challenges.”

But while it might be tempting to assume legal academia is a progressive safe haven where students and faculty members are all encouraged to be their authentic selves, the reality is that homophobia persists even on law school campuses.

Recently, I reached out to Elizabeth Schwartz, who is a nationally recognized lawyer/advocate for LGBTQ+ rights, to discuss the environment for openly gay faculty members and administrators in legal academia.

Schwartz explained that there is a certain “level of ‘outness’” with which law school administrators are comfortable. For example, she said that “certain high-level administrators may prefer that the more ambiguous

word 'spouse' be used instead of 'husband' for gay male deans and 'wife' for gay female deans."

But being too vocal about, for example, gay rights can result in backlash, Schwartz added.

"In academia, it seems if you stand up for yourself and the marginalized communities you represent, you're seen as troublemaker," she said, adding that there appears to be a culture of homophobia "behind closed doors."

I, along with many, many Americans, have been traumatized and fearful about what is happening and what may happen to human rights in our country.

Maybe you feel safe because you don't ever plan to have an abortion or because you aren't gay. But, as Martin Luther King Jr. said, "Injustice anywhere is a threat to justice everywhere."

While it might be comforting to believe that our institutions of higher learning are training future generations of civil rights advocates and guardians of the rule of law, it's important to remember that discrimination and injustice can happen anywhere—even on law school campuses.

But, as many LGBTQ+ law deans told me, that sad reality doesn't deter them. On the contrary, it inspires them.

As Larry Cunningham, provost, dean and professor of law at Charleston School of Law, told me: "I don't consider myself a gay dean; I'm a law school dean who happens to be gay. My duty, first and foremost, is to help all of our students succeed in law school and the profession."

But, he added, "[a]s someone whose constitutional right to marry was only recently recognized by the Supreme Court, I bring to my position a particular appreciation for the Constitution, the legal system and those who safeguard the freedoms of others."

With that in mind, Cunningham said he also recognizes the importance of diversifying the law profession so that "the bar and bench are more representative of the communities and clients we serve; that includes making sure LGBT people become lawyers, judges, law professors and deans."