

# [HOT TOPICS]

CONVERSATIONS WITH THE DEAN



## A Much Needed Civics Lesson

DEMOCRACY, JUSTICE ARE AT RISK WITHOUT A RESPONSIBLE CITIZENRY

Sandra Day O'Connor grew up on a cattle ranch in the American Southwest. But the ranch couldn't keep a good woman down. She attended Stanford Law School and eventually became the first woman nominated to the Supreme Court. Although she now refers to herself as an "unemployed cowgirl," Justice O'Connor's self-deprecating humor cannot conceal the seriousness of her new endeavor, iCivics.org, a website she founded to produce a smart and engaged citizenry.

In April, Justice O'Connor joined three law school deans to discuss "Law Schools and the Education of Democratic Citizens," a Boston College Sesquicentennial Celebration panel co-sponsored by BC Law. Panelists were Vincent Rougeau of BC Law, Timothy Macklem of King's College London, and Martha Minow of Harvard Law School.

The following are excerpts of their discussion. To watch the entire event, see the video at <http://www.bc.edu/hottopics>.

### SANDRA DAY O'CONNOR

My experiences on the Supreme Court are what drove me to my current commitment to civic learning in our country. I discovered how little most Americans know and understand about our system of law, and yet we pride ourselves for it.

When I retired in 2006, high on my list of things to do was to try to restore civic education in our nation's schools because we're taught a lot of things in school but civic education isn't one of the things we're focused on. Frankly, the skills and knowledge to run governmental entities are not handed down through a gene pool. It has to be taught and it has to be learned by every generation. We in the legal profession have the duty to help the public understand the so-called rule of law in our system of government. Democracy is cer-

tainly not a spectator sport; it requires the participation of all of us.

I remember all kinds of efforts being made to politicize our courts even more than they already are, I mean, beyond just electing judges, which I don't think is a good idea. I remember an instance in one state where they were considering a law that would put the judge in jail if either

party in the case disagreed with the ruling. I mean, this was pretty charming wasn't it?

We haven't progressed too far [in civics education]. On the last civics assessment test, two-thirds of the students scored below sufficiency and only one-third of adult Americans could name the three branches of government, let alone say what they do. Only 7 percent of eighth-graders



LEE PELLEGRINI

can name the three branches of government. Less than one-third of eighth-graders can tell us the purpose of the Declaration of Independence—and it's right there in the name.

#### MARTHA MINOW

I do think that there is a special obligation for law schools and lawyers to attend to the issues of civics education. We make a bet in our kind of government that we can govern ourselves and that we will do a good job. But that wager carries with it an enormous risk. And the risk is that we don't invest the time and energy it takes to do it well.

I've had the privilege and the challenge of working in the post-conflict societies of Rwanda and the former Yugoslavia. What astonished me is how important law has been in the reconstruction of those societies. Building a court in which people who have previously been at war with one another settle disputes peacefully is fundamental to

the reconstruction of those societies.

Coming back to the US, I feel with great passion that we are at risk; we are jeopardizing the independence of our own courts. We are not financing them. We are jeopardizing the infrastructure of our justice system and we are jeopardizing our democracy if we don't equip the next generation to take up the responsibilities that our form of government anticipates.

I have a story to tell you. The very day there happened to be a primary vote here in the Boston area, I got in a taxicab to go to my polling station. The cab driver, who happened to be a woman, said, "Do you mind if I just stop? I need to buy a lottery ticket." I said OK. Now, I'm going to my polling place, and I said, "You know, it's interesting, I've never bought a lottery ticket," and she said, "That's interesting, I've never voted." And we looked at each other and kind of marveled: Which one of these activities was more likely to actually make a difference in the world?

#### TIMOTHY MACKLEM

We talk about democracy in louder terms than we ever have. Yet we live in a world in which people will quite openly say, "I'm not political, I just don't do politics." As if that's a possible position to have—I mean, being *not* political is being political, it's just bad politics. It's the politics of passivity or indifference, and it could lead to very dangerous outcomes.

How is it that we got so disappointed, so disillusioned, so disengaged? Despite the horrors, depressions, wars, genocides, and threats of nuclear annihilation in the 20th century, people were extraordinarily hopeful about government and politics, they really thought they could build a better world. People disagreed, of course, about how all this should be done, but there was a basic hope.

Did we expect too much of law and of democracy? You can pass laws until you're blue in the face and it makes no difference; people will obey them if people feel like obeying them and otherwise they just won't. If we thought more carefully and more precisely about just what it is that law can do, we might be able to recover some aspect of that hope.

Ours will be a world where there are possibilities for the human condition that we can't realize now. That will be something to look forward to, a better world and one where law will play a very important role.

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—Sandra Day O'Connor

#### VINCENT ROUGEAU

We like to think we have come very far, and we have in many ways, but there are still real problems that exist with access to justice in our democratic society. There are real challenges to the rule of law and to the ability to vote in this country. We were treated once again in the presidential election to people waiting for hours just to vote. The basic tool of democratic participation is voting, and we still haven't found a way to do that efficiently and fairly.

What does it mean to be a responsible citizen who has certain rights? How do we exercise those rights in a responsible way? How do we reinvigorate concepts of public service?

One of the roles that we can play at the Law School is reminding everyone how important it is to send engaged people into these roles, because they really do make a difference in democracy. How do we raise the intellectual level of public discourse? We are routinely treated to a kind of mockery of our democracy when we listen to our politicians speak publicly. And we accept it.

Another notion I would like to see invigorated is the common good. How do we come to an understanding as a nation, as a democratic society, about goods we share in common? And how do we build and strengthen those goods and make them an important part of our collective heritage as a democracy?

When we do that, we will create a thriving democracy of engaged citizens who are motivated by principles of justice, fairness, and equality. But we need to begin to think about other concepts around that, like sacrifice and sharing.

—Edited and abridged by Glenda Buell



JUSTICE O'CONNOR joined a panel of law deans to advocate for more emphasis on teaching civics in American classrooms, from elementary to graduate school.