



SOCIETY OF AMERICAN LAW TEACHERS

## Background Information For the Media

### WHEN WAS SALT FOUNDED AND BY WHOM?

[Norman Dorsen, professor at NYU Law School](#), and Tom Emerson, professor at Yale Law School, conceived of the idea of SALT in 1972. Professor Dorsen, former general counsel to the ACLU and its president from 1976 to 1991, and current director of the Arthur Garfield Hays Civil Liberties Program at NYU, became SALT's first president. He and Tom brought together an extraordinary group of law professors—Stephen Gillers, renown legal ethicist as the first executive director; with a board that included Barbara Babcock, (first woman law professor to receive tenure at Stanford Law School); Derrick A. Bell, Jr. (first African American law professor to receive tenure at Harvard Law School); Monroe Freedman (a pioneer in legal ethics); current Supreme Court Justice Ruth Bader Ginsburg; and former California Supreme Court Justice Cruz Reynoso. At its formation, SALT gathered 149 law professors from 69 law schools with an ambitious agenda.

### WHAT WERE SALT'S INITIAL GOALS?

SALT had several main goals. The first was to encourage developments in legal education that would make curriculum, programs, and forms of instruction more responsive to current social needs. Law school pedagogy hadn't really changed since Christopher Columbus Langdell, dean of Harvard Law School back in 1870, originated the "case method." The early 1970s brought new waves of law school students and faculty into academies: women; African American, Puerto Rican, Latino, and other students of color; returning veterans from the Vietnam war; gays and lesbians who were open about their sexual orientation; and non-traditional students from different classes, ages, and backgrounds. SALT wanted to change the environment within law schools to encourage the participation and successful incorporation of these newcomers into the legal profession and to advance teaching methodologies that opened law teaching to new ideas. SALT was particularly interested in reevaluating legal ethics, in the wake of the Nixon Watergate debacle, and broadening the scope of how the legal profession saw its responsibility to further social justice.

SALT also wanted to impact legislation and public policy through public statements, testimony before Congress and other governmental bodies, and papers on critical legal issues. Social change was also possible with SALT efforts through strategic litigation, grounded in scholarship and incorporated into the activism of community-based practitioners. With federal judicial appointments for life terms, SALT wanted a progressive voice to participate in the evaluation of nominees to judgeships and other governmental positions that bear on the administration of justice.

Within the academy, SALT saw a role in making sure that this new wave of law teachers and students were afforded full academic freedom and that law teachers were not unfairly treated for their activism or choices of scholarship.

### HOW DOES SALT COMMENT ON PUBLIC POLICY ISSUES?

Through its committees SALT examines issues relating to inclusiveness in legal education and the profession, social justice, and the integrity of the legal system. These committees comment through position papers that are issued to policymakers, the media, SALT members and other academics, and community-based organizations. See SALT at Work to view recent position papers listed by committee.

### WHAT WERE SALT'S MAJOR ACCOMPLISHMENTS DURING ITS FIRST TEN YEARS--1973 TO 1985?

In SALT's formative years, its focus was three-fold: law reform, legal education, and equal access to justice. From its inception, the organization sought "ways in which law professors concerned with the social responsibility of the legal profession, the relevance of legal education to the quality of legal representation and to societal needs, and with equality of access to the

profession, can work effectively.” The goal was to “do more than simply put out press releases on matters of momentary public notoriety.”

SALT published a number of significant reports and studies during this period, including its Salary Survey noting median salaries for law faculty at different levels and regions in the country; Parental Leave and Part-time Policy Study; Report on Hiring & Retention of Minority Faculty; and Report on Changes in Admissions Policies.

Conferences included SALT’s Teaching Conference and its Conference on New Law Teachers, both of which have become annual or biannual staples of SALT’s activities. Panels addressed such topics as minority hiring; tenure standards and the channeling of legal scholarship; the faculty status of clinical teachers; equality; judicial selection; and the future of legal education.

SALT issued Position Statements supporting access to justice, minority hiring, free expression, funding for Legal Services and the Council on Legal Education Opportunity (CLEO); the extension of the Voting Rights Act; and the need for minority admissions programs. Other Statements issued during these years opposed Edwin Meese as Attorney General of the United States; opposed the Omnibus Criminal Code; and called on Attorney General Edward H. Levi to take comprehensive action to address institutional crime.

SALT submitted amicus briefs including one in *Regents of the University of California v. Bakke* and one advocating that the Court vacate the *Korematsu* convictions.

#### **WHAT WERE SALT’S MAJOR ACCOMPLISHMENTS DURING ITS NEXT DECADE FROM THE YEARS 1986 TO 1998?**

During these years, SALT continued to hold Teaching Conferences addressing bias in the classroom; the politics of academic freedom; diversity in the law school curriculum; activism in the classroom; diversity of students and faculty; and preparation of students for public interest practice. In 1988, SALT sponsored the first of its now annual Robert Cover Study Groups, which bring law professors together to study and discuss an issue pertaining to social justice. Past topics have included discussions on Proposition 209, Meritocracy and the Law School Culture, and Privilege and Power in Public Interest Advocacy. SALT sponsored many panels or entire conferences on subjects including educational testing, student and faculty diversity, reconstructing merit, and Indian law. These activities filled a void in the academy, raising SALT’s visibility and bringing to the organization large numbers of new members.

In 1997, SALT launched its Action Campaign, in response to threats to affirmative action programs such as California’s Proposition 209, the Fifth Circuit’s decision in *Hopwood v. Texas*, and the University of California Regents’ resolutions. The attacks on affirmative action were considered so serious and important that SALT determined that most of its resources should be used to combat them. The Action Campaign directly led to the 1998 C.A.R.E. (Communities Affirming Real Equality) March during the annual AALS meeting. Hundreds of law professors dressed in academic robes joined by lawyers and law students marched through the streets of San Francisco supporting affirmative action in higher education in California.

SALT issued Position Statements opposing the Texas Department of Public Health’s proposed AIDS quarantine policy, and opposing the nominations of Justices Rehnquist, Bork, Kennedy, and Souter to the United States Supreme Court. Other Statements supported an Association of American Law Schools’ bylaw to promote diversity of law school faculty, staff and student body; endorsed an American Bar Association Accreditation Standard designed to strengthen the prohibition against discrimination in faculty employment; encouraged the first President Bush to appoint to the Legal Services Board members committed to promoting access to justice; encouraged socially responsible investment policies by TIAA/CREF (which invests the 401(k) assets of most post-secondary educators nationwide); and supported an ABA pro-choice resolution. SALT’s Committee on Access to Justice worked with Congressional leadership on developing legislation promoting health care reforms.

SALT submitted amicus briefs in *Romer v. Evans* (sexual orientation discrimination); *Jane L. v. Bangerter* (reproductive rights); *Sheff v. O’Neill* (Hartford, Connecticut school desegregation); *García v. Spun Steak* (language discrimination in the workplace); and *Lloyd v. Grella* (military recruiting in high schools).

## WHAT ARE SALT'S MAJOR ACCOMPLISHMENTS DURING ITS THIRD DECADE FROM 1998 TO 2007?

### *Affirmative Action and Access to the Profession*

No set of issues is closer to SALT's core purpose than affirmative action and access to the profession. Law schools and the legal profession still do not reflect the diversity of our nation's population, a reality graphically illustrated by SALT's innovative display of jellybean jars in the exhibit hall at the 2000 annual meeting of the AALS, showing in stark terms the lack of diversity within academia. Since that time, minority enrollment has slowed to an even more alarming extent. In 2005, African American enrollment was at its lowest point since 1990. Mexican American enrollment in law school dropped over 9% in 2005 and stands at its lowest point since 1993. Conrad Johnson, SALT member and professor at Columbia Law School, developed a website "[Disturbing Trends in Law School Diversity](#)," based on data from the Law School Admissions Council, along with resources to assist in illustrating the need to encourage and support diversity in law school admissions and retention policies. That website is updated annually to include the latest demographic information about law school admissions.

SALT's commitment to diversity in legal education has been evident since its founding; one of the new organization's first activities was to write an amicus brief in *Regents of the University of California v. Bakke*. More recently, SALT was actively involved in assisting in the defense of the affirmative action programs at the University of Michigan, holding several conferences, workshops and panels on affirmative action, and preparing an amicus brief in *Grutter v. Bollinger*.

In 2003, SALT was active in organizing and participating in a march in Washington in support of affirmative action. The Supreme Court's *Grutter* decision, narrowly upholding certain forms of affirmative action, has set the stage for SALT's ongoing efforts in this area. In 2006, SALT developed an affirmative action best practices website designed to be used as a resource to ensure continued commitment to and implementation of affirmative action within the confines of the Supreme Court decision.

In December of 2006, SALT testified at a hearing of the Department of Education regarding the recertification of the American Bar Association Council on Legal Education and Admissions to the Bar (ABA Council) as the accrediting body of American law schools. The purpose of SALT's testimony was to defend the ABA against attacks to its diversity standards. Organizations long known for opposing affirmative action, including the Center for Equal Opportunity, the American Civil Rights Institute, and the National Association of Scholars asked the Department of Education to deny recertification to the ABA because the ABA was requiring schools to demonstrate a commitment to diversity. The thrust of SALT's testimony was that the lack of minority enrollment in law schools has reached crisis proportions and that the ABA has acted properly in seeking to have schools pursue diversity, as permitted by *Grutter*. In 2007, SALT began a campaign to keep members of Congress who serve on the Higher Education Committees informed about the ideological battles the Department of Education was waging against the ABA Council. That assault was ended in August 2008 when amendments to the Higher Education Act suspended the Department of Education from acting.

The misuse of standardized test scores in the admissions process at many law schools continues to have a pernicious effect on the admission of students of color at many law schools. SALT is actively involved in efforts to change the law school accreditation standards of the ABA Council to require that law schools use Law School Admission Test (LSAT) scores in compliance with the recommendations of the Law School Admissions Council, which develops and administers the test. SALT issued a statement entitled SALT on the LSAT that describes the misuse of the LSAT in law school admissions practices.

Efforts to diversify the legal profession are stymied also by the various state bar examinations. In 1999, SALT organized a conference entitled "Reexamining the Bar Exam," which educated the profession about the extent to which the exam fails to measure competence to practice law, drives a host of questionable curricular and pedagogic decisions within law schools, and has a disparate impact on racial and ethnic minorities. In 2000, SALT testified and submitted public statements in opposition to increases in the passing ("cut") score of the bar exam based on a critique of the methodology and the expected racial impact of an increase in cut score. In 2002, SALT prepared a major Statement on the Bar Exam which was widely disseminated to judges, bar examiners, bar leaders, and the academy and published in the *Journal of Legal Education*. Since 2003, through a series of panels, conferences, and workshops, SALT has led the effort to develop alternatives to the traditional bar examination that will ensure that the public is protected by licensing competent law school graduates without the discriminatory effects of the

traditional bar examination. Through its Issues in Legal Education Committee, SALT is promoting alternative assessment methodologies through a network of scholars, teachers, and deans.

#### *Law Reform in the Service of Social Justice*

A part of SALT's work against discrimination is its opposition to the Solomon Amendment, which threatened law schools with loss of funding for excluding military recruiters from campus. For many years, law schools excluded recruiters in response to the military's discrimination against gay and lesbian law students in violation of schools' non-discrimination policies. SALT was the first organization to agree to file suit challenging the Solomon Amendment on First Amendment grounds. Although the United States Supreme Court rejected our arguments in [FAIR v. Rumsfeld](#), SALT has repeatedly and publicly renewed its commitment to the principle of non-discrimination and its determination to accelerate the struggle to repeal the military's discriminatory "Don't Ask, Don't Tell" policy. SALT has distributed statements to its members, published letters to the editors, and compiled materials, available on its website, for use by law schools to ameliorate the effects of the military's presence on campus. Most recently, in June 2009, SALT urged President Obama to take a leadership role in transforming military regulations to a non-discriminatory policy.

Through its Judicial and Governmental Nominations Committee, SALT has continued to work to ensure that nominees to the federal appellate courts are committed to ensuring justice for all citizens and residents of the United States. SALT has written numerous reports on judicial nominees that incorporate the special expertise of the legal academy, and which are provided to the Senate Judiciary Committee. In addition, SALT has opposed the nominations of two Attorneys General: Alberto Gonzales and Michael Mukasey.

SALT signed amicus briefs in *Lawrence v. Texas* (homosexual privacy) and *Boy Scouts of America v. Dale* (sexual orientation discrimination) and issued Public Statements opposing an expanded immigration enforcement role for local police; opposing the Military Commissions Act and the suspension of habeas corpus; and supporting a boycott of a racially discriminatory hotel. Most recently, [in December 2007, SALT included a chapter in the US Human Rights Network "shadow" report, submitted to the United Nations, contradicting the official 2007 U.S. submission that the country was indeed complying with efforts to eliminate racial discrimination.](#)

#### *Legal Education*

Among SALT's regular events are the enormously popular bi-annual Teaching Conferences. The conferences provide a unique opportunity to exchange techniques, methods and ideas in settings designed by and for law professors committed to making a difference in the lives of their students. Themes for the Teaching Conference in the last few years have included "Teaching, Testing, and the Politics of Legal Education in the 21st Century" (2000), "Teaching in Crisis, Teaching about Crisis: Law, Peace and Pedagogy" (2002), "Class in the Classroom" (2004), "Academic Freedom and Teaching Activism in the Post 9/11 World" (2006), "Teaching for Social Change" (2008); and two conferences in 2010, one focusing on poverty law at Golden Gate University School of Law on March 19-20, 2010 and the other focusing on the law school of the future at University of Hawai'i on December 10-11, 2010.

SALT annually holds three Public Interest and Social Justice Retreats. The Robert Cover Retreat is held in New England, the Trina Grillo Retreat is held in California, and the Norman Amaker Retreat is held in the Midwest. All three retreats are named after extraordinary law professors who dedicated their lives to social justice issues. The retreats provide students, teachers, and practitioners the opportunity to educate one another on public interest issues and to forge new communities of progressive lawyers and legal academics.