

LAW SCHOOL DIVIDED OVER TENURE CASE

By Peter Hogness

CLARION

SUMMER 2001

[PSC HOME PAGE](#)

[OTHER CLARION
ARTICLES](#)

" The separate [graduation] ceremonies symbolized how deeply the school has been divided over the denial of tenure to Prof. Maivân Clech Lâm, a Vietnamese-American expert on the rights of indigenous peoples."

This June there were two different graduation ceremonies at the CUNY School of Law, with 34 students organizing an alternative to the official event. The separate ceremonies symbolized how deeply the school has been divided over the denial of tenure to Prof. Maivân Clech Lâm, a Vietnamese-American expert on the rights of indigenous peoples.

Lâm was recommended for tenure by a faculty committee last October. When the Law School's Personnel and Budget Committee (P&B) came back with a negative decision in November, students besieged the office of Dean Kristin Booth Glen to demand an explanation. A series of protest actions followed, including a three-day hunger strike in April that was called off after one student was sent to the hospital.

"Professor Lâm is an internationally known scholar," said Amelia Toledo, co-president of the CUNY Asian/Pacific American Law Student Association. "Her comments were solicited by the United Nations for consideration at the UN's Global Summit last September. She's been a wonderful mentor for students of color, and for students interested in international law."

In late April, the P&B drew support from a majority of tenured faculty at CUNY Law. An open letter signed by 11 faculty members stated that while "reasonable people might disagree" with the P&B's decision—and while some of the signers might have voted differently themselves—"the process and the decision are reasonable." The letter noted that faculty members of the P&B had all been elected and stressed that "we respect the faculty on the P&B and the Dean as people of integrity."

When the decision was announced in November, Lâm's supporters charged that the P&B had acted improperly—in part because it lacked the non-voting student member called for in the school's governance plan. Lâm immediately filed an appeal, asking Dean Glen to rescind the P&B's vote and overturn its decision. The dean refused, but said that

the P&B would “reconsider” its decision after a student representative was elected. The student representative took his seat in January, but by April there was still no word from either the P&B or the dean.

Both sides grew increasingly frustrated. P&B supporters stressed respect for the process: “We may each have our own opinions,” said Prof. Rick Rossein, “but we also know that the P&B has information that we do not.” They were critical of Lâm’s advocates, who they felt were not always respecting the confidentiality necessary to the committee’s deliberations. Prof. Ruthann Robson told Clarion that this had led to one-sided public impressions about the case.

Lâm’s supporters responded that “confidentiality” was being given a broader definition than on any other CUNY campus, with Dean Glen unwilling for months to say when she would announce her decision. Prof. Frank Deale, who chaired Lâm’s tenure committee, wrote in a reply to the “open letter” that “the reach of confidentiality has been extended so far... that it can only be perceived as a means of shielding procedural and substantive abuse.” (P&B members contacted for this story declined all comment.)

The hunger strikers’ main demand was for a speedy—and positive—decision on Lâm’s appeal. But on April 18, six days after the strike ended, Glen announced that the P&B’s verdict would stand.

By then Lâm’s supporters had begun to link her case with broader issues of the school’s direction. While the clinical program at CUNY Law has long been considered one of the nation’s best, the school has had a low first-time passing rate for students taking the bar exam. In response the school has moved to give more attention to preparing for the exam, and in 2000 three-quarters of its students passed the bar on their first try—a threefold increase over 1987.

Curriculum Debate

Many students complain that there has been a less desirable consequence, that the electives in public-interest law and critical legal theory that had drawn them to the school are not being given. “Of the 12 courses I had circled before I came to this school, not one of them was offered,” said hunger striker Gordon Kaupp, a second-year student. “The school has been in this mainstreaming process under Dean Glen,” said Kaupp, “with fewer radical professors and more bar-oriented courses. Maivan’s case is part of that.”

But other students favor the curriculum changes. “Many students want bar coverage,” said Robson, who chairs the school’s curriculum committee. “Faculty line up to teach the theory courses, and sometimes these do not have high enrollment.” Rossein concurred, adding, “We love to teach

these courses!” Rossein also argued that a critical, public-interest perspective was integral to standard courses at CUNY Law, and that a good range of electives is still offered.

By Lãm’s account, she often did not agree with the direction in which Dean Glen wanted the school to go. Lãm told Clarion that just before the P&B came to its November decision, Glen offered to arrange a position for her at the CUNY Graduate Center instead, an offer which Lãm declined. “Her precise words were, ‘Let’s face it, you are an intellectual who ought to be tenured at Columbia, but are a mismatch for CUNY Law School,’” said Lãm. (Dean Glen declined to comment on this or any other point, citing the fact that Lãm has filed a grievance. But in a public e-mail last November, Glen denied that she had “said or implied that ‘intellectuals’ should not be teaching at CUNY Law School.”) In a widely-circulated e-mail last fall, Lãm said that the dean claimed her performance in large classes was not good enough, though Lãm herself contends that her student evaluations were “well within the norm.”

The most volatile part of the Lãm tenure controversy has been the question of race. In late April the head of the school’s Black Law Students’ Association charged that “Dean Glen has consistently marginalized students and professors of color under her authority.” Toledo says that Lãm was subject to “disparate treatment,” arguing that she has far more extensive publications than two other candidates who were granted tenure this year. “There is racism in this, even though people say there is not,” says Prof. Dinesh Khosla, the one faculty member who joined the hunger strike and the chair of the committee that recommended Lãm’s reappointment before she came up for tenure. Prof. Jill Soffiyah Elijah, who left CUNY Law for Harvard in January, wrote in April that the denial of tenure to Lãm was “inexplicable,” and that she had left in part because the school was no longer “that place of inclusion” that it had been under Glen’s predecessor, Haywood Burns.

Yet four of the eleven signers of the open letter supporting the P&B are women of color, and CUNY Law has one of the most racially diverse faculties in the country.

“We’re proud of our record here in that regard,” said Rossein. “We have the highest percentage of female faculty of any law school in country. We have one of the highest proportions of faculty of color, other than some traditionally black schools like Howard.”

“I feel disturbed when I hear people making rash allegations of racism,” said Prof. Penelope Andrews, a South African who signed the open letter. “It detracts from fighting the struggle that really needs to be waged.” Andrews said that

as a woman of color, she personally had not found the law school to be a hostile environment. “One of the things bothering me is that there have been accusations, not a dialog. These accusations have been thoughtlessly destructive. That’s disturbing to me, because the Law School and CUNY are precious.”

Lâm and her supporters say that diversity is a question of viewpoint as well as composition. “To say that one supports diversity and mean only diversity of color, not diversity of the perspectives that come with the different historical experience of diverse ethnic groups, is a travesty,” argued Lâm. But others feel that these connections are not always so clear-cut. “We need a dialog about how we raise our differences,” Andrews told Clarion, “and how we separate the individual from the larger ideological questions.”

Lâm Presses Case

Next year Lâm will be a visiting associate professor at American University’s law school, Washington College of Law—but she is following through on her pledge to “challenge the negative tenure decision via all lawful means available to me.” She has filed a grievance under the union contract, alleging various statutory and contractual violations (including how she was treated after a disability leave), and is considering a lawsuit.

One of the few things that all sides would agree on is Rossein’s description of the past year’s dispute: “This has been very painful and disruptive to our community.” While Kaupp said there has been some progress on the school’s curriculum, it is unclear to what extent the school’s divisions will narrow in the year to come. Will the CUNY Law School have a united graduation next June? As the saying goes, the jury is still out.

back to PSC [HOME](#) page

other [CLARION](#) articles