

FOREWORD

*Susan J. Feathers**

The Edward V. Sparer Symposium honors its namesake, a visionary in social justice and a pioneer in poverty law. As a professor and an advocate, Sparer influenced generations of poverty lawyers and the course of legal education and scholarship.

Sparer conceived of a comprehensive agenda for poverty lawyers, one that combined direct legal services with impact litigation and client empowerment. In the 1960s, he pioneered the concept of community-based lawyering and founded the first neighborhood legal services organization, Mobilization for Youth Services.¹

Sparer believed that poverty lawyers must collaborate with communities as part of a larger social movement for social change. His message resonates today. The last decade has been a time of growing uncertainty, crisis and confusion. And while the legal services and civil rights communities have long been under siege, never before have they been under such devastating and sustained attack by Congress and the judiciary.

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act ended welfare as we know it, in the ironic name of "reform." At the same time, federal funding for legal services was slashed and crippling restrictions were imposed on whom legal services program. Programs were destabilized and legal services lawyers demoralized.² Meanwhile, the U.S. Supreme Court has issued a series of decisions which have undermined 25 years of federal civil rights laws in the areas of disability, environmental justice, language access, women, children and families.

* Director, Public Service Program, University of Pennsylvania Law School. In addition to hosting the Annual Edward V. Sparer Symposium, Penn Law School's Public Service Program coordinates the mandatory pro bono requirement, the Public Interest Scholars Program, and public interest programming at the Law School. For more information on the Program, go to www.law.upenn.edu.

¹ The 2001 Sparer Symposium, *Social Movements and Law Reform*, explored the relationship between social movements and law reform in a wide range of areas, including civil rights, environmentalism, women's rights and gay and lesbian issues. The papers were published in the Symposium issue of the *University of Pennsylvania Law Review*, Vol. 150.

² In 1998, the Public Interest Scholars and the Public Service Program coordinated a Symposium, *Welfare Reform: A War on Poverty or the Poor*, which was published in Penn's *Journal of Law and Social Change*.

This case law was the subject of the 2002 Edward V. Sparer Symposium, *Suing the Government: Velazquez and Beyond*. Leading lawyers and academics explored issues relevant to suing the government, including the function, scope and effects of such litigation and its connection to social movements.

Many of the ideas discussed at the conference are presented in this volume, including:

- *Preserving Aliens' and Migrant Workers' Access to Civil Legal Services: Constitutional and Policy Considerations*, written by Laura Abel and Risa Kaufman, tackles the topic of legal services (or lack thereof) provided to aliens and migrant workers. Both practitioners, Ms. Abel and Ms. Kaufman discuss the effects of current federal and state statutes on some of the most vulnerable groups in our society: aliens and migrant workers. They further analyze the constitutional questions raised by these statutes that restrict legal services.
- *Fear and Degradation in Alabama: The Emotional Subtext of University of Alabama v. Garrett*, by Susan Bandes, explores the Supreme Court's troubling vision of the Fourteenth Amendment and the impoverished role of Congress.
- *Closing the Courthouse Doors to Civil Rights Litigants*, by Erwin Chemerinsky, traces the disturbing trend of the Rehnquist Court decisions in undermining civil rights law. *Velazquez*, which recognized that welfare recipients deserve their day in court, is in sharp contrast with many civil rights decisions from the October 2000 Term. The Supreme Court failed to protect, or even recognize the importance of, access to the courts in decisions like *Alabama v. Garrett*, *Alexander v. Sandoval*, *Circuit City v. Adams*, and *Buckhannon Board & Care Home v. West Virginia Department of Health and Human Services*.
- *The Uneasy Case for Department of Justice Control of Government Litigation*, by Neal Devins and Michael Herz, examines the idea that centralization can lead to conflict of interest and inefficiency.
- *Suing the Government in Hopes of Controlling It: The Evolving Justifications for Judicial Involvement in Politics*, by Nathaniel Persily, examines politically motivated lawsuits that challenge regulations of the political process, including cases

involving the 2000 Census and redistricting process, campaign finance reform, ballot access, and voting rights.

- *Judicial Policy Making and Litigation against the Government*, by Edward Rubin and Malcolm Feeley, contends that litigation against the government inevitably leads to policy making by the courts and explores whether such litigation is desirable. In particular, the authors discuss judicial policy making in the context of prison litigation.

The hope is that these articles will not only make a significant contribution to legal scholarship, but will also serve as a blueprint for action aimed at protecting civil rights and will thus help fulfill Edward V. Sparer's vision of the law as a powerful tool for social change.