On My Mind 6/21/02

Speaking with an authenticity only a member of a minority can really provide, Law Professor Danielle Conway-Jones offered a thought-provoking view of racism, indigenous rights and the law at a lecture earlier this week that stirred many in the audience, though others felt her stance to be too liberal.

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Conway-Jones told a group of pre-law students, law clerks, practicing attorneys and interested individuals that "colorblind jurisprudence" - case law dealing with racism - must take into account the context in which it is being applied. The claim that a law favoring minorities discriminates against Caucasians does not take into account the history of discrimination against persons of color, the need to offer reparations, remedy. Caucasians do not have that same history, that same need for remedy, she said.

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This principle was violated, she said, in the case of Rice v. Cayetana, brought against the Office of Hawaiian Affairs by a non-indigenous Hawaii resident who objected to the requirement that voting for OHA Board members could only be done by indigenes. The case went as far as the U.S. Supreme Court, which overturned lower court decisions that the OHA did indeed have the right to limit votes to indigenes.

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In the case of affirmative action, Conway-Jones said, the situation is similar. Caucasians are privileged in a sense that persons of color are not. White privilege has been institutionalized in the United States from colonial times - when only whites were allowed to vote, to own land, to attend school. White privilege still reigns to this day, despite the 13th, 14th and 15th Constitutional Amendments, despite the overturn of "Jim Crow" in the '60's, despite affirmative action. The advantage of being Caucasian is still there, and in a somewhat pessimistic vein, Conway-Jones asserted that it will always be there, that persons of color will never achieve that same degree of privilege.

Last week Professor Edward Bronson gave an equally fascinating, but not quite as provocative presentation on the role of juries in the judicial process. Juries often bring a broader perspective to a case through their collective wisdom, he said, than do solitary judges. But the present process of jury selection tends to be discriminatory, and is in need of change to be fully effective.

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In this week's lecture Bronson spoke on public funding of private schools and the use of vouchers. By their selective admission policies, private schools leave public schools as dumping grounds for those unable to afford private schools, Bronson noted. Yet public schools, where diversity reigns, are crucial to the socializing of American society, and should, therefore, be far better supported than they now are, he suggested.

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The series closes with a presentation by Conway-Jones on the subject of "Privilege and Self-Determination" on Tuesday, June 25, at the Supreme Court at 4:00 p.m. Offered as part of

a program for aspiring attorneys, the free public lectures are being jointly sponsored by the CNMI Humanities Council, the CNMI Bar Association, Northern Marianas College and the CNMI Supreme Court.

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Just as live performances of ballet and classical music by visiting artists offer a rare treat to fine arts-starved audiences, so have these liberal scholars offered a rare treat to members of the public starved for intellectual enrichment. An humble thank-you to them, and to the sponsors!

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With so many bills being introduced in the Legislature, trying to decide which ones are worth commenting on is not easy. Though many never come up for a vote, those that do - and manage to pass in one house - don't always get passed by the other, so that's no indication of their viability, either.

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One such bill is Senate Bill 13-43, introduced by Senator Joaquin G. Adriano, which has already passed the Senate, and on its face, is certainly appealing. It proposes to save money by reducing the size of all new government boards and commissions - as well as 14 existing ones - to five members. Further, it promises simplification, making the boards and commissions in question uniform in size, in terms of office, and in compensation of its members.

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But treating all boards and commissions alike - as though all had the same scope of responsibilities, the same size budgets to oversee, the same kind and size organization to administer - makes no sense. It would be difficult to represent the many stakeholders, the many parties with interests in tourism, for example, with only five members on the Marianas Visitors Authority Board. The same is true of the Free Trade Zone Board, and the Commonwealth Development Authority, also included in the bill.

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In addition, a five-member board would mean that three members constitute a quorum. The thought of giving just three people the authority to make decisions regarding the operation and management of the Commonwealth Utilities Commission, or the Retirement Fund, or the Election Commission, three other agencies included in the bill, is worrisome indeed.

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With the exception of Northern Marianas College and the Elections Commission, the bill calls for board members' terms to expire with the term of the governor who appointed them. There would be no overlap, no continuity from one administration to another, and a lapse between the election of a new governor and his appointing a new board. Many of the agencies in the bill could not function under such conditions.

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The bill has other problems as well. Its compensation terms are far more generous than present legislation provides; it requires boards and commissions to submit quarterly rather than annual reports - burdensome, indeed! - and it restricts the use of "professional services" to those approved by the CNMI Attorney General.

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Senate Bill 13-42 should never have made it through the Senate. Let's hope it doesn't make it

through the House.

We won't take offense that the current administration has chosen to ignore that the idea was mentioned here long before it was mentioned at the Consul General's Conference earlier this month. Obviously, the idea has much more cachet coming from the Japanese Counsel than from this lowly columnist. It is gratifying, none the less, to see that the government is now entertaining the idea of moving prostitutes, girlie bars and related establishments out of Garapan to a site away from the tourist mainstream.

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That suggestion, and the further suggestion that Marpi's Cow Town be designated the new "red light" district was made here on February 2, 2001. That column suggested as well that prostitution be legalized, so that it can be better controlled. Prostitutes should be registered and licensed, we wrote, and required to undergo periodic health exams. That would leave Garapan and other popular tourist areas free to cater to those tourists seeking only a safe place for themselves and their families. By taxing the now-licensed businesses it would also provide a legal source of income from a trade that, at present, is operating tax-free.

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To quote that column, "It may not be the ideal solution to prostitution, but it is realistic, practical, do-able, legitimate...." We still think it is a good idea - depending on where it will be located.

Brief note: The revised NMI Retirement Fund emergency regulations for the Group Health and Life Insurance Program are included in this month's Commonwealth Register. The public has 60 days from the date of their publication to submit comments.

Last but not least: Congratulations to Jerome Camacho DeLeon Guerrero upon his graduation from the United States Air Force Academy. He is the first Chamorro to have graduated from the USAF Academy - no mean achievement.