

Memorandum

To The Members of the Harvard Corporation
From: Martha Minow, Morgan and Helen Chu Dean and Professor of Law
Date: March 3, 2016

Last November, I established a committee to examine questions about the HLS shield, and here I forward to you the committee report I received March 3rd for your consideration.

I give my thanks to each member of the Committee, and especially its chair, Professor Bruce Mann, for their time, attention, and thoughtful deliberations. They undertook the work of considering evidence, precedent, values and history, consulting with students, staff, faculty, and alumni—over 1,000 individuals—and deliberating seriously with one another. These are not easy tasks, especially in light of all else we ask of our teachers and scholars, staff, and students each day and all else undertaken by two busy alumni of the school. Professor Mann and the committee of faculty, students, alumni, and staff stepped forward, and I and others are deeply grateful.

Each year since I became dean, I welcome entering JD students to campus with discussion of the portrait of Isaac Royall, Jr., whose gift of land helped support the first professorship of law at Harvard. I observe that the money came from the work of individuals enslaved on his family's plantation in Antigua, and that while Harvard University at that time acted legally in accepting the gift, it is crucial that we never confine ourselves to solely what is currently lawful, for the great evil of slavery happened within the confines of the law. That is why HLS does not simply teach what the law is, but engages in critiques of the law, constant reminders to test what we do in service to our aspirations for virtue and justice.

Whatever was known in the past, powerful and challenging questions now arise about the Harvard Law School shield. Designed in 1936 as part of the University's tercentenary, it contains a design based on a bookplate used by Isaac Royall, Sr., who passed his wealth—including enslaved persons—to his son, the initial donor to the school. What role should history play in defining who we are? What was the genesis of the shield and how does that history influence our path forward? Do we better remember our connection with the Royall family and with slavery by preserving the shield or by retiring it? What role do symbols play in the School's commitment to diversity, inclusion, and belonging inside our community and in the world at large? Does consideration of the shield's future put into question the names of buildings, endowed chairs, the nation's capital, and other embodiments of the past?

I am impressed with the committee's consideration of all these questions, and am confident all its members thought hard about compelling and competing arguments and conclusions. I respect and learn from the objection, explained in the separate statement by Professor Annette Gordon-Reed and joined by student Annie Rittgers, that maintaining the shield, tied to an interpretive narrative, would help us think about the injustice of slavery alongside the School's current commitment to justice and equality. There are crucial suggestions here for how Harvard

Law School should proceed in addressing the past and the future, whatever happens with the shield, and I will invite our community to take up this work.

As for the shield itself, I endorse the committee's recommendation to retire it. There are complex issues involved in preserving the histories of places and institutions with ties to past injustices, but several elements make retiring the shield less controverted than some other issues about names, symbols, and the past. First, the shield is a symbol whose primary purpose is to identify and express who we mean to be. Second, it is not an anchoring part of our history: it was created in 1936 for a University celebration, used occasionally for decades and used more commonly only recently, and does not extend back to the origin of the School or even much beyond recent memory. Third, there is no donor whose intent would be undermined; the shield itself involves no resources entrusted in our care.

Ultimately, the decision rests with the Corporation. If the Corporation agrees with the recommendation, preparation for the bicentennial of the School in 2017 gives us the opportunity to create recommendations to the Corporation for a new symbol that represents our mission and values going forward.

Whatever the Corporation decides about the shield, the larger discussions about our values, our culture, and the importance of strengthening our community will continue, because they must continue. We must always face not only the fact of slavery but also its legacies and ongoing questions of injustice within our community and beyond. We must do so because we are dedicated to intellectual rigor and truth, and because we are willing and able to model reasoned discourse and openness to difference and dissent. In these most important ways, we remain a work in progress, and that work continues.

I look forward to your decision and to our ongoing work together.