

Symposium Tackles Role of Plain Meaning in Law

By JOSEPH JEROME '11
MANAGING EDITOR

What is the role of the plain meaning of language within the law? This question was asked, debated, but far from answered during a symposium presented by the Journal of Law & Liberty on Friday, Feb. 18. Though the all-day event was divided into sessions discussing how plain language impacts administrative law, intellectual property law and law generally, the sessions largely provided a forum for 10 various academics and practitioners to riff on their favorite subjects and share interesting anecdotes.

While two years ago, the Journal's last symposium was subjected to a mid-February blizzard, this year's symposium fell on the warmest day of the month. This time, Professor Richard Epstein delivered a keynote address on a "modest theory of interpretivism" to a packed, hot sunlit Greenberg Lounge. Epstein argued that underlying linguistic problems should drive analysis of legal problems, explaining that prohibiting children from merely hitting each other might not stop them from kicking each other instead.

After an introductory panel on the use of language generally, the symposium became more focused when it switched to administrative law. Introducing the role of interpreting language in an administrative context, NYU's own Professor Samuel Estreicher posited that *Chevron*, the Supreme Court decision largely deferring to executive agencies, did not actually matter in jurisprudence and instead a judge's individual engagement on an issue is what mattered.

His fellow panelists largely concurred. Professor Glen Staszewski recounted a story about a group of judges on the D.C. Circuit who after discussing a case at lunch, ignorant of the factual matters at

play, decided to "Chevron it" and call it a weekend.

When a member of the audience asked if states had something similar to the *Chevron* doctrine, Prof. Estreicher jokingly admitted that as a member of the faculty of a national law school, he never had occasion to teach state law. Prof. Roderick Hills, a staunch fan of federalism, could hardly contain himself as he spoke up to defend the value of local law and explain New York state's legal interpretation doctrine.

Professor Hanah Volokh noted that one of the key factors in determining meaning is determining what actor said something. As an example, she shared a story of an encounter with Judge Alex Kozinski, when he introduced her to some friends as "such a great girl I married her." "Everyone looked stunned," she said, before elaborating both then and to the audience assembled that Judge Kozinski had married her to her husband. She explained that a judicial officer's use of the verb "to marry" meant a very different meaning than the usual context, no matter how accurate the usage was.

The symposium generated tremendous debate on the role of context in intellectual property. While Professor Barton Beebe elaborated upon his extensive research on trademarks, Stephan Kinsella, a patent attorney and staunch libertarian, ridiculed the trademark monopoly. His disdain for government-launched legal regimes was palpable: "John Locke didn't go far enough," he said, arguing that individuals did not really have ownership over their labor but only their bodily autonomy.

"We thought the entire event turned out great," said Natalie Wilson '11, who organized the event. "I was afraid it might be too philosophical or the topics a bit academic, but I learned a few things. The topics were pretty grounded."



Gerardo Gomez Galvis

PILC Auction Nets More Than \$100,000 Dean Revesz Extends His Long Wii Tennis Losing Streak

By CATHERINE BERRY '13
CONTRIBUTING WRITER

On Feb. 24, students, professors, staff, alumni and NYU supporters flooded into Greenberg Lounge and Tishman Auditorium in order to participate in the 17th annual New York University School of Law Public Service Auction. This year, the Auction offered over 460 distinct items and raised an estimated \$105,000 for students receiving summer funding from the Public Interest Law Center. Auction

co-chairs Nina Bell '12 and Alex Kohen '12 were pleased with the auction's fundraising successes and excited to have the opportunity to contribute to one of their favorite NYU events.

One of the most lucrative items was a one-night stay in John Sexton's two-floor Penthouse at West

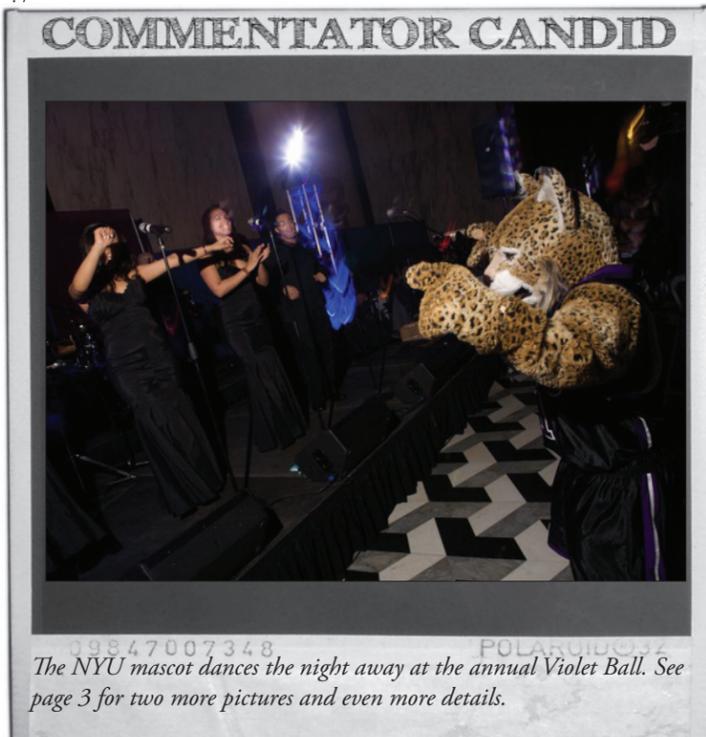


Gerardo Gomez Galvis

Fourth Street and MacDougal, which went for \$1,650. The most anticipated item was the now traditional Wii tennis dual between Dean Richard Revesz and an NYU student, played immediately following the conclusion of the live auction. Alas, once again Dean Revesz lost

tract student bidders in order to maximize profits in an economy that doesn't encourage big-ticket splurges. They also emphasized variety, offering items that would appeal to a crowd with diverse interests. Their hard work paid off as this year's Auction exceeded their fundraising goals as well as the profits from last year.

Recently, increasing numbers of NYU students have been working in public interest jobs over both their 1L and 2L summers, due to both an increasing interest in the public interest field and the dearth of firm jobs because of the economy. In 2008, for example, 269 students received money from PILC for their summer work. By comparison, in 2010, 456 students received PILC funding, costing a total of \$2.6 million. While it looks like the number will decrease slightly this year, an estimated 350-400 students will be eligible. The grant for first year students is \$4,500 and for second year students is \$6,500.



COMMENTATOR CANDID

09847007348 POLAROID084
The NYU mascot dances the night away at the annual Violet Ball. See page 3 for two more pictures and even more details.

Infra	Role Play isn't just a segment on <i>Pardon the Interruption</i> .	page 2
	Who would have figured that Facebook breeds crazy people?	page 3
	Burger Joints and Vagina Monologues. Seriously.	page 4

Selling Out: Was the PILC Auction's BarBri Blitz Too Biased?

By MICHAEL MIX '11
EDITOR-IN-CHIEF

In a Canon commercial from the early 1990s, tennis legend Andre Agassi famously said "image is everything." After some of the events of the past few weeks at the law school, I think some people should take the eight-time Grand Slam champion's words to heart. As you can see for yourself in written and graphical form on the first page of this *Commentator* issue, the annual NYU Public Service Auction occurred on Feb. 24 in Greenberg and Tishman. Among the items up for bidding were a group of BarBri certificates. In order to publicize these certificates, students representing the PILC Auction Committee and the SBA sent out a multitude of messages to students over the few weeks before the auction.

Now, before I go on, it is worth noting that this column is not meant to criticize PILC or the SBA; I strongly support both organizations. Moreover, this column has nothing to do with BarBri specifically. Any other corporation could be substituted for BarBri, and I would still be making the same point. But I am going to use all three of them as an example to make a larger point about the law school in general.

By typing "BarBri" into my Gmail search box, I can easily see that the Auction Committee and PILC both sent emails to the 3L class advertising the BarBri certificates. The Auction Committee also sent three emails to the Coases listserv advertising the BarBri certificates in particular, which toes the line of violating Rule 11.1 of the SBA's bylaws, which prohibits commercial posts. One of the SBA social chairs —

inserted a community announcement in the weekly SBA email that advertised the certificates, but that message at least included other auction items.

I understand why the Auction Committee and others were so excited to advertise what they thought was a great deal; in this economy, I know several people who coveted the ability to receive a discounted BarBri course. I also seriously doubt that any of the

are sold at the cafes in Golding and Wachtell lounges. NYU lets companies like LexisNexis, Westlaw and BarBri have table space at the law school. There are a number of corporate sponsors of law school events like Law Revue. A lot of companies donate various items to the PILC Auction. Even *The Commentator* occasionally has print advertisements for for-profit corporations.

But I think that last week's constant shilling for a specific company was a different story.

The idealized notion of a law school is that it is an unbiased institution, a place where students and professors can debate the legal issues of the day free from interference by corporations or other large interests, as opposed to a place like Congress. The consistent stream of pro-BarBri messages from people associated with the law school conveys the image that NYU has sold out to BarBri.

In the future, even if a product has a huge amount of utility for NYU Law students or if a product up for auction is a fantastic deal, I think that everyone affiliated with the law school (meaning administrators and students in their official capacity as student group officers) should refrain from advertising those products too much. I do not think that the law school wants to

overtly associate itself as strongly pro-BarBri, strongly anti-Kaplan or strongly pro- or anti- any other product or for-profit company on Earth.

There is clearly a right way and a wrong way to go about conveying a relationship with a company. It is acceptable to sell Poland Spring in Golding; it would be completely wrong to hang up a huge Poland Spring banner. It is satisfactory to allow LexisNexis and Westlaw to run training sessions at the law school; it would be absurd for Dean Richard Revesz to tell incoming students that they should use one or the other.

I do think that it is acceptable to let the students know that they can get a great deal on BarBri at the PILC Auction, but the volume of correspondences about the BarBri certificates (and the fact that no other company's product was mentioned in any of the emails) is over the line. Again, I am not suggesting that anything nefarious occurred, but I think that the school should avoid appearing to be in bed with for-profit company, no matter how good the deal is or even if the proceeds will help a great cause like the PILC Auction. I just hope that in the future, the law school remembers Agassi's immortal words. After all, he was trying to sell a product.

Comment

The Guy Behind The Guy Behind the Guy

writing in his capacity as social chair by signing his name with the words "SBA Social Chair" — sent a Facebook message to the Class of 2011 Facebook group in which he copied and pasted the BarBri advertisement from the Auction Committee. All of these messages were sent within eight days of the night of the Auction, and the number sent in attempt to hawk any other items up for bidding paled in comparison. The Committee also

people involved actually had any ulterior or nefarious motives. And if there had only been one correspondence to the 3Ls, it probably would not have even registered on my radar screen. But because 3Ls received so many of these messages, it amounted to a free advertising blitz for BarBri.

It is naïve to think that law schools do not have any affiliations with for-profit corporations. A number of brand-name products

Four Tips to Spice It Up by Dressing Up

By HONEY RYDER

One of my favorite yearly events — Super Bowl Sunday for Girls — occurred last weekend amidst the usual pomp, circumstance, and attempts to secure ratings from the 18 to 24 year-old market. That's right folks, the Oscars! Now, before you get all offended about the whole "super bowl for girls" thing (yes; I know girls like the Super Bowl and yes; I know guys like the Oscars), let's get back to focusing on why the Oscars are so awesome ... from a sex point of view that is. (Do I have your attention now?)

Two words — role playing. Obviously, role playing is a wonderful way to spice things up in a relationship romp-room, between the one night stand sheets, or of course in any other horizontal tango locale. Last time we spoke, dear readers, I bemoaned my inability to talk the nasty. Luckily, I am much more confident playing dress-up and unleashing my inner Natalie Portman (why yes, I may or may not be referring to choice scenes from *Black Swan*). Whether your fantasy involves a simple teacher/librarian/schoolgirl outfit or requires elaborate scripting, I believe that a fun costume, an accent and a willingness to improvise can give foreplay a dramatic and more-titillating-than-usual flair.

Here are some choice tips on how to turn an ordinary roll in the hay into an all out smushfest.

No. 1: Start simple! If you're

going to go the acting route, pick a character or characters that you AND your partner(s) are familiar with. If you love HP, make sure you stick with Ron-Hermione-(Harry) and don't go all crazy with a Bella-Edward-(Jacob) attempt. If you aren't ready for real characters, just pick a chick flick archetype and go with that. [Bonus hint: Check out Halloween stores for fun ideas and cheap, off-season costumes that are already designed to be slutty because, well, they were made for Halloween.]

But I think the best way to satisfy everyone's needs is to make sure that all parties are ready to play-act. The collaborative atmosphere also makes your bedroom feel less like a strip club and more like, well, a bedroom. Not that there's necessarily anything wrong with the former, but I'll save that for another column.

No. 4: Have fun. Hopefully, you've already realized that "fun" is what coitus is all about, but for those of you Type A perfectionist future lawyers that need everything laid out for you: Don't stress. Role playing and dress up should be, above all, fun. So pick whatever role is going to make you merriest. Whether you're going all dramatic by putting the 007 in Bondage, or quirkily nerdy by putting the Learned in handjob (how you would dress this

one up is beyond me, but hey, to each his/her own), pick something that will be enjoyable and playful for you and your partner.

These four tips will have you walking your own personal red carpet within the year. And that, folks, is why I love the Oscars! They serve as a perennial reminder that role play is a fabulous thing, and of course, they are wonderful fodder for building my own boudoir repertoire. If that wasn't reason enough to love the Oscars, this year they provided their very own potential pre-penetration scene: dress up as the two hosts and attempt to have the most awkward foreplay ever! Because sometimes, we all just need to relax and have a good laugh.

thecommentator

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Comment

There's Always Money in the Banana Stand

No. 2: Wear a mask. No, not because you are ugly (you're gorgeous!), but because it can often be easier to let loose and get excited about your fetish character when you are covering up your face. I'm sure there is some complicated psychological mumbo jumbo that I could spout here, but I'll spare you and just say: mardi gras/classy masks = hot. [Bonus hint: Integrate your mask with your costume. Try a little Marie Antoinette party action, or find a suitable mask to go with your "amore in Venezia" theme.]

No. 3: Make sure you AND your partner get involved. Of course it's always fun for one partner to get all dressed up for the other partner's viewing and hardening pleasure.

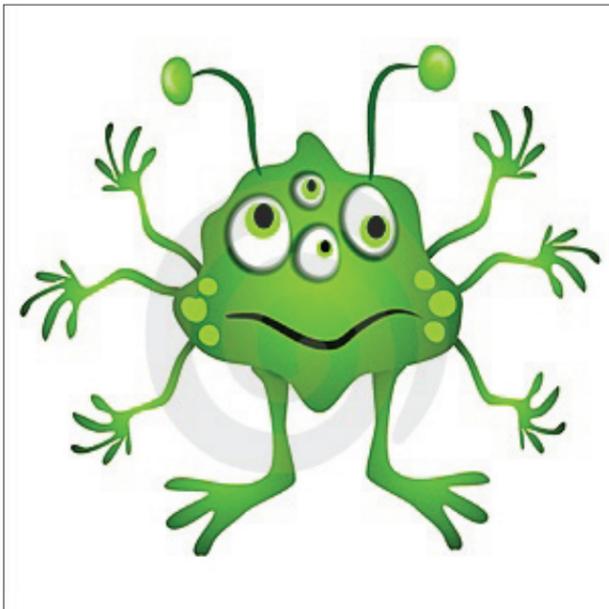
Heartfelt Letters to a Deactivated Znok

By DENNIS CHANAY '11
STAFF WRITER

About six months ago, I deleted my Facebook account forever. There had been too many changes since I first got an account during my freshman year of college. Namely, endless Farmville invites and the introduction of grandparents. Oh, the grandparents. Not only are they the source of problem No. 1, they're also the only people on Facebook who still poke. I can only guess that it's their folksy innocence that blinds them to the fact that poking is the 21st-century version of breathing heavily into a telephone receiver.

So, bam! Deactivate.

Now before you realize that "South Park already did this article," and stop reading, you should know that my lack of willpower and/or a life led me to quickly hatch a plan to enjoy Facebook in complete anonymity. Privacy options, you say? Too easy. I would start fresh. I would



-Znok

Wow. That felt great. I willingly passed up the opportunity to play prophet and instead chose a path of honesty and encouragement. On we go....

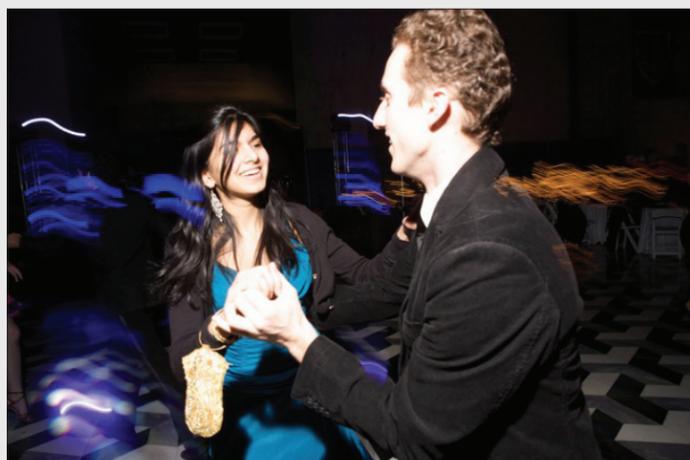
Dear Znok,
Are you familiar with the customs of the Avian Reptilian species of the Reptar galaxy?

-Bird Dood

50 people I hear from like him are and how they're coping with their 'knowledge' that 'V' is reality. My guess is not very well. I genuinely feel that Znok has taught me something: it's too easy to walk by on your cell phone or smile and say "sorry" or give a quarter when you don't realize what is going on in somebody's world.

On this sudden nose dive of a conclusion and as we 3Ls near the end of our time here, I urge all of you who have been blessed enough to get in, find a job and get out to remember and give financial consideration to those members of our society who see the world caving in around them. Znok deactivated.

No Wallflowers Attend NYU's Annual Violet Ball



The Annual Violet Ball was held Feb. 26 in the atrium of Bobst Library on the undergrad campus. This year's event sold fewer tickets than normal to minimize crowding. The guest list was limited to 900 students so there was room to boogie down.

Comment

Full of Sound and Fury

become 'Znok Reptilian,' a rocking space lizard who just came to earth for the party. Other alien-people (and wow there are a lot of them) were quick to add and accept Znok, some nice artists were cool enough to give him a sweet picture and this is the way it has been.

But the cure has had side effects. Farmville has been replaced by a steady stream of the most mind-numbing emails I have ever read. I try my best not to answer ... but damn, is it hard. Recently it has been exceedingly difficult. For some people, cold weather is an invitation to stay indoors and fall into another world. And so I will answer a sample of this weekend's messages here. All emails should be considered [sic'd] ...

Dear Znok,

... I am a man from Canada who has been researching your race.... I'm hoping that this isn't just some hoax that someone has made, but this being the real true proof that Retialians/ Reptoids are really and are just like humans, except for the fact that your more intelligent... I would gladly let you do testing on me to figure out what is wrong with the human race compared to yours, because I strongly believe your race is the race that "made" us

-Rejected by Quintiles

Dear Rejected,

Thank you for the kind offer, good sir. However, I am not an alien. But it is good to see that you are concerned about the current state of humanity. Perhaps you can channel that concern into healthy activism.

Dear Bird,

Of course I am. They're magnificent.

-Znok

Here I play the part of Znok but so what? Sometimes it's fun. Bird is playing around, I'm playing around. It's all good. Next...

Dear Znok,

"This world is not the first world The humans mind is programmed I have already seen the aliens with the DNA skin blood errors"

-Chips

Dear Chips,

Forget everything you have learned.

-Znok

Damnit! See how that happens? People like Rejected and Bird live in a marvelous world that stands in sharp contrast to a lot of the cynical friends I surround myself with. It's part of the fun of being Znok. Answering someone like Chips after a night out at SBA leaves me worrying for a week that the FBI is going to bang down my door. And yet a surprising amount of this stuff comes streaming in.

In the past few months, I have accumulated an unhealthy amount of knowledge about contactees, abductees, djinns, tricksters, swinging tourist aliens, hybrid programs, soul collection programs, secret bases, Men in Black and a whole bunch of other crazy shit. Despite believing none of it, it's impossible to not let it change the way I see the world. For one, I've realized that New York's high per-capita

We Know You Always Read the Commentator.

In fact, you're reading it right now. But we can tell you never take it seriously. This is our plea: Take our March 28 issue seriously. Really, Really Seriously. For Reals.

The Commentator!

Perfectly Cooked, Inexpensive Burgers Hidden in an Expensive Hotel

BY STAVAN DESAI '11
ASSOCIATE MANAGING EDITOR
AND ELYSE FEUER '11
STAFF EDITOR

Step 1: Hamburger or Cheeseburger

Step 2: How you want it cooked? — Rare through Well

Step 3: What do you want on it? — Lettuce, Tomato, Onion, Pickle, Ketchup, Mayo or Mustard

Be Ready To Order Or Go To The Back Of The Line!!!

That's the menu, and it put us on edge at first. Having been to places that take the way and speed you order very seriously (e.g. cheesesteaks in Philly), and having watching the Soup Nazi from *Seinfeld* many times, we weren't sure exactly what to expect. But don't worry, Burger Joint was not nearly as demanding.

Burger Joint, a small burger place in midtown, is not where most would expect it to be. Its entrance is hidden half way into the lobby of Le Parker Meridien Hotel. So hidden in fact, that we walked by the entrance twice before asking the concierge where the

place was. It's in fact behind a curtain, down a small hallway reminiscent of those reserved for "Employees Only."

When you finally enter the place, you're greeted first by overly loud music. We thought long and hard about how to describe the music, but the only words that come to mind are Exotic Eclectic. During our brief 20-minute lunch, the music varied from Indian Bhangra to Middle Eastern to Motown to Russian. ... The décor is also a bit odd. The restaurant has about 12 tables, and the walls are covered with celebrity

medium with lettuce, pickle, ketchup and mayo) and Coke came to \$10.50. After about five minutes, it was served wrapped in the kind of white paper that you usually get cold cuts or raw meat in (supporting the hip deli vibe).

The Buns were clearly visible as Arnold's Select Sandwich Rolls (Sesame Seedless) which are commonly seen in supermarkets. While we were a little turned off at first by the very cheap bun

a Sesame Seed bun, it may have provided slightly more firmness and crunch lacking from the overall burger.

So on to the burger itself.

char and crustiness on the outside that wows me even now, hours later.

When comparing Burger Joint to other burgers in Manhattan, it lines up closest to Shake Shack in terms of size, price, and quality. To sum up the comparison, I'd say that the Burger

Joint burger was cooked better, and had a nicer char on the outside. However, the Shake Shack burger was better seasoned and more flavorful, so it is for you to decide which is more important.

So that's the review, but we do have one more thing to add. As we were sitting on the subway going home, we found that the more we thought about Burger Joint, the more we really liked it, and the more we wanted another burger. Shake Shack never made us feel quite that way. It's an intangible, but still worth mentioning. Now, I guess we have no choice but to try Shake Shack again and see how they both really stack up.

Burger Joint is located at 119 W 56th Street. Open daily from 11am-11:30pm. Cash only. 212.708.7414.

For more inspired food reviews, check out idcrossthestreetforthat.wordpress.com.

Comment

I'd Cross the Street For That

At first look, it appeared a little small, but after finishing, we were pleasantly satisfied. Not stuffed or even full, but definitely the right amount for lunch. The meat itself was loosely packed, and while it wasn't falling apart on the bun, it was nice and airy and did crumble once in your mouth, giving it a slightly more gourmet feel. In terms of the flavor, it was pretty solid. Nice, balanced flavor. It tasted like a burger should. Two small criticisms: We thought the mix could have used more pepper, and we thought it tasted a bit too greasy. Some would call this flavor "meaty and juicy," but we thought it tasted a little too fatty. We got over it quickly, however, because the burger was perfectly cooked. Not just internally, at a perfect medium with pink center, but externally. The Burger Joint burgers are grilled, and there was a perfect



signatures, signed bricks, and movie posters. Combining it all together, we'd say it has the vibe of a hip deli.

The cheeseburger (cooked

they used, it ended up not being an issue because the burger itself was not that big, and the bun was appropriately sized. We did think, however, that if they used

Annual Vagina Monologues Both Controversial and Inspiring

BY LEIGHTON DELLINGER '12
STAFF EDITOR

On Feb. 23, the Domestic Violence Advocacy Project collaborated with the NYU School of Medicine for an outstanding sophomore production of the Vagina Monologues at NYU School of Law. Given the recent House of Representatives decision to deny Planned Parenthood federal funding and the subsequent rallies around town this weekend, the show was perfectly timed and (as always) relevant and interesting.

The Vagina Monologues are produced in conjunction with V-Day, established in 1998 by Vagina Monologues creator Eve Ensler as an annual Valentine's Day project intended to spread awareness about violence against girls and women. The program this year included audience favorites — "The Woman Who Loved To Make Vaginas Happy," performed by Carley Palmer '11 — and two new monologues intended to highlight current controversies and developments in relation to V-Day's Mission.

The first, "Under the Burka," performed by Taeva Scheffler '13,

was a moving story told from the perspective of a Muslim woman forced to wear the traditional all-enveloping cloak. Scheffler's performance was tender and intense — particularly compelling was her decision to wear a burka throughout the entire show. The other cast members wore the traditional VM solid black outfits with pops of red and pink; Scheffler stood out throughout the evening as the only woman without pop.

Audience members did question the decision to include this particular monologue. "I thought it was a little offensive," said Lauren Major '12, "I was surprised the

them as oppressive. Despite mixed reviews about the content of the monologue, the performance was tasteful and compelling — it added a real dimension of timeliness and urgency to the show.

The other new monologue was "Myriam," performed by Erica Rodriguez '13. "Myriam" was added to the Vagina monologues program in honor of Myriam Merlet, an activist and an author. Merlet was chief of staff for the Ministry for Gender and the Rights of Women in Haiti and she also founded Enfofam, which collects and promotes women's stories. Furthermore, Merlet she brought V-Day and the Vagina

Monologues to the women of Haiti. Merlet died in the 2010 Haiti earthquake and "Myriam" was Ensler's tribute to her friend and colleague

who spent her life and work advocating for women who were victims of violence.

Rodriguez's performance was stirring and poignant; her monologue ended the show on a note of hope and a call to women to carry on Merlet's work. "That monologue

was moving to the point that it gave me chills," said Christine Ranney '13, "it was the highlight of the program. I think it was really important to include that piece; the relief effort in Haiti is still really important, really relevant. To humanize it with a tribute to such an amazing activist gave a shared notion of moving forward, of continuing the pursuit of V-Day's mission."

These intense stories of violence were interspersed with pops of vagina-related humor. Palmer's varied moans in her female sex worker monologue (a character who used to be a lawyer) were riotous and entertaining. "Carley is hilarious and sexy," Ranney laughed, "that should have been so awkward. She was moaning! But her confidence and her energy — Carley's performance was the highlight for so many people." And Palmer wasn't the only monologist who got laughs. The law-related euphemisms for vaginas shared by Andrea Ravich '12, Liz

Platt '13 and Lori Day '13 — including The Split Circuit, The Southern District and Your Honor — got hearty chuckles and sniggers from the audience.

Overall, the show was a wonderful experience for the cast, crew, and attendees. "It was inspiring, beautiful, and unequivocally successful," gushed Megan Cunningham '11, "the efforts from all of the contributors touched my heart and made a difference."

The proceeds for the Vagina Monologues went to the NYC Womens' Health Free clinic, Sanctuary for Families and the V-Day 2011 Spotlight Campaign for Women and Girls in Haiti. Producers and Amanda Sen '12 and Cunningham set a \$5,000 fundraising goal at the outset of the project. As the curtain was raised, they were only a few hundred dollars shy of their goal and were "thrilled" with ticket sales and attendance. After the second performance at the Med School, the program raised over \$4,400 for charity.

Comment

The Eager Reader

producers decided to include such a controversial piece." The show acknowledged the potential for inflammation; the piece was introduced with a disclaimer — its inclusion was intended to portray how a woman might feel if forced to wear the burka, not to unilaterally label

