

Lani Guinier, Legal Scholar at the Center of Controversy, Dies at 71

President Bill Clinton pulled her nomination as assistant attorney general in 1993 after she came under criticism for her views on voting rights.



Lani Guinier in 1998, five years after her nomination for a top post in the Justice Department was withdrawn. Credit...Librado Romero/The New York Times

By **Clay Risen**

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Lani Guinier, a legal scholar whose work on voting rights and affirmative action led President Bill Clinton to nominate her in 1993 to be an assistant attorney general, only to withdraw her name two months later in the face of a Republican campaign against her, died on Friday at an assisted living facility in Cambridge, Mass. She was 71.

Her cousin Sherrie Russell-Brown said the cause was complications of Alzheimer's disease.

Descended from a long line of lawyers, Ms. Guinier made her name in the 1980s as an unorthodox thinker about whether America's legal institutions, even after the civil rights revolution of the 1960s, needed to change further to realize true democracy.

She argued, for example, that the principle of "one person, one vote" was insufficient in a system where the interests of minorities, racial or otherwise, were inevitably trampled by those of the majority, and that alternatives needed to be considered to give more weight to minority interests.

Ms. Guinier was a 43-year-old professor at the University of Pennsylvania Law School when President Clinton nominated her for the post of assistant attorney general for civil

rights. But she quickly came under fire from Republicans for her progressive views on voting rights and quotas.

Her work was not without its liberal critics: Some scholars questioned whether her ideas about voting were in fact democratic, as she claimed, and several Democratic senators voiced their concerns about her nomination to President Clinton.

But her Republican opponents also made clear that their campaign was a matter of opportunity. Still stinging from the Supreme Court nomination battles over Robert Bork and Clarence Thomas, they were looking for payback, and saw her liberal views as an opportunity to hit the president early in his term.

“Clinton has not had to expend any political capital on the issue of quotas,” Clint Bolick, a conservative lawyer and activist who helped lead the charge against her, [told The New York Times in 1993](#), “and with her, we believe we could inflict a heavy political cost.”

Mr. Clinton eventually bowed to pressure and withdrew her nomination in June 1993, calling some of her positions “anti-democratic.”



Ms. Guinier in 1993. She was nominated that year for the post of assistant attorney general for civil rights, but she quickly came under fire from Republicans for her progressive views on voting rights and quotas. Credit...Jose Lopez/The New York Times

Ms. Guinier returned to teaching. She also wrote a memoir about her nomination experience, “Lift Every Voice: Turning a Civil Rights Setback Into a New Vision of Social Justice,” published in 1998. That same year, she moved to Harvard Law School, where she became the first woman of color to receive tenure.

While the rest of the country remembered her for her failed nomination, she continued to make strides as a legal scholar and teacher. She pioneered research on implicit bias in the classroom and workplace. Later in her career she opened a wide-ranging critique of merit, especially the way it distorts institutions like her own.

Many of her positions have since moved into and informed the mainstream, especially her criticisms of voter redistricting processes.

“The ability to see so far down the line was her gift,” Heather Gerken, the dean of Yale Law School, said in a phone interview. “She had a deep understanding of the insidious ways that power corrupts institutions, even institutions acting in good faith.”

Carol Lani Guinier was born on April 19, 1950, in Manhattan and grew up in Queens. Her mother, Eugenia (Paprin) Guinier, was a civil rights activist. Her paternal grandfather and her father, [Ewart Guinier](#), were both lawyers, and her father also served as chairman of what was then the Department of Afro-American Studies at Harvard.

Ms. Guinier recalled first wanting to become a civil rights attorney when she was 12, watching on television as Constance Baker Motley, a lawyer with the N.A.A.C.P., helped escort James Meredith in his fight to integrate the University of Mississippi in 1962.

She graduated from Radcliffe College in 1971 and Yale Law School in 1974, a year behind Mr. Clinton and in the same class as Clarence Thomas.

Ms. Guinier married Nolan Bowie, a fellow professor and legal scholar, in 1986. He survives her, as do her sisters, Clotilde Guinier Stenson, Sary Guinier and Marie Guinier; her son, Nikolas Bowie, also a law professor at Harvard; her stepdaughter, Dana Rice; and a granddaughter.

After a clerkship with a U.S. District Court judge in Michigan and a year working with juvenile offenders in Detroit, Ms. Guinier moved to Washington to work in the Department of Justice. She left in 1981, when President Ronald Reagan took office, and for most of that decade she led the Voting Rights Project of the NAACP Legal Defense Fund.

Ms. Guinier became an aggressive litigator, traveling, for example, in 1985 to Alabama, where, with Deval Patrick, the future governor of Massachusetts, she helped lead the defense in a voting rights case [against Jeff Sessions](#), the future senator and attorney general who was then a U.S. attorney. Her team won an acquittal.

“She was easily one of the most innovative thinkers in the voting rights space,” Sherrilyn Ifill, the outgoing head of the Legal Defense Fund, said in a phone interview.

Ms. Guinier left the defense fund for a position at the University of Pennsylvania Law School in 1989. There she began to turn her experience defending voting rights into ideas about how to reform the system.

She argued, for example, that merely having a vote was not enough for minorities, especially those from oppressed classes. She proposed a variety of alternatives, [like cumulative voting](#), in which people get a number of votes to distribute as they wish — a process that might allow minority voters to concentrate their support on a single candidate and in that way increase their influence as a bloc.

“Her concern was that each vote count the same as the next vote, and the normal districting process does not create that,” Gerald Torres, a professor at Yale Law School and a frequent collaborator, said by phone.

Such ideas caught the attention of the Clinton administration, whose officials also liked her fiery rhetoric about the backsliding on voting rights under the Reagan and George Bush administrations.



Ms. Guinier with Mitt Romney, who was the governor of Massachusetts at the time, at a Martin Luther King Jr. Day event in Boston in 2005. Ms. Guinier was the keynote speaker. Credit...Josh Reynolds/Associated Press

It was perhaps inevitable, then, that her Justice Department nomination would become a lightning rod. She insisted that her positions had been taken out of context, and she noted that cumulative voting was already used in communities around the country. But Republicans doubled down, calling her a “quota queen” for, they said, supporting affirmative action quotas (she did not).

Still, Ms. Guinier seemed to take the president’s decision to withdraw her name in stride — especially since it had made her something of a national figure.

“When I walk through the train to the snack bar, many people seem to recognize me — and these are men, women, whites, Blacks, Republicans, Democrats,” she told *The New York Times* in 1993. “People come up and say, ‘I disagree with everything you have said, but I think you should have had a hearing, and I admire the way you handled the situation.’”

Above all, she said, she appreciated the perspective that the process gave her and the insights she was able to take with her back to the academy, among them an understanding of how political polarization got in the way of democratic decision making.

She also became known for her innovations in the classroom, said Susan Sturm, a professor at Columbia Law School and a frequent collaborator. Ms. Guinier would bring in drama students to help her class construct short plays around legal questions, or hand over a lesson to a group of students.

She wrote a number of books, on topics as varied as voting rights, gender equality and affirmative action, including “The Tyranny of the Majority: Fundamental Fairness in Representative Democracy” (1994); “Who’s Qualified?: A New Democracy Forum on the Future of Affirmative Action” (2001), with Ms. Sturm; and “The Tyranny of the Meritocracy: Democratizing Higher Education in America” (2016).