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## Foreword

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# FOREWORD

## *The Editors*

As the average age of the bar continues to increase, Maine’s rural communities face a well-documented lawyer shortage. Outside of Cumberland County, more than 65% of lawyers in private practice are over 50 years old.<sup>1</sup> And as this generation retires, younger lawyers are not replacing them: most recent Maine Law graduates have stayed in southern Maine and the greater Portland area.<sup>2</sup> This shortage is causing dysfunction in rural Maine’s legal system: Maine’s few rural practitioners struggle to navigate conflicts of interest and succession issues;<sup>3</sup> courts see an increase in pro se litigants, which can drain court resources;<sup>4</sup> and indigent defense systems are similarly overburdened, which can lead to under-protection of defendants’ constitutional rights.<sup>5</sup>

But legal practice is just one strand in a larger web of economic, political, and social justice—in addition to the rural lawyer shortage, Maine’s rural communities confront a multiplicity of challenges not faced by its more developed towns and counties. Economic turmoil, most prominently the collapse of Maine’s paper industry, has ravaged many of these communities, in turn eroding their legal and political infrastructures.<sup>6</sup> Legal and policy impediments to accessing healthcare persist,<sup>7</sup> particularly for women and minority populations.<sup>8</sup> The criminal justice systems in rural communities often exacerbate and perpetuate these issues, but the current discourse around criminal justice reform does not address or account for rural places’ particular dynamics.<sup>9</sup>

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1. ME. BD. OF OVERSEERS OF THE BAR, REPORT AND RECOMMENDATIONS OF THE BOARD OF OVERSEERS OF THE BAR’S TASK FORCE TO STUDY BAR DEMOGRAPHICS 2 (June 2014), available at <https://www.mebaroverseers.org/DemographicsTaskForce/Docs/Task%20Force%20Report%20-%206.6.14.pdf> [<https://perma.cc/FJL8-UN5W>].

2. *Id.* at 17.

3. *Id.* at 10.

4. Judge Kevin Stitham, Maine District Court, Panel Discussion at the Maine Law Review Symposium: Ensuring Equal Access to Justice in Maine’s Rural Communities (Apr. 26, 2019) (video on file with the *Maine Law Review*; transcript forthcoming 2019).

5. *See, e.g.*, SIXTH AMENDMENT CTR., THE RIGHT TO COUNSEL IN MAINE 57 (Apr. 2019), [https://sixthamendment.org/6AC/6AC\\_me\\_report2019.pdf](https://sixthamendment.org/6AC/6AC_me_report2019.pdf) [<https://perma.cc/P7C7-3APD>] (observing that in rural Somerset County, the contract model of assigning indigent defense counsel “produces a direct conflict of interest”); Andrew Davies & Alyssa Clark, *Gideon in the Desert: An Empirical Study of Providing Counsel to Criminal Defendants in Rural Places*, 71 ME. L. REV. 245, 267 (2019).

6. *See, e.g.*, Thomas Farragher, *In Maine, a Town on the Brink of Extinction Plots a Comeback*, Boston Globe (Feb. 13, 2018), <https://www.bostonglobe.com/metro/2018/02/13/maine-town-brink-extinction-plots-comeback/oBBflaUeAUIP6kBw0X1sIO/story.html> [<https://perma.cc/HT35-UEUS>].

7. ME. RURAL HEALTH RES. CTR., MUSKIE SCH. OF PUBLIC SERVICE, MAINE RURAL HEALTH PROFILES 10-11 (Sept. 2016), available at [www.mehaf.org/learning-resources/reports-research](http://www.mehaf.org/learning-resources/reports-research) [<https://perma.cc/44J5-U8ES>].

8. *See, e.g.*, Erika Ziller et al., Me. Rural Health Res. Ctr., *Preventive Health Service Use Among Rural Women* 6 (Apr. 24, 2019), <https://digitalcommons.usm.maine.edu/cgi/viewcontent.cgi?article=1073&context=insurance> [<https://perma.cc/CRD8-2ZHW>].

9. *See* VERA INST. OF JUSTICE, Press Release, Rural America Has Highest Jail Incarceration Rates in the U.S. Despite Low Crime Rates, New Report Reveals (June 13, 2017),

Until recently, there was little legal scholarship on rural issues—geography entered the legal academy primarily from the other end, with rural places serving as a mere foil for the study and assessment of urban places<sup>10</sup>—and what little there was treated rural places as culturally, racially, and situationally homogenous.<sup>11</sup> Over the last decade, however, and particularly since the election of Donald Trump in 2016 prompted a renewed interest in America’s rural places,<sup>12</sup> legal scholars and writers have begun to examine legal issues with greater sensitivity to the particular social, economic, spatial, and geographic characteristics of rural places.

As Maine’s only law school, the University of Maine School of Law has a special responsibility to work to serve the entire state, not just its more populated southern and coastal areas. To that end, in recent years the Law School—alongside partners from Maine’s legal and rural communities—has begun several initiatives aimed at mitigating and remedying Maine’s rural lawyer shortage, such as the Rural Lawyer Project, which awards paid summer fellowships to students working in private law offices in rural communities.<sup>13</sup>

In support of this work, and in light of rural places remaining underexamined and underserved by the legal academy, the Editors have dedicated Maine Law Review’s Spring 2019 volume to rural legal issues. In conjunction, on April 26-27, 2019, the Law Review held a symposium at Colby College, entitled “Ensuring Equal Access to Justice in Maine’s Rural Communities,” which presented lively panel discussions and talks by attorneys, judges, and legal scholars.<sup>14</sup> The symposium provided a forum for Maine’s legal community to engage with a newly invigorated national conversation on rural legal issues, particularly vis-à-vis the distinct access

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<https://www.vera.org/newsroom/rural-america-has-highest-jail-incarceration-rates-in-the-u-s-despite-low-crime-rates-new-report-reveals> [<https://perma.cc/A9PT-QV97>].

10. In other words, rurality was the absence of urbanity rather than a distinct set of shared characteristics.

11. Lisa R. Pruitt et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL’Y REV. 15, 16, 20 n.18 (2018); see also Maybell Romero, *Viewing Access to Justice for Rural Mainers of Color Through a Prosecutorial Lens*, 71 ME. L. REV. 227, 231 (2019); Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 475-76 (2014).

12. Indeed, national newspapers and websites began publishing travelogues, some almost safari-like, with such great frequency as to prompt a satirical backlash. See, e.g., The Onion, *White Supremacist Tired After Long Day of Interviews with Mainstream Media Outlets* (Feb. 8, 2018), <https://www.theonion.com/white-supremacist-tired-after-long-day-of-interviews-wi-1822818329> [<https://perma.cc/F9B8-SX7C>]; Ryan Cooper, *The Media Is Blinded by Its Obsession with Rural White Trump Voters*, The Week (Dec. 28, 2017), <https://theweek.com/articles/745394/media-blinded-by-obsession-rural-white-trump-voters>.

13. Liz Woodbury, *Tackling the Rural Law Crisis*, ME. LAW MAG. (Winter 2018-19), <https://mainelaw.maine.edu/news/wp-content/uploads/sites/10/rural-law-magazine.pdf> [<https://perma.cc/9GPE-4MZT>].

14. The symposium was organized by the editors of the *Maine Law Review* and was made possible through the generous support and hospitality of Colby College. The editors have too many people to thank, but would like to particularly shout out Dean Danielle Conway, Maggie Fleming, Lexie Moras, Professors Thea Johnson and Jim Burke, and Maine Supreme Judicial Court Justice Donald Alexander for their support, encouragement, and invaluable advice. By June 2019, video of the full event will be available on the *Maine Law Review* website; in the meantime, the agenda is available at <https://www.minelawcommunity.org/s/184/16/interior.aspx?sid=184&gid=1&pgid=1229&cid=2149&ecid=2149> [<https://Y5SL-RJQB>].

to justice challenges facing rural places in 2019.

The first four papers in this issue were presented at the symposium and are specifically aimed at rural access to justice issues. The problems facing rural Maine are not unique, though they take on a distinct shape in each community. Maine can and must learn from other rural places' experiences, and we anticipate that Maine's legal community continues to confront the challenges, and take advantage of the opportunities, arising in its rural places. We hope that the ideas presented at the symposium—and fleshed out in this issue—provide a strong foundation for continued conversation and action to ensure that Maine's rural communities, and the people that call them home, are not left behind.

