

Summer 2006

Harvard Law

bulletin

**China's
century**

**Moving
at digital
speed**

**Can the law
keep pace?**

*Across Asia,
there is a
growing
demand for
new laws—
and lawyers.
Harvard
Law School
is helping to
meet it.*

ASIA

**Social
upheaval
Economic
expansion
Legal
transition**

Camera PHOTOGRAPH BY KATHLEEN DOOHER

Despite the rain, the future looks bright for Donna Lee '06 and the other degree recipients of June 8, 2006.



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A noted scholar offers a perspective on China's great leap toward a future with more laws—and lawyers—than ever before.

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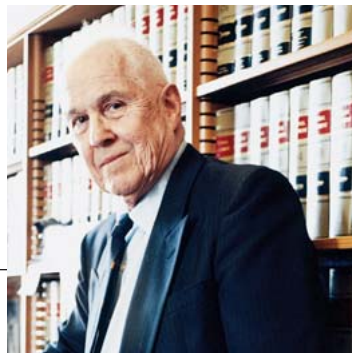
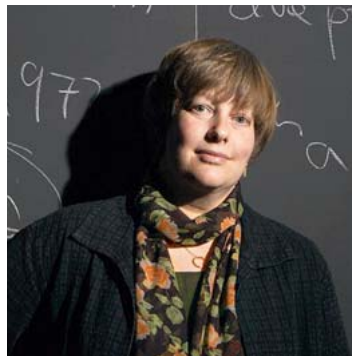
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Asian Journeys

AS EAST ASIA takes center stage in world affairs, it seems like the right time to dedicate an issue of the Bulletin to exploring the law school's many connections to this pivotal region—connections that range from faculty members producing groundbreaking scholarship to alumni assuming leadership roles in politics, law and business.

Of course, HLS is no newcomer to the international arena. The law school's East Asian Legal Studies program began in the 1960s. Since then, EALS, now under the distinguished leadership of Professor William Alford '77, has evolved into the nation's most comprehensive program for the study of East Asian law and legal history. As many of you know, Bill is one of the world's leading scholars of Chinese law, and in these pages he gives an expert's view on why the rapid transformation of the legal system in China—home to almost one-quarter of the human race—should matter to us all.



Legal institutions in Japan are also in flux, with globalization and shifting economic cycles giving rise to corporate legal structures increasingly like ours. Professor J. Mark Ramseyer '82, an extraordinary scholar who grew up in Japan and now directs our Japanese Legal Studies program, shares his perspective on why a country that once felt scant need for legal counsel is moving toward a culture favoring “New York-style mega firms.” It's a thought-provoking story and one I think you'll enjoy.

Given the pace of change in Asia, it's not surprising that when we take a look at the lives of our Asian alumni—something I had a chance to do firsthand on a trip to East Asia earlier this year—we find them playing transformative roles. Among the alums I was honored to meet was the first woman appellate judge in Korea (a country where—judging by the turnout at our visit—our alumni are exceptionally enthusiastic and loyal). I also learned more about the rising fortunes of two very different Taiwanese leaders—the country's vice president and the mayor of Taipei—both HLS alumni, both possible presidential candidates in 2008. When we speak of Harvard being an

“international” law school, this is precisely what we mean.

One focal point of change in Asia—as elsewhere—is the evolution of the Internet. Content censorship by some Asian governments has raised concern at the school's Berkman Center for Internet & Society, with scholars documenting state-sponsored Internet filtering in China, Burma, and elsewhere—a complex and important matter discussed later in this issue.

A bit farther west, in Nepal, lawyers risked their lives this spring to restore the rule of law. Here you will find the riveting story of one of our students, who watched the events unfold in his native Kathmandu while working on a plan for a negotiated settlement of Nepal's decade-long civil unrest.

Meanwhile, even as we turn our focus outward, incredible work continues right here in Cambridge—innovative approaches to teaching (such as Professor Carol Steiker's use of role-playing in her capital punishment course) and major new initiatives designed to help students explore legal practice (such as our new Child Advocacy Program), both of which are spotlighted in this Bulletin. We also pay tribute to David Herwitz '49, Frank Sander '52 and David Shapiro '57—three superb teachers and scholars who recently retired.

I hope that you enjoy this issue's rich mix of stories—and come away with an increased awareness of the law school's engagement with the larger world. And whether you're reading this in Cambridge, Asia or someplace in between, please know that you're an integral part of the HLS community.

A handwritten signature in black ink, appearing to read 'Elena Kagan'.

Dean Elena Kagan '86

Letters

"Inquiry is always appropriate, even if its purpose is to prove a point. In both science and law, the question is, 'Does it?'"

—Hugo M. Pfaltz '60

IN THE BEGINNING THERE WAS A THEORY

I TAKE ISSUE with Professor Stuntz's contentions in the Spring 2006 edition of the Bulletin ("Is the case for intelligent design designed intelligently?") that lawyers and scientists proceed from diverse positions in their respective arguments. Scientists, particularly in the medical field, usually have a preconceived hypothesis which they are determined to prove.

While Darwin's observations adequately explain differentiation among the beaks of finches in the Galapagos Islands, I find them unpersuasive as to the development of an eye and totally irrelevant for the "big bang." Fortunately, scientific inquiry in physics has not been limited to the postulates of Isaac Newton.

Inquiry is always appropriate, even if its purpose is to prove a point. In both science and law, the question is, "Does it?"

HUGO M. PFALTZ '60
Summit, N.J.

LONG-LASTING IMPRESSION

I READ WITH great sadness about the passing of David Westfall (Spring 2006). I don't often find myself quoting

WE WANT TO HEAR FROM YOU
The Harvard Law Bulletin welcomes letters on its contents. Please write to the Harvard Law Bulletin, 125 Mount Auburn St., Cambridge, MA 02138. Fax comments to 617-495-3501 or e-mail the Bulletin at bulletin@law.harvard.edu. Letters may be edited for length and clarity.

HLS professors 12 years after graduating, but just yesterday (not knowing that he had passed away), I was looking at my 2-week-old daughter, and one of my closest friends jokingly asked me if I was ready for a lifetime of spending. I said to him, "Oh, no—not a lifetime. Professor Westfall said (in his Missouri drawl), 'A moment of passion is worth 18 years of payments, except in New York, where it's 21.'" Anyone who can leave that kind of impression—12 years after a one-semester encounter—is a pretty special person in my book.

DAN HARRISON '94
Los Angeles

AMAZING GRACE (AND HUMILITY)

WE WERE DEEPLY saddened to learn of Professor Arthur T. von Mehren's passing on Jan. 16, 2006. Both of us were privileged to be among the numerous Harvard Law School students whose legal education was enriched by Professor von Mehren's extraordinary erudition. While his scholarly accomplishments and contributions were incomparable, Professor von Mehren infused the classroom with a grace and humility all too infrequent in the academic halls of today. He will be sorely missed.

JARED H. BECK '04
Miami

PAUL N. LEKAS '03
New York City

A McCARTHY-ERA MEMORY

YOUR ARTICLE (VERY good) on the Ames Moot Court competition (Spring 2006) recalls the names of illustrious finalists Harry Blackmun [32] et al. but omits another *less* illustrious, one Alger Hiss [29]. He was convicted in



1950 during my last year at HLS, and that event was duly celebrated by some school wag who draped black crepe over the Ames bronze plaque in Langdell bearing his name. Sic transit gloria mundi!

MYRON BOLUCH '50
Scituate, Mass.

NOT JUST A GOOD READ

LET ME STATE the obvious: The Bulletin is first-rate. Not only a good read, it's a healthy mix of campus issues/updates and interesting outside topics and profiles. Though I am sure you have to do your share of cheerleading, you keep it at a minimum, which is nice. Keep up the good work.

WILLIAM CHOSLOVSKY '94
Chicago



THE BULLETIN ONLINE View back issues of the Harvard Law Bulletin at www.law.harvard.edu/alumni/bulletin/backissues.

Who lives and who dies?

By Elaine McArdle

“STAY IN ROLE!” exhorts Professor Carol Steiker ’86, as some 90 students in her upper-level course Capital Punishment in America split into groups for an exercise in which they’ll argue whether a death sentence should be reversed due to ineffective assistance of counsel. “Don’t say, ‘If I were the lawyer, I would ...’”

The students step into their roles eagerly. Those playing the petitioner’s counsel argue that their client’s constitutional rights were violated when trial counsel failed to present certain mitigating evidence. One student zeros in on the lawyer’s decision to ignore a file that held information about the petitioner’s abuse in childhood, mental capacity and alcoholism.

“It was an unreasonable decision not to look at the court file,” the student asserts. But a classmate sitting as an associate justice of the U.S. Supreme Court interjects: “Isn’t it possible to argue that it was a strategic decision not to look in the file?” In such cases, the Court has been less willing to interfere.

The defense group cites other missteps by the trial lawyer, including her failure to provide a narrative of the petitioner’s life circumstances. Steiker steps in as a sort of chief justice and asks, “Is it your claim that the failure to get a social history alone is ineffective assistance of counsel? Because I’m a little worried that we’re setting rigid rules. I’m hearing a checklist.”

After other students make the government’s case, Steiker asks the judges to vote: Twenty-one side with the petitioner, three with the prosecution.

The exercise is based on *Rompilla v. Beard*, decided in June 2005 by the U.S. Supreme Court, 5-4, in favor of the petitioner. The case was one of the last that



Professor Carol Steiker '86, teaching at the intersection of politics, morality, law and philosophy

Sandra Day O’Connor heard before she retired; she sided with the majority, overturning a 3rd Circuit decision written by Samuel A. Alito Jr.—who took her seat on the high court.

“Alito was asked a lot during his hearings about this case because he was reversed by the current Supreme Court,” says Steiker. “What will happen in the future is anyone’s guess.”

Role-playing, mock trials, guest speakers (including Steiker’s brother, Jordan Steiker ’88, a capital punishment expert) and Steiker’s teaching keep the class engaged. She began teaching the course in 1993, as a seminar. But enormous student interest prompted her to offer it as a large lecture class this year.

“It’s amazing how much this class feels like a seminar, given how big it is,” says Erica Knievel ’06. “It’s a lot of group arguments and role-playing,

which sets a tone for a class where people feel comfortable participating.”

Steiker, who got a “mini crash course” in death-penalty law when she clerked for U.S. Supreme Court Justice Thurgood Marshall, has a theory on why the class is so popular. “It’s a sexy topic, the kind of topic people think law school is going to be about,” she says. “It’s at the intersection of politics, morality, law and philosophy.”

Even though many of her students will go on to work for large firms, these firms often provide legal services in capital cases. And several dozen former students have become prosecutors and defense attorneys. Steiker says they contact her regularly for guidance: “This course actually turns out to be pretty practical.” *

Elaine McArdle is a freelance writer living in Watertown, Mass.

Fighting for children, not over them

By Christine Perkins

WHEN MELISSA PATTERSON '06 signed up for a clinical placement through the school's new Child Advocacy Program this year, she was looking for something as "real-world" as possible. By the time she was done, she'd helped a father give up the child he loved but couldn't take care of—his pain lessened only by hope for his child's future.

Patterson was one of 20 students participating in a new clinical program focused on advocating for children's rights and interests. The program is part of CAP, developed in 2004 by Professor Elizabeth Bartholet '65 and Lecturer on Law Jessica Budnitz '01 as a way to address an advocacy gap in the representation of children.

But the program is not designed simply to train students to go into court to represent kids. Its goal is to encourage students to think critically about different approaches to social change and to expose them to the myriad ways in which they can affect law and policy to create a better world for children.

Working through a mediation program, Patterson helped negotiate open adoptions as an alternative to contested court proceedings for children in foster care. The placement appealed to

her because it wasn't adversarial. "It's not about legal positions so much as it is making people's emotional needs match," she said.

In fact, she found that her first client meeting with a young father facing termination of his parental rights felt

more like a counseling session. Patterson worked with a facilitator who negotiated with the birth and adoptive parents separately and then helped work out the details of an agreement in joint sessions. She said it was an empowering process for both sets of



Advocates for Children: Victoria Schwartz '07, Melissa Patterson '06, Nick Rose '07, Emily Kernan '07

parents, and gave the son a permanent home and the birth father continued contact with him. It also avoided costly litigation. But the process was not without emotional costs. Patterson says the look in the birth father's eyes as the agreement was finalized will haunt her for the rest of her life. "It's a complex emotion," she reflected, "because I know what is making him so sad is, in a way, what is giving this child a new chance on life."

What makes the CAP clinic unique, according to Bartholet, the program's faculty director, is that students are involved in some two dozen organizations using a range of approaches to accomplish social change. While students learn about their individual organizations, they also meet weekly in the classroom to share their experiences and learn from each other's placements.

While Patterson worked to avoid litigation over the termination of parental rights, Emily Kernan '07 focused on speeding up the judicial process once an appeal has been filed. Under the current system in Washington state, where Kernan worked over winter term, children can languish in foster care for up to three years before they are eligible for adoption. Doing research for a state court committee, she interviewed more than 50 stakeholders—trial and appellate attorneys, court clerks, social workers—involved in the appeals process to get their perspective on the cause of delays. She found deeply rooted bureaucratic problems, but she also helped identify smaller, easily fixable inefficiencies that contributed to significant delays. Her findings will form the basis of the committee's recommendations for proposed changes for the state.

Some of the placements allowed students doing policy work to get firsthand experience seeing how that policy affects children's lives. In recent years, Massachusetts legislators and



Elizabeth Bartholet '65

A PROGRAM FOR THE MOST CRITICAL YEARS

CAP confronts pivotal issues in the lives of children

In 2004, Professor Elizabeth Bartholet '65, a child welfare expert who has taught family law at HLS for over two decades, thought the time was right to create a program at the school focused on child welfare, education and juvenile justice. She teamed up with her former student Jessica Budnitz '01, founder of a clinic providing legal services for children in delinquency proceedings, to create the Child Advocacy Program, with its three different academic components.

In class, Bartholet teaches students about law and policy governing things such as parents' rights, child abuse and neglect, and special education. In the policy workshop, child welfare advocates and policy-makers come into the classroom to discuss their organizations and to debate with students the pros and cons of their different approaches to social change. Among the more than 20 speakers on this year's roster were the commissioner of the Massachusetts Department of Social Services, the chief judge of the state of New York and the executive director of Children's Rights, a leading child advocacy group. While the policy workshop brings advocates in, the CAP clinic sends students out. This spring, 14 students worked for local organizations, and three spent winter term in Seattle, Philadelphia and South Africa, respectively, followed up by related research and other work during the spring semester. In its first year, CAP also hosted a documentary film series and various panel discussions. —C.P.

the courts have sought to reform a 1973 statute which allows a court to intervene in the lives of troubled children. Victoria Schwartz '07 analyzed data for the Cambridge Juvenile Court to determine whether judges are effective at keeping these children in need of services (CHINS) out of the delinquency system. But it was her experience sitting in on closed sessions, watching young children in handcuffs or runaways in their pajamas appear before a judge, that helped her see the bigger picture and gave her an understanding of what is at stake in the lives of these children.

Like Schwartz, Nick Rose '07 worked in the courts, but he was part of a team of prosecutors, victims' advocates and medical specialists in a unit of the Suffolk County District Attorney's Office in Boston dedicated to prosecuting child abuse. One of his first assignments was to prepare a 14-year-old girl to testify to being sexually abused by her stepfather. Rose says

the first time he met the victim, he was sure he was more nervous than she was. "I just didn't want to make any mistakes," he said. Watching her relive the abuse on the stand, while the defense attorney pressed for details, Rose says he felt conflicted by the desire to prosecute offenders and the desire to make sure the child wasn't further traumatized.

One of Bartholet and Budnitz's priorities in creating the Child Advocacy Program was to build a home for students to find support and inspiration to contribute in their future careers to advancing children's interests. As a result of their clinical experience, Rose says he is now considering a career in child advocacy, while Kernan is now interested in pursuing the policy aspects of the work. Schwartz plans to focus on child advocacy as part of her future pro bono work at a law firm, and Patterson, who says she is on an academic track, adds she might one day like to adopt a child. *

When is art cultural property?

Terry Martin says it's hard to predict what's going to become a cultural symbol.



AS A FORMER curator at the J. Paul Getty Museum stands trial in Italy for criminal conspiracy to receive stolen goods, curators all over America are nervously rethinking their antiquity collections. HLS Professor Terry Martin, who teaches Art Law, says the Italian investigations are part of a wider movement in many countries not just to retain but to reclaim national art. Export control laws, he says, which made it illegal for items deemed to be of national import to be sold to parties outside the country without state permission, are being replaced by cultural patrimony laws that vest title in the state even for undiscovered antiquities. Italy enacted such a law under Mussolini, and the trend is toward more aggressive enforcement of these patrimony laws. Although the U.S. ratified an international treaty that supports them, Martin, who is also HLS librarian, says there is no equivalent concept in American law. The Bulletin asked him why.

“Part of our attitude when it comes to patrimony laws may have to do with the slant of the market. At the moment, everything flows in this direction. If China became substantially wealthier than we and started taking things away, we might start imposing patrimony laws. There was some anguish when Sony bought Columbia Pictures, but it seems to have faded.

“At the same time, the U.S. has a very, very strong commitment to private property. I asked my class the other day: What is it in America that you cannot own? Besides people, there isn't very much. Even the 1990 Native American Graves Protection and Repatriation Act does not affect items found on private land, only those on federally

owned land or in federally funded collections.

“At the moment, Americans do not tie national identity to works of art. For Americans, civic pride is more wrapped up with our sports teams. When the Lakers leave Minneapolis or the Rams leave L.A., you get arguments that are along cultural property lines. What if the Red Sox were going to be sold and moved? People would go nuts but the law would permit it.

“Sometimes it’s hard to predict when feelings of possession and attachment are going to stick to any one thing—when something is going to become a cultural property symbol.

“I think it happened in 2000 with the tug-of-war over Elian Gonzalez. The law involved was crystal clear—with no surviving mother, the boy should be sent back to his father in Cuba. But the Cuban community in Miami didn’t want to let him go, because he wasn’t simply a kid for them. He had become cultural property.

“In the same way, art can evolve into a cultural symbol. Take the Parthenon. It was built as a pagan temple, lost its major statue to a Roman emperor, was converted to a church, losing more interior sculptures, and became a mosque under the Ottomans. During the war with Venice, it was used as a powder magazine until a Venetian shell converted it to a ruin. It was further dismantled by agents of Lord Elgin before Greece was a country, when Greek architecture and sculpture were considered inferior to Roman. But when Elgin brought the marbles back to London, people were just in awe of Phidias’ creations, and they sparked the Greek revival in Britain and Europe and this country.

“Eventually—when Greeks were trying to throw off the yoke of the Ottomans and form a country where one had never been—they saw how the West was reacting so positively to this example of their ancient heritage, and they converted a local ruin into their national symbol.” *

Hearsay Short takes from faculty op-eds

Media cowed by Islamic fundamentalists

“[T]HE ISLAMIST STREET has been on an intifada over cartoons depicting Muhammad that were first published months ago in a Danish newspaper. ... The mainstream U.S. media have covered this worldwide uprising; it is, after all, a glimpse into the sentiments of our enemy and its allies. And yet it has refused, with but a few exceptions, to show the cartoons that purportedly caused all the outrage. ...

“So far as we can tell, a new, twin policy from the mainstream media

has been promulgated: (a) If a group is strong enough in its reaction to a story or caricature, the press will refrain from printing that story or caricature, and (b) if the group is pandered to by the mainstream media, the media then will go through elaborate contortions and defenses to justify its abdication of duty. At bottom, this is an unacceptable form of not-so-benign bigotry. ...”

PROFESSOR ALAN DERSHOWITZ AND WILLIAM J. BENNETT ’71,
The Washington Post, Feb. 23, 2006.

The business of censorship

“CHINA’S EFFORT TO keep sensitive information from reaching its citizens is the envy of every authoritarian regime in the world, but it is unlikely to hold up over the long run. The sheer volume of messages, the architecture of the Internet itself and the cleverness of Internet users are already overwhelming state censors. China’s leaders understand this. That’s why they’re increasingly relying on private firms to do their dirty work, blocking speech and turning over the identity of citizens who use the Internet as an organizing tool. The Great Firewall of China isn’t the state’s only weapon; there is also Censorship Inc. ...

“To do business in China, all Internet companies are building censorship into their business processes. This will continue so long as the government seeks to control what people see and say online. ... American technology companies will remain a target of Beijing’s demands as long as the cat-and-mouse game between censors and citizens continues.”

CLINICAL PROFESSOR JOHN PALFREY AND BERKMAN FELLOW REBECCA MACKINNON,
Newsweek, Feb. 27, 2006.

Limits to eminent domain backlash

“LAST SUMMER IN *Kelo v. City of New London*, the Supreme Court upheld a redevelopment plan for New London, Conn., that involved seizing private homes to enable commercial development near a major pharmaceutical company. ...

“No sooner had the court issued its decision than widespread opposition arose. ... The result was a broad legislative backlash. ...

“But the federal government is on the hook for lots of money to redevelop areas ravaged by Hurricane Katrina, and eminent

domain involving transfers to private developers is likely to be a key feature. What’s more, many real estate developers, known to make political contributions, strongly defend the decision. ...

“But it’s more than the developer lobby that’s slowing the backlash. Large numbers of communities in America are in need of revitalization. ... Eminent domain is one tool for improving the conditions of neighborhoods.”

PROFESSOR DAVID BARRON ’94,
The Boston Globe, April 16, 2006.

Tribute *142 years of combined service to HLS*



Frank Sander '52,
David Herwitz '49 and
David Shapiro '57

Leaving the stage

IMAGINE FOR A moment a lawsuit involving, as so many of them do, a dispute over accounting practices. Now add some complex questions of federal jurisdiction and procedure. Then assume that the parties decide—wisely—to settle. As the saying goes, “Who you gonna call?”

One would be hard-pressed to assemble a more tal-

ented Dream Team for that case than **David Herwitz '49**, **Frank Sander '52** and **David Shapiro '57**, all eminent members of the Harvard Law faculty (Herwitz since 1954, Sander since 1959 and Shapiro since 1963). But you'd have to talk them out of retirement. For, at the end of the past academic year, all three took emeritus status. Here, some former students pay tribute. >>

Tribute

David R. Herwitz '49

One lawyer's account

By Ted J. Fiftis '57

THE INFLUENCE OF a great teacher like Dave Herwitz brings him nearer to immortality than most of us get. In my own nearly 50 years of professional life, I have met numerous wonderful individuals and benefited from the wisdom and character of many. However, Dave is a standout as a man of character, professional, teacher and friend. In my three stints at “the law school” (as a student, teaching fellow and visiting professor), I witnessed the esteem in which he has been held by three generations of students. It is of the highest order.



JOHN CHAPIN

How often does a tap on the shoulder change a life's course? While I was never enrolled in any of Dave's courses, I attended, as a 2L, every session of his course in Business Planning—not for credit, but for learning. During the following summer, Dave noticed me in the law library reading room, and that's when he tapped my shoulder. After several inquiries of a delicate nature, he asked if I would be interested in tutoring for the next semester the

foreign tax officials he was teaching in the International Program in Taxation. I eagerly accepted and thereafter assisted a remarkable group of individuals who were already prominent in nations worldwide. That year he also hired me as a research assistant for his new “Accounting for Lawyers” book. These tasks called for me to again audit Dave's course, this time Accounting for Lawyers.

In that class, he opened my mind wide to the vast excitement and significance of this seemingly prosaic language of business. Ten years later I, too, went into teaching and wrote my own book for that course. I believe I avoided plagiarism, but could I avoid “plagiarizing” his inspiration of that subject? Ultimately, I realized that whatever was of value in the book was inspired by Dave's spirit.

Dave began his career working in private practice in Boston after a brief stint on the U.S. Tax Court. By the time I returned to HLS, in 1988, as a visiting professor (again, at his instigation), he had been on the faculty for nearly 35 years, clearly highly respected and well-liked by faculty, staff and other law school constituencies. It was a sabbatical year for Dave, but he stayed on site, and I still savor the memory of the frequent conversations with him, alone and in faculty groups, and the gracious hospitality that he and Carla extended to my wife and me in their beautiful home.

I suspect that he is quite unaware of how much he affected my life and career. He treated all his students and colleagues in the same way, and there are surely many other beneficiaries of his generous goodwill and wisdom.

For many of us, “Sic transit gloria mundi” is a necessary caution against hubris, but Dave was never guilty of that failing, and his glory is not merely transitory.

Ted J. Fiftis '57 is a professor at the University of Colorado School of Law, where he, like his mentor, teaches accounting and corporate law, as well as securities law.

Frank E.A. Sander '52

An undisputed pioneer

By Robert C. Bordone '97

WHEN I FIRST began to work with Frank Sander '52 as a 3L at Harvard Law School in 1997, I realized that when it came to finding a mentor in alternative dispute resolution, I had struck gold. During the past decade, I have come to admire and respect him as a scholar of titanic proportions, as a noble and revered leader of HLS and—most important to me—as a generous and kind colleague and friend.

Without his huge scholarly contributions, it is hard to imagine what my law school education would have been like. Thanks in large part to Frank's work, ADR, mediation and negotiation have become standard course offerings at not only Harvard but also virtually every other law school in the U.S. Along with several others, including HLS Professor Emeritus Roger Fisher [’48], Frank was responsible for laying the intellectual groundwork for this new subdiscipline of the law, which has since grown enormously.

Dispute resolution academics regard Frank's speech “Varieties of Dispute Processing,” delivered at the 1976 Pound Conference convened by Chief Justice Burger, as the official birth of the modern ADR movement. Frank boldly imagined a court system that would function as a diagnostic gatekeeper for parties, directing them to the dispute resolution process (mediation, negotiation, litigation, arbitration or some combination of these) best suited for their own disputes.

Since then, Frank's work has continued to break new ground. His 1994 article, “Fitting the Forum to the Fuss,” remains among the most frequently cited ADR pieces. This year, he outlined a proposal for a Mediation Receptivity Index that promises to have an impact for years to come. In between, he has written dozens of articles as well as the casebook he co-wrote, “Dispute Reso-



MARTHA STEWART

David L. Shapiro '57 A judgment, stated

By Amanda L. Tyler '98

DAVID SHAPIRO represents the true Renaissance man of legal academia. He has been a scholar, reformer, advocate, public servant and teacher, and at every turn, he has been a leader and model of excellence. There is much in his brilliant career to celebrate.

David is an icon of federal courts jurisprudence. He has published countless important articles on the subject, authored the celebrated book “Federalism: A Dialogue” and edited four of the five editions of the masterful “Hart and Wechsler’s Federal Courts and the Federal System.” Rarely has a legal work influenced so many. Indeed, I have it on good authority that a copy enjoys a prominent spot on the desk of at least one Supreme Court justice.

David’s significant contributions to federal courts jurisprudence led his fellow Hart and Wechsler editors, Daniel Meltzer [’75] and Richard Fallon, to dedicate the fifth edition to him. As the subject of the book’s dedication, David joins Felix Frankfurter, Henry M. Hart Jr., Henry Friendly and Herbert Wechsler—the “Federal Courts Hall of Fame.” He belongs in their company.

David’s impact, moreover, can be felt far and wide in the law. He has taught and written about statutory interpretation, civil procedure, administrative law, labor law and criminal law. Likewise, he has served as a reporter and adviser on several important American Law Institute projects.

David is also a lawyer’s lawyer. As deputy solicitor general in the first Bush administration, he argued 10 cases before the Supreme Court. He must have been a compelling advocate, for he won cases that, even with the benefit of hindsight, seemed like uphill battles. He has also collaborated on Supreme Court briefs throughout his career, work that continues even today.

In the classroom, David was seri-

ous, demanding and downright brilliant, yet somehow he also managed to convey a soft side that awakened joy in the enterprise of mastering the law. He finessed this balancing act by introducing, among other things, a good share of his legendary humor into his teaching. In my day, he commonly opened his civil procedure classes with hilarious movie reviews. (Indeed, if the law professor thing had not worked out, he could have made it big in stand-up.) He and his delightful wife, Jane, also displayed grand hospitality to his students, opening their home (which also served as Jane’s splendid art gallery) for drinks and lively conversation.

When I decided to become an academic myself (with David’s gracious encouragement and generous mentoring), I was asked during interviews if there was a model on which I would draw in my own teaching and scholarship. The answer was obvious. I could only hope to be half as good as David.

David’s departure from the classroom is to be regretted, because it means that no new students will join the legions, like me, who recall his classes with great fondness. But in David’s world, retirement does not mean slowing down. As I write this, he is hard at work on what undoubtedly will be another important article. It’s fair to say that David embodies Holmes’ credo (spoken on his 90th birthday): “The race is over, but the work never is done while the power to work remains.” *

Amanda L. Tyler '98 is an associate professor at George Washington University Law School.

lution: Negotiation, Mediation, and Other Processes,” now in its fourth edition. He has also received nearly every honor available in our field.

Frank’s legal career started long before his first contributions to ADR. After graduating from law school, he clerked for Judge Calvert Magruder [’16] of the U.S. Court of Appeals for the 1st Circuit and then for Justice Felix Frankfurter [LL.B. 1906] of the U.S. Supreme Court during the term when *Brown v. Board of Education* was decided. He put in brief stints at the U.S. Department of Justice and the Boston firm of Hill & Barlow and then returned to the law school, where his scholarship and teaching focused on taxation and family law.

One might wonder how a tax and family law scholar could become the patriarch of ADR in the U.S. The answer lies in Frank’s ability to make connections across disciplines, and in the confidence and adventurous spirit that inspire him to step outside his comfort zone to try something new. I have often marveled at his willingness to try new methods for approaching sticky, persistent problems. Quite apart from his scholarship and mentorship, Frank has affected me through his example. His inquiring spirit, his deep humility and his constant regard for the dignity and uniqueness of those with whom he comes into contact—from deans to cafeteria workers—continue to inspire me. As I proceed with my own career, it is this extraordinary regard that I will most miss and that I will most attempt to emulate.

Robert C. Bordone '97 is the Thaddeus R. Beal Assistant Clinical Professor of Law at HLS and deputy director of the HLS Negotiation and Mediation Clinical Program.



JOHN CHAPIN

From here to modernity



Assistant Professor Adriaan Lanni studies the rhetoric and speeches of Athenian law.

of the subject, notes HLS Assistant Professor Adriaan Lanni in her newly published book, “Law and Justice in the Courts of Classical Athens” (Cambridge University Press). “Most scholars think the Athenians were too primitive for a notion of a ‘rule of law,’” she says.

But Lanni presents a new argument: The Athenians understood the importance of the rule of law and applied it (especially in homicide and maritime cases). But instead of a rigid code of abstract rules, they favored a more amorphous (and hence more flexible) approach in which the circumstances of each case were weighed in light of the community’s sense of justice.

Through careful analysis and historical reconstruction, Lanni explores how this flexible system grew out of and was integral to the democracy of classical Athens. The Athenian legal system was run by laymen, not professionals. There were no policemen—victims were responsible for investigating their cases and bringing them to trial themselves—and the roles of judge, defender and prosecutor were usually filled by laymen as well. Wealthier litigants would often hire speechwriters to press their cases, and it is the hundred or so surviving speeches (typically dated between 430 and 323 B.C.) that serve as the primary basis for what we know of Athenian law.

The speeches, meant to appeal to a general audience rather than those well-versed in the law, were often written in a rambling, narrative style, and sometimes included details that would today be deemed irrelevant or inadmissible. Did the defendant come from a

“good family” or was he descended from slaves? Did he have children who would be left destitute if he were punished? Had he committed crimes previously or otherwise shown that he was of “bad moral character”? Such procedures may seem a bit loose to us, but, argues Lanni, they reflect a “belief that a wide variety of contextual information was often

By Katie Bacon

SCHOLARS HAVE LONG been fascinated by the democracy of classical Athens and the ways it is mirrored in democratic governments of today. Athenian law, on the other hand, has received little attention, since no modern legal system is descended from it. Even law schools have tended to steer clear

relevant to reaching a just decision, [and] a political commitment to maximizing the discretion wielded by popular juries.”

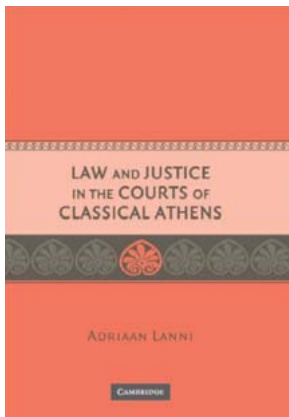
Trials took place in public, near the main shopping district, where crowds gathered to watch the proceedings. Jurors came to their decisions with no instruction from the magistrate, and once a case was decided, no appeals were allowed. Serving on a jury was an important way that Athenian citizens could participate in the democratic governance of their city—so important, in fact, that after death, citizens were sometimes buried with their juror’s tickets, a sign of the seriousness with which Athenians viewed the role.

But the priority that Athenians gave to a democratic system of highly individualized justice had its downsides, as Lanni details. Because they chose not to rely on many established legal principles or precedents, the system was unpredictable. Not only was it hard to know exactly what constituted a punishable offense (which is perhaps why, in his work “Rhetoric,” Aristotle called for specific definitions of crimes like theft and adultery), but it was nearly impossible to predict how a jury would rule. Lanni shows how this both undercut the courts’ authority and led to a society rife with litigation. As she writes, “Thucydides tells us that foreigners called the Athenians

philodikoi (‘lovers of litigation’).” And a character in a comedy by Aristophanes “looks at a map of Greece and does not recognize Athens because there are no sitting jurors visible.”

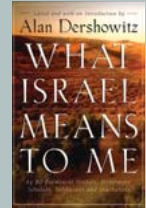
Though the litigiousness of Athenian society might seem to have some echoes in our own, it is the profound differences between Athenian law and ours that fascinate Lanni. Studying a successful system that relied almost exclusively on the knowledge and judgment of laymen offers perspective on our own, ultraprofessionalized legal system. “Athenian justice was no less purposefully democratic than its politics,” Lanni writes. “That it can seem amateurish or alien to us is a measure of the degree to which modern ‘democracies’ have abandoned popular decision-making with hardly a look back.” *

Katie Bacon is a writer and editor living in Brookline, Mass. She’s written for The New York Sun, The Atlantic Online and other publications.



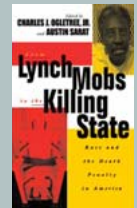
Recent Faculty Books

“What Israel Means to Me: By 80 Prominent Writers, Performers, Scholars, Politicians, and Journalists” (John Wiley Sons), edited by **Professor Alan Dershowitz**, includes reflections from Larry King, William Bennett ’71, Dershowitz and 77 others.



In “Who Controls the Internet? Illusions of a Borderless World” (Oxford University Press), **Professor Jack L. Goldsmith** and Tim Wu ’98 describe the Internet’s challenge to government rule in the ’90s and some ensuing battles over Internet freedom around the world (see story, p. 25).

A collection edited by **Professor Charles J. Ogletree Jr. ’78** and Austin Sarat looks at connections between race and capital punishment in the U.S. “From Lynch Mobs to the Killing State: Race and the Death Penalty in America” (New York University Press) approaches the topic from legal, historical, cultural and social perspectives.



Insular alliances among powerful Japanese corporations have long been considered the defining characteristic of the Japanese postwar business world. But according to Yoshiro Miwa and **Professor J. Mark Ramseyer ’82**, authors of “The Fable of the Keiretsu: Urban Legends of the Japanese Economy” (University of Chicago Press), the idea is a Western myth.

“Corporate Governance: Political and Legal Perspectives” (Edward Elgar Publishing), edited by **Professor Mark J. Roe ’75**, looks at questions such as why some nations have deep securities markets while others do not, and highlights the most recent theories in the field.



Professor Roberto Mangabeira Unger LL.M. ’70 S.J.D. ’76, called “a restless visionary” by The New York Times, offers up a political vision for the future in “What Should the Left Propose?” (Verso).

Asian journeys

In China, new laws are being drafted for trade, banking and finance, the environment, labor relations and the protection and accommodation of millions of citizens with disabilities—to name just a few areas.

In Japan, many aspiring lawyers are entering new, three-year law schools instead of getting their legal training as university undergraduates, while law firms in Tokyo are starting to resemble New York “mega-firms.”

In Korea, a Harvard-trained lawyer became the first woman appointed to the appellate bench, and nearly 20 percent of the country’s judges are women. In Taiwan, another woman, also a law-

yer, is vice president—and may be her party’s candidate for president in 2008. Less than 30 years ago, she was imprisoned for sedition in a society that had yet to become a democracy.

These are merely snapshots of a region in rapid transition—change that increasingly involves law. Explaining that change is within the province of Harvard Law School’s East Asian Legal Studies program—the oldest and most comprehensive academic program in the U.S. devoted to the study of law and legal history of the nations and peoples of East Asia.

EALS scholars can tell you, for

example, why law is a path to political power in Taiwan but has not traditionally been one in the People’s Republic of China, where engineers have been more likely to rise through party ranks than lawyers. And they can tell you why Japan, once known for producing more engineers per capita than the lawyer-rich U.S., is now engineering more lawyers than ever before.

No single issue of a magazine can cover all the territory that is Asia, or even East Asia. The following pages offer a glimpse, filtered through the prism of law, of some nations and peoples on journeys of remarkable transformation.

**BY WHAT RULES
WILL RAPID
CHANGE BE
GOVERNED?**

SPECIAL SECTION



CORBIS



Beijing First
Intermediate
People's Court

why China?

LAW WILL BE
CRUCIAL TO
CHINA'S
DEVELOPMENT.

The Bulletin asks **Professor William P. Alford '77** about the development of the legal system amidst the historic changes taking place in China.

Why should Chinese law matter to U.S. lawyers and law students?

China is engaged in the most extraordinary effort at legal development in world history—raising fundamental questions not only about a singular rising power that is home to roughly 23 percent of the human race, but also about the very nature of law itself.

To understand this, one needs to step back and appreciate the magnitude of change under way there. Transformations—including massive industrialization, urbanization and engagement in the world economy—that took place over more than a century in Britain and a half century in the U.S. have occurred in China within a far shorter span. It's essentially the lifetime of our students, as I like to tell them. And unlike the English or American cases, this change in China started from a baseline of a planned economy and is occurring against the backdrop of global institutions like the World Trade Organization.

The scope of such change is hard for us to fathom. In a single generation, some 150 to 200 million people—more than the population of Japan—have moved from the countryside to cities, making this history's largest internal migration. Individuals are increasingly able to make key life decisions about employment, education, housing and even marriage, that a generation ago were largely out of their hands. In 1980, China was a highly egalitarian, if very poor, society, but today it has some of the world's greatest disparities economically, juxtaposing an upper



“Harvard has the broadest and most interesting range of involvement with Chinese legal development of any American school.”
—Professor William Alford '77

stratum that is wealthy even by First World standards with a bottom stratum that remains impoverished even by Third World standards. And throughout, the Communist Party has been trying to retain its hold on political power, in the process exerting influence over the institutions of civil society—such as the media, the academy, religious institutions and civic associations—that might ease such major transformations.

Law has had an increasingly important part to play in all this. The leadership has come to see law as crucial to facilitating China's development and engagement in the international economy. As the economy and society have become vastly more complex, with more and more strangers dealing with one another, there is a growing need for rules. Some also look to law as a surrogate for freer political and civic institutions—that is, they hope to be able to express through law interests that are still difficult to advance directly via politics.

Lurking behind all this is the question of whether the government will cede sufficient independence to legal and political institutions so that they can provide

outlets through which the inevitable discontent that comes from such rapid transformation can meaningfully and constructively be channeled.

All this raises fascinating questions about the nature of the rule of law, the extent to which it can thrive in different political and social circumstances, and law's capacity to lead political change.

How should we understand the changes under way in China's legal development?

A quarter century ago, China had some 3,000 lawyers—the majority of whom had a Soviet-style education and hadn't been allowed to practice during the decade of the Cultural Revolution, when many were consigned to manual labor. The government decided at that time that it wanted to grow the legal profession 50-fold in a single generation! And so it did—today China has a bar of some 150,000, very few of whom are employed by the state. There is similar growth under way in the court system, the legislative process, legal education and many other aspects of the legal system.

On the one hand, these are developments without precedent in world history, and we would do well to credit China with what it has accomplished. On the other, they have engendered the kinds of problems one might envision such sudden, large-scale, top-down change might bring. For instance, there is a dearth of wise gray heads to mentor the thousands of new lawyers—there are scarcely any lawyers over the age of 50—and serious questions remain about the bar's independence from the state, to mention some of the most critical challenges.

What role has HLS played in this?

Harvard has played an extraordinary role in Chinese legal development for more than a century.

Professor Warren Seavey was in China advising the authorities even before the last dynasty fell in 1911. Former Dean Roscoe Pound served from 1946 through 1949 as a principal legal adviser to the Nationalists, the Kuomintang government under Chiang Kai-shek, even though he was in his late 70s, conducting investigations of courts and prisons and writing with enormous insight about the challenges of legal development. [See story, p. 72.] I've been working on an extensive study of Pound in China together with one of our Chinese S.J.D. graduates, Professor Yu Xingzhong [LL.M. '91 S.J.D. '95] of the Chinese University of Hong Kong.

At present, Harvard has the broadest and most interesting range of involvement with Chinese legal development of any American school. Hal Scott and his Program on International Financial Systems have created a very impressive set of interactions with im-

WILLIAM P. ALFORD '77 is Henry L. Stimson Professor of Law, vice dean for the Graduate Program and International Legal Studies, and director of East Asian Legal Studies at Harvard Law School. He is the author of "To Steal a Book is an Elegant Offense: Intellectual Property Law in Chinese Civilization" (Stanford University Press, 1995), editor of "Raising the Bar: The Emerging Legal Profession in East Asia" (Harvard, EALS, 2006), and author of numerous articles on Chinese law and legal history, among other subjects.

Professor Alford is an honorary professor of Renmin University, Zhejiang University and the National Institute of Administration in the People's Republic of China, and an Honorary Fellow of the American Studies Institute of the Department of Law of the Chinese Academy of Social Sciences. He directed the China Center for American Law Study, the first academic program in U.S. law in the PRC, was a founder in 1982 of the U.S. Committee on Legal Education Exchange with China, is the recipient of a number of awards and fellowships for his work on China, and is on a host of advisory and editorial boards.



President Hu Jintao of China greets Professor Alford in Beijing, March 2, 2004.

portant actors, public and private, Chinese and foreign, concerning issues of finance and economic development in China. The Berkman Center has been the leader worldwide in documenting Internet censorship in China, changing the terms of debate through its rigorous empirical work on the subject. [See story, p. 22.] And, to give just two more of many possible examples, Professor Terry Fisher [’82] has launched Creative Commons in China, getting a very positive response, and Charles Ogletree [’78] did a series of fascinating programs training Chinese lawyers to deal with issues of domestic violence.

And what about your own role?

I’ve been involved for decades. Almost 25 years ago, with Professor Randle Edwards [’64], then of Columbia, I founded the first academic program in the PRC on American law and the first national exchange program to bring Chinese students to the U.S. for legal education—including many who are in the forefront of legal change in China today. In the years since, I have been called on by both our government and China’s—as well as multilateral organizations, foundations, civic groups and NGOs, law firms and businesses—to offer advice on a range of issues from trade to human rights to intellectual property to the legal profession and legal education and beyond. Through this work, I’ve met with Presidents Hu and Jiang of the PRC. And in recent years, I’ve been thrilled, through my pro bono work with the Special Olympics and in collaboration with Visiting Professor Michael Stein [’88], to have been involved in issues of disability in China. I’m happy to have played a small part in efforts to revise China’s national disability law and in nurturing the study of disability law there.

But perhaps the most important role that any of us at Harvard has played has been an educational one, through our research and our students. On the research side, for instance, last year we convened the first conference held anywhere in the world on how the professions and ideas of professionalism are forming in China. Drawing on experts from eight different schools at Harvard and from leading universities elsewhere in the U.S. and China, we looked at law, medicine, the clergy, journalism and a number of other fields. We plan to publish a book from the conference and have been urged by our Chinese participants in particular to hold a sequel in the PRC.

What roles have our students played?

Ever since our first student from China, Chang Fu-yun [LL.B. ’17], came from Tsinghua University almost 100 years ago, the law school has been educating future

leaders of China. Chang Fu-yun is a good example. After returning to China, he was a bridge between China and the larger world, first playing a central role in returning the customs service from foreign to Chinese control and then representing China during the negotiations leading to the founding of the U.N. It was a real treat for me to meet him decades ago in the course of my research. His daughter, Julia Chang Bloch, who was the first Chinese-American to hold ambassadorial rank, and her husband, Stuart Marshall Bloch [’67], endowed a fellowship program in his honor that has helped dozens of PRC nationals to study at our law school.

Before students from the PRC could come here, we educated many students from the Republic of China—and still do—who have had prominent roles in legal development, including Vice President Annette Hsiu-lien Lu [LL.M. ’78] Taipei Mayor and Kuomintang Party Chairman Ma Ying-jeou [S.J.D. ’81], Grand Justice Lai In-jaw [S.J.D. ’81], and the civic leader Eric Tungsheng Wu [LL.M. ’77 S.J.D. ’90]. [See story on Lu and Ma, p. 28.]

Our graduates from the PRC are younger but also very impressive. They’ve done all sorts of wonderful things since returning—in government, academe and law practice. One amazing person who has already made an impact is Li Bo [’99], who is not only a magna cum laude J.D. graduate but also holds a Ph.D. in economics from Stanford. Bo is now the principal legal adviser to the head of the Chinese central bank and has been intimately involved in the most complex issues the bank has confronted vis-à-vis foreign participation in the Chinese economy and Sino-American relations.

Another is Wang Chenguang [LL.M. ’86], the innovative dean of Tsinghua Law School, who was Dean Kagan’s classmate at HLS. Another is Lan Lan [’94], who represents major American companies in China.

Many of our non-Chinese alumni are at the forefront of every aspect of our relations with China. [See sidebar, p. 21.] You’ll find them at the highest levels of our government, foreign governments, multilateral organizations, foundations, business and investment banking, think tanks and NGOs, and, of course, the leading international law firms that have built practices concerning China. And the vast majority of American scholars involved in Chinese legal studies are graduates of HLS, including those teaching at Columbia, Cornell, George Washington, Georgetown, NYU, Penn, Washington, Wisconsin and Yale, among other schools.

And how about today’s students?

Our current students are, if anything, even more extraordinary—the Americans have had chances to live in China that the earlier generation didn’t have, and our

Chinese students have had even more exposure to the larger world than their predecessors.

The students are so engaging, and the range of backgrounds and numbers of students and visiting scholars in Chinese law are large enough to form a serious, vibrant and intellectually diverse community. Two years ago, when I was teaching one of the first constitutional law cases from the PRC, we had a lively debate about its significance in which PRC students offered views ranging from it being equivalent to *Marbury v. Madison* to it being a sham, with everything in between! When one of the U.S. students asked if the case suggested there was hope for constitutional development in China, I asked him to reflect on what he had just witnessed—a range of stunningly smart law students displaying a commitment to pluralism and the value of vigorous, open debate.

The East Asian Legal Studies program, I should also say, is a singular resource in American legal academe—in that it does not divide by nation but for some four decades has been bringing together faculty, students and visiting scholars with different interests pertinent to the region so that they can challenge and learn from one another.

“We in the U.S. have much to offer China but only if we offer it with an appropriate air of humility.”

How has your training as a legal historian shaped your understanding of contemporary Chinese law?

In the “Analects,” Confucius tells us, “wen gu er zhi xin”—look to the old, to understand the new. Those certainly seem to me wise words regarding China, one of the world’s oldest civilizations, if not more generally. I see China—including the extraordinary changes in my lifetime—in historical terms. Indeed, I think it helps us to understand and situate the magnitude of recent change.

China has a long, rich and much-underappreciated legal history. When I first started researching that history—thanks to a grant I received when I was a student at HLS that made it possible for me to spend a summer in Taiwan—the conventional wisdom was that all Chinese law prior to the 20th century was penal and was harshly applied with little attention to procedural justice. My own research indicated that this was simply wrong—that China had a sophisticated legal tradition that encompassed business,

administrative, family and other concerns, not just penal matters, that there was an acute concern with justice, and that ordinary citizens did avail themselves of legal remedies.

This dispels suggestions that there is an antipathy in Chinese civilization toward law. And it’s useful to keep in mind when delving into specific questions. For instance, Chinese attitudes toward intellectual property—the protection of which is a major source of tension in the PRC’s relationship with the U.S.—bear the imprint of historic approaches, as I wrote a few years ago in my book on the subject.

What lessons have you drawn from studying interaction between the U.S. and China regarding law?

We in the U.S. have much to offer China but only if we offer it with an appropriate air of humility. At times, our lack of a broader comparative framework leads us to present the Chinese with only the American alternative to what they now do. Our advice would be much-enriched if it set forth a variety of alternatives, underscoring both core principles that are widely shared by democratic, law-abiding states and the range of different institutional forms through which such principles might be promoted. This would be far more empowering—it would suggest that the Chinese might design institutions suitable to their own circumstances to embody these core principles rather than endeavor to emulate institutions that may, in some respects, be peculiar to our own circumstances.

Looking at China ought to give us a chance to reflect on our own legal system and its underlying assumptions. It provides us with an opportunity to think about the historical contingency of our experience and the ways in which our legal institutions are linked to other dimensions of our political, social and economic life.

The Chinese are learning not only the “official” lessons we think we are imparting but other messages that we may not even realize we are sending. So, for instance, China’s accession to the World Trade Organization was generally seen here as representing its embrace of a rule-oriented international order. But in addition to absorbing those rules, the PRC also clearly has taken to heart the ways in which the U.S.—not to mention the Europeans, the Japanese and other powerful actors—stretches those rules to serve its ends.

Looking ahead, it will be interesting to see the ways in which, even as China engages further with international norms, it begins to exert its influence in shaping those norms. For, if anyone thinks that China will be content simply to follow in our wake, they have a big surprise in store. *

Engaging China

Not every Harvard-trained expert on Chinese law is a Chinese national

GOVERNMENT, DIPLOMACY, POLICY AND NGOS

CHARLES W. FREEMAN JR. '75 was President Nixon's interpreter on his historic 1972 trip to China. Freeman later served as director for Chinese affairs at the U.S. Department of State, deputy chief of mission and chargé d'affaires in the U.S. Embassy in Beijing, and assistant secretary of defense.

IRENE KHAN LL.M. '79 is secretary general at Amnesty International.

NATALIE G. LICHTENSTEIN '78 has been assistant general counsel of the World Bank, where she has focused on China and Asia generally.

MINA TITI LIU '97 is the program officer for law and human rights with the Ford Foundation in Beijing.

STEPHEN A. ORLINS '76 is president of the National Committee on U.S.-China Relations. Previously, he was managing director of Carlyle Asia and president of Lehman Brothers Asia. Before that, he was a member of the U.S. Department of State's legal team for East Asian and Pacific Affairs, in which role he helped establish diplomatic relations with the PRC.

CLARK T. RANDT JR. '73-'74 (received his J.D. from Michigan but was a special student at HLS for one year) is U.S. ambassador to China.

TIMOTHY P. STRATFORD '81 is assistant U.S. trade representative for China Affairs and is responsible for U.S. trade policy toward mainland China, Taiwan, Hong Kong, Macau and Mongolia.

ROBERT B. ZOELICK '81 is deputy U.S. secretary of state and a prime architect of current U.S.-China policy.



CORBIS

FINANCE AND BUSINESS

PAUL M. THEIL '81 is an investment banker with Morgan Stanley Hong Kong.

OLIN L. WETHINGTON '77 is chairman of American International Group (AIG) Cos. in China. He was special envoy on China for the secretary of the treasury in 2005 and also served as assistant secretary of the treasury for international affairs.

ACADEMIA

DONALD C. CLARKE '86 ('87), of George Washington University Law School, focuses on the Chinese legal system.

JACQUES L. deLISLE '90, of the University of Pennsylvania Law School, is a specialist in contemporary Chinese law.

JAMES V. FEINERMAN '79, formerly associate dean for international and graduate programs at Georgetown University Law Center, won a 2005 Fulbright Distinguished Senior Lectureship Award for work in China during the spring 2006 semester.

JONATHAN HECHT '88 and **JAMIE HORSLEY '78** are deputy directors of Yale Law School's China Law Center.

BENJAMIN L. LIEBMAN '98 is director of the Center for Chinese Legal Studies at Columbia Law School.

ANNELISE RILES '93 is director of Cornell Law School's Clarke Program in East Asian Law and Culture.

FRANK K. UPHAM '73 ('74) teaches Chinese and Japanese law at New York University School of Law.

SUSAN ROOSEVELT WELD '74, former general counsel of the Congressional-Executive Commission on China, teaches Chinese law at Johns Hopkins University's Paul H. Nitze School of Advanced International Studies.

LAW FIRMS

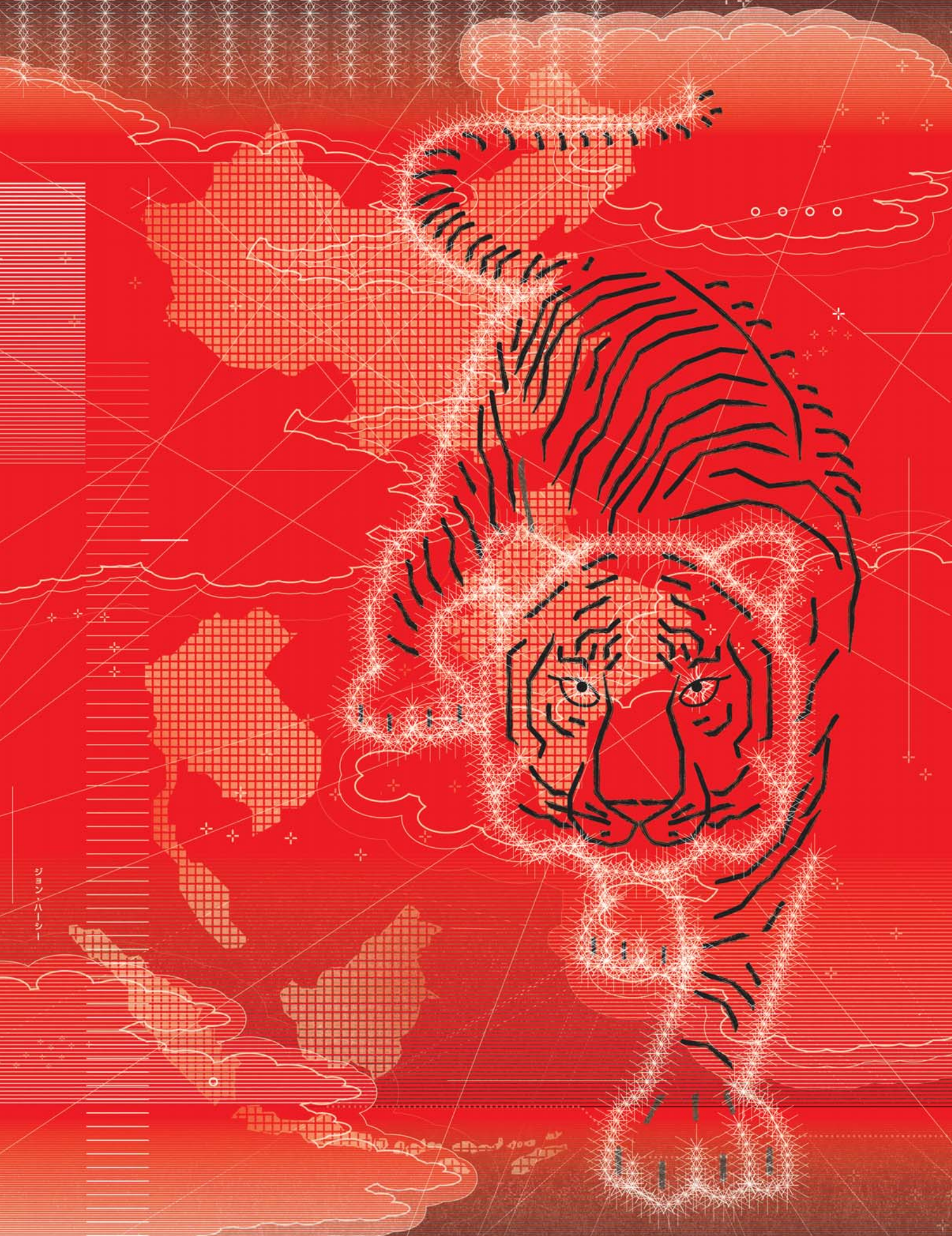
DOUGLAS MARKEL '90 is the managing partner of Freshfields Bruckhaus Deringer's China practice in Beijing.

MICHAEL J. MOSER '80, a partner at the international law firm O'Melveny & Myers, built one of the largest private practices in Chinese law and has lived in Hong Kong and Beijing for more than 20 years.

LESTER ROSS '90 is the partner-in-charge in the Beijing office of Wilmer Cutler Pickering Hale and Dorr.

PRESTON TORBERT '74 and **ZHAO JIA '83** are partners at Baker & McKenzie based in Chicago. Both have extensive experience working with clients investing in China.

KO-YUNG TUNG '73, a former vice president and general counsel at the World Bank, is at Morrison & Foerster in New York City.



digital pathways to ASIA

**CAN LAW KEEP UP WITH
TECHNOLOGY? SOME HARVARD
LAWYERS ARE FINDING OUT.**

BY KRISTIN ELIASBERG
ILLUSTRATIONS BY JOHN HERSEY

Internet use in China is different than in most countries. There is less freedom. And there is more. Chinese users have far greater access to unauthorized digital and software downloads—piracy is rampant, and many digital files are easily accessible without attribution or compensation for their creators. But if you try to access a pro-Tibetan independence Web site, your browser will likely give you an error message—the result of hidden censorship. Despite early predictions that the Internet would create open-ended access to information for all users everywhere, China’s rulers (as well as those in Burma, North Korea, Thailand and Singapore) have devised



The piracy problem in China is severe, but Chinese companies and the government say they are interested in protecting copyright.

ways of filtering out content they deem harmful to the state. Through censorship, surveillance and aggressive filtering, these governments (and some outside of Asia) have achieved a high degree of control over what many had thought would be an uncontrollable medium.

Researchers at Harvard Law School's Berkman Center for Internet & Society have documented both problems and are zeroing in on them.

The Berkman Center is approaching piracy through its Digital Media in Asia project, which, among other things, promotes a digital media exchange in China. Meanwhile, the center's OpenNet Initiative is taking a hard look at filtering, aiming to create a body of empirical, legal and technical research showing the extent to which repressive regimes block access to the Internet and practice surveillance online.

And, in its Global Voices Online project, the center's scholars and students are emphasizing the other side of the surveillance coin, highlighting the independent voices that manage to escape the censors through blogs, podcasts and other forms of "citizens' media."

"As of next year, China will have more people in the

world using the Internet than any other place in the world," said Harvard Law School Clinical Professor John Palfrey, the Berkman Center's executive director. "China will be the most important market for Internet users. We believe that a relatively open Internet is helpful to economies, democratic activism, societal development and cross-cultural understanding, and a variety of other good things." And, he said, with the Digital Media Project, "we are looking at how international treaties and legal systems affect the way people consume digital media and figuring out if there are alternatives to the traditional intellectual property regime which could make better sense for a digital world."

The piracy problem

In 1995, Professor William Alford '77 published his seminal work on intellectual property rights in China, "To Steal a Book is an Elegant Offense," in which he discussed the relationship between traditional Confucian ideology and intellectual property rights. He argued that the veneration with which the Chinese have historically regarded fidelity to tradition has made Chi-

na less receptive to the idea of intellectual property rights, particularly in artistic fields. That Alford turned out to be right is both good news and bad. Good because his accurate insights have helped make him an oft-cited authority on the subject.

In fact, as Alford recently told a Senate subcommittee in his testimony on intellectual property infringement, parts of the book itself (the title of which comes from an old Chinese saying) have been pirated and made available without attribution in China. Therein lies the "bad news for those who have to live in the real world," Alford explained. Intellectual property infringement is ubiquitous in China, and present elsewhere in Asia (and the U.S.) to varying degrees. And as the number of Internet users in the region grows—China is set to surpass the United States next year, and use in South Korea and Japan is skyrocketing—the problems, and the economic damage, will only get worse.

The Digital Media Exchange (known as DMX), which is part of the Berkman Center's Digital Media Project, presents a possible solution to the problem of how to generate revenue when piracy is rampant, in the form of a file-sharing cooperative which, for a nominal fee, would give consumers "all-you-can-eat" access to digital entertainment files while providing for compensation of content-creators on a per-usage basis. The DMX, originally proposed by Professor Terry

Who controls the Internet?

There isn't as much freedom as you may think

According to one prediction, the new technology will bring every individual "into immediate and effortless communication with every other" and will "practically obliterate political geography and make free trade universal."

Sounds like a 1990s prediction about the Internet. But the quotation, which can be found in the preface to a new book by Professor Jack L. Goldsmith and Columbia Law Professor Tim Wu '98 ("Who Controls the Internet? Illusions of a Borderless World," Oxford University Press), is from the 1890s, and it refers to the telegraph.

As Goldsmith and Wu make clear, the Internet is just the latest in a series of communications revolutions that initially inspired idealistic visions of people empowered and nation-states withering. "Every time there's a new technological revolution that makes communication faster and cheaper, the same reaction occurs," Goldsmith explained recently in an interview. "Namely, that this will make it harder for states to regulate. But every time, that doesn't happen. And I don't think it's happened here."

The authors say the state has been the winner in various Internet battles. They show, for example, how eBay, far from being the self-governing community that founder Pierre Omidyar envisioned, has relied on legal power to police its "community" and enforce norms. They dissect the file-sharing movement, which, though not dead yet, has nonetheless been much diminished in the U.S. by recent Supreme Court decisions favoring copyright enforcement, and by industry developments such as iTunes. They also reveal how offshore "data havens"—where many pornographers and gamblers hope to evade government control—are foundering because nations are able to enforce their laws against the necessary intermediaries—service providers, search engines and banks—located within their borders.

"The claim is not that the Internet changes nothing—of course it's made huge changes," Goldsmith said. "But what it doesn't change is the fundamental power of the state to regulate things within its borders. Territorial power and territorial

coercion, the need for public goods, the need for states to enforce contracts and prevent fraud and provide markets and securities and things like that—all are necessary for the Internet to flourish."

Drawing on research from the Open-Net Initiative at Harvard Law School's Berkman Center for Internet & Society, Goldsmith and Wu also tell the disturbing story of how governments like China's have tamed the Internet through sophisticated filtering and surveillance, showing that what was envisioned as a vehicle for unlimited access to information and a tool for the spread of democracy can also be used as a means of control and repression.

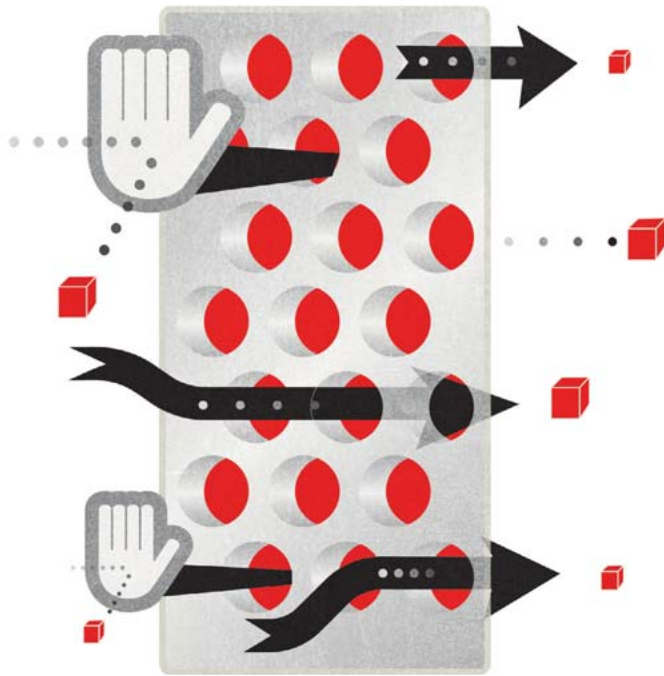
"People thought that the Internet had the First Amendment written into its code," Goldsmith said. "But it doesn't, as China is showing. I'm sure the Chinese people in some respects have a lot more freedom than they used to, but in other respects the government has much more control than ever over the Chinese people *because of* the Internet." *

—K.E.



[Internet] café society, Beijing

GETTY IMAGES



Countries that already do online filtering are getting better at it, while some that didn't filter have begun to do so.

Fisher '82 in his book "Promises to Keep," evolved into a possible Chinese pilot program when then graduate student Eric Priest LL.M. '05 pointed out its promise for a culture like China's. Priest, who had worked in the Chinese music industry and is now a fellow at the Berkman Center, helped organize meetings on DMX with Fisher, Berkman Fellow and York University Adjunct Professor Paul Hoffert, various representatives from the Chinese entertainment and IT industries, and government officials in Beijing.

"China provides an excellent environment for developing the DMX service for a few reasons," Priest reported in an e-mail from Beijing. "The piracy problem in China is severe—and growing. Companies are interested in talking with us because we might provide them with a substantial new revenue stream. Second, with the growing sensitivity to intellectual property issues, Chinese companies and the government are interested in exploring innovative ways to protect copyright. Third, Internet service providers and universities are beginning to worry about being held liable for the widespread copyright infringement on their

networks. Last, due in part to the piracy problem, the major record companies that are reluctant to provide content to a DMX system in the U.S. may be less reluctant to do so in China, because they simply don't have a viable alternative business model in China."

Fisher points out that China is particularly fertile ground for a DMX pilot project because of the comparative flexibility of the group of rising innovative entrepreneurs there. "[They] have been developing with great speed China's Internet systems and experimenting with various business models there. We met with many of them, and they are very impressive," he said on his return from Beijing recently.

While Fisher couldn't reveal any of the confidential conversations he'd had during his trip, he was able to say that "just about everyone with whom we discussed the general plan was, once they understood it, very enthusiastic about it as a solution for the logjam in China right now—in which basically no one is getting paid. But many of our official partners also emphasized the difficulties of engineering this solution because so many people have to agree simultaneously. I would say there's a decent chance that it will work, but not certain."

The filtering challenge

One of the Berkman Center's missions is to promote a more open version of the Internet. To that end, the OpenNet Initiative,

a joint project among the University of Toronto, Cambridge University, Oxford University and HLS, supported by grants from the MacArthur Foundation and the Open Society Institute, among others, has studied about a dozen countries, many in Central and East Asia, revealing their extensive use of filtering methods to limit their citizens' access to content online.

"The really essential issue involves these questions of how is control being exercised by states on the Internet, how is that changing over time, and what are the policy and legal ramifications of it," Palfrey said. "The answers to those questions can help figure out how if at all we are going to govern the Internet. People like [HLS Professor] Jack Goldsmith have done some of the leading work in defining how states participate in that control, and we seek to amplify that work." Sections of Goldsmith's new book, "Who Controls the Internet?" [see sidebar, p. 25], rely on data drawn from OpenNet's research in Asia, exactly the kind of cross-disciplinary application that Palfrey and his Berkman colleagues hope to foster.

This year, OpenNet has received another MacArthur

grant, \$3 million over four years, to expand its research into three dozen countries (Internet filtering is not a problem just in Asia) and to publish an annual round-up of the state of Internet access worldwide. The new grant will also be used to develop applications to make the data accessible in many different forms—enabling researchers to render, slice and dice the numbers as needed for their own projects.

“By expanding across different states and across time,” Palfrey said, “we will be able to do much better comparative work, to better judge what the trends are and better inform foreign policy-makers and others who are involved with countries who are filtering.” And the center will itself be able to do more ambitious analytical work: comparing one state to another, showing changes over time, and tracing the effects of legal, political and technical changes.

Palfrey and his colleagues and students have already identified some disturbing trends. Censorship is becoming more extensive and more sophisticated. Countries like China that already do online filtering and surveillance are getting better at it, while countries that didn't filter have begun to do so.

Another trend—which has involved some American companies—is the increased extent to which states are relying on private actors to carry out censorship and surveillance. One of the more efficient ways to filter Internet content and watch its users is through the service providers, search engines and cyber cafés—private companies that can be subjected to pressures from the states in which they operate. (Representatives of Microsoft, Yahoo, Cisco and Google came before Congress recently to explain how they are participating in Internet filtering and surveillance in China.)

In light of this development, Palfrey and Berkman Center Co-director and Visiting Professor Jonathan Zittrain '95 have been working on creating a set of ethical principles that could guide the actions of U.S. corporations doing business in repressive regimes. And OpenNet continues investigating allegations of filtering in new countries (Thailand, for example) and making sure research methodologies keep step with the ever more ingenious methods of filtering and surveillance.

Global voices

Amid the statistics on censorship and surveillance, it's easy to lose sight of the fact that even a filtered Internet provides vastly greater opportunities for freedom of expression than no Internet at all. Founded by Berkman Fellow Ethan Zuckerman and former CNN Beijing and Tokyo Bureau Chief and current Berkman Fellow

Rebecca MacKinnon, Global Voices Online amplifies the words of people who are speaking out online, many of them in Asia, and helps them reach a broader audience through its blog (www.globalvoicesonline.org/), which compiles and distills entries from blogs around the world.

The idea for the project grew out of an international bloggers' meeting held at Harvard in December 2004. Since then, the Berkman Center has sponsored a 2005 conference in London, and it plans another this December in India. In China, for example, Global Voices has fostered contacts among Berkman scholars, bloggers, Internet technologists, dissidents and others interested in citizens' media.

But there is a fear that Global Voices could make some unwanted connections for bloggers, focusing government attention on their activities. Hao Wu, a Beijing-based independent filmmaker who had been a core contributor to Global Voices Online and was serving as its Northeast Asia editor, was detained in February—and as of this writing was still being held without charges. He was making a documentary film about underground Christian churches that are not recognized by the Chinese government. Meanwhile, “Free Hao Wu” appeals have begun circulating online, one at www.ethanzuckerman.com/haowu/, featuring posts from his sister and a roundup of the stories about him picked up by mainstream media.

The OpenNet Initiative raises similar concerns. “We've been quite worried that if we test sites that [the governments] turn out not to be blocking, and we say, ‘Hey, they're not blocking these sensitive sites on X issue,’ they'll turn around and start blocking them,” said Palfrey. “We also worry that by highlighting the censorship and surveillance approach of some states, we may lead other states to copy that approach.”

While it's difficult to calculate the effects of Global Voices' efforts to amplify dissenting views, or of OpenNet's revelations about censorship and surveillance in repressive regimes, Alford points to the larger picture. “I think it's good that the people at the Berkman Center are pushing these things—demonstrating empirically what the Chinese government is doing,” he said. “Even if the government's response is to try harder to censor more, there's a huge political cost in its doing so, as the censorship does damage to the image the Chinese government would like to project.” *

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AP PHOTO/WALLY SANTANA

Annette Lu and Ma Ying-jeou were once on the same page—28 years ago in the 1978 HLS yearbook. Today, Lu is vice president of Taiwan, and Ma is leader of the opposing Kuomintang party.



the

Lu (above) may be a candidate in the 2008 presidential race. Ma (right) is the odds-on favorite. Their intertwined paths reflect Taiwan's transition to democracy and the pre-occupying question: One China or two?



AFP/GETTY IMAGES

BY EMILY NEWBURGER

rivals

In Taipei, any given Harvard alumni club meeting brings together a roster of grads who have helped to shape Taiwan—or the Republic of China, as it's officially known. In this fledgling democracy, divisions over its relationship with the People's Republic of China—which threatens it with missiles at the same time as it provides unparalleled investment opportunities—run deep. So perhaps it's not surprising that for some of these grads, the firmest common ground is their Harvard background.

But for Vice President Annette Hsiu-lien Lu LL.M. '78 and Ma Ying-jeou S.J.D. '81, who is chair of the opposing Kuomintang party, mayor of Taipei and the odds-on favorite for the 2008 presidential election, their Harvard history has its own complexity. As the saying goes, an HLS

**ANNETTE LU AND MA
YING-JEOU SHARE A
HISTORY. BUT THEY
OFFER DIFFERENT
FUTURES FOR TAIWAN.**

education opens doors; but in Lu's case, it was the door out of prison, and it was Ma who may have propped it open. And for Ma, some wonder whether it was the door to Taiwan's democratization.

In the 1978 HLS yearbook, photos of Lu and Ma sit side by side. But it's unlikely the two students ever got that close. They took none of the same courses, and Lu remembers them rarely interacting.

She grew up in the north of Taiwan, where her father was a shopkeeper. Her advocacy and writing on behalf of women (she's often referred to as the founder of the country's women's movement) had helped win her a scholarship to the LL.M. program, and she was already a sympathizer with the cause of Taiwan independence. At the time, the island was still under martial law, with the government limiting freedom of the press and outlawing opposition parties.

Ma was enrolled in the S.J.D. program, where he would write about the problem of extracting oil from the East China Sea. He's a Mainlander, born in Hong

change. Cohen said he remembers saying to Lu, only half jokingly, "If they lock you up, we'll get you out."

When Lu saw her teacher seven years later, she was serving the sixth year of her sentence as a political prisoner. It was her law school nemesis, Ma Ying-jeou, who arranged the meeting.

After leaving Harvard, Lu had become a vocal participant in politics, eventually working for *Formosa* magazine, a publication of the Taiwan Dangwai movement, which sought democratic reform and independence for Taiwan. On Dec. 10, 1979, International Human Rights Day, Lu and seven others were arrested after participating in a rally in which violence broke out between police and protestors. She was convicted of sedition and given 12 years for a 20-minute speech.

During this time, Ma finished his S.J.D. and returned to Taiwan to become secretary and English interpreter to then President Chiang Ching-kuo. Cohen was working in Beijing and could do little to help Lu. But that changed after an incident that brought U.S. attention

to the KMT government's ties to organized crime. A Chinese-American writing a book about a member of the president's family was slain in the San Francisco Bay area. It was suspected that Taiwanese mobsters had done the job, hired by government

officials. After an outpouring of outrage from the U.S., a trial was held in Taiwan, and Cohen, as one of the attorneys, was granted a visa. He asked Ma to intervene on Lu's behalf, telling him that Lu's release might help to redeem his government's tarnished image.

A meeting was arranged between Cohen and Lu, which Ma attended. Lu was weak. Her English was rusty after more than five years in prison, but she was overjoyed to see her mentor.

A week later Lu was freed. She had suffered a recurrence of thyroid cancer at the beginning of her incarceration, and her release was officially called a "medical parole." Lu has often cited the efforts of human rights groups such as Amnesty International in helping to win her freedom. But in an e-mail exchange with the *Bulletin*, she wrote she believed that the KMT let her go in part because of the political pressures exerted by Cohen through Ma. And although she noted she didn't know what Ma said to President Chiang, she acknowledged that his intervention "would have influenced [the president] in some ways." Cohen says he is grateful to Ma, whatever his motives were.

Lu was convicted of sedition and sentenced to 12 years in prison for a 20-minute speech. It was Ma's party that put her there.

Kong, though his family moved to the island when he was a year old. More important to Lu, his family had political connections to the KMT ruling party, and she feared that Ma was reporting back to the government on the activities of Taiwanese students.

Jerome Cohen, a China expert who was a professor at HLS at the time and Lu's adviser, remembers the two students' relationship as "less than friendly." Once in a while, Lu would come to him, upset that Ma was there. "I told her it was a free country," recalled Cohen, who is now a professor at New York University School of Law. "He was a brilliant student. They were both entitled to be there."

Cohen recalls discussing Lu's options as she prepared to graduate, including seeking exile in the U.S. or finding work in Taiwan that would not draw attention to herself. But as the U.S. was normalizing relations with the PRC—which would eventually require the withdrawal of U.S. diplomatic recognition of Taiwan and the end of the U.S. defense treaty—she feared for her country. She decided to go home and get involved in politics during what she knew would be a time of

THAT WAS MORE than 20 years ago. Lu went on to make her name in national politics. She won a seat in the Legislative Yuan, the country's legislature, where she played a role in foreign affairs, and continued to push for Taiwan's admission to the U.N. She was also magistrate of Taoyuan province, where she'd grown up. She now serves in the highest-profile position of her career, after she and President Chen Shui-bian won the 2000 election on the Democratic Progressive Party ticket, forcing out the KMT, the party that had imprisoned her and ruled her country for more than 50 years.

The DPP grew out of the Dangwai ("outside the party") movement. For the first time, the outsiders are on the inside and face the difficulties of this new position.

But one of the challenges Lu couldn't have anticipated was the shadow cast on their re-election in 2004 by a mysterious shooting on the eve of the vote. The incident left Chen and Lu with wounds in the abdomen and knee, respectively, from which they have now recovered. It's been harder for the president to recover from the opposition's allegations that the shooting was staged to boost the pair's flagging popularity.

Over the past 20 years, Ma has become one of the most influential politicians in Taiwan. As minister of justice in 1993, he cracked down on corruption and electoral fraud, which plagued the Taiwanese system and were associated with his party. As senior vice chairman of the Mainland Affairs Council, he was present for the party's sea change toward Communist China, which led to the first talks between Taiwan and the PRC in the early 1990s. He's now finishing up his second term as mayor of Taipei, after defeating in 1998 the man who is now Taiwan's president. Many see Ma as the new face of the KMT and as his party's best hope for winning back the presidency in the 2008 elections.

This spring, in his role as party chairman, Ma went on a 10-day visit to the U.S., including a stop in Cambridge. After meeting with Harvard faculty such as Roger Fisher '48 and East Asian Legal Studies Director William Alford '77, Ma entered the classroom where he was to speak.

Before he said a word to them, audience members held up cell phones and clicked with abandon, the way you snap photos of a movie star. In Taiwan it's called the Ma Ying-jeou phenomenon. Handsome and athletic, at 56 a marathon runner and champion of public interest causes such as blood donation, Ma is extremely popular among the oft-pollled Taiwanese. (In one survey, women voted him the man they would most like to father their children.)

Some in the United States have likened his charisma to that of JFK. With his American legal education and his fluency in English, he stands out from other politicians on either side of the Taiwan Strait.

Rachel Lu '07 (no relation to the vice president), who went to hear Ma speak in March, said that having lived in the PRC until she was 12, she "wanted to see what a [culturally] Chinese democracy could produce." She was impressed, especially with the effort Ma made to connect with his audience. After a speech that lasted less than half an hour, he answered questions for twice as long. Chung Chi LL.M. '02, a Taiwanese doctoral student, was struck by how funny the KMT chairman was. (Ma told the audience that he and his wife had so



Enjoying the irony: Nowadays, Lu, a longtime champion of a free press, is often a media target.

AP PHOTO/JEROME FAIVRE

enjoyed their time at Harvard that they'd wanted to name their daughter Cambridge Ma.)

Clearly, despite his sense of humor, politicians and policy-makers are taking Ma seriously. In addition to his stop in Cambridge, his trip to the U.S. included a closed-door meeting in D.C. with White House officials, including Deputy Secretary of State Robert Zoellick '81, as well as a question-and-answer session at the Council on Foreign Relations in New York City. Cohen, who led the council session, said of Ma, "There's one thing I am convinced of. If this guy gets elected president, there are going to be few leaders in the world that are of his ilk."

But though many see Ma as the new face of the KMT, others have trouble forgetting the past.

Eric T. Wu LL.M. '77 S.J.D. '90 is one of them. A prominent civic leader, businessman and Taiwan independence supporter, who until recently was a member of the Legislative Yuan representing the Taiwan Solidarity Union, Wu finds the idea of Ma representing a new improved KMT hard to swallow. "As an individual, of course, Ma is charming," said Wu. "But the problem is he is part of that system." And even if he fought corruption on a case-by-case basis as minister of justice, said Wu, "he would have to come out and reflect on all the wrongdoings of the KMT, all the previous corruptions, or he is just doing a piecemeal treatment of corruption. You know, it's that corrupt structure that brought him to power."

Ching-kuo was an authoritarian politician, but he figured out that the only way to have a peaceful transition and for the Kuomintang to hang on to some power was to ease up and relinquish some power," Alford said.

Lu thinks the government had no choice. Wu also believes that the president gave in to the mounting pressure from activists as well as to political pressure from the Carter administration. At the same time, Wu remembers the intoxicating effect of the freedoms he experienced as a student at HLS. To go from an authoritarian regime to a place where you can talk about anything, "to us that was like heaven," he recalled. Harvard placed such a high value on human rights and rule of law, he said, that perhaps Ma, too, was affected: "It may have sunk in Ma's mind and maybe influenced Chiang Ching-kuo in some fashion. It could have."

SUCH SPECULATION ASIDE, the issue that both political parties are focused on now is Taiwan's relationship to the PRC.

When he spoke in Cambridge, Ma critiqued Chen's recent record, including his move to abolish the council set up to unify Taiwan and the PRC, as dangerously confrontational, and against the wishes of the Taiwanese people and the U.S. government. He promised that if the KMT came back into power, "it would be a peacemaker, not a troublemaker" and "stick to the status quo without seeking independence or unification."

Lu calls Ma's approach appeasement. "We have to make our voices heard," she said. "The number of missiles is increasing. ... As president and vice president, we have to do something to protect us. But the world has been blind, including the United States."

In his speech, Ma said his party wanted to resume cross-strait dialogue based on the 1992 consensus, "namely, one China, different interpretations. For us, one China means the Republic of China in Taiwan. For them, one China means the People's Republic of China. These two concepts seem not to be reconciled," he acknowledged, but this approach, he said, would make it possible "to shelve the issue for the indefinite future and change our focus to something that needs our immediate attention."

Lu can't see the point of such fancy footwork. "It's ridiculous," she said. "Why not they just say that there are two Chinas? One on the mainland and one in Taiwan. Be honest."

It's this outspokenness that has driven her career.

Known as "Mr. Clean" for fighting corruption, which has plagued his party, Ma is seen by many as the new face of the KMT.

Alford, who has known both Ma and Lu for years, says fighting corruption was essential to the development of Taiwan's democracy, and Ma clearly cares about the issue. Yet, strategically, a KMT politician couldn't have picked a better one to build his career on. "He had the guts to stand up to his own party and break with the corruption," said Alford. "At the same time, it was incredibly clever politically."

The debate over one politician's background is part of a bigger dispute over who should get credit for the country's move to democracy—activists or the KMT government.

Alford says of course Dangwai activists, such as Lu, should get credit. But others should, too. "Chiang

“She’s an extraordinary person,” said Alford. “Someone with a lot of principle and conviction and stick-to-itiveness. And a lot of people don’t like her for that reason.”

As vice president, her independent attitude has won her harsh words from the PRC, including “scum of the nation,” “lunatic” and worse. “Reading what the PRC says about her,” remarked Alford, “is a good way to keep up one’s repertoire of vitriolic Chinese terms.”

Lu says she doesn’t mind being targeted by the mainland; it’s helped to draw attention to her point of view and her cause. She is quick to admit that in Taiwan, she is much less popular with the media than Ma Ying-jeou. But after fighting for freedom of the press, she says she now has to take her lumps when they freely criticize her. “That’s the way we have to pay,” she said, laughing.

Lu is mentioned as a possible candidate for the 2008 presidential race herself, although many say she hasn’t been enough of a team player for her party or her president. She answers accusations that she’s too independent by making it clear the vice president shouldn’t have to apologize for being ready to lead the country. But when asked about her own ambitions for the 2008 presidential race, she says the upcoming local elections are her party’s first priority (actually sounding quite like a member of the team).

Lu is very much focused on today’s Taiwan. But if you mention the five years she spent in prison, she reminds you of the exact number of days: 1,933. She says she’s become a symbol. And details of her imprisonment, such as the novels she scribbled on toilet paper, have become legendary; in fact, Taiwanese TV is making one of the books into a miniseries. It’s the toll her imprisonment took on her family that Lu says she minds most; her mother became ill and died without Lu getting to say goodbye. But the vice president is quick to point out that she’s just one of many who suffered. The mother and twin daughters of a protestor arrested with Lu were murdered in their home—their throats cut. Lu said she is proud that her side of the



During his visit to the U.S. in March, Ma said his party would be “a peacemaker, not a troublemaker,” if it regained the presidency in 2008.

PAUL J. RICHARDS/AFP/GETTY IMAGES

“revolution” was peaceful, and that in today’s Taiwan, “problems for political freedom are almost zero.”

Although she expressed no gratitude to Ma for his actions more than 20 years ago, Lu did tell the Bulletin she doesn’t resent him or other KMT officials. “I think humans make mistakes. The important [thing is] to try not to repeat them.”

“I have no intention to attack Mayor Ma,” she stressed. “No personal attacks, please.” What it’s about, she says, is issues and ideology. But when it comes to Taiwan’s politics, it doesn’t seem like that can ever be simple.

F. Scott Fitzgerald wrote that the test of a first-rate intelligence is the ability to hold two opposing ideas in mind at the same time, and maybe the same could be said of a democracy. S.J.D. candidate Chung Chi was only a year old when Lu was imprisoned, but he says he feels a deep debt of gratitude to her and other activists for helping make his country the boisterous democracy it is today. But he also admires Ma: “Both of them dare to challenge the conventional wisdom.” *

engineering lawyers

When Harvard President **Derek Bok '54** wrote a scathing 1983 critique of American litigiousness, he pointed to Japan—with only one-twentieth as many lawyers per capita—as a better model.

“Engineers make the pie grow larger, lawyers only decide how to carve it up,” Bok wrote, quoting a Japanese adage.

But two decades later, Japan is rethinking the wisdom of that adage and retooling its legal institutions in ways that look quite familiar to American lawyers.

The number of lawyers admitted to practice in Japan is creeping upward. Three-year, graduate-level law schools have opened for the first time. Japan’s corporate law firms are looking to the example of their larger American counterparts, growing and merging. And Tokyo is undergoing what Harvard Law Professor J. Mark Ramseyer '82 described as nothing less than an “explosion of New York-style mega-firms.”

Granted, even with these changes, Japan will still have far fewer

JAPAN IS BUILDING UP ITS LEGAL PROFESSION

BY SETH STERN '01

**ILLUSTRATIONS BY
ADAM McCAULEY**

一度の受験で在学中に果たした最終合



上石 奈緒 早稲田
 飯塚佳都子 東京都
 井口加奈子 聖学院
 井上 卓哉 早稲田
 岩崎 紫 早稲田
 江口 文子 中野
 江口 昌英 名古屋
 大浜 寿美 東北
 岡本満喜子 同志社
 奥田 賢介 京大
 小栗 夏生 早稲田
 河井 耕治 早稲田
 神原 千郷 早稲田
 熊田 佳弘 九州
 小浜 賢二 東京
 近藤 伸生 北海道
 犀川 治 本
 奇藤 大 南山学院
 佐々木健二 早稲田
 設楽 公晴 京大
 藤本 潔 大阪府立
 島 由美子 大阪府立
 須貝 仁志 京大
 杉田 智樹 明治
 鈴木 一夫 慶應義塾
 鈴木 弘美 京大
 竹原 文雄 早稲田
 田中 創 早稲田
 田中 勝 東北

田中 哲生 大阪府立
 棚田みどり 京都
 千葉 達朗 中野
 手塚富士雄 明治
 寺尾 幸治 明治
 富田 寛 明治
 内藤 和暁 慶應義塾
 内藤真理子 早稲田
 中島千絵美 横浜
 中村 威彦 法政
 中村 誉彦 同志社
 水谷 和之 早稲田
 野村 高志 早稲田
 服部 誠 慶應義塾
 早野 進子 一橋
 平井 龍八 京都府立
 平谷 優子 島大
 古本 晴英 京大
 古山 忠 中野
 本田 正男 法政
 松添 麗史 慶應義塾
 松本 麗 立教
 馬目 順子 慶應義塾
 御子柴一彦 慶應義塾
 淡 博明 中野
 森 寿明 神戸
 柳 誠一郎 慶應義塾
 山口 暢子 慶應義塾
 渡部 直樹 法政



1111者か合格



The average newly minted Japanese lawyer is 27 years old and has taken the bar five times after cramming for years at prep school.

lawyers per capita than the United States. But the changes represent a startling shift in the way Japan's legal system has operated since World War II. "That's a sea change in the legal profession in Japan," said John Steed '77, a partner with Paul Hastings in Tokyo and co-chairman of the firm's Asia-Pacific practice group.

Japan's law profession and its system of legal education changed little for decades, even as the population and economy boomed. The bar, together with the Ministry of Justice and the nation's supreme court, kept a tight lid on the number of lawyers by maintaining a withering failure rate of 97 or 98 percent for the entrance exam. Not until 1964 did the number of bar passers first exceed 500—fewer than Harvard Law School's graduating class each year—in a population 40 percent the size of that of the United States. (Over the

next four decades, the number rose gradually, but of this year's 45,000 candidates, only 1,200 will be successful. The tough competition means the average newly minted Japanese lawyer is 27 years old and has taken the

test five times after cramming for years at private prep schools.)

Having only 20,000 lawyers meant whole swaths of the country had few if any of them. Ninety percent of Japan's registered cities and towns in 1990 still had only one lawyer or none at all. Most were solo practitioners. Even Japan's largest law firms rarely had more than a couple dozen attorneys who maintained relatively autonomous individual practices and merely shared office space and administration, says Steed.

The system suited Japanese corporations. They relied heavily on "quasi lawyers" who worked for their law departments without ever having passed the bar.

With Japan's economy booming in the 1980s, foreign observers such as Bok began asking if perhaps the United States had something to learn from the more

And now, the paper chase, Japanese-style

Adopting the Socratic method—in a hurry

It's no coincidence that Japan's new three-year graduate law schools look a lot like the model of legal education Harvard Law School helped craft over the last century.

One of the biggest advocates for adopting the new law schools was Yukio Yanagida LL.M. '66, the founding partner of the Tokyo law firm Yanagida & Nomura.

Yanagida's experience as a Harvard Law student and later as a visiting professor in 1991 convinced him that Japan should rethink its approach to legal education.

For decades, Japan relied on undergraduate programs to educate its future lawyers. Only a small fraction of students passed the bar exam and advanced into more practical training at the national Legal Training and Research Institute. (Training at the institute, which is run by the judiciary, is a compulsory step between passing the exam and admission to practice.)

In a 1997 lecture at the University of Tokyo, Yanagida argued that Japanese law students—and the profession as a whole—would benefit from more diverse academic experiences prior to the study of law. Japanese law schools should follow Harvard's model of providing “the training and education required for becoming an effective legal practitioner” and teaching students to “think like a lawyer,” he said.

The vision he laid out in that speech won a big endorsement in 2001, when the government-appointed Justice System Reform Council called for creating three-year graduate schools in law, U.S.-style. And his vision came to fruition in 2004, when the first of 68 such schools began to open their doors.

Setting up so many law schools so quickly required plenty of intense planning. Professors had to adapt the Socratic method to a civil law system with a much lower volume of cases, for students accustomed to learning more passively from lectures.

Helping this transition was another Harvard Law alumnus, University of Tokyo Professor Daniel H. Foote '81, who was the sole non-Japan native involved in the planning committees that helped create the new schools.

Foote says his suggestions “were accorded more weight” whenever he referred to the experience of Harvard Law School. For example, when planners tried determining the ideal class size, Foote pointed to HLS's decision to reduce first-year class



Professor J. Mark Ramseyer '82 is currently conducting empirical research on the Japanese bar. Like many observers in Japan, he warns that the new law schools will succeed only if a large fraction of their graduates passes the bar exam.

size to 80 students. “After I mentioned the HLS reform, consensus quickly developed at the 80-student level,” he said.

Not surprisingly, though, such a rapid debut for the new law schools has not been glitch-free.

“Not all law schools are prepared ... [or] well-organized,” said Masakazu Iwakura LL.M. '93 of Nishimura & Partners. “Complaints are increasing among the law students.”

Students were particularly disappointed to learn that the bar pass rate will be far lower than the 70 or 80 percent level envisioned by the Justice System Reform Council.

“Once students realize that they pay for this for two or three years and then flunk the bar anyway, they're not going to have any interest in doing this,” said HLS Professor J. Mark Ramseyer '82. “Some of the lower-ranking schools are going to have to close down.” * —S.S.

成川豊彦 早稲田セミナー学院長

7	9月21日(土) 6:30~8:30pm	元司法試験委員特別講演会② 坂井芳雄先生「司法試験とは何か」
8	9月22日(日) 1. 2:00~5:00pm 2. 6:00~9:00pm	1. 「小塚先生によるこれを聴けば刑法がわかる 無料公開講座」小塚征生先生 2. メインカンファレンス PART 3 「2年合格システム」小塚征生先生、羽広政男先生
9	9月23日(月) 2:00~5:00pm	羽広先生による体験生講義……民法 羽広政男先生
10	9月28日(土) 6:30~8:30pm	司法試験ガイド② 今、司法試験はどうなっているのか? 合格者アンケートと多数の資料を駆使して合理的なアプローチを迫る。
11	9月29日(日) 6:00~8:00pm	メインカンファレンス PART 4 超短期合格を目指した羽広メソッドによる本講義 9月27日の2年合格者 羽広政男先生
12	10月6日(日) 6:00~8:00pm	司法試験……

基礎講座+基礎力充実演習講座
基礎講座+通学+基礎力充実
基礎講座+VTR+基礎力充実
基礎講座+通信+基礎力充実

進呈
一回目の発送日に同時送付
除制度の対象講座です
模擬試験受講料無料(指定講座優待生制度)
講座などの講座の講読料は特典として

板書生受付 → 登録・審査

合ム回答
多・小物手打画

Graduates from Japan's elite colleges are increasingly choosing legal careers over those in business or government.

modest Japanese legal system.

But when Japan's economic bubble burst in the early 1990s, followed by a lengthy recession that battered corporate Japan, there was suddenly a huge demand for lawyers.

"Lots of companies went bankrupt, as a result of which more and more bankruptcy specialists and mergers and acquisitions lawyers were needed, as not only Japanese companies and funds but foreign investors wanted to buy out the bankrupt companies, including large financial institutions," said Masakazu Iwakura LL.M. '93 of Nishimura & Partners.

Japan's few large firms, which had focused largely on litigation, found themselves at a disadvantage in competing for transactional work with larger multinational firms. Competition only increased with the

easing of restrictions that previously made it difficult for foreign lawyers to practice there, beyond a handful of Americans who began operating during the post-war occupation and wound up grandfathered into practice.

Beginning in 1985, Japan started lifting such restrictions and multinational firms began setting up shop in Tokyo, though they still couldn't hire Japanese associates or have partnerships with Japanese lawyers. But even those impediments would soon be lifted. Last year, foreign and Japanese lawyers could finally form partnerships. Multinational law firms such as Paul Hastings and Clifford Chance no longer needed separate telephone numbers and billing or accounting for their Japanese and foreign lawyers.

Japanese firms felt a threat from international firms creating Japanese law practices, said David Sneider '84, head of Simpson Thacher's Tokyo office: "There's competition among them for recruits and for clients, and they realize that to meet the needs of clients, they need large numbers of lawyers and expertise in a number of practice areas to handle complicated transactions."

As a result, Japan's four biggest law firms have all expanded to more than 200 lawyers each in less than a decade, via mergers and aggressive hiring. A recent merger announcement means one firm will soon have 370 attorneys.

"They're getting really big, really fast," said Ramseyer, who grew up in Japan as the son of missionaries. He now holds the Mitsubishi Professorship of Japanese Legal Studies at HLS and runs its Japanese Legal Studies program, which facilitates research by professors and students on Japan, coordinates teaching related to Japanese law and hosts visitors from the Japanese legal world.

Iwakura has witnessed the fast pace of change firsthand. His firm, Nishimura & Partners, had only 20 lawyers when he started there 19 years ago but today has more than 230, and it recently signed an agreement to merge with Asahi Koma Law Offices.

Harvard Law alums are well-represented at all of the "big four" firms that dominate corporate practice in Japan. Nagashima Ohno & Tsunematsu boasts 19 partners who graduated from HLS, including Yasuharu Nagashima LL.M. '62, who co-founded the firm in 1961. Its current chairman is Hisashi Hara LL.M. '80.

Nearly 10 percent of Nishimura & Partners' attorneys are graduates of HLS, as are 20 percent of Anderson Mori & Tomotsune's 53 partners and 10 lawyers at Mori Hamada & Matsumoto.

Japanese firms are increasingly organized according to departments and practice groups, like their foreign competitors, says Sneider, who often receives inquiries from large firms seeking to learn about management practices.

The recession is not the only explanation for Japan's changing legal system. Globalization had already caused many business executives to rethink the value of lawyers, says Daniel H. Foote '81, a University of Tokyo law professor. "Business leaders developed a greater appreciation for the valuable role played by lawyers in resolving disputes and through advanced planning, heading off potential future disputes," he said.

"It used to be Japan prided itself on not much litigation," said Anthony Zaloom '69, a former counsel at Mori Hamada & Matsumoto who now teaches at several Japanese universities. "Now, it's looked at as a good thing."

The government also increased lawyers' importance by deregulating the economy. Companies now turn increasingly to lawyers to help resolve disputes.

And in 2001, the government-appointed Justice System Reform Council released a report calling for dramatic changes in the Japanese legal system, including the use of lay jurors in trials, new three-year graduate law schools and a goal of expanding the population of lawyers to 50,000 by 2018.

"Greatly increasing the legal population is an urgent task," the report declared.

Some of the proposals—including the three-year law schools and jury trials—are already being adopted. Japan's first graduate-level law schools began opening in 2004. There are already 68 of them. (See sidebar, p. 37.)

But the bar has continued to resist pressure to dramatically increase the number of lawyers. The bar pass rate is being bumped up only modestly, expected to increase from the present 1,200 annual new admissions to 3,000 by 2010.

Steed predicts the volume of lawsuits will increase as the number of lawyers rises. "That will probably lead to a more legalistic approach to business contracts, consumer protection, environmental issues," he said.

Ramseyer, however, cautions against overstating the impact of a rising lawyer class. Even after the increase, he points out, the number of lawyers in Japan will still be quite small relative to that in the United States. "It's a lot more open than it was, but still a lot more closed than it is here," he said.

Nevertheless, he says, there are many signs of the increasing stature of lawyers in Japanese society. For example, a growing proportion of graduates of the most elite colleges in Japan are opting for legal careers rather than entering the corporate sector or elite government bureaucracies such as the Ministry of Finance. "A smart law department graduate who might have before chosen a corporate or government job is now choosing to study for the bar," Ramseyer said. "Joining these big multinational firms is really a lucrative thing to do."

Despite all the changes, no one expects the Japanese and American legal systems ever to converge entirely. "Democratic legal systems depend on electoral systems," said Ramseyer, "and constitutional structures depend on historical exigencies. The two countries are similar in lots of ways, but they bring very different electoral systems and very different histories." *

Seth Stern '01 is a legal affairs reporter for Congressional Quarterly in Washington, D.C. His profile of Homeland Security Secretary Michael Chertoff '78 appeared in the Summer 2005 Bulletin.

blood on the roof of the world



**IN NEPAL, LAWYERS
TOOK BULLETS FOR THE
RULE OF LAW**

**BY ROBB LONDON '86
PHOTOGRAPH BY KATHLEEN DOOHER**

For Nepalese lawyer Bipul Mainali, this was the year for getting his LL.M. For other lawyers in Nepal, it was a year of living dangerously.

When police opened fire on lawyers demonstrating peacefully at a pro-democracy rally outside the Nepal Bar Association in Kathmandu on April 13, the long-simmering crisis in the Himalayan kingdom finally grabbed the attention of the world.

But on the other side of the globe, one Harvard Law student had been watching events unfold long before they started making headlines.

Bipul Mainali LL.M. '06, a native of Kathmandu, was waiting for word that his father and uncle—leaders of the Nepal Bar Association's efforts to restore democracy to the country after a year of dictatorship by King Gyanendra—were not dead or injured.

Fortunately, he didn't have long to wait. He learned that both relatives were safe. But his uncle, Mahendra, was arrested and detained with more than 60 other lawyers at a stadium in Kathmandu later the same day, then jailed for three days.

For Mainali, the pro-democracy uprising—in which the bar had played a leading role—had an impact beyond the worry it caused him for his loved ones. It was an eruption of tensions that he had been working hard to reduce in his work with the Harvard Negotiators, a student organization that is run under the auspices of the school's Program on Negotiation.

For much of the year, Mainali and six other students had been designing a blueprint for negotiating a peaceful compromise among the monarch-dictator, the seven pro-democracy political parties in the disbanded Parliament and Maoist rebels whose 10-year struggle had cost the nation 13,000 lives. The students even managed to attract the interest of a Nepalese Cabinet minister, and they had been drafting a proposal for her at the time the violence broke out.

"The plan was to reach out to all three factions and offer them a structure for negotiating a peaceful reinstatement of democratic institutions and for addressing the concerns of the rebels," Mainali said. His LL.M. paper, supervised by Visiting Assistant Professor Gabriella Blum LL.M. '01 S.J.D. '03, was also devoted to that challenge.

Gyanendra had seized control of the government in February 2005, aborting the country's 15-year foray into parliamentary democracy, and had vowed to finish off the Maoist rebellion. He clamped down on political freedoms, suspended the constitution and consolidated his rule. But the Maoist rebels were undeterred, and pro-democracy protests sprang up in Kathmandu in April.

The ensuing crackdown left at least 14 dead and hundreds more wounded. Palace control of media outlets and restrictions on international monitors made it difficult to know the full scope of the protests and re-

pression. But tear gas, truncheons, rubber bullets and live ammunition were, by all reports, standing in for Nepal's suspended constitution.

By the end of April, the king agreed—under internal and international pressure—to reinstate Parliament and the constitution. But many important questions remain to be negotiated between the Maoists and the elected government.

Mainali and his fellow Harvard Negotiators were hopeful that the factions in Nepal would now be even more receptive to a blueprint for negotiation.

"The announcement that Parliament would be reinstated didn't end the crisis but transformed it," said Robert Bordone '97, HLS assistant clinical professor and deputy director of the school's Negotiation and Mediation Clinical Program. Bordone was supervising Mainali and other student negotiators at the time of the crisis. "The students on the Nepal Team of Harvard Negotiators can still be helpful in this highly fluid situation. They now have direct contacts with Nepalese officials," he said.

To succeed, experts agree, any negotiations will have to tackle the thorny question of Nepal's entrenched caste system. There, as in India, more than 20 percent of the population are Dalits—the so-called "untouchables" of Hindu society—whose lives are marked by dehumanization, landlessness and extreme poverty, says Smita Narula '97, co-director of the Center for Human Rights and Global Justice at the New York University School of Law.

Narula questions whether democracy in Nepal ever really existed. She sees the year of the king's dictatorship and the ongoing civil war through the broader perspective of caste discrimination. When "democracy" came to Nepal in 1990, it—like the rest of 2,000 years of Hindu history—passed Dalits by, she says.

If democracy is going to have a future in Nepal, Narula argues, a first step must be an end to untouchability.

Meanwhile, Mainali, who is believed to be only the third person from Nepal ever to study for a degree at Harvard Law School, plans to involve himself in negotiating solutions.


"I was told that when lawyers in Kathmandu heard that I was headed for Harvard Law School, it was a very big deal," he said. "There is such a special respect for Harvard there and so much hope that goes with that. They expect me to come back and make a contribution." *

Mark West, a writer and lawyer who has worked in Nepal, was in Kathmandu when the king seized control of the government last year, and contributed reporting for this story.

Asia 2006

exchanging
greetings—
and ideas

HLS DELEGATION BARNSTORMS THROUGH ASIA IN MID-WINTER TOUR



Dean Elena Kagan '86, Professor William Alford '77, Barbara Caspersen (far left), Scott Nichols, former associate dean for development (back) and guide Zhang Yan, tour the Palace Museum in Beijing.



In Seoul, a gathering of the Korean Harvard Law School Club.



Wang Chengguang LL.M. '86, dean of Tsinghua University School of Law in Beijing, welcomes Dean Kagan to the school.



Yukio Yanagida LL.M. '66; Gen Kajitani, former Justice of the Supreme Court of Japan; and Finn Caspersen '66 at the HLSA of Japan alumni reception in Tokyo



Dean Kagan receives a book about the history of the Imperial City from the deputy director of its museum, Li Ji.



IN JANUARY, DEAN Elena Kagan '86 led a group of HLS faculty and alumni on a two-week swing through East Asia that took them to Seoul, Tokyo, Beijing and Taipei. They made stops at leading cultural, educational and public institutions, and visited supreme court judges, the Crown Prince and Princess of Japan and members of Korea's largest law firm, Kim & Chang, in Seoul.

"The rapid economic and legal changes taking place in East Asia remind us that Harvard Law School has a crucial role to play in the international sphere," said Kagan. "Alumni are making significant contributions in almost every realm of life in the region. As we take advantage of further opportunities for engagement, our connections with Asia—already strong—will only get stronger."

Professor William Alford '77, director of HLS's East Asian Legal Studies program, and Professor J. Mark Ramseyer '82, director of Japanese Legal Studies, were part of the HLS delegation, along with Finn M. W. Caspersen '66, chairman of the Dean's Advisory Board. *

Courtrooms and Dramas

Richard Owen '50 has a noteworthy career in both

THE HONORABLE Richard Owen '50 once penned an order for a “cursed Quaker” woman to be tied to a cart and driven through several towns where she was to be whipped “10 stripes.”

Owen, a federal judge and opera composer, wrote the sentence from his piano—not judicial—bench, as part of the libretto for his 1976 opera, “Mary Dyer.”

For more than 40 years, Owen has pursued both legal and musical careers. A former trial attorney, he has been a federal district judge for the Southern District of New York since 1974. He is also an opera composer and has written the words and music for eight, much-produced, operas.

Although Owen has seen plenty in his 32 years on the bench—he was the presiding judge in the 1986 Mafia Commission case, a racketeering trial that included charges of murder and extortion—he hasn't incorporated any of that drama into his operas.

For the most part, says Owen, he writes operas about people of substance, such as Abigail Adams, or Mary Dyer, who was hanged in 1660 for standing up for her religious convictions. In “Death of a Virgin,” he wrote about Caravaggio and the woman he came to paint.

Owen grew up in New York City and recalls his father, a corporate attorney, attending the Metropolitan Opera on Monday nights. When Owen was 4, his father took him to

see his first opera, “La Bohème.”

At 5, he said he knew he wanted to be a trial lawyer. He followed his father's path from Dartmouth to Harvard Law, where, he notes, he had to study every night for months to “make damn sure” he could get through.

After securing his J.D., Owen returned to New York, where he became a trial attorney in the antitrust division of the U.S. Department of Justice. He also attended contemporary operas and soon became convinced he could do better.

He enrolled in night music classes, studied with Vittorio Giannini, who wrote the opera “The Taming of the Shrew,” and, in the early 1960s, attended composition classes at the Manhattan School of Music every Thursday he wasn't in the courtroom.

In 1956, he took a month's vacation to study composition at Tanglewood. Wandering the grounds, he stopped to listen to a woman rehearsing “Don Pasquale.”

“I said to myself, ‘I really don't like that opera all that much, but that girl has one hell of a voice,’” said Owen.

He convinced the girl, Lynn Rasmussen, to sing the lead in his first opera, “Dismissed with Prejudice,” a one-act he wrote for the New York Bar Association's spring show, and four years later they married.

Owen has written seven of his eight operas for his wife, a soprano who has sung at the Met and all

over Europe. He says her voice is so lovely that when he hears her perform, he sometimes has to bite his finger not to cry. He wrote “Tom Sawyer” for one of his sons, both of whom were boy sopranos at the Met. One son is now a conductor. The other is a partner in a Manhattan law firm.

Owen says he never thinks of music when he is on the bench, although a legal argument will sometimes pop into his head while he is at the piano.

But music and the law have intersected in his courtroom. In the '70s, Owen presided over a plagiarism bench trial, in which former Beatle George Harrison was accused of copying the melody for “My Sweet Lord” from the Chiffons' 1963 hit “He's So Fine.” Owen believed Harrison wasn't being asked the right questions, so the judge pulled his chair to the witness rail, and for an hour, while Harrison played guitar, both men sang themes from the two songs. In the end, Owen found Harrison liable for subconscious plagiarism.

Now in his 80s, he is still presiding over cases and is currently working on a new opera about another condemned woman, Mary Magdalene. Although he was eligible for senior status more than a decade ago, Owen said it never occurred to him to take it. He loves the daily excitement of the courtroom, and for now, he plans to just keep humming along. *

By Christine Perkins | PHOTOGRAPHED BY JOSHUA PAUL, NEW YORK CITY, APRIL 27, 2006



A Lawyer at her Post

For Diana Daniels '74, life is about fairness—

DIANA DANIELS '74 was a Cravath, Swaine & Moore associate doing project finance in 1978 when she heard The Washington Post needed a lawyer.

At the time, Daniels had no ties to journalism and had assumed she'd wind up practicing and perhaps teaching the law of city planning, the subject of two of her post-graduate degrees.

Still, the Post certainly had an allure just four years after its Watergate coverage helped prompt President Nixon's resignation.

"It seemed like a tremendously exciting place," said Daniels, even if she hadn't yet seen Robert Redford and Dustin Hoffman portray the Post's star reporters Bob Woodward and Carl Bernstein in the 1976 movie "All the President's Men."

So Daniels applied for the job and soon found herself in the Post's fifth-floor newsroom advising the likes of Woodward and legendary editor Ben Bradlee about what was legally fit to print.

"Fortunately, they were all extremely patient as I was learning on the job the role of advising on First Amendment matters," Daniels said.

Almost three decades later, Daniels remains with The Washington Post Co., though these days she sees less of the Post's journalists in her current position as vice president, general counsel and corporate secretary.

She works four floors above the newsroom in the executive suite,

past the portrait of Eugene Meyer, who bought the Post in 1933, and those of his daughter and son-in-law, Katharine and Philip Graham.

The number of lawyers she oversees has expanded along with the company, as the Post acquired several television and cable systems as well as Kaplan Test Prep.

Today, more of the company's revenues come from Kaplan than its flagship newspaper or magazine, Newsweek, where Daniels served as general counsel for eight years. Like print media outlets nationwide, both are having to deal with shrinking circulation and competition for ad dollars from the Internet.

"Every major newspaper company in the country is engaged in trying to figure out how the next few years are going to play out—what happens with the Internet, where advertising goes," Daniels said.

But only a few hours after she voiced those concerns in April, she went down to the newsroom to celebrate the four Pulitzer Prizes the Post won that day—the most of any single newspaper this year.

Daniels admits it took some time to get used to having journalists as her clients. "Reporters are very opinionated," she said. "All of them are frustrated lawyers. They like to argue, do research, investigate—all the qualities lawyers have."

She also had to adjust to the unique challenges of a newsroom.

Like the time a criminal suspect

wandered into the newsroom hoping to turn himself over to the police in front of reporters. Only later did he show his gun. She's also had to fight boxer Willie Pepp—or at least the libel suit he filed.

Daniels is an equally committed supporter of journalists beyond the Post. As the current president of the Inter American Press Association, she travels throughout Central and South America advocating freedom of the press.

Daniels has also served as chairwoman of the board of the Appleseed Foundation, which she describes as a great way for nonlitigators to get involved in pro bono work. And she is a vice chairwoman of the board of trustees of Cornell University, where she went to college and this year headed a search that selected its newest president.

"I'm happiest when I'm very busy," she said.

Yet, as a single mother, Daniels carves out time to watch her daughters, Daphne, age 7, and Dana, age 11, play soccer on weekends, and she checks their math homework, even if it's via e-mail.

"How she does all this stuff and performs so well is a mystery to me," said Linda Singer '91, executive director of the Appleseed Foundation. "I do my own share of juggling, with two kids myself, and whenever I think it's really hard, I think, Diana does it—it's got to be possible." *

By Seth Stern '01 | PHOTOGRAPHED BY DAVID DEAL, WASHINGTON, D.C., APRIL 25, 2006

and balance



A Bankruptcy Lawyer at

Sabin Willett '83 traveled to the state of limbo

SABIN WILLETT leads a double life as a lawyer. Most days, he works on bankruptcy litigation in the Boston office of Bingham McCutchen. He likes the work. *Really*, he says, sitting in a conference room with a sweeping view of Boston harbor.

In his other legal life, you might find him near the naval base at Guantanamo Bay, Cuba, which he describes as “a sleepy little town [with] a couple of traffic lights, stores ... and a golf course that has iguanas on it.”

Willett got involved with the legal issues surrounding the U.S.’s naval detention center at Guantanamo Bay after a friend urged him to attend a panel discussion on the legal status of enemy combatants.

“I came away kind of shocked from that,” Willett said.

He contacted friends and organizations involved in defending enemy combatants and, with other attorneys at Bingham McCutchen, decided to take a case pro bono.

One organization asked if Willett would take several Uighurs as his clients. Willett’s response: “What’s a Uighur?”

Uighurs (pronounced *WEE-gurs*), as he learned, are ethnic Chinese Muslims from northwestern China. There are an estimated 8 to 10 million Uighurs, and at least 20 were being held at Guantanamo.

Willett’s clients remained there for four years after their capture by Pakistani security forces, even after the military conceded that

they posed no threat to national security. A Combatant Status Review Tribunal had determined in March 2005 that the Uighurs should be classified as NLECs, or “no longer enemy combatants.”

Why did they remain at Guantanamo for another 14 months?

Willett asked the courts the same question. In a December 2005 decision, the U.S. District Court for the District of Columbia agreed with Willett that the Uighurs were being detained unlawfully, but concluded that the courts lacked the legal authority to devise a solution.

His clients could not be sent back to China because of fears of persecution by the communist government. They were denied asylum in the U.S., and no country would agree to take them until the military announced on a Friday in May—three days before a scheduled appeal hearing—that the men would be sent to Albania.

“I didn’t know anything about [the decision] until that afternoon,” Willett said.

While his clients were overjoyed at leaving Guantanamo, a tangle of new problems quickly emerged. They were sent to a refugee center, but Albania lacks a Uighur population to provide a support network, and there are no concrete plans for transitioning them to civilian life. Meanwhile, China has said it wants them back.

“I have no idea how it’s going to work,” said Willett, who visited the

men shortly after their arrival in Albania.

To Willett, these developments were the latest round of frustrations that began as soon as he started the case. His legal team had to initiate the lawsuit without ever meeting the clients.

“We knew nothing. The military would tell us nothing. All we knew was what we could find on the Internet,” he said.

He said the work was exhilarating—the kind of case that “can really get the blood pumping.” It landed him a profile in *The Boston Globe* in February and interviews on public radio programs.

But it was also maddening, particularly when compared with litigating bankruptcy cases.

“Stuff happens in [a bankruptcy] court, and it’s only about money. I’ve got a case about whether somebody can be held behind razor wire, and I can’t get anything to happen.”

Willett says he became friends with the men during the process of representing them. “At this point, when we meet A’del [one of the clients], it’s bear hugs.” He hopes to help them connect to a larger community of Uighurs somewhere, but because the men are no longer at Guantanamo, “we’re out of our competency now.”

Willett, who has also published three novels, said the case has been sobering: “I realized how insignificant I am.” *

By Mary Bridges | PHOTOGRAPHED BY JOHN GOODMAN, BOSTON, MAY 1, 2006

Gitmo



Calendar

Coming attraction

**JUNE 14-17, 2007
WORLDWIDE ALUMNI
CONGRESS
WASHINGTON, D.C.**

FOR MORE INFORMATION:
*[www.law.harvard.edu/
alumni/wac](http://www.law.harvard.edu/alumni/wac)*

JULY 11, 2006
**HLSA OF MASSACHUSETTS ANNUAL
SUMMER RECEPTION**
Downtown Harvard Club of Boston
617-495-4698

JULY 12, 2006
**HARVARD LAW SOCIETY OF ILLINOIS
ROLE MODELS RECEPTION**
Mid-America Club, Chicago
617-495-4698

JULY 13, 2006
**HLSA OF NORTHERN CALIFORNIA
ANNUAL SUMMER RECEPTION**
MoMo's restaurant, San Francisco
617-495-4698

JULY 20, 2006
**HLSA OF NEW YORK CITY
ANNUAL SUMMER RECEPTION**
Sotheby's
617-495-4698

JULY 21, 2006
**HLSA OF THE DISTRICT OF COLUMBIA
ANNUAL SUMMER RECEPTION**
Vinson & Elkins
617-495-4698

SEPT. 15-16, 2006
HLS LEADERSHIP CONFERENCE
Harvard Law School
617-495-3051

OCT. 26-29, 2006
**FALL REUNIONS WEEKEND
CLASSES OF 1944-47, 1951, 1961, 1976,
1986, 1991, 2001 AND EMERITUS CLUB**
Harvard Law School
617-495-3173



CORBIS

APRIL 26-29, 2007
**SPRING REUNIONS WEEKEND
CLASSES OF 1957, 1967, 1972,
1982, 1997**
Harvard Law School
617-495-3173

MAY 4-5, 2007
HLSA SPRING MEETING
Harvard Law School
617-495-4698

JUNE 6, 2007
**ALUMNI SPREAD AND CLASS DAY
EXERCISES**
Harvard Law School
617-495-4698

JUNE 7, 2007
COMMENCEMENT
Harvard Law School
617-495-3129

Back, again!



1

Spring Reunions 2006



2



3



4



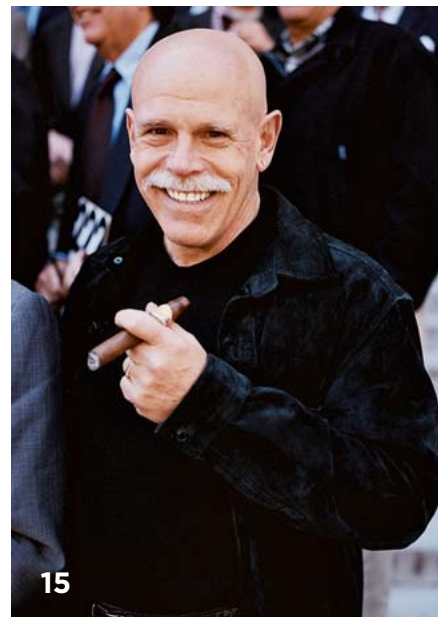
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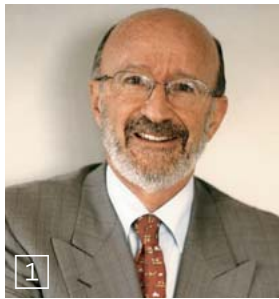


1. 1956 classmates Arnold Goldman, Jerome Fleischman **2.** 1981 classmates **3.** 1956 classmates Philip Cronin, Robert Weinstein, Allen Rieselbach, Seymour Hendel **4.** Maria Rachadell LL.M. '96 **5.** 1981 classmates Keith Calhoun-Senghor, Jill Grant **6.** David Smoyer '66 **7.** 1956 classmates Ralph Perlberger, Kenneth Robinson **8.** Anil Khosla '71 **9.** 1996 LL.M. classmates Ana Margarita Garza, Monica van der Schrafft, Carmen C. Macazana Barragan **10.** 1996 classmates Stephen Rosenthal, Harry Chernoff, David Friedman **11.** 1956 classmates Herb Hershfang, Michael McNulty **12.** Pedro David Martinez '96 (I.T.P.) and daughter, Ivana **13.** 1981 LL.M. classmates Gerhard Wegen, Gerald Courage, Masaakira Kitazawa, Theodor Seitz **14.** Hubert Williams '70-'71 **15.** Ralph Musicant '71



Wiser by the Dozen

Some illustrious alumni share a little wisdom



1



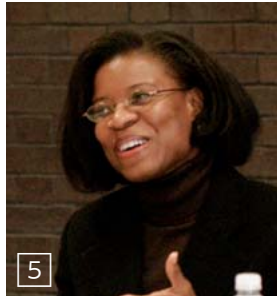
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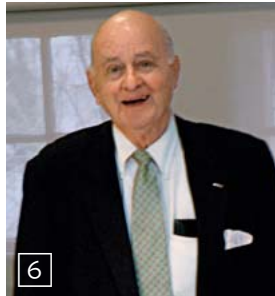
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6

① **Stanley S. Arkin '62**, founding member and senior partner, Arkin Kaplan

② **Barry R. Campbell LL.M. '77**, president, Campbell Strategies (Toronto)

③ **Scott C. Collins '90**, general partner, Summit Partners

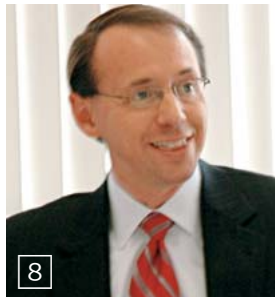
④ **Charles E. Haldeman Jr. '74**, president and CEO, Putnam Investments

⑤ **Millicent Yvonne Hodge '87**, lawyer and author

⑥ **Bentley Kassal '40**, former judge, litigation counsel, Skadden, Arps, Slate, Meagher & Flom



7



8



9

⑦ **Harry C. Martin '48**, chief justice, The Cherokee Supreme Court, Eastern Band of the Cherokee Nation

⑧ **Rod J. Rosenstein '89**, U.S. attorney for the District of Maryland

⑨ **Anthony Scaramucci '89**, co-founder and managing partner, SkyBridge Capital

⑩ **Avy H. Stein '80**, founding director, Willis Stein & Partners (London)

⑪ **Lori M. Wallach '90**, director, Public Citizen's Global Trade Watch

⑫ **Jack M. Weiss '71**, partner, Gibson, Dunn & Crutcher



10



11



12

THIS YEAR, 12 alumni discussed their careers with students as guests of Dean Elena Kagan '86. Since its founding nine years ago, the Traphagen Distinguished Alumni Speaker Series, sponsored by Ross E. Traphagen Jr. '49, has brought 140 grads to speak at HLS.

In Memoriam

Obituary Information

Details may be sent to Harvard Law Bulletin, In Memoriam Editor, 125 Mount Auburn St., Cambridge, MA 02138

1930-1939

David R. Blossom '32-'34 of Kiantone, N.Y., died Sept. 17, 2005. He practiced law at Alexander & Green in Manhattan from 1936 to 1963, with the exception of his years of military service. He was later a solo practitioner in Brooklyn Heights, N.Y., and served as a town justice in Kiantone. A president of the Jamestown Bar Association and editor of its newsletter, he received the association's first outstanding service award in 1999. He was also treasurer of the Jamestown Audubon Society. During WWII, he served in the U.S. Army, and in 1946, he was deputy military government officer for the occupied city of Munich, Germany. He continued to serve in the Reserve for 12 years, retiring as a colonel in 1958.

Martin A. Meyer Jr. '33 of Tucson, Ariz., died Oct. 1, 2005. Formerly of Southampton, N.Y., he was vice president and general counsel of the Savings Bank Association of New York State. He was a trustee of the Savings Bank of Rockland County.

Milton H. Lehrer '34 of New York City died Jan. 21, 2006. He was an administrative law judge of the Parking Violations Bureau of New York City and president of Samuel Lehrer & Co., a men's textile company. He was also president of Alexander D. Goode Lodge B'nai B'rith.

Arthur Thad Smith '34 of Englewood, Colo., died Oct. 8, 2005. He was of counsel at Poulson, Odell and Peterson in Denver, where he practiced law into his 90s. Earlier in his career, he worked for the Continental Oil Co., where he was general attorney for the Rocky Mountain region. He taught oil, gas, minerals and land-use law at the University of Westminster School of Law in London and the University of Denver College of Law. For 10 years, he was a member of the Cherry Creek School Board. He was also co-founder of the Rocky Mountain Mineral Law Foundation and KRMA Educational Channel 6. He served in the U.S. Navy during WWII.

Irving Castle '34-'35 of Palm Beach, Fla., died Oct. 29, 2005. Formerly of Connecticut, he co-owned and -operated Lehigh Petroleum Co. in Norwich, which later included the Chucky's Convenience Store chain. The company, which became the largest oil,

gasoline and propane distributor in eastern Connecticut, was partially sold in the 1950s, with a final sale in 1982.

William H.G. FitzGerald '34-'35 of Washington, D.C., died Jan. 5, 2006. An investor and philanthropist, he served as U.S. ambassador to Ireland from 1992 to 1993. During his career, he was a senior partner at the investment firm Hornblower, Weeks, Hemphill & Noyes, vice chairman of Financial General Bankshares and chairman of North American Housing Corp. He was a trustee of the Corcoran Gallery of Art, chairman of the White House Preservation Fund and treasurer of the Atlantic Council of the United States. A tennis player until the age of 93, he established a program to mentor inner-city children at the Washington Tennis Foundation, where the tennis center is named in his honor. He was also a benefactor of the U.S. Naval Academy, and he and his wife founded a program to send academy midshipmen to Oxford University for postgraduate study. During WWII, he served in the U.S. Navy.

Asher W. Schwartz '35 of Rye, N.Y., died March 20, 2006. A labor attorney, he was a founding partner of the New York City firm O'Donnell, Schwartz, Glanstein & Lilly, where he remained active until his retirement in 2001.

Joseph R. Graves '35-'37 of Rancho Mirage, Calif., died March 26, 2005.

Daniel A. Shea Jr. '35-'36 of Weymouth, Mass., died Oct. 23, 2005.

Oliver W. Hammonds '36 of Dallas died Feb. 14, 2006. A solo practitioner, he focused his Dallas practice on taxation and investments. Earlier in his career, he was an attorney at the U.S. Treasury Department and in the Tax Division of the U.S. Department of Justice. He was a director of the Dallas Council on World Affairs and helped raise \$1 million for the establishment of the Manley O. Hudson Chair of International Law at HLS. During WWII, he served in the U.S. Army Air Forces as an intelligence officer.

Vance N. Kirby '37 of North Chatham, Mass., died Jan. 5, 2006. An emeritus professor at Northwestern University School of Law, he specialized in federal

taxation and co-wrote a four-volume tax casebook, "The Study of Federal Tax Law." Prior to joining Northwestern, he practiced law for several years in Chicago, and he continued as a tax adviser to Chadwell, Kayser, Ruggles, McGee & Hastings during his academic career. Earlier in his career, he worked for the U.S. Treasury Department's Office of Tax Legislative Counsel in Washington, D.C., and practiced law in Boston and Connecticut.

Julius Cohen LL.M. '38 of Princeton, N.J., died May 28, 2005. A professor emeritus at Rutgers University, he taught at the school from 1957 to 1981. He began his teaching career in the political science department at West Virginia University. During his tenure, he served as an adviser to the West Virginia Legislature and the West Virginia Office of Civilian Defense and as an aide to the state's governor. In 1946, he joined the faculty at the University of Nebraska, and in 1956, he moved to New Jersey. He was the Guggenheim Fellow at Rutgers-Newark from 1963 to 1964. After his retirement from Rutgers, he served as a visiting lecturer at Jilin University in Changchun, China, and as a visiting distinguished professor at California Western School of Law.

John R. Covington '38 of Lake Forest, Ill., died Jan. 13, 2006. He was a partner, and later of counsel, at Tenney & Bentley in Chicago. He was chief counsel and secretary of the Sargent-Welch Corp. and the Oliver Corp. and served as a director of Presbyterian Home, Friends of Lake Forest Library and State Mutual Life Assurance of America.

William H. Smith '38 of Tucson, Ariz., died April 4, 2006. He was vice president of corporate communications for Valley National Bank from 1960 to 1976. He practiced law in Los Angeles in the late 1940s and was active in many community organizations. In the 1950s, he served as director of the news bureau at the University of Arizona, where he started the University of Arizona Press. A wood craftsman, he carved a figure of St. Augustine featured in the book "Saints of the Southwest" and a figure of St. Philip for St. Philip's In the Hills church in Tucson. During WWII, he served in the U.S. Navy. He received the Legion of Merit for combat duty in the Mediterranean and retired as a lieutenant commander in 1950.

Drexel A. Sprecher '38 of Chevy Chase, Md., died March 18, 2006. From 1945 to 1949, he was a prosecutor, and later deputy chief counsel of the prosecution team, at the Nuremberg Trials. After the tribunals ended, he was editor in chief of the 15-volume report of the trials. He later wrote "Inside the Nuremberg Trial: A Prosecutor's Comprehensive Account," which was published in 1999. Last year, another book he wrote about the trials, "Looking Backward—Thinking Forward," was published. After the war, he was associate chief counsel of the Salary Stabilization Board and an assistant administrator of the Small Defense Plants Administration. He also worked for the Democratic National Committee. Later in his career, he was a consultant with Leadership Resources and taught organizational behavior at George Washington University. Prior to his enlistment in the U.S. Army, he was a labor lawyer for the National Labor Relations Board.

J. Edward Kern '38-'39 of Hollsopple, Pa., died Sept. 13, 2005. Formerly of Westmont, he was self-employed and the owner of a registered Hereford cattle-breeding company. He also served as an FBI agent and was a board member of Goodwill Industries, where he was board president in 1973 and 1974.

Charles B. Bayly Jr. '39 LL.M. '40 of Virginia Beach, Va., died Sept. 22, 2005. He was senior tax counsel for the Columbia Broadcasting System, where he worked for more than 40 years.

James T. Kilbreth Jr. '39 of Scarborough, Maine, died Oct. 21, 2005.

Horace G. Nebeker '39 of Houston died Sept. 9, 2005. He was a longtime employee of Texas Eastern Transmission Corp. He joined the legal department of La Gloria Oil and Gas Co. in 1940 and moved to Houston in 1958, when the company was acquired by Texas Eastern. During WWII, he served as a judge advocate in the U.S. Navy in Hawaii and Washington, D.C. He remained in the Reserve and attained the rank of lieutenant commander.

Philip J. Bisceglia '39-'41 of Long Beach, N.Y., died Jan. 20, 2005. He was vice president of American Transit Insurance Co. in New York City and counsel to the New York State Legislature.

Charles L. Prince '39-'40 of Alta, Calif., died Nov. 18, 2005. He was president of C.L. Prince Co. in Colfax, Calif., and chairman of the Colfax City Planning Commission.

1940-1949

Brent M. Abel '40 of San Rafael, Calif., died Dec. 26, 2005. He was a partner at Bingham McCutchen in San Francisco, where he specialized in estate planning and taxes, and he was president of both the San Francisco and California bar associations. During WWII, he was lieutenant commander of the destroyer escort USS Buckley when, on May 6, 1944, his 28th birthday, his ship rammed a German U-boat. During the engagement, German soldiers boarded the destroyer and engaged in hand-to-hand combat for control of the Buckley. Under Abel's command, the destroyer reversed its engines, sank the sub and rescued 36 German crew members. He was awarded the Navy Cross for his actions.

Woods McCahill '40 of Slingerlands, N.Y., died Oct. 3, 2005. For 26 years he served in the legal department of General Electric in Schenectady. Earlier in his career, he worked in the tax department of a Cleveland law firm. He was a director of Kaymyr, a Glens Falls company, and the State Bank in Albany. He was president of Albany Medical Center Foundation and the Albany Boys' Club and served as a trustee of Albany Medical College, Hotchkiss School and Siena College. During WWII, he served as a lieutenant in the U.S. Navy.

Ronald C. Roeschlaub '40 of Glendale, Calif., died Dec. 8, 2005. He was president of Irontite Products Co. in El Monte.

John A. Thierry '40 of Hill, N.H., died Feb. 1, 2006. Formerly of Milwaukee, Wis., he was a longtime employee of Bucyrus International. He began his career as an attorney with Bucyrus-Erie Co. and served as vice president, director and officer of several of the company's subsidiaries and affiliates throughout the world. In 1977, he retired as senior vice president. He was a director of both Columbia and St. Luke's hospitals and the Citizens Governmental Research Bureau. A founder of the United Performing Arts Fund in Milwaukee, he served as president in 1970. He was also a trustee of the Wisconsin Conservatory of Music and, after retiring to New Hampshire, served on the board and was head of fundraising for the New Hampshire Music Festival. He established the Southeast Asia Art Foundation and donated his collection of books, photographs and slides of Southeast Asian sculpture to the University of Michigan in 2003. During WWII, he served in the U.S. Army Corps of Engineers at Fort Belvoir, Va., attaining the rank of captain.

John F. Robertson '40-'41 of Canastota,

N.Y., died Oct. 9, 2005. He practiced law at his family's firm, Robertson and Robertson, from 1947 to 2002. He was supervisor for the town of Lenox, N.Y., from 1962 to 1973 and president of the Canastota Board of Education for 12 years. During WWII, he served in the U.S. Army Air Forces in Italy and North Africa and received the Bronze Star.

John Boustead '41 of Ho-Ho-Kus, N.J., died Jan. 14, 2006. He practiced patent law at McLean, Boustead and Sayre in New York City.

Charles F. Brown '41 of Washington, D.C., died March 21, 2006. He was general counsel for the National Science Foundation, where he worked for 10 years beginning in 1966. He helped create the foundation when he was general counsel of the Office of Scientific Research and Development after WWII, and in 1976, he received the foundation's Distinguished Service Award. During the war, he was a key player in scientific research and development for the OSRD. He later assisted in the creation of NATO and was named the alliance's deputy assistant secretary general for production and logistics in 1953. For six years, he was associate general counsel to the CIA before joining the Scientific Engineering Institute in Waltham, Mass., as vice president and treasurer.

Caspar W. Weinberger '41 of Mount Desert Island, Maine, died March 28, 2006. He served in the cabinets of Presidents Richard Nixon and Ronald Reagan. From 1981 to 1987, he was secretary of defense in the Reagan administration and presided over the biggest peacetime increase in military spending in U.S. history. He was a strong advocate of the Strategic Defense Initiative, which proposed a space-based missile defense shield. In the 1970s, he was budget director, and later secretary of health, education and welfare, for President Nixon. He was also the fourth publisher of *Forbes* magazine and was later named chairman of the company. He began his political career in the California Legislature in 1952, and in 1969, he served as chairman of the Federal Trade Commission. During WWII, he served in the U.S. Army's infantry in the Pacific.

Chester Devenow '41-'42 of Toledo, Ohio, died Nov. 6, 2005. He was a manager of two small operations in Toledo in the early 1960s when he orchestrated a takeover of a large Detroit manufacturing firm. He then transformed the resulting merged company, Sheller-Globe Corp., into an automotive supplier with sales of nearly \$1 billion an-

nually. After his company was taken over in 1986, he became a bank executive and served as chairman of Trustcorp Inc. He served on many civic boards and received the Ohio Governor's Award in 1981. During WWII, he served in the U.S. Army as an intelligence officer in the Pacific and was awarded the Bronze Star.

Bernard M. Halpern '42 of Oakland, Pa., died Jan. 23, 2006. He was a leader in the Pittsburgh banking community and president of the Commercial Bank and Trust Co. He guided the bank through a series of mergers and buyouts and retired from banking in the late 1980s. He was also involved in two family businesses, J. Halpern Co., which manufactured toys and costumes, and the Washington Trust Co., a community bank, which was sold in 1956. President of Montefiore Hospital in the late 1960s, he helped the hospital affiliate with the University of Pittsburgh's medical school. During WWII, he served in the U.S. Marine Corps as an intelligence officer in the Pacific theater, where he persuaded Japanese soldiers hiding in caves on the island of Guam to surrender. He received the Bronze Star and attained the rank of major.

Sherman S. Lawrence '42 of East Hills, N.Y., died Jan. 9, 2006. An attorney at Kane, Kessler, he specialized in corporate, estate and real estate law. He was a trustee of the Bernard and Helen Sheftman Foundation, president of the Garden City Jewish Center and a supporter of the Rabbi Isaac Elchanan Theological Seminary at Yeshiva University.

Fred W. Peel Jr. '42 of Los Gatos, Calif., died Nov. 10, 2005. He was a tax lawyer in Washington, D.C., and a professor emeritus at the University of Arkansas at Little Rock School of Law. He wrote two editions of "Consolidated Tax Returns" and co-wrote a third edition. For 25 years he practiced law in Washington, D.C., as a partner with Alvord & Alvord and later with Miller & Chevalier. He also worked for the U.S. government and was a staff attorney of the Joint Congressional Committee on Internal Revenue Taxation. During WWII, he served as a captain in the Office of Strategic Services.

Bennett I. Berman '46 of Chicago died Feb. 11, 2006. He was general counsel of National Tea Co., a retail grocery chain that operated supermarkets throughout the U.S. He later was a solo practitioner in Chicago, specializing in commercial real estate and business law. A chairman of the Chicago Bar Association's landlord and tenant subcommittee, he lectured on real estate law, and several of his articles on the subject were

published in the Chicago Bar Record. For more than 25 years, he served as a director of the Harvard Club of Chicago. He most recently served as the club's treasurer.

Edmund J. Flynn '46 of Colorado Springs, Colo., died Jan. 11, 2006. Formerly of San Francisco, he was an attorney for the Pacific Maritime Association, an association of shipping companies there. Between 1971 and 1972, he represented the company in negotiations with the longshoremen's union during a 136-day strike. Flynn began his career in the nation's capital, serving as an attorney for the National Labor Relations Board and later as counsel at the Printers' Union. He moved to Salt Lake City to represent Kennecott Copper Corp. in negotiations with miners' unions, before joining the Pacific Maritime Association in 1969. During WWII, he served as a commander in the U.S. Army Air Forces and received the Purple Heart.

Alvin J. Slater '46 of Boston and Palm Beach, Fla., died Feb. 2, 2006. A real estate attorney, he represented many Boston-area banks and specialized in eminent domain trial work and conveyancing. He was counsel to the Workingmen's Co-operative Bank of Boston and was a proprietor of the Boston Athenaeum. He left the practice of law in 1972 to attend to business interests in real estate and investment securities. In 2003, he was inducted into the Collegium of Distinguished Alumni at Boston University, where he endowed a chair in Jewish Holocaust Studies at the Elie Wiesel Center for Judaic Studies.

Lansing B. Lee Jr. '47 of Augusta, Ga., died Nov. 2, 2005. For nearly six decades, he practiced law in Augusta. Lawyers from each of the last five generations of his family practiced there. A fellow of the American College of Trust and Estate Counsel, he was also chairman of the fiduciary law section of the State Bar of Georgia and president of the Augusta Bar Association. In 1997, he was honored by the Augusta Bar Association upon the completion of his 50th year of practicing law and was lauded as a "lawyer's lawyer" and a "latter-day Renaissance Man." During WWII, he was an officer in the U.S. Army Air Forces.

Joseph M. Boychuk '48 of Surprise, Ariz., died Jan. 19, 2006. He was an attorney with Hennessy, Boychuk & Steinberg in New York City.

Philip A. Cramer '48 of Laguna Niguel, Calif., died Jan. 10, 2005. He was an attorney in Tustin, Calif.

John E. Hess '48 of Orono, Maine, died Feb. 13, 2006. Formerly of Bangor, he was of counsel for Eaton, Peabody, Bradford & Veague, now Eaton Peabody. He was a director of Eastern Maine Medical Center, Eastern Trust Co. and Husson College and chairman of the Bangor City Council.

John W. Hill Jr. '48 of Concord, Mass., died Feb. 11, 2006. A consultant and an international seller of electronic printing equipment used by newspapers and other periodicals, he began his career as a market research analyst with Mergenthaler Linotype Co. in New York. He later worked with a printing press manufacturer in Chicago before becoming vice president of global marketing at Photon Inc. in Wilmington, Mass. An advocate for legislative and administrative support for issues and funding affecting the Department of Mental Retardation, he was president of the parents' association at Hogan Regional Center in Danvers, Mass., where his mentally disabled younger brother was a resident. During WWII, he served in the medical detachment of the 37th Field Artillery Battalion. He fought in the Battle of the Bulge and served in the Rhineland and in Central Europe.

John E. Kilgore Jr. '48 of Surry, Maine, died Dec. 30, 2004.

Lawrence B. Morris Jr. '48 of Darien, Conn., died March 22, 2006. A 50-year resident of Darien, he was a corporate attorney and an investment banker. For 22 years, he practiced law at the New York City firm of White and Case. In 1969, he left the firm to join Dean Witter, where he was senior vice president for four months before being named president. He resigned in 1971, citing philosophical differences over moving the company's executive headquarters, and became general partner of Wertheim & Co. From 1974 until his retirement, he practiced law at Patterson, Belknap, Webb & Tyler. A civic leader in Darien, he served as president of the Darien Land Trust and was a longtime trustee of the Kips Bay Boys & Girls Club of New York. During WWII, he served in the U.S. Army Signal Corps, attaining the rank of major. He was awarded the Legion of Merit, the Italian Cross of Military Valor and the Polish Silver Cross of Merit.

S. Fred Tsuchida '48 of Mamaroneck, N.Y., died Dec. 30, 2005. He was a partner at Reid & Priest in New York City and an adviser to Mitsubishi International Corp. and Mitsubishi Estate New York Inc. He represented the Japan Commercial Arbitration Association in U.S. arbitration proceedings.

Hilton A. Wick '48 of Burlington, Vt., died March 17, 2006. A Vermont attorney and state senator for one term in 1988, he taught business law at the University of Vermont and was president of Chittenden Trust Co. He raised money for a variety of environmental, health and social causes, including the expansion of Fletcher Allen Health Care, where a plaza was named in his honor. During WWII, he served in the South Pacific.

Haig Barsamian '49 of Providence, R.I., and Boca Raton, Fla., died Jan. 20, 2006. For more than 50 years, he practiced law in Providence. During WWII, he served as a first lieutenant in the U.S. Army Air Forces in Europe.

Charles D. Gersten '49 of Boca Raton, Fla., died March 16, 2006. A longtime resident of West Hartford, Conn., he founded Gersten & Gersten in Hartford with his brother in 1950. In 1988, he helped found Gersten & Clifford with his son and several other partners. He taught at annual Tax Institutes during the '60s and early '70s and, later in his career, served as a parajudicial officer for the federal court in Connecticut. He was a founder and director of the Equity Bank in Wethersfield and was a supporter of Trinity College, the Chabad House in Simsbury and St. Francis Hospital. During WWII, he served as a U.S. Army staff sergeant in Italy.

James J. Kerrigan Jr. '49 of Naples, Fla., died Dec. 21, 2005. He was vice president for finance and law at Inmont Corp. in New Jersey, which is now part of BASF, a chemical company. He was in private practice before joining Inmont in 1954. He retired in 1981. A company commander in the U.S. Marines during WWII, he served in Guam; Okinawa, Japan; and then Beijing during the occupation of northern China. He later served during the Korean War.

Melvin H. Morgan '49 of Mill Valley, Calif., died Jan. 23, 2006. He was a founding partner at Janin, Morgan & Brenner in San Francisco, where he practiced law for more than 50 years. He served in the U.S. Navy.

Francis S. Moulton Jr. '49 of Concord, Mass., died Jan. 2, 2006. He was of counsel at Bingham Dana & Gould, now known as Bingham McCutchen, in Boston, where he practiced estate planning and probate law. During WWII, he served in the U.S. Army.

Grover W. Radley '49 of Iliion, N.Y., died Nov. 26, 2005. A longtime Iliion attorney, he established Radley and Rheinhardt with his son. From 1967 to 1985, he was town attor-

ney for German Flatts, N.Y. During WWII, he was a first lieutenant in the U.S. Army's Medical Administrative Corps. He participated in the Battle of the Bulge and was awarded the Purple Heart.

Richard F. Vander Veen '49 of Grand Rapids, Mich., died March 3, 2006. In 1974, he succeeded former President Gerald Ford in Congress, becoming the first Democrat to represent Michigan's conservative 5th District in 64 years. He later founded the Resource Energy Co., a wind energy company, and was a member of the Michigan State Waterways Commission. In 1992, he founded the Ryerson Library Foundation, which raised \$31 million to build the downtown Grand Rapids library. He was stationed in the South Pacific with the U.S. Navy during WWII and later served in the Korean War.

1950-1959

Kingsbury Browne Jr. '50 of Kennebunkport, Maine, died Nov. 11, 2005. An attorney and conservationist, he was a partner at Hill & Barlow in Boston and a founder of the Land Trust Alliance. He began his career at Choate, Hall & Stewart and was also an attorney at Peabody, Kaufman and Brewer, both in Boston. He was a fellow at the Lincoln Institute of Land Policy in 1980 and visited more than a dozen land trusts in the West. Two years later, he helped found what became the Land Trust Alliance, which provides assistance to more than 1,500 land trusts nationally and has been instrumental in preserving almost 9 million acres of land. He served as general counsel to the alliance and editor and chairman of its Conservation Tax Program. He also taught at Northeastern, Suffolk and Boston universities. During WWII, he served in the U.S. Army Air Forces in the Pacific theater.

Joseph H. Greenberg '50 of Indianapolis died Nov. 28, 2005. He was a partner and later of counsel at Bamberger & Feibleman in Indianapolis, where he focused his practice on estate planning and probate law and real property law. He was active in the Jewish Welfare Foundation and was a director of the Indianapolis Bar Association.

Howard R. Kaufman '50 of Palm Beach, Fla., died Jan. 11, 2006.

Duncan Lennon '50 of Charlotte, N.C., died March 8, 2006. He was vice president and tax counsel for Duke Power Co. in Charlotte and later was of counsel to Hopkins, Sutter, Hamel & Parks in Washington, D.C. He volunteered at the Shepherd's Center of Charlotte, an interfaith senior center, and

he and his wife traveled the world with Friendship Force, an international cultural exchange organization with headquarters in Atlanta. During WWII, he was a cryptographer.

Bernard C. Welch '50 of Longboat Key, Fla., died Jan. 15, 2006. Formerly of Boston, he was trust counsel for Shawmut Bank there, and his principal areas of practice were estate planning and probate law.

George B. Boston '51 of Bowling Green, Ky., died March 3, 2006. A longtime Bowling Green attorney, he was a judge for the Bowling Green Police Court and a master commissioner and domestic relations commissioner for the Warrant Circuit Court. During WWII, he served in the U.S. Army's 30th Infantry Division in France and Germany and received two Purple Hearts and the Bronze Star.

Clifford J. Friedman '51 of Kent, Conn., died Jan. 6, 2006. Formerly of New York City, he was a stockbroker and then an arbitrator for the American Arbitration Association, the New York Stock Exchange and NASDAQ. A longtime board member of the Brooklyn College Foundation, he received the college's Presidential Medal in 1981 and was named a life trustee in 1985. He served in the armed forces for three years during WWII.

Leonard H. Krim '51 of Flushing, N.Y., died Jan. 18, 2006. He was a Manhattan lawyer and a principal of Pelham Realty Associates.

George L. Thurlow '51 of Visalia, Calif., died March 17, 2006.

Edwin B. Barnett '52 of Haverford, Pa., died Feb. 4, 2006. He was an attorney for more than 40 years, and his clients included the developers of the former Liberty Bell Race Track. Earlier in his career, he was associated with the Philadelphia firms of Strong & Barnett and O'Brien & O'Brien. Before retiring in the 1990s, he assisted in his son's Havertown law practice. He was on the council of managers for the Philadelphia Archdiocese Office for Development and was a board member and served on committees of Catholic Charities.

A. Edward "Ed" Kendig '52 of Wheatland, Wyo., died Sept. 14, 2005. He was a longtime bank president in Wyoming and a state senator from 1963 to 1977. After graduating from HLS, he joined the State Bank of Wheatland, later known as First National Bank in Wheatland and then Norwest Bank-Wyoming, where he retired as president in

IN MEMORIAM

1987. In the mid-1950s, he briefly worked for a Denver law firm before returning to banking in Wheatland. He was president of the Wyoming Bankers Association, a trustee of Wheatland's school board and a director of the Independent Bankers Association. During WWII, he served as a sergeant first class in the U.S. Army.

Edward Lane-Reticker '52 of Brunswick, Maine, died Dec. 13, 2005. A banking lawyer for 40 years, he retired as general counsel of Bank of New England Group after working for Bank of New England and its predecessor companies from 1960 to 1991. He had joined the Connecticut Bank and Trust Co. in 1960 and served as its secretary and general counsel. He also taught in and was associate director of the Boston University Graduate Program in Banking and Financial Law. Early in his career, he worked at the Institute of Government at the University of North Carolina before joining the Connecticut Public Expenditure Council to work on court reorganization. He also practiced law with Murtha, Cullina, Richter & Pinney in Hartford and was of counsel to Edwards & Angell. During WWII, he served in the U.S. Navy Reserve, and he retired as a captain in 1977.

Adolfo F. Luca '52 of Brooklyn, N.Y., died Feb. 20, 2006. He worked in private practice before joining NBC as an attorney in New York.

Bernard Cedarbaum '53 of New York City died Feb. 5, 2006. He was a longtime partner at Carter, Ledyard & Milburn in New York City, where he was chairman of the corporate department and a member of the executive committee. He was the principal corporate legal adviser to the U.S. Trust Company of New York and handled the company's first public offering of shares in 1976. He also handled the incorporation of the American Express Co. Formerly of Scarsdale, he was involved in many civic organizations there, including as a village trustee and a member of the board of education. He was awarded the town's highest civic honor, the Scarsdale Bowl Award, in 1999. During the Korean War, he served in the U.S. Army in Germany. He was the father of Daniel Cedarbaum '83.

Joshua M. Twilley '53 of Dover, Del., died June 25, 2005. For 50 years he practiced law in Dover. In 1975, he was appointed to the Delaware Public Service Commission, where he served for more than 30 years. He was a member of the Gas Research Institute Advisory Council and the Gas Committee of the National Association of Regulatory Util-

ity Commissioners, and he wrote the code of ethics for the NARUC. He served on many boards, including those of the First National Bank of Wyoming, Dover Chamber of Commerce and Catholic Social Services. He was also a board member and president of the Elizabeth W. Murphey School. He served in the U.S. Army during the Korean War.

Anton W. Bigman '54 of Pittsburgh died Feb. 15, 2006. A solo practitioner in Pittsburgh and Braddock, Pa., he was solicitor for the Braddock-, North Braddock- and General Braddock-area school districts for more than 25 years. In 1981, he helped establish Pennsylvania's Woodland Hills School District.

Clark C. King Jr. '54 of Northbrook, Ill., died March 6, 2006. A trial attorney for 36 years, he was a partner at Lord, Bissell and Brook in Chicago. He was a 46-year resident of Northbrook, where he was active in many community organizations, including the Northbrook Civic Association and Northfield Township Republicans. He served in the U.S. Army.

Abraham Kon '54 of San Francisco died Jan. 29, 2005. For 39 years, he worked for Macy's West, previously known as Macy's California. During his tenure, he served in various merchandising and management positions, and for 11 years, he served as senior shortage controller.

Raymond A. Reister '55 of Minneapolis, died Sept. 4, 2005. An attorney with Dorsey & Whitney in Minneapolis for 34 years, he focused his career on trust and estate law. He was an adjunct faculty member for the University of Minnesota extension division and a fellow of the American College of Trust and Estate Counsel. He was co-editor of the publication *Minnesota Probate Administration*. In the 1950s, he served as a judge advocate in the U.S. Army in Germany. He served on many community boards, including as director of the Minnesota Humanities Commission, treasurer of the Minnesota Historical Society and vice president of the Minneapolis Athenaeum.

Donald J. Bain '56 of Riverdale, N.Y., died Jan. 3, 2006. Formerly of Barnstable, Mass., he was the owner of a bed-and-breakfast, Ashley Manor, in Barnstable.

Edward P. Ellis '56 of Atlanta died Nov. 5, 2005. He was a partner at Ellis Moore & Simons in Atlanta, where he focused his practice on estate planning and probate law and taxation law.

Lloyd S. Kupferberg '56 of Highland Park, Ill., died Dec. 25, 2005. He practiced corporate law as an attorney at Schwartz, Cooper, Greenberger & Krauss in Chicago. A mandatory arbitration panelist in the Circuit Court of Cook County and a guardian ad litem of the 12th Judicial Circuit of Florida, he was also a director and officer of the Edmond and Alice Opler Foundation.

Paul K. McDonald '56 of Greenwich, Conn., died July 21, 2005. He was president of Paul McDonald & Co., a financial services company.

Richard J. Cravens '57 of Evanston, Ill., died July 16, 2005. He was in private practice in Evanston. Earlier in his career, he specialized in banking and commercial real estate finance at the First National Bank of Chicago. From 1980 to 1987, he was a member of the Chicago Bar Association's real property committee.

Arthur L. Harper '57 of Boca Raton, Fla., died Feb. 3, 2006. He specialized in permitting and environmental legislation and worked in the legal department of General Development Corp. in Miami. After graduating from HLS, he worked for a Boston law firm before serving for five years as a missionary for the Congregational Church in what is now Zimbabwe. He was also headmaster of Thomas Girls School in Connecticut. He received a special commendation from President Richard Nixon for his work in establishing the Protect Your Environment Club in New England.

Charles D. Hawley '57 of Bethesda, Md., died March 26, 2006. He was senior counsel for the U.S. Postal Service in Washington, D.C., where he worked from 1968 to 1997. During his career, he was an associate at Covington & Burling and taught law at the University of Idaho and Case Western Reserve University in Ohio. From 1957 to 1966, he served in the U.S. Navy Judge Advocate General's Corps, and he was later in the U.S. Navy Reserve.

Frederick N. Young '57 of Dayton, Ohio, died Jan. 12, 2006. He was a judge of the Ohio 2nd District Court of Appeals and a state representative. After graduating from HLS, he joined his father's law firm, and he served as an Ohio state representative from 1968 to 1976. He spent 35 years in the practice of law before his election to the appellate bench, where he served two six-year terms. He was also chairman of the Montgomery County Republican Party from 1977 to 1982 and was twice a delegate to the Republican National Convention.

James O. Freedman '57-'58 of Cambridge, Mass., died March 21, 2006. A president of Dartmouth College and the University of Iowa, he was an advocate for liberal arts education and well-known for speaking out against prejudice and bigotry in the academic world. A collection of his essays, "Idealism and Liberal Education," was published in 1996. Early in his career, he was an assistant law professor at the University of Pennsylvania, where he was later associate provost and dean of the law school. He was named president of the University of Iowa in 1982 and of Dartmouth in 1987. He was later president of the American Academy of Arts & Sciences in Cambridge.

Thomas P. Moonan '58 of Pittsford, N.Y., died March 27, 2005. He was president and CEO of Monroe Title Insurance Corp. He joined the family-owned business in 1997 and helped it grow to include 200 employees in 23 offices across New York state. He was previously a real estate attorney in the Rochester area for more than 30 years and served as president of the New York State Land Title Association from 2003 to 2004. A charter member of the American College of Real Estate Lawyers, he was also chairman of the New York State Bar Association real property law section and president of the Title Insurance Rate Service Association.

William C. Withers '58 of Woodbridge, Conn., died Jan. 20, 2006. He was in private practice in Woodbridge, where he was active in real estate and community affairs and served on the Zoning Board of Appeals. He moved to Woodbridge in 1966 and was in-house counsel for the Pond Lily Co. in New Haven. Earlier in his career, he focused his practice on tax and international law and worked for the Irving Trust Co., the Internal Revenue Service and Raytheon. While at the IRS, he was involved in preparing the first income tax treaty to be argued before the U.S. Supreme Court, *Maximov v. United States*. He was active in the Boy Scouts of America and was the father of five Eagle Scouts. During WWII, he served in the U.S. Air Force.

Burnham H. Greeley '59 of Honolulu died Jan. 26, 2006. He was a partner at Greeley Walker & Kowen in Honolulu.

1960-1969

Richard H. Bailin '60 of Oakland, Calif., died Feb. 22, 2006. A Hayward, Calif., attorney for more than 45 years, he specialized in business transactions, real estate and estate planning. After graduating from HLS, he joined Dunne, Phelps & Mills in San Fran-

cisco, where he was managing partner. He was a founding member of Hunters Point Youth Park and was president of its board of directors for almost 30 years. He was also president of the San Francisco Junior Chamber of Commerce and a trustee of the St. Rose Hospital Foundation.

John R. Kramer '62 of New Orleans died March 7, 2006. He was an associate dean and professor at the Georgetown University Law Center, and he established legal clinics at both Georgetown and Tulane universities. He joined Georgetown University Law Center as associate dean for clinical education in 1970 and served for 10 years, and he was later dean of Tulane Law School. During his career, he advised U.S. Rep. Adam Clayton Powell on the House Committee on Education and Labor in the 1960s and was special counsel to the chairman of the House Committee on Agriculture in the 1970s. He was president of the Field Foundation for 10 years and founding chairman of the Center on Budget and Policy Priorities for more than 20.

Alan Merson '62 of Seattle died Oct. 4, 2005. He was a Unitarian minister in Washington state and British Columbia, Canada. After law school, he moved to Alaska and opened a mobile legal aid clinic for Native Americans. He later taught law in Denver and was head of the Environmental Protection Agency's Rocky Mountain region. In 1972, he was involved in his first of four political campaigns when he defeated a 24-year incumbent Colorado congressman in the Democratic primary but lost the general election. In 1980, he moved to Washington to represent San Juan County's effort to block a trans-Puget Sound oil pipeline. He later became a Unitarian minister, serving as a volunteer prison chaplain. In 2001, after he was diagnosed with stomach and bone cancer, he became an advocate for health care for the poor, walking across Washington state just last year to draw attention to the nation's health care crisis. He served in the U.S. Navy.

Henry G. Zapruder '62 of Chevy Chase, Md., died Jan. 24, 2006. A Washington, D.C., tax attorney, he was a senior partner at Baker & Hostetler and a key adviser for Interest on Lawyers' Trust Accounts, a program that has raised more than \$1 billion to pay fees of lawyers working for impoverished clients. Earlier in his career, he worked for the U.S. Justice Department and several private firms before forming a tax specialty law firm, Zapruder & Odell, in 1989. On Nov. 22, 1963, his father, a Dallas dressmaker, captured on film the assassination of President

John F. Kennedy. Zapruder handled various matters pertaining to his father's 26 seconds of footage until 1999, when the federal government bought the film for \$16 million.

Jeanine Jacobs Goldberg '63 of Los Angeles died Jan. 31, 2006. She was a tax lawyer at Tyre Kamins Katz Granof & Menes in Los Angeles. She began her career as a trial lawyer with the U.S. Department of Justice in Washington, D.C., and later served as senior tax counsel for Atlantic Richfield in Los Angeles. She was also a director and president of the Beverly Hills Estate Counselors Forum and vice president of the Beverly Hills Bar Foundation.

Charles P. Normandin '63 of Wellesley, Mass., died Dec. 21, 2005. A bankruptcy lawyer, he spent his career at Ropes & Gray in Boston, where he was a partner for 25 years. He was a member of the National Bankruptcy Conference and a fellow of the American College of Bankruptcy.

Stuart C. Hall '64 of Anchorage, Alaska, died Nov. 9, 2005. He was a solo practitioner in Anchorage and served as ombudsman for the state of Alaska from 1994 to 1997. Earlier in his career, he worked as legislative counsel in Alaska and served seven years on the Alaska Public Utilities Commission. He established Viva Alaska! Enterprises and was president of the Government Hill Community Council. He served in the U.S. Air Force Reserve as a lieutenant colonel.

David L. Stone '64 of New Orleans died Aug. 18, 2005. He was a lawyer for 30 years at Stone Pigman Walther Wittmann, a New Orleans firm co-founded by his father, and served on its management committee. He was a director of Ochsner Clinic Foundation and chairman of the Louisiana Council of the American Israel Public Affairs Committee, from which he received a leadership award in March 2005. Active in New Orleans theater, he played leading roles in modern dramas and Gilbert and Sullivan operettas.

Lawrence W. Kanaga III '65 of Milford, Conn., died March 12, 2006. He was of counsel to Schine, Julianelle & Antonucci of Orange and Westport, Conn. During his career, he was a trial attorney with Goldstein and Peck in Bridgeport and a founding partner at Zeldes, Needle & Cooper, also in Bridgeport. Active in the Special Olympics, he was an internationally certified official for bocce and officiated at the Special Olympics World Games in 1995 and 1999. A carpenter, he established the Walnut Beach Woodwork & Cabinet Co. in Milford and, in 2005, was

granted a patent for his invention of a system for precision miter cutting.

M. Chase Waring '66 died Oct. 12, 1986, in Hanover, N.H. A family member wrote recently to inform the Bulletin that his death had never been noted in the magazine.

William J. Burke '67 of Glen Head, N.Y., died June 9, 2005. He was a litigator and partner at Burke & Stone in New York City, where he concentrated his practice on federal, maritime, commercial and tort defense work. He was a trustee of Manhattan College and president of the Manhattan College Alumni Society.

Wilfred K. Watanabe '67 of Honolulu died Dec. 26, 2005. He was a judge of the First Circuit Court in Honolulu from 1985 to 2003. He began his judicial career in 1981, when he was appointed a district court judge. Earlier in his career, he practiced law with two firms, Padgett and Greeley and Chuck & Fujiyama, before becoming a solo practitioner. In 1974, he was Hawaii's House majority attorney. Before attending HLS, he was a U.S. Air Force pilot for nearly nine years.

Anthony F. Granucci '68 of San Francisco died Dec. 7, 2005. He was a developer of railway infrastructure for Bechtel Corp. in Europe and was involved in the privatization of the London Underground. Much of his career was spent at Mochtar, Karuwin & Komar in the Republic of Indonesia, where he was involved in many infrastructure developments. Before moving to the Far East, he was an attorney at what is now known as Thelen Reid & Priest in San Francisco. He developed an interest in the arts and archaeology of the Indonesian archipelago, and in 2004, he received a master's degree in archaeology and ancient history from the University of Leicester in England. Shortly before his death, he published a book on the arts of the Lesser Sunda Islands of eastern Indonesia.

Andre J. Zdrzil '68 of St. Paul, Minn., died May 7, 2005.

Frank L. Gniffke '69 of Waipahu, Hawaii, died Oct. 11, 2005. An international law attorney, he specialized in U.S.-Asia business. For a total of 20 years between 1969 and 1996, he lived and worked in Japan or Hong Kong and was a member of the Hong Kong and Japan bar associations.

Steven P. Frankino '69-'70 of Wayne, Pa., died Sept. 27, 2005. A professor at Catholic University and dean of the university's

Columbus School of Law, he also served as dean of the law school at Villanova University and remained on the Villanova faculty until his death. He was Catholic University's general counsel and law school dean from 1979 to 1986, when he became dean of the law school at Villanova, serving until 1997. He participated in the ABA's Central European and Eurasian Law Initiative to bring about legal reform in the former communist bloc, and he was treasurer of the Pennsylvania Health Law Project.

CORRECTION: The obituary notice for **Larry D. Soderquist '69** that appeared in the Spring 2006 Bulletin incorrectly stated that he was a captain and chief intelligence officer in the U.S. Army during the Vietnam War. In fact, he was a captain in the U.S. Army military police and was stationed in Okinawa, Japan, during the Vietnam War.

1970-1979

James H. Rice '71 of Oklahoma City died July 14, 2005. He was an attorney in Cleveland before moving to Oklahoma in 1976. For four years, he was a second lieutenant in the U.S. Army, stationed at NASA's Lewis Research Center. After he left the military, he worked at NASA on the development of the first heat shields for space travel. He was president of the Oklahoma City Ski Club and the Central Oklahoma Opera League, where he founded an opera library.

James C. Gray Jr. '72 of Washington, D.C., died March 9, 2006. He was an associate professor at the University of the District of Columbia David A. Clarke School of Law and played a major role in helping the school gain full accreditation, reviewing the curriculum and teaching the in-house bar-passage program. He joined the faculty as dean of students in 1991 and began teaching international law, human rights law and alternative dispute resolution in 1998. Focusing his career on civil rights law, he was assistant counsel with the NAACP Legal Defense Fund in New York City and a United Nations legal adviser during the Carter administration. He also worked with the Lawyers' Committee for Civil Rights Under Law.

Robert H. Bohn Jr. LL.M. '74 of Concord, Mass., died Nov. 26, 2005. He was a judge of the Massachusetts Superior Court and a tutor for a private middle school for disadvantaged youths. Since 1989, he was an associate justice on the court, and prior to that, he was a district judge in Newton. Earlier in his career, he was an attorney with Neighborhood Legal Services in Washington, D.C.,

and a director of the Legal Aid Society in Wichita, Kan. In 1973, he was appointed to the Massachusetts Parole Board, and he was later director of the attorney general's civil rights division, where he represented the State Board of Education for six years in a Boston school desegregation case.

Steve Prye '78 of Memphis, Tenn., died Jan. 9, 2006. He was an attorney and taught at the University of Illinois College of Law and Vermont Law School. Early in his career, he practiced law in New York City, focusing on taxation and estate planning, and for many years, he wrote an estate planning column in the Memphis Commercial Appeal. He taught law until 2000 and was later diagnosed with schizoaffective disorder and placed under court-ordered guardianship. In 2004, he lost a suit against the state of Missouri and election officials alleging that the state's mental competence requirement, which prohibits people with court-appointed guardians from voting, violates federal law.

1980-1989

Marcela D. Chennisi '88 of Houston died Nov. 16, 2005. She worked for Hines Co., an international commercial real estate firm. Earlier in her career, she practiced commercial real estate law with Goulston & Storrs before moving to Seoul, South Korea. She served on the West University Parks Board and volunteered at Rice University, St. John's School and River Oaks Elementary.

Christoph F. Hoebbel LL.M. '89 of Munich, Germany, died May 17, 2005. He was a partner at Gibson, Dunn & Crutcher in Munich, where he was a member of the international corporate transactions group. He began his legal career with a New York City firm in 1991. He later worked at Beiten Burkhardt Mittl & Wegener, a German law firm, before joining Gibson, Dunn & Crutcher.

2000-2009

Shirin Shakir '07 of Manhasset, N.Y., died March 31, 2006. A 2003 graduate of Williams College, she held summer internships with Sen. Hillary Clinton and the Legal Aid Society of New York. In 2005, she was a summer associate with Kramer Levin, where she helped win asylum for a persecuted Togolese woman. She was a member of the Law School Council and the International Law Society and, during her 1L year, a committee chairwoman for the Public Interest Auction. She died in a white-water rafting accident in Peru during spring break.

CHINA CONNECTION

Roscoe Pound, HLS dean from 1916 to 1936, was ready for a new challenge in 1946 when the Kuomintang government invited him to survey the Chinese judicial system and advise on legal education. In what Pound described as



IMAGES: HLS SPECIAL COLLECTIONS



Dean Roscoe Pound (center, with hat) visits the Beijing-Hubei prison (top) and meets with the Comparative Law School of China faculty and government officials (above) in 1937 after his 20-year deanship. A decade later he returned to China as an adviser on law reform and legal education.

the “biggest job” he had ever undertaken, the 75-year-old scholar went to war-torn China hoping to help shape its legal system. “[T]he government was still struggling to re-establish the courts in many places where the judges had been compelled to flee. Often the records of the courts had been destroyed, the court buildings dismantled ...,” wrote Pound in 1946. He spent the next two years “crawling around prisons and visiting courts and writing numerous reports,” said Professor William Alford ’77, head of East Asian Legal Studies at HLS. Alford, who is writing about Pound’s years in China, says that the former dean’s

work was very thoughtful about the tensions between looking to the past and looking abroad for models. Although events derailed many of Pound’s hopes for legal reform, “his work is an example of a thoughtful and constructive foreign effort to assist Chinese legal development,” said Alford. *
—Linda Grant



After 20 years as Harvard Law School's associate dean for development, Scott Nichols concluded his service on April 30 to become vice president for development and alumni relations at Boston University.

During his tenure, the school raised more than \$500 million to support all aspects of its teaching and research activities. He led two comprehensive drives: "The Campaign for Harvard Law School" in the early 1990s and the current "Setting the Standard" campaign, which has a goal of \$400 million and—with over \$280 million already raised—is more than two-thirds complete.

Marathon man

Your fundraising for HLS over 20 years has brought in more than \$500 million, which is more than anyone else in legal education has raised. What's the recipe for that success?

Easy. Take a great institution with highly successful alumni. Add big ambitions, mix with great leadership and solicit vigorously.

How did you decide to get into development?

My first attempt to save the world was as a Peace Corps volunteer in Morocco. University salaries looked pretty appealing after that. Actually, I was headed to law school but was seduced into believing I could make a better world through philanthropy instead.

Were there experiences in your own education that were especially influential in setting you on your path?

As a senior at Bucknell, I was asked to head up the senior gift drive. It was fun, productive and seemed valuable to the university. It opened my eyes to the importance of educational institutions and the crucial role that philanthropy plays.

Your job has involved lots of travel to

meet with HLS supporters around the world. Which trip stands out the most?

Two trips do—the first, official international trips of Bob Clark and of Elena Kagan. Experiencing the worldwide impact of HLS is amazing for anyone but especially a new dean.

What are the most satisfying moments you've had here?

There are so many that made the job a privilege every day. No moment was finer than when the faculty threw a party for the Alumni Center staff in 1995 to express their appreciation for the successful campaign just concluded. Fundraising is a team sport. Having fabulous, grateful faculty and superior colleagues recognize each other was very special.

What do you say to people who think the law school's endowment is so large that the school doesn't need their support?

It's only large by comparison with others. Until the day we don't have to charge tuition, when we know that all scholarship needs are met, when we run out of new ideas for improving the school, when knowledge stops growing and

buildings last forever, we will have to continue fundraising.

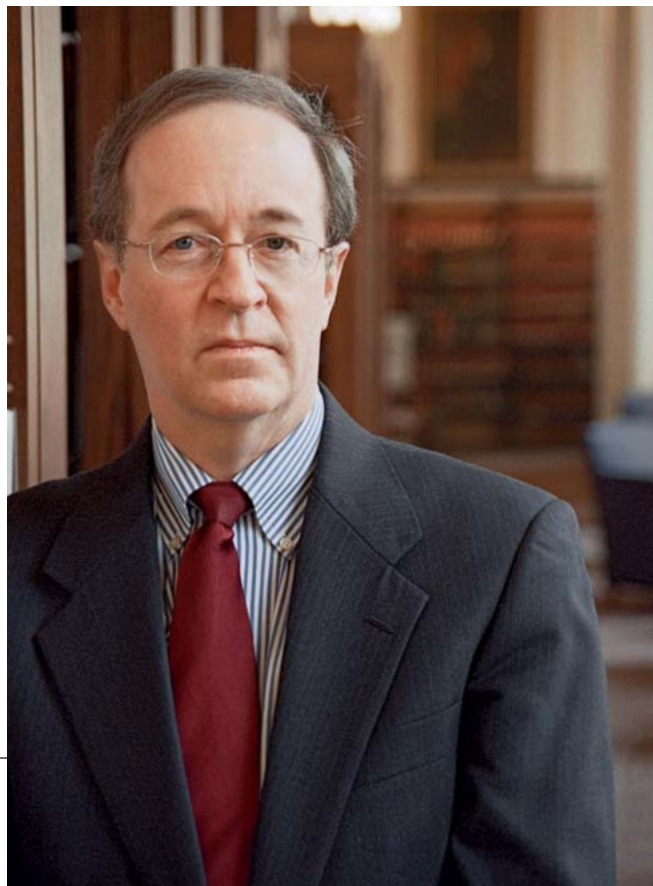
In the words of Henry Rosovsky, "quality costs." Harvard Law School can ill afford to provide anything that doesn't aspire to the highest quality. Whether it's the library, financial aid, professorships, computers, classrooms or many other things, the harsh reality is that it costs a fortune to run a top-flight program. Archie Cox used to say that we are always seeking the "unattainable better." And that means additional resources are always needed.

What's at stake in the current capital drive, "Setting the Standard"?

In addition to improving HLS for the current and next generations, we are also raising the bar for many other law schools which have launched their own campaigns that have raised nearly \$2 billion in gifts. The quality of legal education all around has risen dramatically. The "rising tide" impact is most often overlooked.

From a development perspective, what are the biggest challenges facing universities in the next few years?

The biggest challenge will be investing for the long term by integrating alumni more meaningfully in the life of the school. I see too many places that are willing to do so for a few years during a campaign but then flag in investing for a lifetime relationship. Thank goodness I've had the privilege of working for a place that has understood the difference. *





“Our connections
with Asia—already strong—
will only get stronger.”

Dean Elena Kagan '86

Namdaemun
(South Gate),
downtown Seoul

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