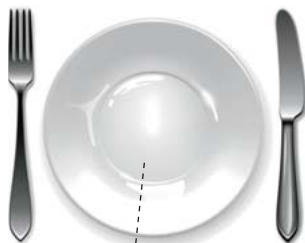
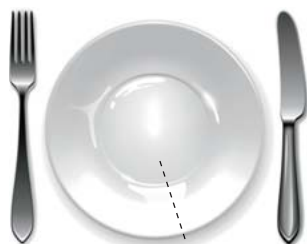


# Harvard Law *bulletin*

## Thought — for — Food

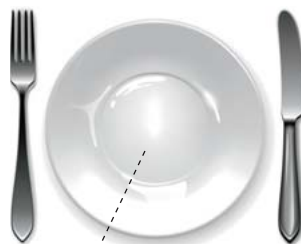


Agribusiness and the meat industry are polluting the air and groundwater.



Food workers, many toiling in dangerous conditions, often don't earn enough to feed their own families.

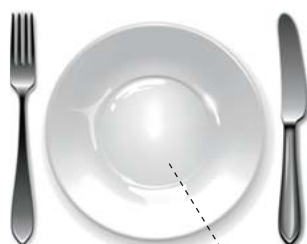
Those "sell by" and "best by" dates on the food you buy have no relationship to safety and aren't even federally regulated, contributing to Americans throwing away 160 billion pounds of food each year.



The obesity and diabetes epidemics are at critical levels, not just in the U.S., but worldwide.



There is so much controversy over the safety of genetically modified foods and those with chemical additives that some countries are rejecting American-grown products.



The world's biggest producer of pork was recently purchased by a Chinese company with a troubling history when it comes to food safety.

**With more and more people deeply concerned about what they're eating and what it means for our health, the economy, the environment, social justice, and even national security, Harvard Law School has created a new focus on food law.**

Terri Sewell '92:  
A congresswoman's  
playbook on the con-  
tact sport of politics

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ASIA KEPKA

Inside a seminar on combating transnational bribery



MARK OSTROW

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## Harvard Law Bulletin

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JOSHUA PAUL

LAST SUMMER, HLS ALUMNI AND friends welcomed me on my first journey to East Asia. I will never forget the sense of energy, spirit of gratitude, and invitations to learn from leaders in law, academia, business, the judiciary, and government, including remarkable graduates and former research fellows. Traveling with my colleague Professor Bill Alford '77—vice dean for the Graduate Program and International Legal Studies and chair of the Harvard Law School Project on Disability—was truly like traveling with a rock star. His work and mentorship are rightly as legendary as his generosity and warmth.

With gratitude for the gift of this trip, let me share a few memories.

In Seoul, business and government leaders offered glimpses of South Korea's economic miracle—how the country moved from an impoverished rural society, rebuilding after war, to become a global economic leader. South Korea's dynamic companies are supported by a robust legal system and independent judiciary. The country's business, political, and cultural leaders celebrate the contributions of the law and, as many noted, the contributions of Harvard Law School. I will long remember the moment when Seoul's Mayor Park Won-soon pulled from his files materials he had saved from his time as a visiting scholar at HLS 20 years ago and still finds inspirational. Nor will I forget our conversation with Hwang Woo-yea, a political leader from another leading political party, who reflected on South Korea's transformation from recipient to donor of international aid.

Elegance and thoughtfulness permeated our meetings with alumni in Japan, where long-standing leadership in technology, dispute resolution, human rights, and humanitarian aid combines with traditional and trend-setting cultural vibrancy. Inspirational figures from legal, corporate, judicial, and educational institutions offered insights into debates over economic and political change and into the

nation's extraordinary domestic and international responses to natural and man-made disasters. It was also splendid to be with HLS Professor J. Mark Ramseyer '82, who is spending his sabbatical in Japan as he pursues his ongoing scholarship on Japanese law.

Our alumni and other friends in Hong Kong demonstrated why this spectacular city stands so tall in financial, legal and cultural exchange. (Its skyscrapers also stand tall!) Key to its success are its independent judiciary, steeped in the spirit of the common law and human rights, and its strength in international arbitration, making Hong Kong a magnet for legal and financial services, as well as for film, music, and social life.

In Beijing, we had numerous fascinating meetings, including the chance to talk with Zhou Qiang, the new president of China's Supreme People's Court.

The law students at three outstanding schools bowled us over with their intense engagement, curiosity, and interest in building new traditions, including in pro bono service and advocacy for persons with disabilities. Rivalled in my memory are the extraordinary scale and ambition of economic, social, and legal change, and the widespread acknowledgments of work to be done to address pollution, social dislocation, and institutional reform—and the detailed three-part, penetrating question, in perfect English, from a student at Renmin University who responded to my lecture there on forgiveness and the law.

In Taipei, President Ma Ying-jeou S.J.D. '81 welcomed a large delegation from our newly launched Leadership Council of Asia, including alumni from Korea, China, Japan, Hong Kong and Taiwan. He described fond memories of his time in Cambridge and led a dynamic discussion about prospects for law, economic growth, security, and cultural innovation across Asia.

Back on campus this fall, it has been gratifying to welcome individuals whom I met on the trip; some have

come to talk with our students, some to become students, some to join the excitement of our largest reunion event ever and others to join the more than 600 who ensured a fabulous time for all at Celebration 60, marking the anniversary of the first class of women to graduate from the school.

In October, more than 700 attorneys from around the world came to HLS for discussions about the changing global legal profession hosted by the International Bar Association and our Program on the Legal Profession. In still other events, we celebrated Justice Stephen Breyer's ('64) 20th year on the U.S. Supreme Court; reflected on Attorney General Edward Levi's leadership restoring confidence after Watergate; discussed the patentability of the human genome with litigants in the Supreme Court's recent cases on the subject; inquired into access to justice—marking the 100th anniversary of the Harvard Legal Aid Bureau; and welcomed the judges of the U.S. Court of Appeals for Veterans Claims, who came to hear a case argued by students in our Veterans Legal Clinic.

As this issue of the Bulletin reports, HLS students, faculty, and alumni are addressing questions of food safety and security regionally and globally. Nationally, initiatives like the one started by first lady Michelle Obama '88 have raised public awareness about connections between food and children's health. At HLS, our Food Law and Policy Clinic, started in 2010 as the first legal clinic of its kind in the country, has now become a national leader with a growing roster of courses and reports generating national attention. And this year, the clinic's offerings are complemented by the launch of the Food Law Lab, which is part of the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics, as a locus for research, scholarship and teaching.

I hope you find food for thought in the stories offered in this Bulletin and that you will come visit soon!

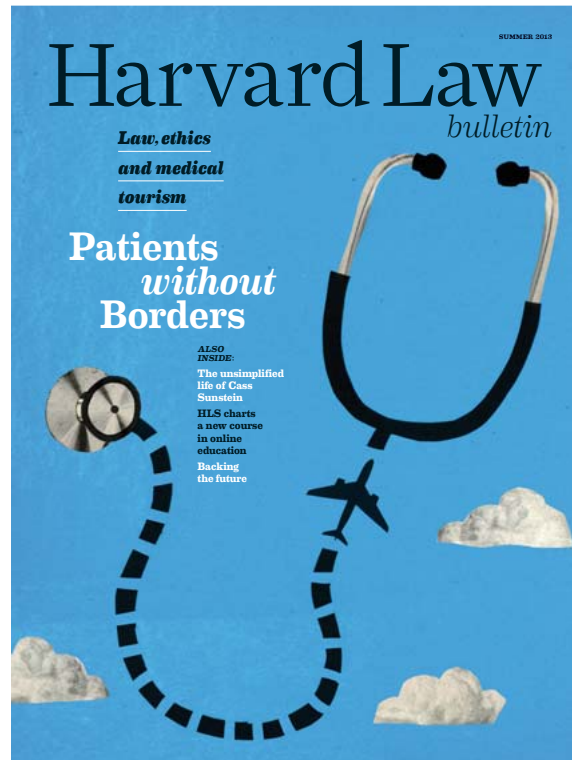


### Medical tourism reflects flaws in U.S. society

DRAWING ATTENTION TO the rapidly growing phenomenon of medical tourism and I. Glenn Cohen's intriguing work is unquestionably valuable [Summer 2013, "Patients without Borders"]. As a physician who has witnessed my own patients travel abroad for both therapeutic and cosmetic procedures, I think it is important to emphasize that, in various ways, this trend reflects deep shortcomings within our own society. Renal patients would not need to fly to the Philippines for kidney transplants if we adopted the mandatory choice or default donation models used for organ allocation in other developed nations. The terminally ill would not have to seek aid-in-dying in Swiss clinics if we afforded them a right to end their own lives in the United States. And the financially strapped women I treat in my clinic would not want to travel to Latin America for face-lifts and rhinoplasties if they were valued on the content of their characters rather than the appearance of their features. Medical tourism is far more a mirror than a window. If we look closely, we may not like what we see.

**Jacob M. Appel, M.D./J.D. '02**  
*Department of  
 Psychiatry, Mount Sinai  
 Hospital, New York City*

EDITOR'S NOTE—*The article on the Oliver Wendell Holmes Digital Suite, "Navigating the Path of a Life," in the summer issue, elicited a recollection from an alumnus who helped to bring items highlighted in*



*the Bulletin story into the Harvard collection:*

#### The lunchbox redux

AS A FLEDGLING LAWYER IN Boston, I was assigned to assist in settling the estate of Mary Stacy Holmes and incidentally going through the large house in Topsfield, Mass.

I had read enough of the Holmes literature to know that the property of the justice would very likely be in the house [Mary Stacy Holmes had been the wife of Justice Holmes' nephew]. After quite a search, I located the property in the attic: the justice's stand-up desk, his Civil War uniform and buttons, the lunchbox, and other treasures. With the help of a senior partner, we persuaded the family to donate the items to Harvard Law. We were able to confirm the provenance of the materials by comparing the photos then in the possession of [HLS] Professor Mark DeWolfe Howe, who was at work on

an authorized biography of the justice.

The caption on the lunchbox [in your story] needs editing: The justice never carried the box himself to the Court. Mrs. Holmes would not hear of such a thing (particularly in her later years, when Justice Brandeis always stopped by to walk downtown with the justice). The box was sent down in the afternoon by a house servant (and presumably retrieved the same way). Good article!

**Arthur L. Stevenson '51**  
*Peterborough, N.H.*

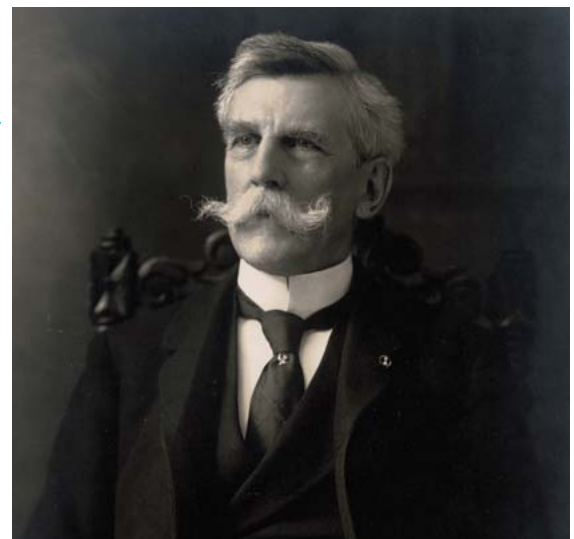
### CopyrightX's social value

I HAVE READ THE ARTICLE on the amazing course CopyrightX Professor Fisher provided for us [Summer 2013, "The 'X' Factor"]. I was one of the participants and loved it very much! I am writing this email to reflect my views on an important point.

Would offering a free online course devalue the on-campus course? No, the question is so narrow. This project's social value way overcame its economic value. We really need to think about the word "value" in a broader sense. My personal opinion is: Professor Fisher is not robbing a few privileged kids' money or jobs to give to the poor due to pity; that concept totally demeans what is happening here. Professor Fisher is a visionary! We are leading a global revolution, a revolution that is trying to eliminate discrimination in all possible ways, including economic bias. And this behavior goes along perfectly with Harvard's mission statement:

"Harvard seeks to identify and to remove restraints on students' full participation, so that

→ CONTINUED ON PAGE 59



# The Long Game

Tushnet on politics and the Supreme Court

Supreme Court justices serve for life, but they are appointed and confirmed by elected officials at a fixed point in time.

Yet, however much presidents want to influence the future through their judicial appointments, the problem, Professor Mark Tushnet writes in his new book, “In the Balance: Law and Politics on the Roberts Court” (Norton, 2013), “is that things change.”

These changes arise from many sources. By the time a case reaches the Supreme Court, Tushnet shows, it has been shaped not only by legal pleadings and procedural skirmishes, but by popular attitudes; by conflicts in Congress, in the executive branch, and among interest groups; by serendipity—and by history. What drives the justices, he says, is less the political interests of their appointing presidents and their parties, and more their larger visions “about what is good for American society over a relatively long period of time.”

“We can’t understand the Roberts Court or any period in the Supreme Court without thinking about the general political setting in which the Court is operating,” Tushnet said in an interview with the *Bulletin*. However, he explained, “That turns out to be a more complicated story than one might think because the justices are not simply mirroring the political positions of the political parties whose presidents appointed them.”

“Party politics,” he said, “is not absent, but it is in the background.”

Tushnet is a keen Court observer who clerked for Justice Thurgood Marshall and is the author of “A Court Divided: The Rehnquist Court and the Future of Constitutional Law” (Norton, 2005). “In the Balance” explores a wide array of issues, from disparate party strategies for selecting Supreme



→ The justices are not simply mirroring the political positions of the political parties whose presidents appointed them.

Court nominees, to the politics and personalities that inform the character of the Roberts Court, to the Court’s approach to deciding business disputes. Tushnet combines drama and telling detail with context and critique.

For example, his chapter on the making of the 2008 gun rights case *District of Columbia v. Heller* includes the following substories: the NRA’s transformation from a sports-hunting membership organization to a gun rights-lobbying powerhouse; the influence of the 1989 Yale Law Journal essay that laid the scholarly groundwork for the gun rights perspective; the search by libertarian public interest



A new book addresses  
the law and economics  
of price fixing



lawyers for financial backers and sympathetic plaintiffs; the NRA's attempts to muscle control over the lawsuit; and tactics to bring the lawsuit under the direction of the elite, specialized Supreme Court Bar.

At the same time, Tushnet zooms out, showing how societal attitudes toward gun regulation changed over time, from the aftermath of the Robert Kennedy and Martin Luther King Jr. assassinations, when Congress passed federal gun legislation, to today.

He recounts how conservative thinkers and politicians promoted "originalist" approaches to constitutional interpretation in an attempt to combat what they saw as judicial activism. But if originalism, with its initial focus on what the founders intended, was meant to yield a reliable, unambiguous jurisprudence, it didn't work in *Heller*, Tushnet writes. Justice Antonin Scalia '60, for the Court's majority, and Justice John Paul Stevens, who dissented, both applied originalist analysis and came to opposing conclusions.

The very fact of defensible disagreement about the original understanding, according to Tushnet, "undermined the conservative claim that only originalism stood between us and willful judges using constitutional methods as the cloak for their policy preferences." He concludes, "The gun-rights movement's effectiveness in legislatures suggests that political movements may be more important on the ground than they are in the Supreme Court—and that the academic shouting around the issue of originalism is a sideshow."

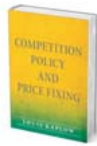
Tushnet predicts Justice Elena Kagan '86 will be the main intellectual rival of Chief Justice John G. Roberts Jr. '79 on the Court. Roberts and Kagan, he said, "are very similar in personality, they're very similar in their high degree of intelligence, and they have very different views about what the Constitution should mean." The question, he said, is, Which one of them will succeed most often in attracting a majority of justices to their side? —JERI ZEDER

## FIXING PRICE FIXING

Kaplow aims to reframe the debate

Louis Kaplow '81 seeks to upend the academic debate and to suggest important reforms to legal practice in his latest book, which addresses the law and economics of price fixing. The Harvard Law School professor describes the law prohibiting this practice as "incoherent, its practical reach uncertain, and its fit with fundamental economic principles obscure." And that's just in the first paragraph.

In "Competition Policy and Price Fixing," Kaplow argues that there is too much emphasis in the cases—and in related scholarship—on a search for



"magic words" exchanged between firms. In fact, he contends, "smoking

gun" evidence may not exist and, when it does, may not be discovered. In such instances, if price-fixing cases are to proceed, it makes more sense to focus on anti-competitive outcomes than to attempt to infer from such outcomes and other circumstantial evidence what sorts of invisible communications firms most likely employed in achieving their ends.

Rather than trying to detect certain kinds of communication, which may or may not have occurred, Kaplow argues, attention should be focused on the economic harm caused by oligopolistic pricing. "The question should be: Did they operate in a coordi-

nated manner to increase prices to the detriment of the economy?" Kaplow said in an interview. "The fundamental analysis of policy in this area should be based on whether socially bad things are happening."

Kaplow's book, which was published in June by Princeton University Press, is winning praise within the community of antitrust scholars and beyond.

Judge Richard Posner '62 of the U.S. Court of Appeals for the 7th Circuit, who wrote a seminal 1976 antitrust book, said Kaplow's work "is likely to be recognized as the definitive work on price fixing."

Antitrust law is a topic of long-standing interest to Kaplow, who co-wrote a leading casebook on the topic with Phillip Areeda '54, his professor at HLS. In the past half dozen years, Kaplow has returned his main focus to antitrust, having been writing for some time primarily on law and economics and tax policy. (In addition to a J.D., he holds a Ph.D. in economics from Harvard.)

As he focused again on antitrust, Kaplow said, the "linguistic semantics debate" that has dominated the last 40 years of price-fixing literature continued to bother him, as did a number of other fixations in the legal and economic writing and court and agency practice in the competition realm. These ongoing concerns motivated him to write again on antitrust after finishing

his last book, "The Theory of Taxation and Public Economics," published in 2008.

In his latest endeavor, he set out to show how the debate over price-fixing policy might be reframed, rather than trying to shape the law himself. "This is really a book that's more than anything about what's the kind of debate and discussion we need to have to address the problem," Kaplow said. "Do we have a modern debate about the pros and cons and trade-offs, or do we continue to have a formalistic legal discussion?"

It seems that Kaplow will be quite happy if his book engenders all manner of disagreement, as long as critics are addressing the right questions. But since he also breaks new ground in offering preliminary answers to many of them, don't be surprised if, as Judge Posner suggests, this book proves to influence the direction of the discourse as well as its focus. —SETH STERN '01

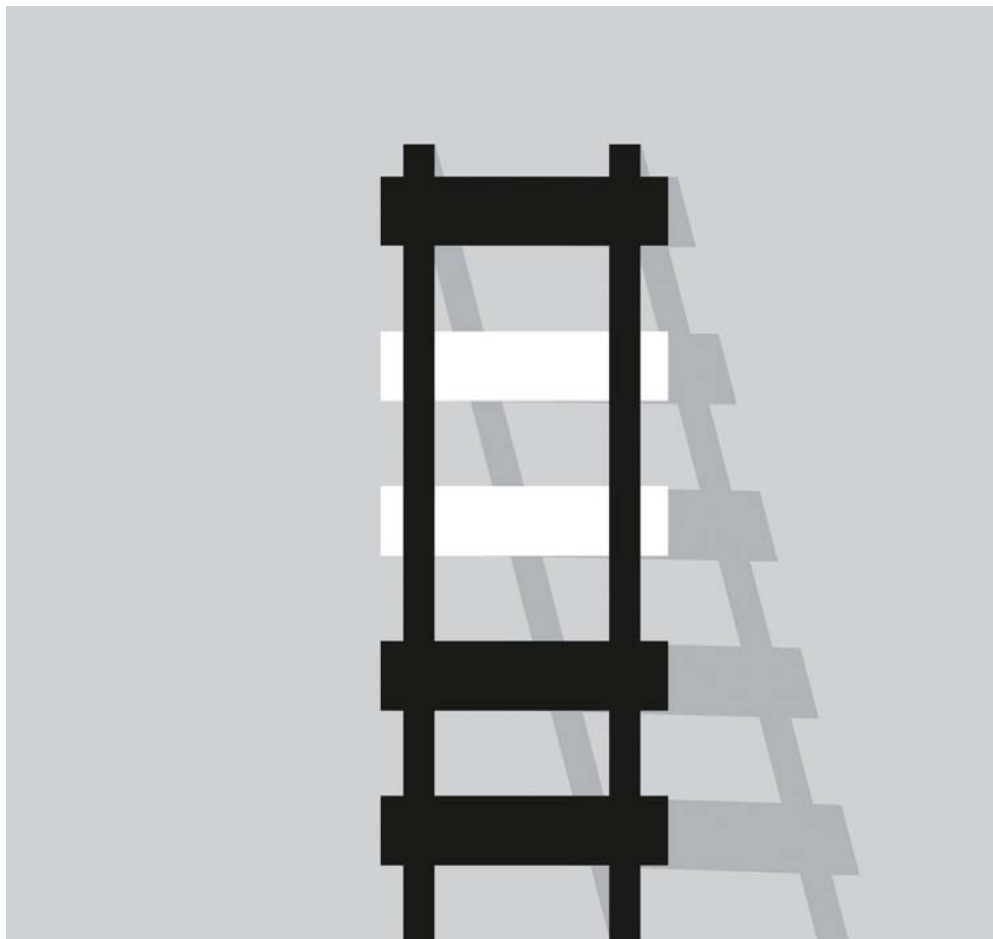
# Salving the Wounds

Kennedy re-evaluates affirmative action → INTERVIEW BY SETH STERN '01



RANDALL KENNEDY has tackled plenty of controversial issues in his five previous books, ranging from interracial marriage to the intersection of race, crime and the law. The Harvard Law professor comes to the defense of affirmative action in his latest book, “For Discrimination,” published by Pantheon in September. Kennedy argues there’s still a need for racial preferences, which benefit racial minorities and also help America as a whole to “redress long-standing injustices and to knit together a deeply divided society.”

In an interview with the *Bulletin*, Kennedy described his own evolution on the issue and the impact of the Supreme Court’s ruling in *Fisher v. University of Texas at Austin*, which was announced after his book went to print.



**Kennedy looks beyond the diversity rationale to rectifying the consequences of past discrimination.**

**You start your book by recalling watching a movie at age 8 in a blacks-only balcony of a movie theater in Jim Crow-era South Carolina. How have your own experiences shaped your view of affirmative action?**

Mere experience can lead you to lots of different positions. What matters is what you do with experience. There are plenty of people with experience like mine who are against affirmative action. See, for example, Clarence Thomas. I’ve had varying thoughts over time about affirmative action. I’ve always been on balance for it but in an earlier period of time much less a defender, much less a champion than I am now. That was one of the surprises that arose in writing the book. Why did

I see it differently this time? Maybe, it’s because I thought about the subject more systematically and more clearly.

**You compare affirmative action to “an injured bear: too strong to succumb to its wounds but too hurt to attain full vitality.”**

**After the Court’s *Fisher* decision, which directed the lower courts to review the University of Texas’ race-conscious admissions policy, is that still your assessment?**

Post-*Fisher*, affirmative action is slightly more injured. The Court vacated the Court of Appeals’ opinion, but it did not reverse the judgment, at least not yet. It just said, “You all didn’t apply the law the way we want and so we’re sending the case back to you.”

Although the Court left open the



possibility of the affirmative action plan being upheld, it shifted things a step or two in an anti-affirmative action direction.

**Is there a future for Top 10 Percent Plans, in which public schools automatically admit top-ranked students, such as the one at issue in *Fisher*? If not, what's likely to replace that model?**

A number of anti-affirmative action justices have spoken favorably of 10 percent plans as race neutral, but in my view they're not. That's one of the reasons I say that no matter how *Fisher* is read, the affirmative action controversy will continue. The next fight will be over 10 percent plans.

**You describe several arguments in favor of affirmative action. Has too much emphasis been put on creating diversity, particularly by Supreme Court justices since *Bakke*, the 1978 decision which held that institutions of higher education could use race as an admissions criterion?**

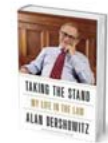
Yes, I think so. In many discussions about affirmative action, the diversity rationale is all anybody talks about. It's an appropriate justification but there are other strong justifications as well. In my book, I emphasize in particular that the Supreme Court has pushed off the radar screen the idea of rectifying the ongoing consequences of past discrimination. I think that's an important [idea that] packs a lot of moral punch. As far as I'm concerned, it should also be part of the discussion and should be a prime justification for affirmative action.

**You argue that aspiring to create a colorblind society is "misconceived" and that the concept has been co-opted.**

A problem for people like me who don't like the colorblindness trope is we're going to have to figure out a trope that is as succinct and vivid, and I don't have one. Mosaic, orchestra, salad—these are all figures of speech people have come up with as counterpoints, as alternatives, but I don't think any of them have the metaphorical vibrancy or resonance of colorblindness. So I need to think of something.

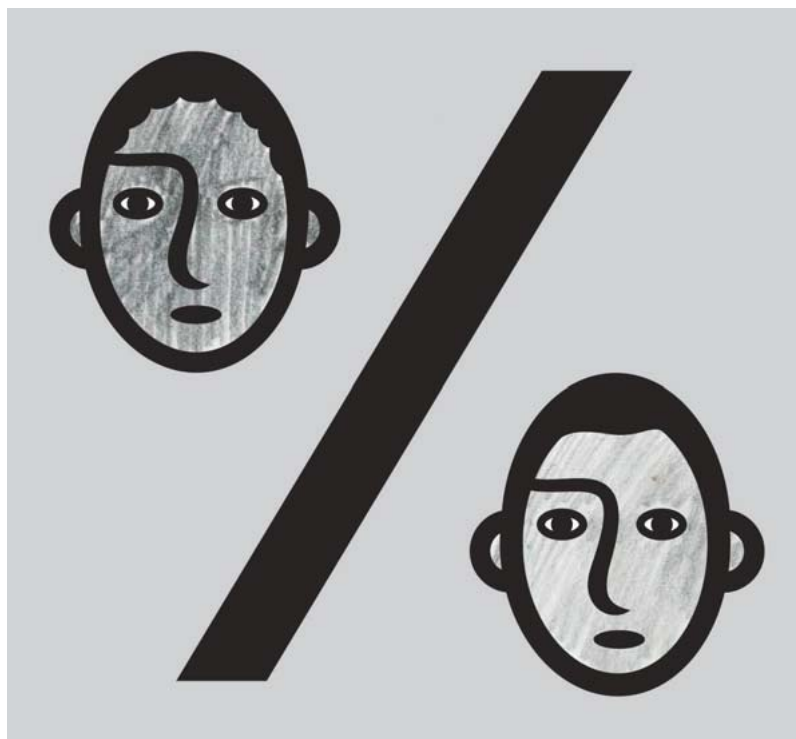
## OTHER RECENT TITLES

"*Taking the Stand: My Life in the Law*," by Professor ALAN DERSHOWITZ (Crown). A memoir that explores the many facets of the author's life. In addition to identifying the people and institutions that influenced him the most, it also describes how the law has changed over the past half century. (See story, Page 10.)



"*Law and Economics with Chinese Characteristics: Institutions for Promoting Development in the Twenty-First Century*," edited by Professor DAVID KENNEDY '80, faculty director of HLS's Institute for Global Law and Policy, and JOSEPH E. STIGLITZ (Oxford). With contributions from scholars from both China and the West, the volume examines issues including property and legal rights, centralization and decentralization, and the role of the judiciary in the expanding market economy of China. Each author, write the editors, "has something important to contribute to our understanding of the potential significance of diverse legal forms for the future of Chinese market capitalism."

"*The New Black: What Has Changed—and What Has Not—with Race in America*," edited by Professor KENNETH W. MACK '91 and GUY-URIEL CHARLES (New Press). The volume presents essays that consider questions that look beyond the main focus of the civil rights era: to lessen inequality between black people and white people. The contributors, including HLS Professor Lani Guinier, write on topics ranging from group identity to anti-discrimination law to implicit racial biases, revealing often overlooked issues of race and justice in a supposed post-racial society.



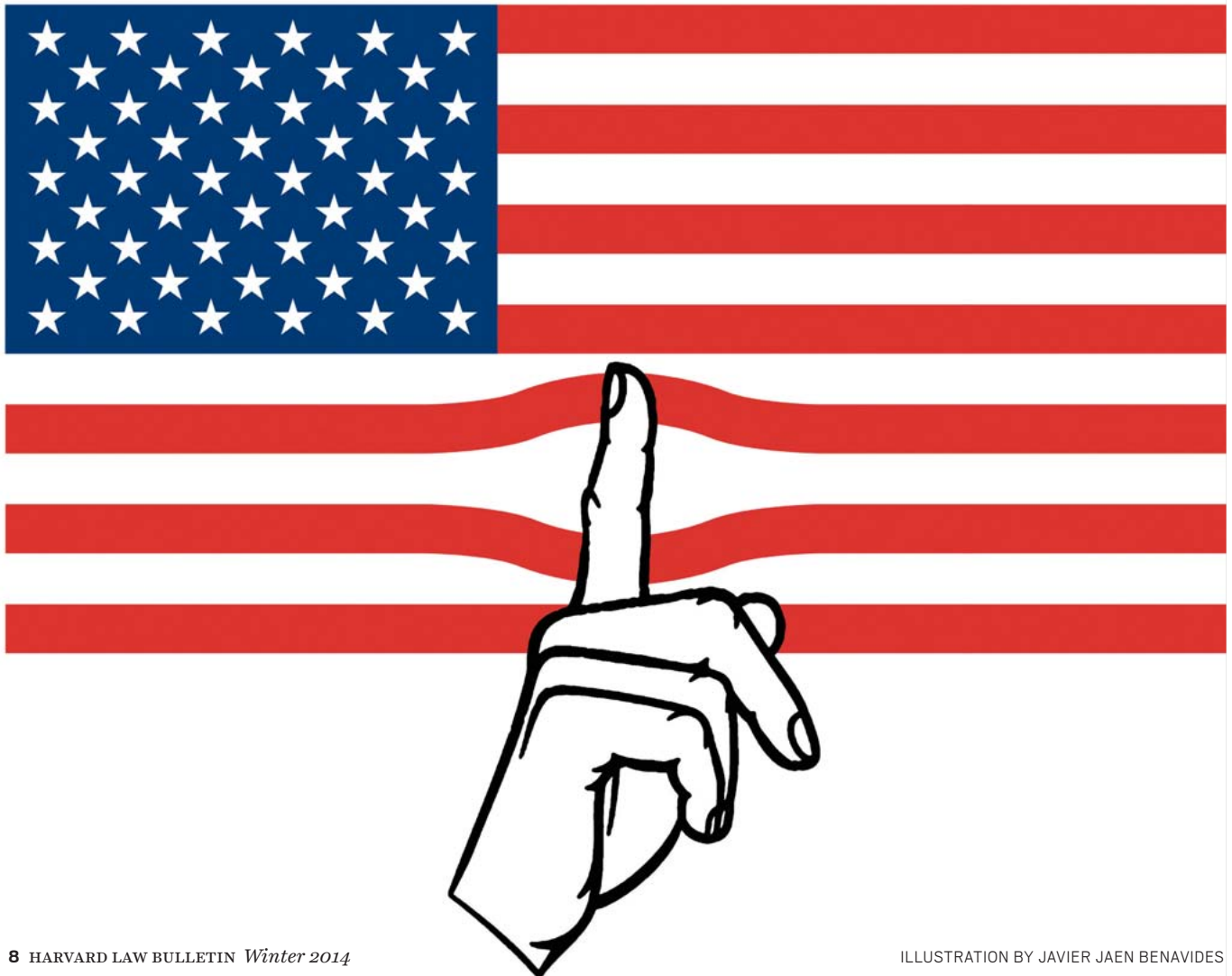


FACULTY VIEWPOINTS

## Blowing—and Twisting—in the Wind

Benkler defends the right of Edward Snowden and WikiLeaks to check government power

This summer, when Private Bradley Manning was on trial for passing hundreds of thousands of documents obtained from military computers to WikiLeaks, [Harvard Law Professor Yochai Benkler '94](#) testified for the defense. Benkler's work—including his 2011 case study of the legal wrangling related to WikiLeaks—has put him in the middle of the debate over the balance between civil liberties and security in a post-9/11 networked world. Benkler, co-director of the Berkman Center for Internet & Society, spoke with the Bulletin this fall, in the aftermath of Edward Snowden's revelations of the surveillance implemented by government security agencies. He argued that legal protections for whistle-blowers and those who publish them—in any medium—are more essential than ever.



—> “Right now, if you give encrypted documents to The New Yorker, you are protected from subpoenas. If you give them to WikiLeaks.org, you are not.”

**What precedents set in the Manning case are you most worried about?**

The 35-year penalty Manning received is an extremely dangerous precedent because it is a fundamentally different length of sentence than anything we’ve seen for leak-related prosecutions. All the self-righteous critics of Snowden not showing up to face American justice would have sounded very different if the universe of possible charges carried somewhere between six and 30 months of imprisonment, which is more or less what we saw before the Manning case. I think that Snowden’s decision to go to Russia was a direct backfire of the administration’s aggressiveness against whistle-blowers.

The Snowden revelations have driven a debate that everybody now accepts as a legitimate democratic public debate about the very core of our constitutional rights as private citizens under a state of sustained long-term conflict with terrorism. No one—from the president on down, from the head of the intelligence establishment on down, from the court dedicated to this on down—disagrees with the fact that Snowden did a phenomenal democratic service to this country. Nonetheless, he’s being threatened with a prosecution that could put him away for life. There’s a deep incongruity between the pretense of inviting robust democratic debate about the tension between security and freedom in this country and on the other hand threatening the freedom of the very person without whom we would have continued blindly to exist under a national security establishment that we now know has deliberately lied to its court and deliberately overreached.

**But many Americans seem to accept government secrecy to gain what they feel is security. Should they?**

I would welcome an open, data-driven, fact-based public debate over the trade-offs that we’re making. There are very good arguments suggesting that the level of terrorism threat is vastly overstated and that the measures against it are vastly overdone in order to expand the power of the bureau-

cracies that are running the national security establishment. Sure, if, tomorrow, we in fact started seeing a 9/11 every year, of course a much wider set of powers would be justified. I don’t think there’s anyone who would disagree with that. But the problem is that beyond the scare tactics, beyond the “Trust us; believe us; we know, but it’s too secret—we can’t tell you,” there’s no real evidence. The burden of proof needs to be on the government to justify the level of invasion of our liberties, rather than on the critics.

**What path do you see to reforming institutions that are part of our national security establishment?**

One of the most interesting political developments of the past few months has been the emergence of a new left-right coalition that includes both libertarians on the right and civil libertarians on the left who together have begun to open their eyes and say, “Enough.” There’s also what seems to be the increasing skepticism of the young networked generation. The generation that grows up getting its news from the Web and Jon Stewart may not be quite so willing a follower as generations that were used to simply relying on one authoritative source. I think in many ways both Manning and Snowden are products of that generation.

**Do newspaper journalists face different legal consequences from those faced by a site like WikiLeaks?**

Distinguishing networked Fourth Estate actors, like WikiLeaks, for the purposes of freedom of the press is intellectually indefensible and constitutionally dangerous. The present draft of the reporter’s privilege law that is going through Congress, which practically includes an “anyone but WikiLeaks” provision, is incoherent.



It’s like saying that someone who is an unpaid volunteer developing Linux is not a software developer.

The only reason we still have a distinction is because the people who have the power to write the laws believe they can sustain the distinction. It’s a context where traditional media, legislators, and judges have a congruence, in terms of age and life perspective but also in terms of economic interest.

Right now, if you give encrypted documents to The New Yorker, you are protected from subpoenas. If you give them to WikiLeaks.org, you are not. This will nudge any thoughtful self-preserving whistle-blower to go with the more traditional media, so you get a reinforcement that traditional media is where you get the big stories. Is that really the role of the federal government, to prefer one organizational model for the production of news?

Interview by KATIE BACON



EMERITUS

## Retiring but Not Shy

Known for his brash style and high-profile cases, Alan Dershowitz is leaving the role he loves best: Teacher

FOR DECADES, ALAN M. DERSHOWITZ HAS LED A FRENETIC LIFE AS AUTHOR OF dozens of books, legal counsel to a multitude of celebrities and ubiquitous TV commentator on myriad issues of the day.

But he's held only one actual job: his professorship at Harvard Law School. And at the end of the year, he'll be giving that up.

"Actually, I don't think of myself as moving into retirement," said Dershowitz during an interview with the *Bulletin*. "I'm just changing jobs—and it feels a bit strange to me. We're a very mobile society in this country; people change jobs very quickly, but I've had the same job for 50 years."

He anticipates doing even more writing and spending much more time with his family while winding down his other activities, but he still thinks more of beginnings than of endings.

"I was always the youngest person everywhere I went. I was the youngest assistant professor, the youngest full professor, the youngest this and the

youngest that. Now I'm among the oldest, and it's hard for me to think that my career at Harvard is coming to an end. It's been a good run, but to everything there is a season."

In October, HLS hosted a tribute to Dershowitz, featuring an array of friends and colleagues (see sidebar). The same month, "Taking the Stand: My Life in the Law" was published by Crown. It's his most fully autobiographical book, and in large part an attempt to identify the people and institutions that influenced him the most over the course of his life.

He describes a childhood in Brooklyn, where his mother strongly encouraged his natural intellectual curiosity while the teachers and rabbis at the yeshiva he attended did not.

"You would think the opposite, that a Jewish background would encourage argument—after all, the Talmud is very argumentative—but the religious education I got did not encourage disputation. But when I got to secular school, it was encouraged and I thrived."

His first secular school was Brooklyn College, followed by Yale Law School, where he would finish first in his class.

The first person to make a big impact on Dershowitz's life in the law was Judge David L. Bazelon, chief judge of the U.S. Court of Appeals for the District of Columbia Circuit, for whom Dershowitz clerked.

"Bazelon became my first real father figure professionally," Dershowitz said. "He showed me that you could be both Jewish and mainstream at the same time—he was a very influential person in Washington but didn't give up his Jewish heritage—and I wanted to be like him."

He then took a second clerkship, with U.S. Supreme Court Justice Arthur Goldberg, and, among other tasks, drafted the opinion in *Escobedo v. Illinois*, which held that criminal suspects have the right to legal counsel during police interrogations.

By then, Dershowitz had set his sights on criminal and civil rights law and was hired by Harvard during his Goldberg clerkship based largely on

his academic record. He began in 1964 and immediately attracted attention.

"I was very Jewish in my attitudes and my approach and my style, and that made some people uncomfortable—particularly some of the faculty members who were themselves Jews and trying hard not to be Jewish. And I let it all hang out."

After a few years, Dershowitz felt the need to gain practical courtroom experience and took on cases, often in association with the American Civil Liberties Union, involving challenges to censorship and the death penalty.

"It created a great combination," he said. "I never missed classes for cases, and I was able to bring the courtroom into the classroom and the classroom into the courtroom."

Over the years, Dershowitz has won 13 of the 15 cases he's handled involving murder and attempted murder; his clients have included Claus von Bulow, Mike Tyson, Patty Hearst and Jim Bakker. And he's become a frequent commentator as a staunch defender of Israel.

Reflecting on his career as a practicing lawyer, Dershowitz said his biggest contribution has been "convincing a skeptical American public that when you win on appeal, it may actually prove that there was an injustice."

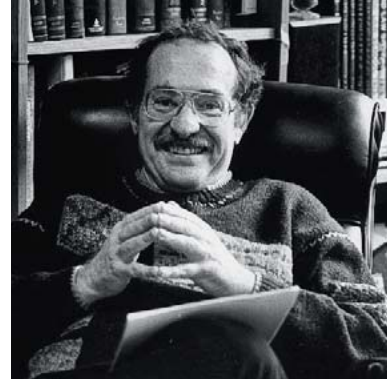
Asked what aspect of his career has provided him with the most personal satisfaction, he is unequivocal: "Teaching. Teaching is enduring," he said. "The students don't remember the specifics I taught them, but they remember the way in which I approached problems."

Although Dershowitz is leaving teaching, he wants to stay forever connected to the school. He said some of his former students are seeking to create a chair in "humanitarian law and repairing the world" in his name.

"It would be very nice to have a permanent chair at Harvard Law School supporting the kinds of things that I've supported over 50 years: human rights, humanitarian law, support for the underprivileged, and seeing the law in a constructive and creative way."

—DICK DAHL

"I was very Jewish in my attitudes and my style, and that made some people uncomfortable." ▶



"It's hard for me to think that my career at Harvard is coming to an end. It's been a good run, but to everything there is a season." ▲

MARTHA STEWART

## A Multifaceted Career

This fall, HLS celebrated Alan Dershowitz with an afternoon of panels focusing on the many facets of his storied career. Speakers included former presidents of the Israeli Supreme Court, colleagues from academe, legal analysts and former students.

### → Scholar and Writer

Moderator: HLS Professor Noah Feldman  
 AKHIL AMAR, *professor of law, Yale University*  
 AHARON BARAK, *former president, Israeli Supreme Court*  
 DORIT BEINISCH, *former president, Israeli Supreme Court*  
 MARTHA MINOW, *HLS dean*  
 ROBERT MNOOKIN '68, *HLS professor*

### → Litigator

Moderator: HLS Professor Charles Ogletree '78  
 NANCY GERTNER, *HLS professor and former federal judge*  
 HARVEY SILVERGLATE '67, *Boston criminal defense and civil liberties lawyer*  
 MARTIN WEINBERG '71, *Boston criminal defense lawyer*

### → Teacher

Moderator: Dean Martha Minow  
 PHILIP HEYMANN '60, *HLS professor*  
 MICHELE MATERNI, *HLS S.J.D. candidate*  
 STEVEN PINKER, *professor, Harvard Psychology Department*  
 JOEL POLLAK, *senior editor, Breitbart News*  
 ALAN STONE, *HLS professor*

### → Public Intellectual

Moderator: Dean Martha Minow  
 IRWIN COTLER, *former minister of justice and attorney general, Canada*  
 IRVING GREENBERG, *rabbi and theologian*  
 GERALDO RIVERA, *Fox News host*  
 KENNETH SWEDER, *litigator*  
 JEFFREY TOBIN '86, *senior analyst, CNN; staff writer, The New Yorker*  
 MARK WOLF, *senior judge, U.S. District Court, District of Massachusetts*

→ WATCH THE EVENT: [bit.ly/Dershowitzpanel2013](http://bit.ly/Dershowitzpanel2013)

IN THE CLASSROOM

# Curbing Corruption

A seminar focuses on fighting transnational bribery

→ Corruption affects the entire international community and is a challenge in global development.

TWENTY LAW STUDENTS TAKE THEIR seats in a third-floor seminar room of Wasserstein Hall, and their professors get right down to business. How do we evaluate claims made in the literature about the impact of the Foreign Corrupt Practices Act on U.S. businesses and U.S. leadership around the world? Instantly, a student ventures that broad anti-corruption efforts might help the U.S. economy, even if the benefits to particular firms are unclear.

For the next two hours, the air crackles with refutations, clarifications, elaborations, insights and reality checks. The break that's scheduled at the one-hour mark comes 15 minutes late because the students are too engaged to stop.

Welcome to Combating Transnational Bribery. It's a new seminar taught by Professors Jack Goldsmith, an international law expert with insider knowledge of the workings of the U.S. Department of Justice, and Matthew Stephenson '03, a scholar in law and political economy, with a keen interest in anti-corruption.

The students come from a range of backgrounds. Some are experienced in international development work; others spent time before law school on FCPA matters at the Justice Department, the U.S. Securities and Exchange Commission, or private firms. Several are LL.M. candidates from abroad with anti-corruption experience from their own countries.

"It's a very smart and very informed group of people who are all learning from each other," says Goldsmith.

And it's not just the students who are learning. David Donatti '15, who is interested in the intersection of civil law, litigation, and international law, says of Goldsmith and Stephenson: "Sometimes it feels like they're professors, and sometimes it feels like they are active participants, just other students in the class."

Anti-corruption is a large and growing area of legal practice. FCPA enforcement actions have risen considerably since the



Professor Jack Goldsmith (left), an international law expert with insider knowledge of the U.S. Justice Department

From left: Amrita Khemka LL.M. '14, Jeeleena Kim LL.M. '14 and Brittany Horth '14



Philip Underwood '14



Professor Matthew Stephenson researches anti-corruption law around the world.

early 2000s, and the stakes are high—fines and penalties can soar into the hundreds of millions of dollars. Corruption affects the entire international community and is a major challenge in global development. “The FCPA is important and only gaining in importance as the Department of Justice and the Securities and Exchange Commission push for harder enforcement of the provisions,” says Stephanie Freudenberg '15, who is considering a private-sector career in white-collar investigations.

The FCPA also provides a platform for studying prosecutorial discretion, multijurisdictional legal matters and how law affects business practices. A course highlight is the impressive lineup of guest speakers—practitioners from the public, private and international sectors—who bring their real-world experience to bear. The goal, Stephenson says, is to “give students a sense of what lawyers who deal with the FCPA, or similar issues, deal with in practice, as well as exposing them to a diverse range of views.”

Jordan Moran '15, a student in the seminar who spent three years with the Justice Department’s FCPA unit, has a new appreciation for the complexity of fighting international corruption. One dilemma that the seminar has helped him see is that enforcement of the FCPA can deter companies from doing business in countries that need reform the most. “Everything we do in terms of enforcing and/or amending the FCPA must be considered in light of the foreign policy origins and the foreign policy implications,” he says. “Oftentimes, they are at cross-purposes, and that makes it a very, very difficult area of law.” —JERI ZEDER

**COMBATING TRANSNATIONAL BRIBERY**

*Guest Lecturers*



**LANNY BREUER**  
 Vice chair, Covington & Burling; former assistant attorney general for the U.S. Department of Justice (Criminal Division)



**EL CID BUTUYAN**  
 LL.M. '04  
 Senior litigation specialist, World Bank



**SCOTT MULLER**  
 Partner, Davis Polk & Wardwell



**R. HEWITT PATE**  
 Vice president and general counsel, Chevron Corp.



**CHERYL SCARBORO**  
 Partner, Simpson Thacher & Bartlett; former chief of the FCPA Unit, Enforcement Division, U.S. Securities and Exchange Commission

Jordan Grossman '14 worked in the office of Maryland AG Doug Gansler on a number of high-level cases.



FROM THE CLINICS

## Going National

Clinic places students in AGs' offices across the country

Mike Gendall '14 researched and wrote a brief in a criminal case for New Mexico AG Gary King.

HUMAN TRAFFICKING. Cybercrime. Consumer protection. Public integrity. With broad constitutional and statutory jurisdiction, state attorneys general handle all these matters and more, often in high-impact litigation. Given this variety of opportunities it provides, Harvard Law School's Attorney General Clinic, taught by former Maine AG James E. Tierney, has been one of the most popular in

the clinical program since it was instituted in 2011, with placements in the office of Massachusetts AG Martha Coakley.

Coakley has been extremely supportive of the clinic—and is a guest lecturer in the related classroom course each spring—but her office can accept just six HLS students each semester. In the past, that has meant a waiting list for many students.

That changed last year. Mike Gendall '14 was on the waiting list until he received an email from Tierney last fall informing him that he could work in an AG's office over winter term. Tierney had just expanded enrollment in the clinic by using winter term to send HLS students to work in AGs' offices across the country. Tierney, a nationally renowned expert on the role of state attorneys

general and director of the National State Attorneys General Program at Columbia Law School, called on his extensive professional network to place 10 additional HLS students in the AGs' offices in California, Illinois, Colorado, Maryland, New Mexico, New York and Rhode Island.

Gendall, who grew up in Beverly on Boston's North Shore, wanted to



→ Harvard Law School's Attorney General Clinic has been one of the most popular in the clinical program since it was instituted in 2011

go somewhere he'd never been, and Tierney suggested he work for New Mexico's top lawyer, Gary K. King, in Santa Fe. In a small state with a small AG staff, Gendall found himself with significant responsibility from the moment he arrived and spent his three weeks researching and writing an appellate brief in a criminal case. "It was the first time in my legal career I was entrusted with that much independence and responsibility, and I welcomed it," he says.

Jordan Grossman '14, who worked for former U.S. Secretary of Homeland

Security Janet Napolitano before matriculating at HLS, signed up for the clinic in search of state government experience. When he learned of the winter term option, Grossman told Tierney he hoped to return to his home state of Maryland, and Tierney helped place him at the office of AG Doug Gansler. There, Grossman was exposed to a variety of high-level cases, including litigation between the University of Maryland and the Atlantic Coast Conference, and a controversial ballot initiative to expand gambling in the state. "I was pretty surprised at how

substantive and valuable it felt in such a short period of time," says Grossman. "If you're willing to jump in and get involved right away, it can be very rewarding."

Gendall and Grossman were among 10 students who, for three weeks last January, worked on environmental matters, criminal trials and appeals, human trafficking cases, and consumer protection litigation in AGs' offices nationwide; this coming winter term, another group will spread out across the country. Along with the students placed in the Massachusetts AG's office this

semester and next, they will convene as a group in the spring to take the required classroom component, *The Role of the State Attorney General*, which Tierney has been teaching since 2011 through a special agreement with Columbia Law School.

Last year, Tierney found that the contributions of students such as Gendall and Grossman added valuable new perspectives to classroom discussion. "Students would say, 'This is the way it's done in New Mexico or Colorado,'" says Tierney. "The course now has a true national flavor."

—ELAINE MCARDLE



# ASIA

*DESTINATION:* | Connecting with HLS lawyers in a region of rapid change

HIGHLIGHTS FROM A 15-DAY, FIVE-STOP VISIT TO EAST ASIA

▶ KOREA

When HLS Dean Martha Minow and Professor William Alford (below, left) visited with Mayor Park Won-soon of Seoul (right), he shared a newspaper clipping he'd saved from his Cambridge days, about Harvard's United Fund drive. He said it had inspired him to promote a similar model of charity in Seoul. Park was a visiting scholar in the HLS Human Rights Program.



Complex Effort



ASSOCIATED PRESS



Mok Young-joon LL.M. '89 helped to restart an economic zone in North Korea, the Kaesong Industrial Complex (pictured above), which had closed down last April as tensions rose on the Korean Peninsula.



IN JUNE, a delegation from Harvard Law School led by Dean Martha Minow embarked on a 15-day, five-stop visit to East Asia and to the fore of fast-moving developments and challenges across the region. Professor William Alford '77, director of the school's East Asian Legal Studies program and a scholar who has long focused on the area, helped plan the itinerary and accompanied the dean, as did Professor J. Mark Ramseyer '82 in Japan. Their daily schedule typically ran 16 hours, packed with events, meetings, and conversations with HLS graduates and fellows, including practitioners, academics, and national and local leaders.

In Korea, Alford and Minow met with Park Han-chul, president of the Constitutional Court, after which he told the dean he had received many, many visitors, but no one else had asked nearly as many questions as she did. That was the essence of the trip, according to Alford: open eyes, open mind and intense engagement with issues. He shared his impressions with the Bulletin.

**Seoul was your first stop. What stood out for you?**

Korea is an impressive example of an essentially peaceful transition over the last 30 years to democratically run institutions and rule of law. This once authoritarian society has changed in tremendously important and instructive ways, transforming itself from a poor rural nation to a thriving economy with a global reach. Law has played a key role, buttressing and building on political change. Korea today has a robust and vibrant civil society, with a plethora of NGOs, church groups, and think tanks—and contention and debate; it's never dull in Korea! HLS graduates have had a hand in this in so many ways. The alumni we met with at just one event included heads of firms, jurists, business leaders and public interest advocates, as well as senior government officials.

**In your conversations, what new themes, what new areas of legal work, emerged?**

Public interest work and community service are thriving in Korea—a number of our grads have been prominent in pro bono, some of them citing as formative their experiences at Harvard Law School. Last September, Mok Young-joon LL.M. '89 completed his term as a justice on the Constitutional Court, an appointment for which he received support from both major parties—as unusual in Korea as it would be in America—a testament to his character and

**CHINA**

Dean Minow and Professor Alford met with Zhou Qiang, the new president of China's Supreme People's Court, the country's top judicial body. They were the first Americans to be received by Zhou in his role as court president.



**FORGIVENESS AND THE LAW**

“WHO HAS AUTHORITY to forgive and in whose name? ... This topic reaches well beyond law to human experience, hopes and suffering. But it is the kind of inquiry that we in law must consider as law itself must serve human purposes. The solutions that courts and legislatures direct can speak to our highest hopes for fairness, predictability, equality, and freedom from bias and corruption. But legal tools are just that: tools. The purposes they serve should be ours. Law can be a tool for harmony, for compassion and for human growth—for converting suffering into opportunity. Or so I hope.”

—From a talk delivered by Dean Minow at Renmin Law School in Beijing



## LAW HAS BEEN KEY TO KOREA'S TRANSFORMATION FROM A POOR RURAL NATION TO A THRIVING ECONOMY WITH A GLOBAL REACH

talent. Now Justice Mok is creating a pro bono department for Kim & Chang, the nation's largest law firm, working with its founder, Kim Young-moo '70. This is a substantial and serious commitment of resources.

Two other HLS grads, Kang Hee-chul LL.M. '90 and Yun Sai-ree LL.M. '82, are founders of Yulchon ("Law Village"), a firm of more than 300 professionals, which also performs substantial pro bono. A third, quite different example is the work of Park Won-soon, the mayor of Seoul, a city with a population of nearly 10 million. Mayor Park was a visiting scholar in the Human Rights Program at Harvard Law School in the early 1990s. When the dean and I visited him in Seoul, he pulled out a faded newspaper clipping he'd saved from his Cambridge days; it was an article about Harvard's United Fund drive that caught his eye. Mayor Park told us that example inspired him to promote a similar model of civic charity in Seoul.

### Earlier you mentioned the country's thriving economy. What challenges in managing growth are distinct to Korea?

A powerful driver in Korea's economy are the chaebol—conglomerates, many with large family ownership. A familiar example is Samsung. The chaebol collectively wield tremendous power. The sense of our alumni was, on the one hand, that Korea needs the chaebol to compete on the global stage, but on the other, that it also would benefit by creating more space for small and medium-sized enterprises. Doing

so requires deftness—and this is where skilled lawyering is critical.

### What impact do tensions on the Korean Peninsula have on our alumni there?

Some alumni said to us that they imagine it's like living in Israel: If you thought all the time about the worst-case scenario, it would be awfully hard to carry on. Some people in public policy positions anticipate eventual reunification and are hoping to play a constructive role going forward. Justice Mok just recently helped to restart an economic zone in the southern part of North Korea, the Kaesong Industrial Complex, which had closed down during tensions in April. He took this on as a pro bono project in June, and indeed the complex reopened in September.

### Now to China. In Beijing, Dean Minow presented a talk at Renmin University, home to one of China's foremost law schools. What was her topic and what was the response?

Before our trip, when Renmin Law School Dean Han Dayuan, a former visiting scholar in our East Asian Legal Studies program, invited Dean Minow to speak, she shared with him half a dozen possible topics for her talk. He picked the most ambitious on the list: "Forgiveness and the Law."

The room where Dean Minow spoke overflowed with hundreds of undergrad and graduate law students at Renmin plus students from other Beijing law schools. The energy

## CHINA

### Picture It

Dean Minow toured a section of the Great Wall with one of the world's experts on the topic, David Spindler '00. Since 2007, Spindler has collaborated with photographer Jonathan Ball '01 to make large-scale photographs of sites of key battles along the Wall. The project includes the image on the right, where the Chinese defeated thousands of Mongol raiders on Oct. 21, 1561. The center-right part of the image shows the place where most tourists visit the Wall today. Below, Ball's photos show how air pollution dramatically reduces visibility in downtown Beijing.



JONATHAN BALL (4)

# HLS Focus on Asia

➔ *Some recent faculty and clinical highlights—from research on anti-corruption efforts to conferences on financial regulation*

During the spring semester last year, although the students in a reading group at Harvard Law School in Cambridge and those in an advanced negotiation skills class at Renmin University of China Law School in Beijing were separated by some 6,700 miles, video-conferencing equipment and common interests easily bridged the distance. The students, taught by

**PROFESSOR WILLIAM P. ALFORD '77** in Cambridge and **ALONZO EMERY '10**, then an assistant professor at Renmin, came together electronically to consider the roles of China and the U.S. in a world order in flux. ➔ **READ A STORY ON THE SEMESTER-LONG COLLABORATION:** [bit.ly/Virtual-class2013](http://bit.ly/Virtual-class2013)

Alonzo Emery is now an instructor at the Harvard Negotiation and Mediation Clinic, directed by **CLINICAL PROFESSOR ROBERT C. BORDONE '97**, which has been involved in a series of projects in China over the past few years. They include an effort for Hewlett-Packard to improve worker grievance systems in two factories in the south. The clinic also developed trainings in negotiation skills—for environmental lawyers at the Beijing office of the Natural Resources Defense Council and for leaders of China's top disabled persons organizations through Renmin University of China Law School's Disability Law Clinic, where Emery

was director. Work for the Renmin clinic continues and is now focused on access to education issues. The Renmin clinic was founded in 2011 with the assistance of the Harvard Law School Project on Disability, led by **VISITING PROFESSOR MICHAEL STEIN '88** and Professor William Alford. ➔ **READ MORE:** [bit.ly/Ablelawyer-ing2011](http://bit.ly/Ablelawyer-ing2011)

For the past three years, the HLS International Human Rights Clinic has been investigating alleged human-rights violations by the Myanmar military in the eastern part of the country. "We are using the research to promote military reform and civilian protection in the country," says **MATTHEW BUGHER '10**, who leads the project in consultation with **CLINICAL PROFESSOR TYLER GIANNINI**, the clinic's director.

**PROFESSOR NOAH FELDMAN** is the author of a recent work on U.S.-China relations, "Cool War: The Future of Global Competition" (Random House). In the book, he describes an "unprecedented historical situation" in which the U.S. and China "have at the exact same time a dynamic of cooperation and interdependence in the economic sphere, and a dynamic of conflict and diverging interests in the geopolitical sphere." ➔ **READ MORE:** [bit.ly/Feldman2013](http://bit.ly/Feldman2013)



ALFORD



EMERY



BORDONE



STEIN



BUGHER



GIANNINI



FELDMAN



JACKSON



KENNEDY



RAMSEYER



SCOTT



STEPHENSON



SUK



WILKINS



WU

Over the past few years, **PROFESSOR HOWELL E. JACKSON '82** has written several articles focusing on financial regulation in Asia, among other regions. He has also supervised J.D. and doctoral students who have pursued studies of securities enforcement and cross-border offering practices in Hong Kong and the People's Republic of China.

**PROFESSOR DAVID KENNEDY '80** is co-editor of a new book on law and the economy in China, "Law and Economics with Chinese Characteristics: Institutions for Promoting Development in the Twenty-First Century," with Joseph E. Stiglitz (Oxford). It includes contributions from Chinese and Western scholars. ➔ **SEE PAGE 7.**

**PROFESSOR J. MARK RAMSEYER '82**, an expert in Japanese law, is writing a book on tort litigation in Japan this year, during a sabbatical at the University of Tokyo.

**PROFESSOR HAL SCOTT** and his Program on International Financial Systems regularly convene high-level conferences between Asian and U.S. financial leaders, including an annual Japan-U.S. symposium. Speakers at this year's event included Japan's vice minister of finance and the chief U.S. economist for Morgan Stanley, as well as the head of financial regulation reform at Citi. ➔ **READ MORE ABOUT THE ANNUAL SYMPOSIA:** [bit.ly/HalScott2012](http://bit.ly/HalScott2012)

**PROFESSOR MATTHEW C. STEPHENSON '03** is conducting a research project on anti-corruption law and institutions around the world. As part of this project, and with the support of the school's newly established Asia Law Reform Initiative, he is studying the varying experiences of anti-corruption enforcement agencies in East and Southeast Asia.

**PROFESSOR JEANNIE SUK '02** is the author of a memoir recently published in Korea. An expert in criminal law, family law, and the law of art, fashion, and the performing arts, Suk received the Pony Chung Innovation Award this year, given by the foundation established in memory of the late Hyundai Motor Co. founder.

**PROFESSOR DAVID WILKINS '80** and his team at the Program on the Legal Profession have been investigating the impact of globalization on the corporate legal sector in China, India, and Brazil through the Globalization, Lawyers and Emerging Economies project.

**ASSISTANT PROFESSOR MARK WU** has recently focused on the growing use of anti-dumping duties by China against foreign imports. He has also conducted research on the implications of bilateral trade disputes involving China's export restrictions on minerals and China's industrial policy for its renewable energy sectors. In November, he spoke on the future of the WTO dispute settlement at the Chinese Academy of Social Sciences in Beijing.

was palpable, especially after the talk, when students raised remarkable, probing questions, adding their own comments on pressing themes. On the role of the judiciary, one student said—and I’m paraphrasing—“You spoke about forgiveness, which suggests some departure from the strict letter of law, some discretion from the judge to administer forgiveness or accede to a victim’s wish that an assailant be forgiven. All that suggests discretion; it suggests judges who are highly professional and independent. You can’t give such leeway to just anyone; it has to be someone who has the right qualifications and temperament. Our judges are not necessarily well-positioned to exercise this level of discretion.”

**Given the students’ candor, did the issue of free speech come up in the dean’s conversations with Chinese alumni?**

We had lengthy, moving conversations with leading legal academics and lawyers about academic freedom and other big challenges that China faces. There was, for instance, much discussion of the current controversy over the role that the constitution is meant to play in China. Corruption was yet another topic—there was widespread agreement that it is a massive problem that must be reined in. Some steps already are being taken by China’s new leadership, though it is too early to know what sustained impact they will have.

**Did you meet with anyone whose work offers particular insight on China right now?**

We visited the National People’s Congress and met with Xin Chunying, a two-time visiting scholar at EALS, who has vice ministerial rank and heads the NPC committee in charge of drafting laws. She described the challenges of legislative drafting in China, including soliciting public opinion when legislating for a continent-sized country whose inhabitants have a range of views. In the aftermath of profound changes, including the migration of more than 250 million people from the country to the cities, how can laws best protect the interests of all involved? Balancing tradition and family values while taking into account how much life has changed, how fluid things are and how difficult law enforcement means China’s problems are not amenable to easy legislative solutions.

**On to Taiwan, whose residents are acutely aware of rising China’s proximity. What stands out from your time there?**

We had the opportunity to meet with Taiwan’s President Ma Ying-jeou S.J.D. ’81, who is also head of the Nationalist Party. The HLS Leadership Council of Asia met for the first time, in Taipei, and 20 of its members from throughout the region accompanied us. The conversation with President Ma was wide-ranging, touching on memories of his time in Cambridge but also on weightier subjects. One topic was the role of “ambiguity” in relations between Taiwan

▶ **TAIWAN**

Tea with Taiwan’s President

The conversation with President Ma was wide-ranging. One topic was the role of ambiguity in relations between Taiwan and the PRC. Dean Minow pointed out that sometimes ambiguity is what you want and even need as a lawyer.



**TAIWAN BACK STORY:** Taiwan’s current president and the former vice president, from opposing parties, overlapped at HLS: Their intertwined paths reflect the story of Taiwan’s transition to democracy.

→ READ A STORY FROM THE SUMMER 2006 BULLETIN: [bit.ly/Taiwan2006](http://bit.ly/Taiwan2006)



**Ma Ying-jeou S.J.D. '81**



**Annette Hsiu-lien Lu LL.M. '78**

GETTY IMAGES (LEFT), ASSOCIATED PRESS (RIGHT)

# IN CHINA, A FORMER EALS SCHOLAR DESCRIBED THE CHALLENGES OF LEGISLATIVE DRAFTING FOR A CONTINENT-SIZED COUNTRY

and the PRC. Dean Minow pointed out that sometimes ambiguity is what you want and even need as a lawyer. You don't want to draw every line sharply and delineate every last point.

Later that day, we met with Annette Hsiu-lien Lu LL.M. '78, former vice president and a leader of the opposition Democratic Progressive Party, who is now immersed in public interest work.

## What did discussions with HLS grads focus on in Hong Kong?

Hong Kong was full of energy, whether you talked with people who were optimistic or those concerned about interaction with Beijing or those who held both views.

In addition to extraordinary Chinese alumni in Hong Kong, there's an interesting group of expats, among them my dear friend Paul Theil J.D./M.B.A. '81. He initiated the first foreign investment in a private insurance company in China, and subsequently also created the first Chinese commercial microfinance company, reaching out to large numbers of urban and rural microentrepreneurs to fund and spark small enterprises.

## What impressions did you take away from your visit with alumni in Japan?

Alumni are very proud of Japan's standing in the region and the world. But we also heard concern about the need to re-energize the economy after 20-plus years of economic

slowdown and about how best to deal with the still unfolding impact of the nuclear disaster at Fukushima, which to some degree has shaken people's trust in the authorities. Many, such as former HLS Visiting Professor Yukio Yanagida LL.M. '66, expressed the hope that legal professionals will play an active role as Japan works through its challenges.

## Let's return to China. It was a major focus of the trip, given the deeply entwined futures of the U.S. and China. Any final thoughts?

Some students talked with the dean about how their world is so radically different from that of their parents, some of whom have no external sources of information, while their children are seemingly tethered to their electronic devices.

China's great economic accomplishments—hundreds of millions have moved out of poverty—are juxtaposed with staggering environmental problems and many other profound dilemmas. One student who returns to her grandparents' village each year told me that the pollution there—air, land, water—is massive, with horrific health consequences. In this blizzard of change, the most basic questions—about the environment, social justice, anti-corruption, gender equality, the nature of property—are being debated and tested. It's an incredibly important, if uncertain, moment for law and lawyers.

Interview by JULIA COLLINS

## HONG KONG



"Hong Kong was full of energy, whether you talked with people who were optimistic or those concerned about interactions with Beijing or those who held both views."

—WILLIAM ALFORD



## JAPAN



Yukio Yanagida LL.M. '66, a former HLS visiting professor (right); his wife, Keiko; and their son Kazuhiro LL.M. '03, looking at a children's book written by Dean Minow's mother and presented as a gift for Yukio and Keiko's grandchild

*"[In Japan] we also heard concern about the need to re-energize the economy ... and about how best to deal with the still unfolding impact of the nuclear disaster at Fukushima."*

—WILLIAM ALFORD





# THOUGHT FOR FOOD



→ CONTEMPLATING  
NEW REGULATIONS IN  
A GLOBAL ECONOMY

The next time you are in a supermarket, or perusing a restaurant menu, consider the following:

- ✕ Those “sell by” and “best by” dates on the food you buy have no relationship to safety and aren’t even federally regulated, contributing to Americans throwing away 160 billion pounds of food each year—at a time when one in six people doesn’t know where the next meal is coming from.
- ✕ The world’s biggest producer of pork was recently purchased by a Chinese company with a troubling history when it comes to food safety.
- ✕ The obesity and diabetes epidemics are at critical levels, not just in the U.S., but worldwide.
- ✕ There is so much controversy over the safety of genetically modified foods and those with chemical additives that some countries are rejecting American-grown products.
- ✕ Agribusiness and the meat industry are polluting the air and groundwater.
- ✕ Food workers, many toiling in dangerous conditions, often don’t earn enough to feed their own families.

With more and more people deeply concerned about what they're eating and what it means for our health, the economy, the environment, social justice, and even national security, Harvard Law School has created a new focus on food law, a nascent area just a few years ago that now is poised to become influential in every area of our lives.

"Food law provides incredible opportunities in a field where the skills of attorneys are so desperately needed," says Emily Broad Leib '08, co-founder and director of the HLS Food Law and Policy Clinic, which started in 2010 as the first legal clinic of its kind in the country and has now become a national leader.

Recognizing the enormous demand for research and legal guidance in this area, HLS has also launched the Food Law Lab this year under the direction of Professor Jacob E. Gersen, an expert in constitutional and administrative law, who teaches a seminar on the regulation of food. The lab, which is part of the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics, will be a locus for research, scholarship and teaching on the legal regulation of food, he says. It will complement and collaborate with new and related initiatives at HLS, including the Food Law and Policy Clinic, which provides students with client-based projects around the country.

"I have a rough sense that in the next decade, food law

will become as big as environmental law," predicts Gersen, adding, "In terms of sheer volume and variety of legal happenings, the field is quite vibrant right now." There are important new laws including the Food Safety Modernization Act, and last term, the U.S. Supreme Court addressed the controversial issue of genetically modified seeds in a dispute between a farmer and agri-giant Monsanto. State and local governments are grappling with food regulation and related concerns, such as New York City's effort to ban supersize sodas. More and more, there are trade and other international implications for our food system, and concerns about the potential for bioterrorism and agri-terrorism as foreign companies purchase American food producers. And, as the world's population continues to explode and nations compete for food supplies, national security will be increasingly implicated.

"Food is at the intersection of all these issues everyone is thinking about," says Broad Leib. The clinic's expertise is so urgently needed—students are working on more than 18 projects for clients around the country—that phone calls pour in daily from legislators, teachers, health care workers, farmers, and others from such places as China, Ireland, and Bolivia.

The clinic's work gained widespread media attention with September's release of a report, "The Dating Game: How Confusing Food Date Labels Lead to Food Waste in America," co-written with the Natural Resources Defense Council. Featured on the "Today" show and in The Wall Street Journal, the Los Angeles Times, The Washington Post, Forbes, and other major news outlets, the report reveals what it calls "a superbly kept secret" that contributes to billions of pounds of edible food being wasted each year: namely, that the dates on food labels have no relationship to whether the food is safe to eat. "We are thrilled" with the response, says Broad Leib, who hopes to spark the kind of legislative reform in food labeling that the report recommends.

At HLS, food law is a hot topic. Gersen's food regulation course is popular, as is a winter term course on the Food and Drug Administration, taught every January for the past 20 years by Peter Barton Hutt '59, one of the foremost experts on the FDA. Gersen leads a 1L reading

group on food law that includes Upton Sinclair's classic exposé, "The Jungle," and Broad Leib leads an upper-level interdisciplinary reading group that includes students from the Harvard School of Public Health. She and HLS Clinical Professor Robert Greenwald, director of the HLS Center for Health Law and Policy Innovation, of which the food clinic is part, teach Food: A Health Law and Policy Seminar. Both their class and the related clinic were oversubscribed this



Emily Broad Leib,  
co-founder and  
director of the  
HLS Food Law and  
Policy Clinic

ALIMENTARI & VINERIA

ONE WOMAN'S WEEDS ...

**TAMA MATSUOKA WONG '83** was a securities lawyer in Hong Kong when her toddler began to suffer from such severe allergies that she was hospitalized. When it became clear that the problem was related to processed foods, Wong and her family returned to the U.S., where they could have better control over what they ate. Their new home in New Jersey included a large tract of land, much of it covered with what they thought were weeds. But when Wong's Japanese relatives visited, they told her these invasive species were actually delicacies in Asia.

Wong set out to learn about the value of these ignored foods, and just five years later, she has become a renowned forager who sells many of these "weeds" to top restaurants in Manhattan, where chefs are wild about using them to create new dishes. She has co-written a book, "Foraged Flavor: Finding Fabulous Ingredients in Your Backyard or Farmer's Market," with Eddy Leroux, the chef de cuisine at Daniel in Manhattan, that was featured in The New York Times and nominated for a James Beard Award.

These weeds hold a key to the food system crisis, Wong says. Instead of the government or private landowners spending millions to try to remove them, they can be harvested and used for delicious and nutritious meals, including for people who don't get enough to eat. Wong now has five employees, and she has partnered with the National Audubon Society and other land trusts to remove invasive species and help get them plated up.

An energetic visionary, Wong is in high demand. She spoke last spring at TEDx Manhattan. She gives talks at schools, and trains waiters so they can inform patrons about the unusual cuisine. "I tell them, 'This isn't just a cool thing—this is your future,'" says Wong. Most surprisingly, perhaps, major multinational food corporations have contacted her for guidance. "They know people aren't going to be buying more prepackaged cake mixes." It is, she adds, "a very exciting time." —E.M.

*FROM A SECURITIES  
LAWYER, A MODEL  
FOR GREATER  
FOOD SECURITY*

Tama Matsuoka Wong with an armload of hickory bark. It was among the day's deliveries to Chef Justin Smillie at New York's Il Buco Alimentari e Vineria restaurant.

→ To find a recipe for hickory bark ice cream, go to Serious Eats: [bit.ly/Hickory-barkicecream](http://bit.ly/Hickory-barkicecream)



Robert Greenwald, director of the  
HLS Center for Health Law and  
Policy Innovation

with Eric Schlosser's "Fast Food Nation: The Dark Side of the All-American Meal," which revealed deeply troubling aspects of the American fast-food industry, including low wages for service workers, chemical additives in food and marketing to children. The modern food movement accelerated with Michael Pollan's books, including "The Omnivore's Dilemma," published in 2006, which blamed modern agribusiness for health problems related to poor diet in the U.S. Today, the evidence of public concern is overwhelming: countless food-related blogs, a dedicated writer on food and marketing at The New York Times, ini-

fall semester. So many law students and lawyers, from both HLS and elsewhere, hope to work in this field that the clinic and a related student group, the Harvard Food Law Society, publish an annual guide to careers in food law and policy, a list growing longer each year.

"We ask students why they're interested in this area, and so many say that when they look at what their grandparents ate and what we're eating now, they're flabbergasted at the direction we've come in," says Broad Leib, who first became involved in this field while working in the Mississippi Delta as the inaugural joint HLS/Mississippi State University Delta Fellow in 2008. "A lot of our students come from states like North Carolina and Louisiana, where they are concerned with both obesity and food insecurity," and the lack of access to healthy food, especially among low-income people. Students also are concerned about the ethics of the food industry, including its environmental impact and the treatment of animals and workers. International students mention food safety scandals in their countries and concerns about the globalization of fast food, which is exporting the obesity and diabetes crises in the U.S. to other countries.

The global population explosion and the growing demand in places like China and India for resource-intensive animal protein are a "double whammy" for the existing food system, says José Alvarez, former CEO of Stop & Shop, who teaches in the agribusiness program at Harvard Business School and is collaborating with Broad Leib. Facing the potential for a massive food shortage in the future, China is purchasing land in Latin America and Africa to feed its people, he adds, noting, "There's starting to become a fight for land that'll probably be a stronger fight over time."

The broad range of concerns about food has spurred the locavore, organic and sustainable-food movements, which are gaining momentum. While interest in organics began in the 1970s, a reinvigorated call to arms was issued in 2001

initiatives by first lady Michelle Obama '88 to fight childhood obesity (see interview, Page 28), former Mayor Michael Bloomberg's panoply of efforts to encourage healthier living among New Yorkers—and across the country, more grocery stores, restaurants, even convenience stores touting healthier foods in response to consumer demand.

I think we're looking at a time when people are becoming more aware that a lot of our problems today go back to our food system, which has pretty major flaws," says Ona Balkus J.D./M.P.H. '13, a former clinical student and now a fellow at the food clinic through a grant from the HLS Public Service Venture Fund. She is working with food policy councils in Mississippi and Rhode Island to develop legislative agendas to improve the food systems in those states. "With a lot of our serious environmental problems, if you ask what's causing pollution, you realize, 'Oh, it's our food system,'" she says. "Or when you ask why there's so much child obesity or adult disease, or a food-borne illness outbreak, 'Oh, there's a problem with our food system.'"

While working on economic development in the Delta, one of the poorest regions in the country, Broad Leib witnessed the direct connection between the economy and issues of food accessibility, obesity, and health. Under her direction, HLS students worked pro bono to draft six new bills, passed into law in Mississippi, to make healthy food more accessible, especially for low-income people.

In 2010, she returned to Cambridge to launch the clinic within the Center for Health Law and Policy Innovation, a longtime national leader in advocating for access to health care for low-income people with communicable diseases such as HIV/AIDS. Moving into food law was a natural evolution for the center, says Greenwald, the center's founder. Today, many public health advocates are focused

on diseases such as diabetes that are connected to diet, and the HLS center is attracting millions of dollars in grants. “I really think that ultimately we’re building the infrastructure for a long-term and sustainable movement to truly transform both what we produce and what we eat,” adds Greenwald. “Our food production system is not sustainable in terms of the environment and public health, in that we have malnutrition in the face of obesity. We want to be at the forefront and help guide this transformation.” Broad Leib, who travels the country speaking on food-related panels, is overseeing an anti-obesity project in Massachusetts schools; advising the city of Boston on ordinances related to both food trucks and urban agriculture; advising the city of Memphis, Tenn., on reforming its food safety laws; and assisting the Navajo Nation and the Appalachian region, whose low-income populations have high rates of diet-related diseases. HLS students in the food clinic currently are working on a wide variety of projects, including helping state food councils develop legislative agendas, helping farmers’ markets overcome regulatory barriers so they can sell more of their products, farm-to-school initiatives and more. And the clinic is leveraging Harvard’s expertise by partnering on projects with the medical school, business school and school of public health.

“Because there are a lot of issues at play—legal, environmental, psychological, sociological, public health, epidemiological, economic, biostatistical, agricultural—there are a host of people interested,” says Emilie Aguirre ’13. Now in the U.K. on Fulbright and Knox fellowships, Aguirre is focusing on the impacts of the EU Common Agricultural Policy on obesity and nutrition outcomes in the region, work that grew out of projects she did as a clinical student. “The field is becoming increasingly multidisciplinary,” she says, “which is going to be key to formulating solutions.”

**B**ut policymakers are lagging behind the problem, says José Alvarez. He blames vested interests and a dysfunctional Congress, but also points to the fact that, while people are focused on the food system, it’s not a top priority. “I think because there hasn’t really been any kind of food crisis in a very long time, people say, ‘It all works. Why do we want to get riled up?’” he adds.

Still, there has been significant progress in a relatively short time, including getting public schools and after-school programs to provide healthier foods to kids, says Dr. Charles Deutsch, deputy director of the Harvard Catalyst Community Health Innovation and Research Program, which launched a childhood obesity initiative last year and is working with the HLS food clinic on projects. And some corporations, notably PepsiCo, are putting a real focus on offering healthier options, if only because consumers are demanding it, he adds.

At the same time, some visionaries are taking matters into their own hands. Doug Rauch, the former president of Trader Joe’s who first alerted Broad Leib to the food-labeling problem and has been a client of the clinic, is trying a grand experiment called the Daily Table to help primarily low-income, inner-city people get healthier food by opening a hybrid grocery store/restaurant in Boston that will sell food that is past its stated expiration date but is still safe and edible. In the Netherlands, a group is working on growing beef from the stem cells of cows, which would take animals out of the “meat-production process” and end a tremendous amount of related pollution, Alvarez notes. And there are entrepreneurs working on new kinds of irrigation, greenhouses and farm-management systems to address the problems of our current food system.

For Gersen, all of this activity confirms the purpose of the Food Law Lab. “It’s where experimental work will be done, a center of gravity for a research agenda where we are trying to produce knowledge and push the bounds of knowledge,” he says. “The early gestation phase of a new idea is my favorite part, and the law school support has been terrific. I’m tremendously excited.” He adds, “Of all the things I work on—and there are lots of things I work on and like—this is honestly the only one people want to talk about.”

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ELAINE MCARDLE is a regular *Bulletin* contributor. Her feature on medical tourism appeared in the Summer 2013 issue.

Jacob E. Gersen, director of the newly founded Food Law Lab at HLS



# VICTORY GARDENER

→ MICHELLE OBAMA '88 ON  
CULTIVATING A HEALTHIER  
FUTURE FOR CHILDREN

**F**or the past five years, Michelle Obama '88 has used her position as first lady for a cause she is passionate about: ending the epidemic of childhood obesity in the U.S. Through her *Let's Move!* initiative, she encourages physical activity and healthier food choices among youngsters. A member of the Harvard Legal Aid Bureau at HLS, she went on to practice with Sidley Austin in Chicago before working for the University of Chicago Medical Center. She says an “eye-opening” conversation with her daughters’ pediatrician led to a change in her family’s eating habits when the girls were young, and she wants to share the lessons she learned. She points to data from the Centers for Disease Control and Prevention on a decline in childhood obesity rates as a sign that *Let's Move!* is making progress. Harvard Law Bulletin reporter Elaine McArdle asked the first lady about the initiative.

**Did your training at Harvard Law School influence your interest in or approach to this issue?**

Both my classes and my time at the Harvard Legal Aid Bureau helped me understand how law and policy—properly understood and applied—can improve people’s lives, and I think my work with *Let's Move!* is a good example of this. But my time at the Legal Aid Bureau also taught me—and my work with *Let's Move!* has reaffirmed this lesson—that government is only one player. To effect meaningful change on any issue, we need everyone involved. That’s why we’ve worked so hard to reach out to people from every sector of society—faith leaders, medical professionals, business executives, educators, parents and more—in our efforts to help our kids grow up healthy.

**Why is there so much interest today, at this point in history, in issues around food and our food systems?**

The way we live and eat has changed drastically over the last 30 years. We eat fewer home-cooked meals and our portion sizes have gotten larger and larger. As a result, we’ve seen an increase in obesity and its associated health risks, such as diabetes and heart disease. Poor diet is now the number one cause of preventable death and disease in this country.

As diet-related health problems have become more common, more and more people have started paying attention to what they’re eating, and they’re asking for healthier products in stores and at restaurants. Companies are adjusting their offerings to include healthier options. Restaurants and schools are implementing farm-to-table and farm-to-school programs to incorporate locally grown produce and products within their menu items. This not only helps those local farmers, ranchers, and food processors and manufacturers; it also helps customers and students understand where their food comes from.

**What are the biggest victories your work has achieved so far?**

In launching *Let's Move!*, we took what felt like an insurmountable problem and gave folks a sense of optimism and hope that we could solve it. And now, as we’ve seen from new data from the Centers for Disease Control and Prevention, we’re actually experiencing a decline in childhood obesity rates, so we know we’re on the right track.

Already, big businesses, governors and mayors, museums



SAUL LOEB/AFP/GETTY IMAGES

First lady Michelle Obama in the White House Kitchen Garden with local elementary school students

## AFTER *LET'S MOVE!*, HER NEXT MOVE

Michelle Obama is now expanding her efforts to help young people, through a new initiative that seeks to increase the number of low-income students who pursue college degrees. Only about half of American high school graduates from low-income families head to college, compared with 80 percent from middle- and upper-income families. President Barack Obama '91 has set a goal to move the United States from 12th to first in the world in the percentage of college graduates by 2020.

On Nov. 12, the first lady kicked off the initiative with an address to sophomores at a Washington, D.C., high school. A first-generation college graduate who holds an A.B. from Princeton in addition to her HLS J.D., she draws on her own experience to encourage students to overcome obstacles to pursuing higher education.

"Some of my teachers straight up told me that I was setting my sights too high. They told me I was never going to get into a school like Princeton," she told the high school students. "It's your attitude," she said. "It's your commitment. You decide how high you set your goals. You decide how hard you're going to work for those goals."

and gardens, and even the Department of Defense have gotten involved. For example, Walmart has committed to reducing the cost of fruits, vegetables and whole grains to make them more affordable for their customers. And they are working with manufacturers of their products to eliminate trans fats and reduce sugar by 10 percent and sodium by 25 percent in their products by 2015.

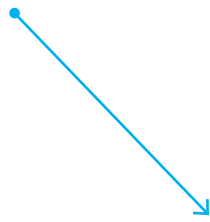
In addition, there are now more than 60 million people across the country who live in a community that is a *Let's Move!* city, town or county, meaning that local officials have committed to promoting healthy eating and physical activity. More than 10,000 child care providers have committed to serving healthy meals and snacks and instilling healthy habits through our *Let's Move! Child Care* initiative. Faith leaders are starting wellness ministries and hosting farmers' markets. The U.S. military is serving healthier food on its bases. And just this year, we launched *Let's Move! Active Schools*, which is an effort to get kids moving before, during and after school in order to reintegrate physical activity into their daily lives. Since its launch in February, more

than 5,600 schools have already signed up.

We also implemented new school lunch standards to bring healthier meals into our school cafeterias—including more fruits, vegetables and whole grains. And starting next school year, school vending machines and a la carte lines will offer healthier snacks. These changes mean that the hard work parents are doing at home to keep their kids healthy will now be reinforced throughout the school day.

Finally, the media industry and food companies are shifting the way they market food to children. Just recently, Sesame Workshop and the Produce Marketing Association came together in a two-year agreement that allows fruit and vegetable growers, suppliers, and retailers to use images of Sesame Street characters to market their products without paying a licensing fee. Soon, parents will see Big Bird, Elmo, Rosita, and other characters their kids love plastered up and down the produce aisle. This is a huge deal, because studies show that simply pasting an Elmo sticker on an apple or a piece of broccoli can dramatically increase kids' interest in eating these healthy foods.

# THE PAPER CHASE



## Post-Paper

BY CORYDON IRELAND

### *LIBERATING THE LAW IN THE DIGITAL AGE*

To many of us, libraries are where the past resides, not where the future is made. But these traditional realms of the book and the shelf are now more 21st than 12th century. For the strongest case study, look at Harvard Law School and its library, where digital experts are busy inventing the future of textbooks, the classroom and information access.

Meet three:

**Professor of Law Jonathan Zittrain '95** co-founded the Berkman Center for Internet & Society, a celebrated research center within the HLS domain. He is also vice dean for library and information services at the school's library and holds appointments at Harvard in computer science and public policy.

**Kim Dulin** practiced law before becoming the HLS Library's associate director for collection development and digitization initiatives. She oversees many of the experimental enterprises underway in the collective innovation engine that includes the Berkman Center, HLS and its library.

**Dustin A. Lewis** is Berkman's project manager for H2O, one of many projects within HLS's growing digital world.

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CORYDON IRELAND'S  
feature "Mr. Sunstein  
Went to Washington"  
appeared in the Summer  
2013 Bulletin. He is  
also a staff writer at the  
Harvard Gazette.

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HARVARD  
LAW  
BULLETIN  
Winter 2014

**StackLife** is an Internet platform that allows users to digitally browse a library's collection. Call up a title on the website and you get a vertically stacked version of the actual library shelf. You can gauge a book's popularity by its color: The darker the shade, the more often it has been checked out or put on reserve. The thicker it is, the more pages it has. Users can also click on a title for a menu of subject categories, allowing them to make the sort of serendipitous connections a physical library visit might inspire.

StackLife has been fully deployed at Harvard, which has 73 libraries, 17 million volumes and 40 percent of its holdings tucked away in the Harvard Depository. Although it's impossible to wander through all the stacks at Harvard, said Dulin, StackLife makes it possible to browse "almost all the content that Harvard owns."

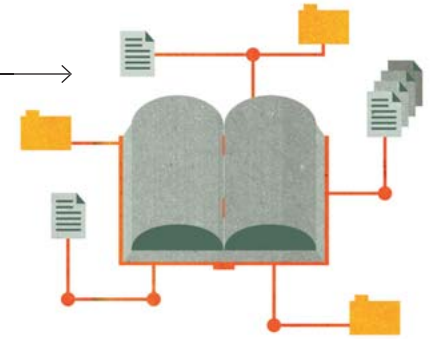
The technology is also being tested beyond Harvard's collection. Use it to browse parts of the Digital Public Library of America, the national digital resource which, like some of Dulin's and Lewis' projects, got its start at Harvard's Berkman Center.

→ TO EXPLORE STACKLIFE GO TO [bit.ly/Stacklife](http://bit.ly/Stacklife)



## The digital case law repository

This fall, HLS Library digital teams have been digitizing nearly 1 million pages of case law over three months. With the support of the Arcadia Fund, the project uses an “enterprise”-level scanner—the kind banks and the U.S. Postal Service use—at a scan rate of hundreds of pages a minute. Drawing on the HLS collection of volumes of reported case law, the largest in the country, it will soon make texts dating from the infancy of the United States through 1915 digitally available. It’s a pilot project, said Lewis, but the future aspiration is to “make publicly and freely available” all reported state and federal case law. Once digitized, the volumes of the texts that represent “the original version of the law itself,” said Lewis, are likely going to be vacuum-sealed and placed in perpetual archival custody. “Our digital copies,” said Dulin, “will, we hope, function as surrogate official copies.”



**H2O** is an online platform intended to replace heavy and expensive legal casebooks with digital versions that are free, weigh nothing and can be read on any Web-enabled device. “There’s a huge cost savings,” said Lewis, as well as a chance for professors to tailor content and for students to annotate the texts in a way that can be either private or shared. This semester has seen a large increase in the use of H2O at HLS, after a trial beginning last semester. Of the students surveyed in two of those trial classes, 79 percent said they preferred the digital H2O casebook to a traditional print casebook.

Thirteen HLS professors are slated to use H2O, along with a dozen others at 10 law schools nationwide. Professors can add, annotate or hide text, creating what Zittrain calls a “playlist” of customized material under a Creative Commons license. “The hope,” said Lewis, “is that it really diversifies the textbook environment.” H2O already improves access for students with print disabilities and establishes a textbook architecture readily adapted to other disciplines. “So far we focus on the law,” said Lewis. “We are keen to reach into other domains as well.” H2O also allows the inclusion of audio, image, PDF, video files and links. Digital casebooks can use multimedia resources like the Oyez Project, the archive of Supreme Court deliberations.

## Perma.cc

takes on a big job: preventing “link rot,” a term for what happens to URLs that no longer work. “This is a problem everywhere,” said Dulin, “but in the law we have it in spades.” One survey, directed by Zittrain, revealed that in one 12-year span, the rate of link rot was 70 percent. URLs for Supreme Court cases often rot within a year. “This is a legal problem,” said Lewis. “It is also a civic problem.”

The Perma.cc solution: Take a screen shot of a Web page at the time it was cited, and then assign it a permanent URL maintained by HLS and a network of digital repositories. “We’re copying content and we’re caching it,” said Dulin. University of Oxford’s Bodleian Library has already signed on, along with the University of Melbourne. There are similar Internet archives out there, she added, but Perma.cc—which had a Sept. 6 soft launch—is focused on the law. “The Bluebook,” which systematizes legal citation, may include a Perma.cc rule in its 2014 edition. (Its editors, said Dulin, have agreed “in principle” to do so.)

“These projects share the ideal that scholarly work and its sources should be readily and permanently available,” said Zittrain. “Networked universities and libraries can unite to make that happen.” That way, he added, they “become a vital part of the Internet ecosystem in whose founding they played such a central role.”

Digital innovations in the law today will shape change in a wider world tomorrow, said Dulin. The new information age will benefit from textbooks with flexible content, virtual browsers, protocols for digitizing core documents and strategy for conserving fragile URLs. “Some still think bricks and mortar are the library,” she said. “That’s an impoverished view. Harvard is making the future here.”



BY LEWIS I. RICE

# LEADING WOMEN



This fall, more than 600 alumnae from around the country and the world came back to Harvard Law School for “Celebration 60: Leaders for Change—Women Transforming our Communities and the World.”

Among the participants were a writer who has explored the untapped power of introverts to transform leadership; the managing partner of a Taiwanese law firm; the U.S. representative for the 7th District of Alabama; and a former head of the Securities and Exchange Commission.

We caught up with these four alumnae and share their reflections on women in the law and the culture, and their own experiences effecting change and progress.

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LEWIS I. RICE is a frequent contributor to the *Bulletin*. His profile of Chief Judge Robert Bell '69, “From Sit-in to Sitting Judge,” appeared in the Summer 2013 issue.

A former chair of the Securities and Exchange Commission, where she first worked in 1977, **ELISSE WALTER '74** was in public service for much of her career. She retired in August.

**When she attended HLS:** "I don't think people were particularly open to women. It was not overt. It was really more under wraps by that point. But I didn't know a single woman in my class who liked it when she was here. And now it has a completely different feel to it."

**"One thing that's sort of heady about being a commissioner, being the head of an agency:** You actually get to say, 'I think ...'"

"I know this sounds trite or hokey, but there's the sense of getting up in the morning and putting on your white hat and going off to do good."

**When she started at the SEC:** "I had

very supportive people who helped me along the way, most of them male, and never really had an issue with equal pay, lack of promotion opportunity. But I think I was one of the very lucky ones."

"There was a senior woman at the commission who told me she always made it a point when she took her child to the doctor to get up out of a meeting and say, 'I have to go. I have a conflict.' So I took on as my role to take that one step further. I got up and said, 'I'm sorry. I have to take my child to the doctor.'"

**On her leadership style:** "I'm a great believer in collaboration and group decision-making. I think it's very important to consult, to give everyone a chance to air their ideas, and I think you come up with better answers."

"It's always easier to be the second than the first."

"There was a survey done, which I

find unbelievable, that most women prefer to work with men. I've worked for women and for men. I think I work with both equally well. But I love working with women."

"I am a great believer in diversity in the boardroom. I'm not a great believer in setting quotas that must be met."

**She is married to Ronald Stern '74, whom she met at HLS:** "I remember when we decided to get married, and I said I didn't think I was going to change my name. He looked at me and he said, 'Why would you?'"

**"Later in my career, there were many women who said to me:** 'You're my role model. You had your children while you worked full time, and we watched to see what you'd do.' And all of a sudden that made me self-conscious because all this time I was just trying to get by and handle the stress."

"I find life to be rather remarkable."

ELISSE WALTER '74



Elected in 2010, **TERRI SEWELL '92** is the first black woman to serve in Congress from the state of Alabama, where she grew up, in Selma. Prior to her election, she was a partner in the Birmingham law office of Maynard Cooper & Gale.

**“People often ask me:** ‘Which was the bigger obstacle, being black or being a woman?’ And I hands-down tell people it’s being a woman. Politics is often called a contact sport, and people don’t see women as being tough enough to be in that contact sport.”

**Kirsten Gillibrand, now a U.S. senator, with whom she worked as a young lawyer at Davis Polk & Wardwell in New York City, asked her to run for office:** “While the 18-year-old Terri Sewell always thought she would run for Congress one day, the 40-year-old Terri Sewell had a whole different goal in life. [But] when presented with the opportunity and the encouragement

to run, I said, ‘Why not?’”  
 “I think it’s important that we encourage other women because I wouldn’t be where I am today without women who encouraged me.”

**What she heard on the campaign trail:** “You’re too pretty to be running for Congress. You need to be finding a husband.”

**She wrote her thesis at Princeton on black women in politics:** “It is eerie to read writing that I wrote as a senior in college. It was like the young Terri Sewell talking to the older Terri Sewell.”

**For her thesis, she interviewed Shirley Chisholm, the first black woman elected to Congress:**

“It was just so inspirational. And I want to tell you that even today, when I am frustrated, which is often, when I am disillusioned, which is often, I always pass that portrait of her in the halls of the Capitol, and I have to put a pep in my step. Because this

woman fought the battles—she fought the real battles. She paved the way for the journey so many of us followed.”

**On working at a Wall Street firm:** “You learn how to smoke cigars; you learn how to play golf; you learn how to get along.”  
 “My life experi-

ences have led me to places that were not natural fits for me. What you have to do is find a way to adapt to those places and to take away from those places the experience, the expertise, the skills you need to acquire to go on to the next level.”

**She and Martha Roby, a conservative Republican, were the first women elected in a regular election from Alabama:** “I think what’s missing in this day and age is the relationship. I see Martha as Martha, not as Martha this Republican con-

gresswoman, as my enemy.”  
 “You can’t tell me that having women in positions of power and positions of oversight, asking questions that affect their lives and the lives of their families, hasn’t made a difference.”  
 “All of our voices need to be heard.”

“I think it’s important that we encourage other women,” says Sewell.  
 “I wouldn’t be where I am today without women who encouraged me.”



TERRI SEWELL '92

The managing partner of Tsar & Tsai Law Firm in her native Taiwan, **JENNIFER LIN LL.M. '82** practices in the areas of intellectual property, dispute resolution and commercial transactions.

**Practicing in the international sphere:** “You need to be sensitive and you need to be understanding and appreciate the differences of people’s expectations.”

“I think when you are dealing with American clients, they expect you to be more aggressive. If you deal with Japanese clients, they want you to be very patient.”

“The education in Taiwan was quite equal, so women could do very well in school. There was no difference between men and women. But after you graduate, society may have some difficulty for women.”

**When she started practicing:** “If you sat on a board, you might be the only woman there. I experienced that a lot. And now, I’m sitting on two boards, and I’m still the only woman.”

“When I joined the firm, all the partners were men. Of course, men deal with things differently, and there were some limitations on women lawyers. But today, everything has changed. Now half of the partners are women.”

“In the old days, the partners would think that if there was any business traveling, a woman was not a suitable candi-

date to do that. And also it was dangerous or inconvenient for a woman to travel with a man for any business matters.”

**Now that she is managing partner:** “I stick to my principles. I wanted to make the firm truly gender-equal and provide a very friendly work environment for women.”

“In the States, it’s very difficult for a woman to become an equity partner or managing partner. That’s what I learned from peer groups. In Taiwan? It’s less difficult.”

“I still have a very good relationship with my [adult] daughters. We have quality time together and they never feel I’m unavailable.”

**On women in leadership:** “Sometimes women would think that maybe if they’re too successful, it’s very difficult to find the right man. It’s not a real glass ceiling, but it’s a kind of ceiling built up for yourself, because in the society, people still think that a woman should always be married to someone who makes more money or someone who has a higher education. That’s the kind of thing to make men feel good.”

**On her husband, also a lawyer:** “He has seen enough capable women and is comfortable with that. So lucky me.”

“I’m trying to help other people. That’s the fun thing about being a leader.”

*As managing partner, Lin made it her goal to achieve a gender-equal firm*





SUSAN CAIN '93

*The most common thing I hear [from introverts] is: “I thought I was the only one who felt this way.”*

After working in a law firm and as a negotiations consultant, **SUSAN CAIN '93** wrote the best-seller “Quiet: The Power of Introverts in a World That Can’t Stop Talking.” She is launching a Quiet Revolution organization, including a new “Quiet” TV show. One of her first guests: self-described introvert HLS Dean Martha Minow.

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**“The most common thing I hear [from introverts] is: ‘I thought I was the only one who felt this way.’ That drives me crazy when I think about it, that one-third to one-half feels this**

way, and they all feel like they’re the lone freakish person.”

“I believe introverts more or less are today where women were at the time Betty Friedan published ‘The Feminine Mystique.’ That book kicked off consciousness-raising. And I think the same thing is happening with introverts.”

“It’s possible to adore extroverts but dislike a system where there’s a bias against introverts.”

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**“When I was writing ‘Quiet,’ I was very aware that I was making a countercultural and counterintuitive**

argument. And the legal training gave me the sustenance I needed to do years of research to back up my argument.”

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**“When I was at my law firm,** I found that all differences in style were attributed to gender, when in fact they often had nothing to do with gender. I would see women who had no qualms, the way I did, about speaking up and taking charge. And I would see men who were much more the way I was. I started to realize that these really were questions of personality style and not of gender, and we needed another lens

through which to look at things.”

“Women in the professional sphere are constantly having to juggle social expectations of being not too timid on the one hand and not too aggressive on the other hand. And there’s a very narrow channel that is permissible for women to surf.”

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**“I’m out on the lecture circuit now,** lecturing around the world. And you go to these conferences and start to meet the other speakers on the circuit, and they’re almost always men. You talk to the conference organizers and they say: ‘We want more

women and can’t find them. When we ask women to speak, they hem and haw and usually decline. They say they’re too busy or not enough of an authority on this topic.”

“I think it’s worth pushing yourself through your comfort zone only in the service of something you really, truly care about.”

“If you were a manager or CEO and you started to understand that half of your workforce is not as happy and energized as they could be and there are sometimes very slight changes you could make to alter that scenario, wouldn’t you want to do it?”

## A Lawyer for Nothing Less than Freedom

50 YEARS OF SEEKING CIVIL LIBERTIES



THOMAS F. FERGLUSON

→  
*Norman  
Dorsen '53  
in his  
NYU office*

In November, **NORMAN DORSEN '53** delivered the Harvard Law School Association of New Jersey's 57th Vanderbilt Lecture. The topic was "Seeking Civil Liberties," and that's something Dorsen has done throughout his career. President of the American Civil Liberties Union from 1976 to 1991, he has been active in many of the most prominent civil rights cases of the last 50 years, often going against popular opinion to fight for fundamental freedoms. Recently, recognition for his work seems to be seeking him—some of it from places as far-flung as Argentina: In November 2012, the University of Buenos Aires School of Law granted him an honorary doctorate. Closer

to home, the ACLU established a prize in his name to be awarded to academics who advance the agenda on civil liberties. A longtime director of the Arthur Garfield Hays Civil Liberties Program at New York University School of Law and a faculty member at NYU, Dorsen was honored by the school this year with the dedication of a seminar room in his name in which photographs, plaques, and other memorabilia are displayed to commemorate his career, including his activism and his scholarship. In June, there was a new publication to add: "The Embattled Constitution," co-edited with Catharine DeJulio and published by NYU Press.



Has practiced in the copyright, trademark and unfair competition law fields for more than 40 years

# A FRIENDSHIP ENDURES

After meeting at HLS, two alumni find common bonds across continents and time

**ARNOLD MYTELKA '61** can no longer remember just how he met **AMANUEL ANDEMICAEL LL.M. '60**. But, as Mytelka recalls now, something always stood out about the man who would become his lifelong friend.

Andemicael first came to Harvard Law School at the age of 27 as a visiting student from Eritrea. He had received only rudimentary legal training at home while the area underwent political upheaval. And though he lacked a formal bachelor's degree, he was invited by HLS to stay on and earn an LL.M.

Mytelka remembers Andemicael as a hard worker, but calm and

eloquent in the midst of the law school grind. He always spoke precisely and directly, revealing a tremendous knowledge of international affairs and providing an insight and perspective new to Mytelka, who grew up in New Jersey and hadn't yet traveled far.

After Andemicael completed his LL.M. in 1960, he and Mytelka did not see each other again for 14 years. By that time, Andemicael had returned to Eritrea, then a province of Ethiopia. After working as a senior prosecuting attorney in Asmara, he went on to serve in top positions in the Ethiopian government, including minister of justice, and was involved in constitution drafting as the country underwent rapid political shifts.

In 1974, Mytelka and his wife took a trip to Asia and Africa, stopping in Ethiopia to visit An-

demicael, then governor of Eritrea. Although they stayed in peaceful Asmara, they could see that Ethiopia was unstable. Andemicael's eldest son, Jonathan, took Mytelka on a tour and pointed to hills in the distance. "That's where the guerrillas are," he said. "They are firing from there."

The same year, Ethiopia's emperor, Haile Selassie, was overthrown. Andemicael survived the transition to a new military government and served in it,

which Mytelka attributes to his rare incorruptibility and nonpolitical nature. But with war ongoing, Andemicael wanted to return to the

United States.

In 1977, Mytelka reached out to his former professor Albert Sacks '48, then HLS dean. Sacks invited Andemicael to come to the school as a visiting scholar for one year. But the Ethiopian government—increasingly turning toward the

Soviet Union—denied Andemicael's request. He continued to serve the country, ultimately taking on oversight of its legal and international affairs.

Though he couldn't leave, Andemicael sent his son Jonathan to live with Mytelka and his family in New Jersey, where he remained for seven years. Mytelka built an additional room in his house for Jonathan, who was like an older brother to Mytelka's two sons. Jonathan's three siblings followed. Finally, in 1988, Andemicael and his wife made it to the United States, taking advantage of a trip to seek medical attention, as the human rights situation in Ethiopia continued to deteriorate.

Eritrea eventually became an independent country, and Andemicael wanted to return for a visit. But Mytelka counseled him against it. "I gave legal and business advice for many years," says Mytelka, a partner and longtime business litigator at Kraemer Burns in New Jersey. But this was different. "I worried about what would happen."

Mytelka does not remember the first time he saw Andemicael, but



Some 20 years after their fathers met at HLS, Jonathan Andemicael (far right) with (from left) Daniel and Andrew Mytelka

he does remember the last time.

Andemicael died in 2012 in Asmara, where he spent the last year of his life. But shortly before his return to Eritrea, he was lying in a hospital bed in New Jersey. Even there, Mytelka recalls, Andemicael was his usual self, and the conversation unfolded as it always had.

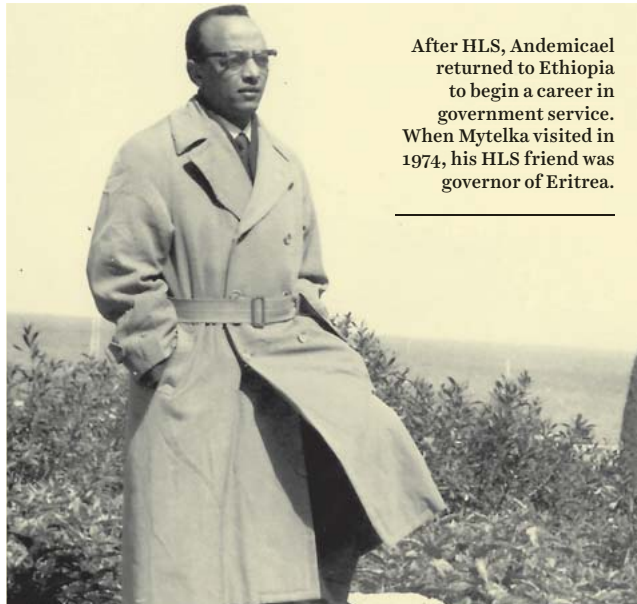
"Unlike other occasions when I've had to visit people in the hospital, the conversation was not about how the doctors were doing or what the prognosis or treatment was," Mytelka recalls. "We spent maybe two minutes on how he felt and the rest was a discussion of international affairs."

By then, after more than 50 years of friendship, Mytelka had seen the world himself and traveled to many of the countries he'd first heard Andemicael discuss. He listened closely to tales from a man who had "accomplished a tremendous amount in this world," still in awe of the erudite, analytical thinker who had permanently expanded his horizons, enlarged his family and enriched his life.

—LANA BIRBRAIR '15



FROM THE HLS YEARBOOK: Amanuel Andemicael LL.M. '60; Arnold Mytelka '61



After HLS, Andemicael returned to Ethiopia to begin a career in government service. When Mytelka visited in 1974, his HLS friend was governor of Eritrea.



## Goldman Sachs' CEO at HLS

ON HIS COMPANY, CONGRESS AND THE FINANCIAL CRISIS

→  
*Lloyd  
Blankfein  
'78*



MARTHA STEWART

Offering humorous quips and reflecting on his always challenging role as chair and CEO of Goldman Sachs, **LLOYD BLANKFEIN '78** discussed his company, regulation and the state of the economy, as part of a question-and-answer session with Dean Martha Minow during Reunions Weekend in October.

Minow noted Blankfein's humble roots (while growing up in Brooklyn, he sold concessions at Yankee Stadium) before his rise to become the head of one of the most prominent global investment banking firms, where he has worked for more than 30 years. Even though he has not practiced law since a few years as a tax attorney shortly after graduating from HLS, his legal education helped him better understand markets and manage large groups of people, he said.

On the economy, he said growth is better than it seems, though concern is still prevalent. "Of all the places in the world," he said, "the U.S. is

probably best positioned right now and actually well positioned."

Minow also asked Blankfein about criticism of Goldman Sachs and the rest of Wall Street in the aftermath of the financial crisis of 2008, including by Congress. He said the criticism helped him develop a thick skin, while acknowledging that "it was the worst kind of attention." In response to the crisis, he said financial institutions needed to hold more capital and be more transparent, though certain regulation was "redundant" and moving "too fast." Drawing laughter, he added, "I'm fatalist [enough] to know that if I were to become CEO, of course it was going to be in the biggest financial crisis in a million years."

Minow pointed out that several of his recent predecessors at Goldman Sachs went on to government positions. Blankfein responded that another predecessor died at his desk. That option, he said, "is also available." —LEWIS I. RICE

## READING THE TEA LEAVES

Alumni launch an English-language e-magazine focusing on Chinese social media

**DAVID SATTERTHWAITE WERTIME '07** and **RACHEL LU '07** were walking on the National Mall in Washington, D.C., in 2011 discussing what to do next in their careers when the conversation turned to their common interest in China.

They talked about new microblogging sites that provided Chinese citizens with outlets to express themselves and how so much of what was posted remained unheard in the rest of the world. Wertime and Lu started thinking about how to monitor these sites and explain trends revealed there about Chinese public opinion to a wider audience.

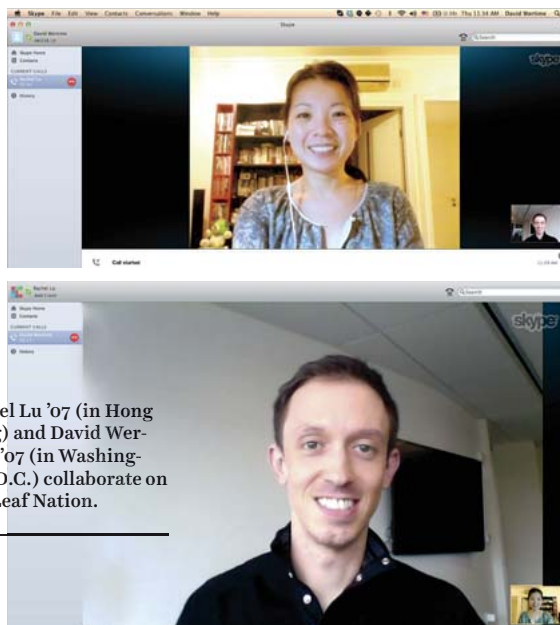
Out of that conversation came Tea Leaf Nation, an English-language online magazine created by Wertime, Lu and her husband, Jimmy Gao '06. It's now a destination for Western journalists, academics and decision-makers seeking insights into what average Chinese people are thinking.

Within a year of Tea Leaf Nation's launch, its articles were already being cited by major news outlets, such as *The New Yorker* and *The Washington Post*, and it formed a partnership with *The Atlantic's* website and ChinaFile, a project of the Asia Society.

To help fund the site's growth, Wertime applied for and was among the first recipients of the Harvard Law School Public Service Venture Fund grants, which were announced in June.

In September, Tea Leaf Nation was acquired by Foreign Policy, which plans to feature its content on [foreignpolicy.com](http://foreignpolicy.com). Wertime was able to forgo the HLS grant.

Alexa Shabecoff, assistant dean for public service at HLS, said she is thrilled for Wertime



Rachel Lu '07 (in Hong Kong) and David Wertime '07 (in Washington, D.C.) collaborate on Tea Leaf Nation.

and Lu. She also sees it as an important mark of success for the HLS Fund. "What we want to do is find great people with innovative ideas and help them launch," Shabecoff said.

While neither Wertime nor Lu had prior experience in journalism, both said focusing on China was a natural career progression.

Wertime served as a Peace Corps volunteer teaching English in China after college and worked as a law firm associate in Hong Kong after graduating from Harvard Law School.

Lu was born in Chengdu, China, and, after moving to New York at the age of 12, continued to check out bagfuls of Chinese-language library books and memorized Chinese poetry in her free time.

During law school, Lu spent both summers working in Hong Kong for American firms and wound up working there after graduation, helping China-based

companies to access U.S. capital markets.

It was Lu who first came across the microblogging site Weibo, a cross between Twitter and Facebook, when a cousin in China suggested she join to see baby pictures posted by relatives. Lu quickly realized the "enormous" social consequences of Chinese citizens, with few outlets for self-expression, having a platform where they could discuss local or national affairs in real time, unfiltered by state-run media.

Wertime, who also speaks and reads Mandarin, saw Weibo's potential as a "giant digital public square."

"People who might not have had other methods of expressing how they felt would say things that were very surprising in their candor," Wertime said. "That doesn't mean it wasn't heavily censored, because it was, and it's even more heavily censored now,

but there was still a lot of rich material to be mined."

Lu and Wertime, who now work on the site full time, monitor thousands of postings every day on Weibo and other Chinese social media outlets, with the help of approximately 100 contributors who have written stories for Tea Leaf Nation.

The stories range from an analysis of reaction to a new free trade zone in Shanghai to what Chinese viewers think about the American television show "Breaking Bad."

Skeptical viewers on the comment threads on Chinese video streaming sites questioned how a teacher with a house, pool, and car winds up making drugs, since home ownership and car ownership are badges of wealth in China.

"What Tea Leaf Nation has done is make the Chinese online universe accessible to non-Chinese readers. It serves as an aggregator for people who are interested in a window into China," said Mark Wu, an assistant professor at Harvard Law School, who began his career as an economist and operations officer for the World Bank in China. Wu reads the e-magazine's articles for insights into Chinese public opinion.

Tea Leaf Nation's offerings are attracting readers in mainland China, Hong Kong, and Singapore, as well as the United States, Canada and Western Europe. (Wertime said they don't reveal traffic numbers but "the growth has been good.")

"This is one of the sites from which you can try to gather a sense of the pulse of the country," Wu said. —SETH STERN '01

## Standing Up for *Gideon*'s Mandate

LANDMARK CASE PUTS NEW YORK'S INDIGENT DEFENSE SYSTEM ON TRIAL



→  
 Corey  
 Stoughton  
 '02, an  
 attorney  
 at the New  
 York Civil  
 Liberties  
 Union

In 2007, **COREY STOUGHTON '02** began a long, serpentine journey through New York courts when she filed a class-action lawsuit on behalf of 20 criminal defendants claiming the state's public defender system had failed them.

If all goes as scheduled, Stoughton, a lawyer with the New York Civil Liberties Union, will be in an Albany courtroom in March, when the case finally goes to trial. The stakes in *Hurrell-Harring, et al. v. State of New York* are high: It's the first time a state's entire indigent defense system is standing trial for providing ineffective assistance.

To Stoughton, the landmark case is about whether New York will "stand up and fulfill the mandate" established by the U.S. Supreme Court in 1963 in *Gideon v. Wainwright*, namely, that the Sixth Amendment requires states to provide counsel to indigent defendants facing serious criminal charges.

"The state has abdicated its responsibility to set up a system to provide lawyers to poor people by passing the buck to county governments without any meaningful support for those governments or oversight to make sure indigent defendants are getting good representation," Stoughton says.

In seeking to dismiss the lawsuit, the state's

lawyers argued that the ineffective assistance of counsel claim should be litigated individually in each case and that the civil suit could interfere with those ongoing proceedings.

After clerking for a year and working in an employment civil rights firm and the ACLU's national office, Stoughton joined the NYCLU in 2004, where she's done everything from First Amendment cases to immigrants' rights cases. But in the seven years since a report by New York's former chief judge critical of the state's indigent defense system prompted Stoughton and her NYCLU colleagues to file suit, she has devoted more than half of her time to the case.

She's been assisted by a team of dozens of lawyers at Schulte Roth & Zabel, who have committed more than 20,000 hours to the case and absorbed more than \$500,000 in expenses, says Daniel Greenberg, the former director of Harvard Law School's clinical programs who now oversees the firm's pro bono program.

But Greenberg, who will be in the courtroom leading the trial team along with Stoughton for what is expected to be a six- to eight-week trial, says that she has spearheaded the effort from the beginning. "She has been the lifeblood of this lawsuit," Greenberg says. —SETH STERN '01

# GETTING IRELAND TO COME CLEAN

An advocate for the Magdalene Laundries victims helps win an apology and reparations

Just 24 years old, **MAEVE O'ROURKE LL.M. '10** went to the United Nations with a bold and unprecedented case against the Irish government. Appearing in Geneva before the Committee Against Torture in 2011, O'Rourke argued that Ireland had allowed the enslavement and forced labor of thousands of women throughout most of the 20th century.

What she wanted, she told the committee, was for the government to acknowledge its complicity, to apologize and to pay reparations to the victims.

"I was writing something that no one else had said before. And it's funny because it seems so black and white now, but at the time I was a little bit scared to even make these arguments,"

O'Rourke said recently in an interview from Dublin.

O'Rourke, who had completed her master's degree at Harvard Law just a year earlier, after graduating from University College Dublin's law school, claimed that the government had known about and supported what have become known as Magdalene Laundries. She describes them as work camps run by four religious orders of nuns from 1922 to 1996. At least 15,000 women and girls passed through the laundries, sent by their families or the courts. Some were prostitutes, some were unwed mothers and others were simply considered flirtatious or a burden on their families.

O'Rourke's timing was good. Two years prior to her arguments in Geneva, the Irish government had released a damning report detailing the horrific abuse suffered by thousands of children in residential schools run by the

church and supervised by the government.

"It was huge news. It really broke ground in Ireland and forced people to face up to the reality of church-related child abuse," she said. At the time, in 2009, O'Rourke had begun a gender analysis of the report as part of her studies with Visiting Professor Catharine MacKinnon at HLS. She noticed something missing amid the 2,600 pages detailing church-related institutional abuse. There was no mention of the Magdalene Laundries.

The omission stuck with her, and she resolved to rectify it. She discovered Justice for Magdalenes, and one of its advisory committee members, Boston College Professor James Smith, told her that they were thinking of going to the Irish Human Rights Commission for an inquiry.

O'Rourke told him she would write her master's paper to be

the legal submission as to why the state was responsible for this abuse and now should investigate and provide reparations.

She doubts she would have pursued the case had she not been at HLS. "The clinical approach to legal education is very empowering, and there was a real sense at Harvard that we weren't just learning about the law for the sake of it. We were there to develop expertise and a mind of your own and a sense of what it was you could and should be doing to change things," she said.

Upon graduation, O'Rourke was awarded a fellowship by the HLS Human Rights Program, which allowed her to work in the London office of Equality Now, an organization that fights legal discrimination against women, and to continue the Magdalene Laundries campaign.

After she went to the U.N., the Irish government set up an inquiry

into state involvement with the laundries. In both religious and state records, the evidence was clear: The government had had contracts with the nuns to launder clothing from state institutions, and courts had sent women to the laundries.

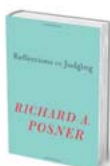
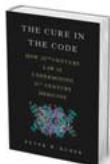
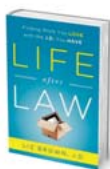
In February 2013, the state apologized to the victims for the hurt and stigma they suffered. In June, it announced a €60 million restorative justice plan.

O'Rourke received the Family Law Pro Bono Lawyer of the Year Award in the United Kingdom and the Ireland Fund of Great Britain's "Forgotten Irish" Award.

She now practices in London, focused on child and family law. She doesn't know if she will have another opportunity "to work on something that has such an impact in terms of shaping the history of Ireland." But she has her eyes open; she's got "the campaigning bug." —KIM ASHTON



Maeve O'Rourke (center) received the "Forgotten Irish" Award, from representatives of the Ireland Fund of Great Britain.



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 “Life After Law: Finding Work You Love with the J.D. You Have,” by **LIZ BROWN '96** (*Bibliomotion*)

Brown uses her own example—after leaving a law partnership upon the birth of her daughter, she is now a professor of business law—and those of many others, from a jewelry designer to a nurse to a rabbi, to show the possibilities for those who are unhappy with the practice of law. Such a change is not easy, but a lawyer’s skills can be reframed and refreshed, she says, adding that she has never met a former lawyer who regrets having left the profession.

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 “The Cure in the Code: How 20th Century Law Is Undermining 21st Century Medicine,” by **PETER W. HUBER '82** (*Basic Books*)

A revolution in molecular science has begun, and it holds the promise of controlling any disease through the manipulation of biochemical code, writes Huber, a senior fellow at the Manhattan Institute for Policy Research. Yet the promise is tempered by the reality of centrally managed and funded medicine that

stifles innovation, he contends. Instead, he calls for “adopting policies that allow biochemists, doctors, and patients enough flexibility to confront and collaborate to master the complexities of biochemical reality.” He argues that market forces, which propelled the computer revolution, can also revolutionize our understanding of the code of life itself.

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 “Talent Wants to Be Free: Why We Should Learn to Love Leaks, Raids, and Free Riding,” by **ORLY LOBEL S.J.D. '06** (*Yale*)

Lobel, a professor of law at the University of San Diego, argues that the common practice of restricting talent stifles innovation, hurting both businesses and their employees. The book examines the practices of industry giants such as Google, Coca-Cola, and JetBlue to show that attempts to control human and intellectual capital backfire. It also includes original research indicating that people’s motivation diminishes when they lose ownership of their skills. The lesson for business, she writes, is that “the way to gain is often by allowing tactical loss.”

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 “A Wild Justice: The Death and Resurrection of Capital Punishment in America,” by **EVAN J. MANDERY '92** (*Norton*)

In 1962, opponents of capital punishment, including a young law clerk named Alan Dershowitz, launched a campaign that would culminate in triumph, with a Supreme Court ruling striking down the death penalty in 1972. Of course, that is not the end of the story. The author, an associate professor at John Jay College of Criminal Justice, tells the whole story, of an unlikely victory against a long-accepted punishment and the reversal that followed on its heels. The book examines the key cases as well as the lawyers and justices who shaped them.

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 “Reflections on Judging,” by **RICHARD A. POSNER '62** (*Harvard*)

A federal court of appeals judge for more than three decades, Posner taps his own experience for a broader look at the philosophy of judging. In particular, he critiques the legal formalism that he says has needlessly complicated the judicial process. Calling himself a

“pragmatic judge,” he supports the realist tradition in judging exemplified by such notables as John Marshall, Oliver Wendell Holmes Jr. LL.B. 1866 and Louis Brandeis LL.B. 1877. Yet today, he says, judges too often “use a complex style of legal analysis ... to resolve cases without having to understand factual complexities.”

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 “The Art of Negotiation: How to Improve Agreement in a Chaotic World,” by **MICHAEL WHEELER LL.M. '74** (*Simon & Schuster*)

The hallmark of any negotiation is uncertainty, and the author lays out techniques to manage that uncertainty to achieve success. Diverging from both the “win-win” model of “Getting to Yes” as well as a hard-nosed “win-at-all-cost” negotiating strategy, the book shows the importance of agility and flexibility through many examples of negotiations taking unpredictable paths. Wheeler, a professor at Harvard Business School, also examines the attributes of successful negotiators and ethical issues that arise during the process. To negotiate well, he says, is to embrace chaos.

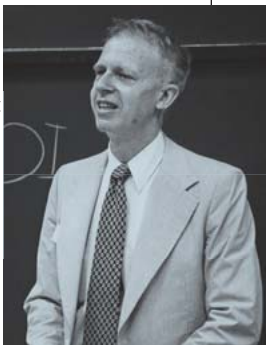
# IN MEMORIAM



JON CHAPIN

## DETLEV F. VAGTS '51: 1929-2013

AN UNWAVERING BELIEVER IN INTERNATIONAL LAW



HLS HISTORICAL & SPECIAL COLLECTIONS (2)

Detlev Vagts '51 began teaching at HLS in 1959; his career at the school spanned more than 50 years.

Detlev Frederick Vagts '51, a renowned international law scholar and an expert on transnational business problems and the laws affecting international commerce, died Aug. 20.

Vagts began his career at Harvard Law School as an assistant professor in 1959, receiving tenure in 1962. He was named the Bemis Professor of International Law in 1984. During his tenure at Harvard, he ran the J.D./M.B.A. joint-degree program from its inception in 1969 until 2005.

Dean Martha Minow said: "We will always remember Det's contributions to the worlds of public international law, international (and transnational) business transactions, corporate law, comparative lawyering, and legal ethics; his leadership of the law and business joint-degree program; and his kindness to colleagues and students over the past 50 years."

Described by a former student as a "formidable generalist," Vagts addressed the full spectrum of issues related to international law. He wrote or edited more than 50 books and was the co-author of two casebooks, "Transnational Legal Problems" and "Transnational Business Problems." When Vagts and HLS Professor Henry Steiner '55 wrote the first edition of "Transnational Legal Problems," published in 1968, the collaboration marked a milestone in the field of international law. The casebook, currently in its fourth edition, is widely regarded as the leading compendium of materials for scholars and students in the field.

From 1976 to 1977, Vagts

was a counselor on international law for the Department of State, where he worked at the Office of the Legal Adviser helping to negotiate treaties during the transition period between former Presidents Ford and Carter. He served as an associate reporter of the Restatement (Third) of the Foreign Relations Law of the United States. Issued in 1987 by the American Law Institute, the restatement has been widely cited by the courts.

Vagts wrote dozens of articles, including "The International Legal Profession: A Need for More Governance?," which addressed problems pertaining to professional behavior in international litigation and advocated for regulating international lawyers, and was published in the *American Journal of International Law* in 1996. For several years, he served as that journal's editor-in-chief, with Theodor Meron LL.M. '55 S.J.D. '57.

In a tribute on the blog *Opinio Juris*, Harold Hongju Koh '80 and two co-authors wrote: "Quietly, and through many channels, Vagts asserted enormous influence over what Oscar Schachter once called 'the invisible college of international lawyers.'" That influence was visible in the *Festschrift* "Making Transnational Law Work in the Global Economy," published in 2010 by Cambridge University Press. It brought together contributions from colleagues at HLS and at the American Society of International Law, as well as from other academics, judges and practitioners, many of them his former students. The collection, edited by Pieter Bekker LL.M.

'91, Rudolf Dolzer LL.M. '76 S.J.D. '78 and Michael Waibel LL.M. '08, covers the spectrum of modern transnational law, from international law in general to transnational economic law to transnational lawyering and dispute resolution.

Vagts was born in 1929 in Washington, D.C., to an American mother, Miriam Beard Vagts, a historian and journalist for *The New York Times*, and a German father, Alfred Vagts, a German military historian. The family fled Nazi Germany in 1933 for the United States. Vagts' maternal grandparents, Mary Ritter Beard and Charles Beard, renowned historians, played an influential role in his life. (In 1979, Vagts co-wrote with his father a historical study of ideas about "balance of power" in international law.) Vagts' daughter Karen said, "Dad was from a dynasty of historians and inherited the gene."

At the age of 16, he entered Harvard College, and he earned an A.B. in history in 1948. After graduating from law school, he practiced at Cahill Gordon & Reindel in New York City and served as judge advocate in the United States Air Force.

Vagts retired from the HLS faculty in 2005. In a tribute published in the *Bulletin*, his former student Pieter Bekker wrote that Vagts' works and teachings show the marks of a fine comparative law tradition: "In the face of strong U.S. unilateralist and even isolationist tendencies, Vagts displays an unwavering belief in the rule of international law, and the notion that no nation can claim to be above it."

## JOY COVEY '89: 1963-2013

THE LEGACY OF AN UNCONVENTIONAL THINKER



JOHN SOARES

*Joy Covey '89, a passionate advocate for the environment*

Joy Covey '89, former CFO of Amazon.com, died in September in a bicycling accident.

A lover of the outdoors and a passionate advocate for the environment, she made it possible for numerous Harvard Law School students and graduates to begin their environmental law careers.

Soon after leaving Amazon in 2000, Covey established the Beagle Foundation focused on environmental philanthropy. She became a trustee at the Natural Resources Defense Council and endowed the Beagle Fellowship providing one recent HLS graduate each year with a two-year placement with the NRDC. She also provided funding for HLS students to pursue summer work in public interest environmental law. Recipients of the Covey Fellowships have worked for a wide range of employers, from Greenpeace to the Center on Race, Poverty & the Environment to the U.S. Department of Energy and the U.S. Department of Justice.

Professor Jody Freeman LL.M. '91 S.J.D. '95, the founding director of the Harvard Law School Environmental Law and Policy Program, described Covey as “full of

energy and ideas” and “very supportive” of HLS. “She was one of those alums that you could really count on, who really understood what we are trying to do. She related to our mission of teaching students to be creative problem solvers,” said Freeman.

Margaret Holden '14 and several other summer fellowship recipients had the opportunity to meet with Covey this spring. “She kept saying how she was really happy to support all of us,” recalled Holden. During the meeting, Covey gave students her personal email address and asked that they contact her in three years with career updates.

Covey's own career path was not straightforward. She dropped out of high school at the age of 15. After getting her high school equivalency degree, she graduated from Cal State Fresno in two and a half years before taking a national accounting test, on which she received the country's second highest score.

She spent a few years working as a certified public accountant with Ernst & Young, and then enrolled at HLS and then at Harvard Business School.

In an interview with the Bulletin in 2002, Covey said that when she first arrived at HLS, she felt completely out of touch with the rest of her class.

“We'd go to lunch and people would talk about their favorite 17th-century poets, and I'd be thinking, ‘Could I even name five poets?’” said Covey. “It wasn't until we got our first-semester grades back that I started to realize that everything was going to be OK.”

Covey joined Amazon in 1996 as the company's first chief financial officer and helped guide a massive expansion and the process of going public. She was named one of Fortune magazine's 50 Most Powerful Business Women in America in 1999, and in 2000 she was selected as one of the World Economic Forum's “Global Leaders of Tomorrow.”

In the interview with the Bulletin, Covey said Harvard taught her “a certain way of thinking” that served her well. During her time at Amazon, she recalled, “we spent a lot of time thinking unconventionally, and thinking through things based on our core principles, which is the kind of thought process I learned in law school.”

Her connection to Harvard over the years ran deep—in addition to supporting law students and alumni through fellowships, she served on the law school's Dean's Advisory Board and had been a member of the Visiting Committees of the law school and Harvard Business School.

“First as a student, and then as a wise adviser, Joy shared with HLS her vibrancy, powerful intellect, and relentless search for tackling tough issues with rigor and creativity,” said Dean Martha Minow. “Her commitments to environmental law and public service challenged and supported the school, enabling truly meaningful opportunities that altered the careers of individuals while advancing the public good. We mourn her loss deeply and will remember her always.”

Covey was 50. She is survived by her 8-year-old son.

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IN MEMORIAM  
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**1930-1939**

ROBERT R. BOWIE '34  
*Nov. 2, 2013*  
SIMON BERNSTEIN '36  
*May 27, 2013*  
CHARLES L. KIRKPATRICK '36  
*May 6, 2013*  
EMMET H. WILSON JR. '36  
*Feb. 27, 2013*

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**1940-1949**

WALTER FELDESMAN '40  
*June 22, 2013*  
SAUL MILLER '40  
*June 1, 2013*  
DANIEL MUNGALL JR. '40  
*March 18, 2013*  
RICHARD F. OBER '40  
*April 13, 2013*  
NORMAN P. SEAGRAVE '40  
*Aug. 24, 2013*  
JOSEPH AUERBACH '41  
*April 28, 2013*  
BRUCE G. LYNN '41  
*March 31, 2013*  
HENRY C. MOSES '41  
*Sept. 13, 2013*  
THOMAS F. MYLES '41  
*June 29, 2013*  
JOHN L. DAMPEER '42  
*Aug. 9, 2013*  
PRINCE A. HAWKINS '42 ('43)  
*April 20, 2013*  
LEONARD ROBBINS '44 ('47)  
*July 8, 2013*  
GEORGE W. FENIMORE JR. '47  
*July 21, 2013*  
WALLACE C. MURCHISON  
LL.M. '47  
*June 2, 2013*  
THOMAS V. RANKIN '47  
*May 22, 2013*  
JOHN H. BERMINGHAM '48  
*April 5, 2006*  
GEORGE M. BURDITT JR. '48  
*March 12, 2013*  
MINER D. CRARY JR. '48  
*May 7, 2013*  
JOHN B. DEVINE '48  
*May 27, 2013*  
THOMAS J. DONOGHUE '48  
*Aug. 21, 2013*  
BENJAMIN GETTLER '48  
*June 4, 2013*  
ARTHUR W. MACHEN JR. '48  
*April 17, 2013*  
EDMON L. RINEHART '48  
*June 11, 2013*  
BRUCE G. SUNDLUN '48 ('49)  
*July 21, 2011*  
ROBERT H. ALLEN '49  
*May 3, 2013*  
WILLIAM C. BRIGGS '49  
*April 20, 2013*  
ROBERT J. CORTS '49  
*Aug. 25, 2013*  
ROBERT L. DRESSLER '49  
*May 1, 2013*  
BERT H. EARLY '49  
*Aug. 4, 2013*  
JOHN V. FELS '49  
*April 14, 2013*

ALLAN JOHNSON '49  
*March 22, 2013*  
HENRY C. LIND '49  
*Nov. 11, 2013*  
WILLIAM H. MACCRELLISH  
JR. '49  
*Aug. 7, 2013*  
WILLIAM BRIGEN MILLER '49  
*March 17, 2013*  
SHERMAN POLAND '49  
*April 5, 2013*  
FREDERICK J. ROBBINS '49  
*Aug. 8, 2013*  
HAROLD A. ROSENBLUM '49  
*Aug. 15, 2013*  
IRWIN RUSSELL '49  
*Aug. 23, 2013*  
DOUGLAS R. SPENCER '49  
*Aug. 1, 2013*  
EDWARD WOLPER '49  
*May 4, 2013*  
JOSEPH L. WYATT JR. '49  
*April 15, 2013*

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**1950-1959**

ROWLAND G.W. BROWN '50  
*Sept. 23, 2013*  
LUTHER L. HILL JR. '50  
*April 23, 2013*  
PHILIP ISAACSON '50  
*June 20, 2013*  
DAVID B. KULTGEN LL.M. '50  
*May 19, 2013*  
JOSEPH P. LYNCH '50  
*Sept. 24, 2012*  
BERTRAM D. MOLL '50  
*May 11, 2013*  
EUGENE LEROY PARKER JR.  
'50  
*April 23, 2013*  
EUGENE P. RUEHLMANN '50  
*June 8, 2013*  
GUY A. SWENSON JR. '50  
*Sept. 8, 2013*  
GEORGE C. CANER JR. '51  
*June 21, 2013*  
JAMES T. CURTIS '51  
*Sept. 25, 2013*  
FRANK H. MORISON LL.M. '51  
*Aug. 5, 2013*  
ALBERT OGAWA '51  
*Feb. 13, 2013*  
JEROME G. ROSE '51  
*April 5, 2013*  
EDWIN W. TUCKER '51  
*May 16, 2013*  
STUART B. WALZER '51  
*May 8, 2013*  
ROBERT K. BISSELL '52  
*May 22, 2013*  
JOHN M. GEAGHAN '52  
*April 17, 2013*  
PHILIP C. JESSUP JR. '52  
*Aug. 28, 2013*  
SEYMOUR LEFKOWITZ '52  
*July 8, 2013*  
ROBERT J. MCGARRY '52  
*Aug. 16, 2013*  
RICHARD B. MILLER '52  
*April 5, 2013*  
ROBERT S. PERSKY '52  
*March 22, 2013*

RICHARD FICK PURCELL '52  
( '53)  
*Aug. 13, 2013*  
EDWARD C. REED JR. '52  
*June 1, 2013*  
ROBERT D. TAICHERT '52 ('56)  
*Sept. 4, 2013*  
ROBERT S. WARSHAW '52  
*April 18, 2013*  
WILLIAM G. ANDERSON '53  
*July 19, 2013*  
STANLEY B. BILLINGS '53  
*July 17, 2013*  
HERMAN L. GLATT '53  
*Sept. 8, 2013*  
WILLIAM D. HATHAWAY '53  
*June 24, 2013*  
FRANCIS A. LAVELLE JR. '53  
*July 26, 2013*  
JOHN J. MCNALLY '53  
*July 23, 2013*  
PASTOR B. SISON LL.M. '53  
*July 12, 2013*  
EMANUEL ZIMMER '53  
*May 10, 2013*  
GEORGE A. HAHN '54  
*May 28, 2013*  
IRWIN "TUBBY" HARRISON '54  
*Dec. 25, 2011*  
EDWARD E. HICKS '54  
*April 2, 2013*  
DANIEL H. MCKINNEY III '54  
*April 7, 2013*  
DONALD H. MINTZ '54  
*May 12, 2013*  
WILLIAM I. SCHAPIRO '54  
*March 1, 2013*  
CHARLES WEISS '54  
*May 23, 2013*  
RICHARD M. KOHN '55  
*March 29, 2013*  
WILLIAM F. ORME '55  
*June 10, 2013*  
ALLAN ZELNICK '55  
*April 22, 2013*  
JACK ABELMAN '56  
*June 6, 2013*  
STANHOPE S. BROWNE '56  
*June 29, 2013*  
ROBERT T. COLE '56  
*May 15, 2013*  
JOHN C. FONTAINE '56  
*Sept. 23, 2013*  
STUART O. GOLDSMITH '56  
*Sept. 2, 2013*  
LAWRENCE D. HOLLMAN '56  
*June 27, 2013*  
HARVEY B. SINDLE '56  
*Dec. 18, 2012*  
HENRY U. SNAVELY '56  
*July 18, 2013*  
DAVID O. ADAMS '57  
*Sept. 16, 2013*  
GEORGE BALTAXE '57  
*July 3, 2013*  
RONALD A. PETTI '57  
*May 8, 2013*  
A. JOSHUA SHERMAN '57  
*April 6, 2013*  
PETER H. WEIL '57  
*Aug. 17, 2013*  
CHARLES BECHHOEFER '58  
*July 30, 2013*

BURTON BERKLEY '58  
*April 3, 2013*  
ERWIN L. CHEROVSKY '58  
*Aug. 27, 2013*  
M. DAVID DISTLER '58  
*Dec. 27, 2012*  
ROBERT E. FLECK '58  
*March 18, 2013*  
ARNE H. RIKHEIM LL.M. '58  
*Nov. 11, 2012*  
A. CHESTER SAFIAN '58  
*April 10, 2013*  
DAVID SILVER '58  
*April 30, 2013*  
FRED P. BOSSELMAN '59  
*Aug. 4, 2013*  
RICHARD BRAVERMAN '59  
*June 29, 2013*  
NICHOLAS J. COOLIDGE '59  
*May 24, 2013*  
CALVIN DAVIDSON '59  
*April 25, 2013*  
HARRY E. GROVES LL.M. '59  
*Aug. 24, 2013*  
PETER A. HUPPERT '59  
*June 22, 2013*  
TIMOTHY R. MALONE '59  
*July 16, 2013*  
WILLIAM J. NICOSON '59  
*July 7, 2013*  
JOHN C. YOUNGMAN JR. '59  
*Aug. 29, 2013*

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**1960-1969**

DAVID B. SHILLMAN '60  
*July 27, 2013*  
ARTHUR G. SILER '60  
*April 28, 2013*  
GEORGE W. TEETS '60  
*May 14, 2013*  
OSAMA EL-BAZ LL.M. '61  
*Sept. 14, 2013*  
MARTIN BENDER '61  
*Nov. 30, 2012*  
ROLAND S. HOMET JR. '61  
*July 8, 2013*  
NORRIS HOYT '61  
*Aug. 4, 2013*  
ROBERT L. DUNN '62  
*April 13, 2013*  
HAROLD E. FITZGIBBONS  
JR. '62  
*Sept. 21, 2013*  
SAMUEL E. HENES '62  
*April 23, 2013*  
JAMES H. "BERT" MCCONOMY  
'62  
*Aug. 27, 2013*  
DANIEL C. SCHAFFER '62  
*May 8, 2013*  
CLIFFORD J. CALHOUN '63  
*June 25, 2013*  
LARRY R. ELKINS '63  
*Sept. 5, 2013*  
EDWIN R. ALLEY '64  
*June 2013*  
JOSEPH R. AUSTIN '64  
*March 30, 2013*  
RICHARD H. HAHN '64  
*April 26, 2013*  
THOMAS P. JACKSON '64  
*June 15, 2013*  
ERIN N. KRONFELD '65  
*May 15, 2013*

VICTOR HAO LI LL.M. '65  
*Sept. 18, 2013*  
FRANKLIN T. "TOM" LLOYD  
'65  
*Feb. 21, 2013*  
J. PAUL MCGRATH '65  
*July 9, 2013*  
THOMAS A. WELCH '65  
*May 17, 2013*  
MORRIS J. KRAMER '66  
*April 19, 2013*  
JONATHAN ROOSEVELT '66  
*June 21, 2013*  
PAUL ARNESON '67  
*May 25, 2013*  
MICHAEL ASH '67  
*Aug. 24, 2013*  
ROBERT C. HOWARD '67  
*March 29, 2013*  
KAZUO KATO LL.M. '68  
*Jan. 15, 2012*  
MICHAEL J. MCINTYRE '69  
*Aug. 14, 2013*  
DAVID A. NICHOL LL.M. '69  
*Sept. 22, 2013*

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**1970-1979**

JAIME M. CERVANTES '72 ('73)  
*June 3, 2013*  
DANIEL H. FITZGIBBON '72  
*Sept. 19, 2013*  
CLYDE D. STOLTENBERG '72  
*July 24, 2013*  
JEFFREY F. CLARK '75  
*July 15, 2013*  
SIBILEY P. REPPERT '75  
*Aug. 21, 2013*  
FORREST N. KRUTTER '78  
*Sept. 26, 2013*

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**1980-1989**

HOLLY R. SKOLNICK '80  
*June 23, 2013*

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**1990-1999**

JOHN D. AYON '91 ('95)  
*Sept. 11, 2013*  
CHRISTINA SLAWSON SIEGEL  
'93  
*April 7, 2013*  
GORDON N. LEDERMAN '97  
*May 10, 2013*  
JERRY D. THOEN '98  
*March 14, 2012*

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**2000-2009**

DAVID C. BRENNEMAN '04  
*Aug. 31, 2013*  
ADAM RINGGUTH '08  
*Feb. 13, 2013*

**OBITUARY INFORMATION**

→ Notices may be sent to Harvard Law Bulletin, 1563 Mass. Ave., Cambridge, MA 02138 or to [bulletin@law.harvard.edu](mailto:bulletin@law.harvard.edu).



# No Cold Calls— Just Warmth!

During an unseasonably warm October weekend, more than 700 alumni and guests returned to campus for a weekend packed with panels, photo ops and catching up.



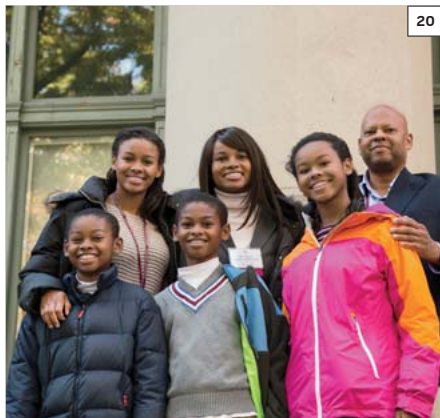
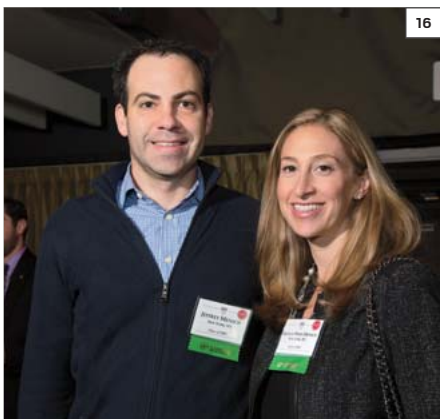
1. Charlotte Armstrong '53, HLS Professor Lawrence Lessig 2. Herbert Lazerow '63, Barbara Zilber 3. Ann Zimmerman '88, Gail Manning and her husband, Elliott Manning '58 4. Alexander Bancroft '63 and his wife, Margaret Bancroft 5. 1978 classmates Ralph Thomas, David Hiller, David Pierson 6. Tom Schaumberg '63, G. Walter Klein LL.M. '63 and his wife, Carolyn Martin 7. 1978 classmates Arthur Chong, Charles Atkins 8. Linwood Holton Jr. '49 and his daughter Anne Holton '83 9. Thomas Schwab '53 and his wife, Lois Schwab 10. Timothy Elliott '63, Dean Martha Minow, Roy Furman '63

Photographs by Martha Stewart





**11.** 1998 classmates Samantha Halem, David Himelfarb, Sonia Banerji, Amber Hagen **12.** Dean Minow, Ann Pfohl Kirby '53, Cameron Avery '63 and his wife, Lynn Donaldson **13.** Kurt Weis S.J.D. '68 **14.** 1968 class photo **15.** 2003 classmates Garrett Moritz, Janson Wu **16.** Jeffrey Mensch '03 and his wife, Hannah Weiss Mensch '03 **17.** Timothy A. Wilkins '93, Darryl Gorman '73, Khrista McCarden Johnson '03 **18.** 2008 classmates Max Nicholas, Josh Stern **19.** HLS Professor Nancy Gertner, Harvey Silverglate '67, Peter Malkin '58 **20.** Rekasha Robinson-McLymont '88 and her family **21.** Kazuhisa Shibayama LL.M. '03 and his wife, Andrea Ronkowski, and their daughter Maya



# What's Been Cooking

International and Local Fare



↑ The Harvard Law School Association of Europe held its 48th annual reunion this year, and the weekend in Amsterdam combined culture, scholarship and cooking. Among many activities, the alumni toured the Peace Palace, which houses the International Court of Justice in The Hague.

FROM LEFT: Elies van Sliedregt, dean of faculty of law and professor of criminal law at VU University Amsterdam; HLS Assistant Professor Holger Spamann LL.M. '01 S.J.D. '09; Oscar de Savornin Lohman LL.M. '67, former member of the Supreme Court of the Netherlands; Göran Sluiter, professor of international criminal law at the University of Amsterdam; Patricia Vantsiouri LL.M. '09, senior researcher at the Tilburg Institute for Law, Technology, and Society; and Jasper Pauw LL.M. '09, legal adviser for Doctors Without Borders (Médecins Sans Frontières) in Myanmar



↑ The ceiling at the Scheepvaartmuseum, the National Maritime Museum in Amsterdam, inspired by the compass lines on old seafaring maps. The HLSAE gala dinner was held at the museum, which was constructed in 1656.

→ In October, the HLSA of Europe held a reception in Boston during the 2013 International Bar Association Conference. Professor of Practice Alex Whiting, former prosecution coordinator for the International Criminal Court, addressed the more than 70 attendees, touching on his new work as the vice chair of the IBA War Crimes Committee. The event was co-sponsored by the HLS Alumni Office.



FROM LEFT: Takeo Kosugi LL.M. '72; Henrik Rossing Lønberg LL.M. '01, HLSA of Europe president; Hiroyuki Kamano LL.M. '74 with Alex Whiting



↑ **UPCOMING EVENT** The next HLSA of Europe annual meeting will be held in Madrid, May 29 to June 1, 2014. For more information, contact HLSAE President Henrik Rossing Lønberg LL.M. '01 at [info@hlsae](mailto:info@hlsae).



**UPCOMING REUNIONS** April 11-13, 2014 ▶ Spring Reunions Weekend ▶ Classes of 1984, 1989, 1994, 1999, 2004 and 2009 ▶ HARVARD LAW SCHOOL ||||| **FOR INFORMATION** on HLS Women's Alliance events in your area, go to [http://www.hlsa.org/sign\\_in.php](http://www.hlsa.org/sign_in.php). ||||| **FOR THE LATEST** HLSA events, go to [www.hlsa.org](http://www.hlsa.org)

↓ During the HLSA of Europe reunion, alumni donned aprons at De Kookfabriek, or “cooking factory.” Divided into 10 teams and assisted by a coach, they worked to prepare a four-course meal.



↓ Since the Harvard Law School Women’s Alliance launched in the summer of 2012, it has held numerous events around the country and around the world, honoring judges, focusing on legal topics, and strengthening professional connections. One New York event took another tack.

In May, 20 participants prepared spring rolls, chocolate mousse and sesame salmon samosas while they networked. One attendee noted: “We have spent years fighting to get out of the kitchen—and we are back there! But I suppose of our own free will.”



individuals may explore their capabilities and interests and may develop their full intellectual and human potential.”

I myself admire Professor Fisher’s bold decision very much, because finally I can be judged by the nature of my character and personal competence rather than the depth of my father’s pockets. Professor Fisher called on me and led me all the way through the course like a lighthouse. When I look at the chart of the students selected from all over the world, I feel so proud to be among these exceptional human beings! Thank you, Professor Fisher, and thank you, Harvard!

**Tingting Zhao**  
*Llandeilo, Wales, U.K.*

#### A view from the bench

THE SUMMER 2013 EDITION CONTAINS a report on an April HLS conference about *Gideon v. Wainwright* with a keynote speech by Professor Gene Nichol of the University of North Carolina School of Law. You quote him as averring that *Gideon* “mainly ... mocks us” and bemoaning “its marginalization on the criminal side and its brutal rejection on the civil side,” concluding that *Gideon* has been two-thirds “unsatisfied,” which “says more than any other stark reality about what sort of people we actually have become.”

The professor’s stunning condemnation of the result of *Gideon* and his implicit jeremiad about entitlement in all cases to a free lawyer paid by taxpayers are unjustified. I practiced both criminal and civil trial law for 45 years and enjoyed approximately 10 years as a Superior Court judge, presiding over mostly criminal and some civil matters. Believe me, the teaching of *Gideon*, that an impecunious criminal defendant merits a

court-appointed lawyer in the form usually of a public defender, pervades California’s trial courts.

Theoretically, such a defendant must show inability to pay a private lawyer based upon a simple financial ability form, checked later (after appointment of counsel) by a clerk’s office functionary. In practice, almost every criminal defendant obtains appointment of a public defender or other lawyer at arraignment. Verification of entitlement is mainly a myth. Obtaining taxpayer reimbursement from a defendant with financial ability to pay for counsel is even more of a myth. Extending free legal service to civil cases represents yet another brick in the wall of societal entitlement, except perhaps if a civil-action party is ordered to show cause why he/she should not be held in criminal contempt of court. Most lawyers perform their “share” of pro bono public service to indigent parties in civil cases. The professor’s condemnation of *Gideon*’s effect constitutes academic rubbish, undeserving of audience from my law school.

**Quentin L. Kopp ’52**  
*San Francisco*

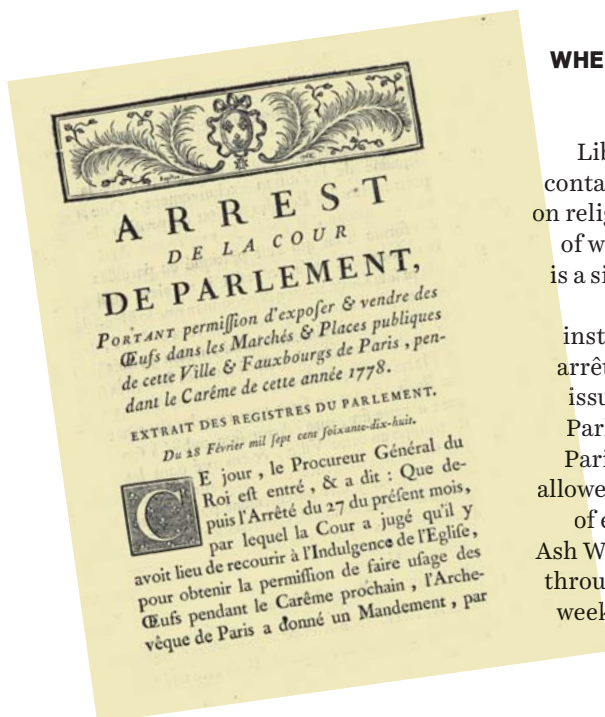
#### Correction

An article in the Summer 2013 issue, on the historic role of HLS faculty in the American Law Institute, missed an important piece of HLS history, failing to mention Lance Liebman ’67. The longtime ALI director is a professor at Columbia Law School and that school’s former dean, but he also served for more than 20 years on the HLS faculty.





↑ Next time you find yourself squinting at the long list of ingredients on a food label, think of this cartoon in the Food Field Reporter from the early 1930s, which was created in response to stricter labeling guidelines proposed for—and causing consternation among—canners. The NRA in this case stands for the National Recovery Administration.



### WHEN TO BUY AN EGG?

The HLS Library also contains books on religious law, of which food is a significant part. For instance, one arrêt, a ruling issued by the Parlement of Paris in 1778, allowed the sale of eggs from Ash Wednesday through Easter week in Paris.

### TRUE TEA!



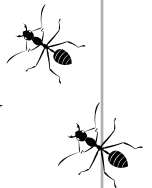
Not long after a group of patriots dumped tea into the harbor in Boston, the British showed how important the beverage was to them. In response to phony tea dealers selling sloe, licorice or the leaves of other plants, a statute was passed in 1777 granting warrants for officers to search buildings suspected of holding supplies of the imitation product. Dealers convicted of such fraud were subject to fines and imprisonment of up to a year.

### LET THEM EAT ICE CREAM

In France, authorities issued special licenses to provide ice and snow to Parisian retailers to make ice cream or flavored ices, treats that were introduced into the country during the 17th century. One of these licenses “Privilege du roy, exclusif pour la fourniture de la glace,” notes the health benefits of ices.



The FDA recently found that 12 percent of the spices imported into the United States are contaminated with some nasty stuff, such as insect parts and rodent hair. Maybe what’s needed is an “act for the well garbling of spices.” That was a law established in 17th-century England that called for “garbling” (sifting out impurities)—by an appointed garbler—to prevent “unclean, corrupt and mingled spices.”



There have been countless efforts over the ages to regulate the purity of alcoholic beverages—along with efforts to regulate the behavior of those who imbibe them. One example from England in 1763 was an “act for repressing the odious and loathsome sin of drunkenness.” One punishment was being put in the stocks for several hours. A few decades before, a similar act, meant to reduce drunkenness and help cure society’s ills, reportedly caused riots.

TO READ MORE about these items, see HLS Librarian Mary L. Person’s “Sundry Good and Needfull Ordinances: Food & Drink in the Law Library” ▶ [bit.ly/Foodlaw2013](http://bit.ly/Foodlaw2013)

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TRAILBLAZING | *Sisters in Law*



ASIA KEPKA

**I**N SEPTEMBER, more than 600 alumnae returned to Harvard Law School 60 years after the first class of women graduated from the school. Charlotte Armstrong '53 (pictured right with Dean Martha Minow) was among those 14 pioneers. When she was a student, she recalled in an earlier interview, she never thought of herself as breaking gender barriers: "You just put one foot in front of another, and then it turns out that you are a trailblazer."

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