

Summer
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Harvard Law

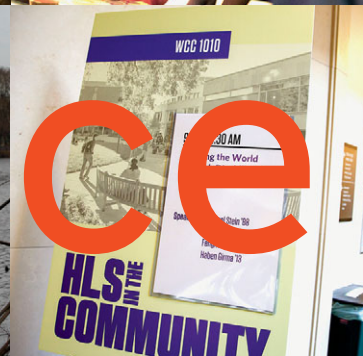
bulletin

Essential

A
celebration
of
HLS
clinics



Experience



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ADAM MCCAULEY

In 2014, Jonathan Zittrain wrote an article titled “Facebook Could Decide an Election Without Anyone Ever Finding Out.” Four years later the world has caught up with him. PAGE 30



ON THE COVER: *Scenes from the April event celebrating the work of HLS clinics and Student Practice Organizations are intermingled with portraits of some of the student practitioners featured in this issue.*

Photographs by Dana Smith (portraits); Heratch Photography, Tony Rinaldo, Martha Stewart (HLS in the Community photos)

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A Tradition of Leadership, Debate, and Service

BY
JOHN F.
MANNING
'85

IT'S BEEN A GREAT YEAR. Harvard Law School marked its Bicentennial not merely by bringing our community together to reconnect, make new friends, and celebrate a great institution, but by doing what we do best: engaging with hard and important issues that matter. We hosted scores of workshops, discussions, and hackathons on access to justice, artificial intelligence, criminal justice reform, disability rights, the financial crisis, human rights, national security, the opioid epidemic, private equity, sanctuary cities, special prosecutors, tax reform, and countless other topics. The Law School buzzed with energy and purpose. This year-long celebration brought focus to three important facts that are worth pausing over as we enter our third century.

First, Harvard Law School produces leaders. Consider just one remarkable facet of this: About one in six people who ever sat on the Supreme Court—including a majority of the Justices sitting today—attended this Law School. And, not long ago, our alumnus Chief Justice John G. Roberts, Jr.

'79 swore in our alumna Justice Elena Kagan '86 to a seat to which she was nominated by our alumnus President Barack Obama '91. Less than a decade later, the Chief Justice swore in another HLS alumnus, Justice Neil M. Gorsuch '91. This phenomenon, moreover, stretches far beyond the judiciary or the federal government or the United States. This year, we celebrated game-changing leaders in field after field, generation after generation, here and around the world—in private practice, public interest, government service, entrepreneurship, finance, technology, NGOs, education, professional sports, the arts, and beyond.

Second, Harvard Law School stands for open debate and the clash of ideas. Our lively and intellectually diverse community often supplies the leading voices on all sides of the most important debates of the day. This matters not just because vigorous debate deepens understanding and brings us closer to truth, but because we cannot train great lawyers and leaders without it. The most effective lawyers and leaders listen generously to the opposing viewpoint. Only then can they sharpen their arguments, discern weaknesses or vulnerabilities in their positions, and even, at times, find common ground for compromise. As Chief Justice Roberts said at our Bicentennial celebration last October, “Debate and doubt, not doctrine, are what our school, at its best, teaches.”

Third, Harvard Law School fosters public service. As then-Dean Kagan once said to

the graduating class: “Some of you will devote all your working lives to public service, whether in legal aid offices or nonprofit organizations or government. Others of you will serve the public from within law firms and businesses by doing pro bono work, participating in bar and law reform activities, providing community service, or engaging in philanthropy. Perhaps the greatest number of you will discover that lives and careers are long and give you the chance to move back and forth between the government and nonprofit world and the private sector.” I am gratified by the deeply felt aspiration to serve that I have seen in so many of the students I’ve taught here and in so many of the alumni I’ve met this year. And I am proud to report that the first class of our third century, the Class of 2018, performed 376,532 hours of pro bono service at HLS—a record average of 637 hours per graduating J.D.

In our third century, we must work together to build on strengths that have produced this Law School’s extraordinary history. What curriculum will best prepare 21st century lawyers and leaders across multiple fields? How do we continue to nurture the open debate and clash of ideas that make us strong? How do we continue to deepen and connect the exceptional community of students, staff, faculty, and alumni that will define the contributions this great Law School will make in our next chapter? Thank you for joining us in thinking through these questions and working toward the important goals they inform.



Showcase

In the Spirit

At HLS in the Community, hundreds gather to share ideas and work toward solutions for the common good



In April, Harvard Law School's bi-centennial programming came to a close with HLS in the Community, a day of hackathons and workshops. The spirit of the clinics infused the event. Daniel Nagin, clinical professor and vice dean for experiential and clinical education, in introducing the hackathons, touched on HLS's commitment to serve the common good: "To join the legal profession is to enter a kind of trust—to ensure that the power and privilege that we hold are applied in a way that benefits the world."

That spirit was on display throughout the day in the discussions and problem-solving. And in the evening, as the alumni, student, faculty, and staff participants gathered for the closing clinical showcase on Jarvis Field, photographs and interactive displays (such as the Tenant Advocacy Project's Wheel of Misfortune) put the work of the clinics and Student Practice Organizations at the center of the celebration.

Top: Clinical Professor Dehlia Umunna leading a discussion on injustices in the criminal justice system

Top right: Denise Gharthey '19, current Harvard Legal Aid Bureau president, with Pedro Spivakovsky-Gonzalez '17, a past president, at the clinical showcase



Alonzo Emery '10 and Haben Girma '13, the first deaf-blind person to attend HLS, participating in a panel on disability rights



Top right: Fern Fisher '78, Michael Grinthal '06 and Jenna Collins '11 (L-R) discussing new approaches to access to justice in a system that needs a reboot

Right: One of the three hackathons: "Strategies for Sanctuary Spaces in the Age of Deportations, Defunding, and President Trump"

Below: Chris Mburu LL.M. '93 (left), a U.N. senior human rights adviser, and Tyler Giannini, HLS clinical professor, participating in the human rights advocacy workshop



Above: Judge Dan Polster '76 (left) in conversation with HLS Professor John Goldberg about his role in the consolidated opioid lawsuit, which The New York Times describes as "perhaps the most daunting legal challenge in the country"

“To join the legal profession is to enter a kind of trust—to ensure that the power and privilege that we hold are applied in a way that benefits the world.” —DANIEL NAGIN



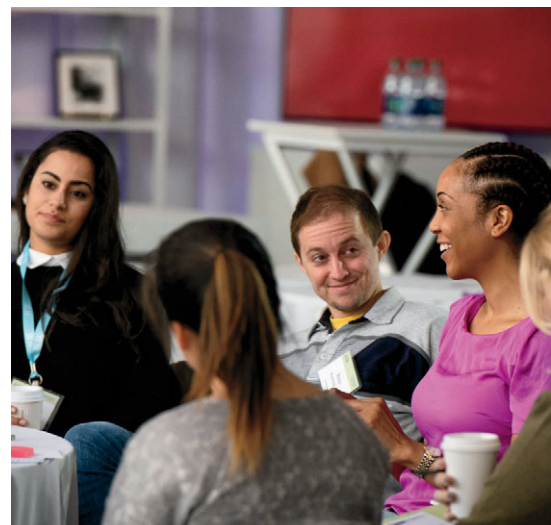
Left: Daniel Nagin leading the hackathon “Do Ask, Do Tell, Do Justice: Pursuing Justice for LGBTQ Military Veterans”

Below: Clinical Professor Brian Price leading a panel discussion on transactional law



Celebrating community in the clinical showcase tent

Participants in the workshop on teaching and lawyering for systemic justice in the U.S.



Letters

SPECIAL PRAISE

Your Special Issue of the Bulletin commemorating the Harvard Law School bicentennial is the best I have ever read from any school or organization. It covers what is most important and covers it well. I liked everything about it, including the graphics (or maybe because of the graphics—after many years of experience with broadcasting art). I write to congratulate you.

CORY DUNHAM '51

Greenwich, Connecticut

*Former executive vice president
and general counsel, NBC*

AN INSULT TO HIS MEMORY?

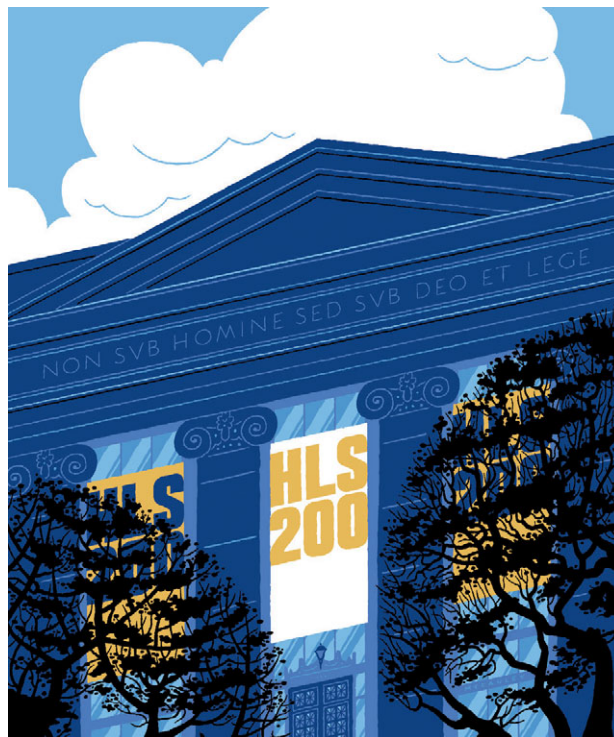
I have just read the Harvard Law Bulletin Special Issue. I liked it. I thought a lot of work went into it, but I would like to call your attention to what I think is a very significant gap. You did not have a section on most hated law professors. To omit A. James Casner from such a list is a true insult to his memory.

BURTON CHANDLER '59

Worcester, Massachusetts

THE IMPORTANCE OF BEING FRIVOLOUS

I enjoyed your article “Fun in Law.” Harvard Law School is very serious business so I think it’s vitally important to recognize frivolity and levity there. I was very pleased that you recognized the seminal significance of “Kid Me Not” and “Matter of Tot” because I was the principal writer of both of those shows in 1965-1966 along with Jim Friedlander '66, who wrote all of the music. I don’t recall much about my classes but, significantly, I have remained corresponding friends with Jim; our director, Greg Good '66; and our stage manager, Mark Gasarch '66, among others. Jim and I decided to change the Law



WRITE to the Harvard Law Bulletin: bulletin@law.harvard.edu; 1563 Massachusetts Ave., Cambridge, MA 02138. Letters may be edited for length and clarity.

School show from unconnected sketches and songs to a more unified production, and the current “Parody” is consistent with that aim. Having been a federal administrative law judge/California state judge for almost 40 years, I learned how to be serious, but engaging in my inner child was a lot more fun.

ALAN GOLDDHAMMER '66

Berkeley, California

PARODY ROOTS AND SHOOTS

I read and enjoyed your article “Fun in Law” in the Harvard Law Bulletin’s Special Issue commemorating the bicentennial of the Law School. I wish to point out that musical parodies and entertainments at the Law School began before 1961. During my stay in Cambridge there were several.

In 1958, when the film “No Time for Sergeants” appeared, a Story Hall resident wrote the parody “No

Time for Sergeant Girls” with law school-oriented lyrics to show tunes including “Oklahoma” (“Harvard Law School, where the panic comes the end of May”).

At the Class of 1959 beer party in the spring of 1959, at which comedian Mort Sahl performed, I played and sang a song I wrote about the recently opened tunnel running from Harkness Commons south to Austin Hall. It was titled “Griswold’s Folly.”

These songs were reprised at the Class of 1959’s 50th Reunion dinner in Cambridge in 2009.

JEROME W. BRESLOW '59

Potomac, Maryland

EDITOR’S NOTE: *The bicentennial issue included the account of a midnight screening at HLS in September of “The Paper Chase,” the movie based on the iconic book. After the issue came out, we heard from John Jay Osborn Jr. '70, who wrote that book as a 3L and worked on the screenplay for the movie. His note is excerpted below:*

“For some reason, it struck me powerfully that they were showing ‘The Paper Chase,’ in the open air, at HLS and the dean was in attendance. I know, I have been invited back to HLS to discuss ‘The Paper Chase.’ Also, I’ve participated in several fundraisers. But, but, ... When ‘The Paper Chase’ first came out, the HLS administration was mad as hell—they hated it. Really. I was regarded as a pariah. ... Oh well. So, that is why I am so grateful and amazed to see that the students, and perhaps the dean, can now recite the words to it.”

A Monument to Madison

A comprehensive biography of the country's fourth president, contradictions and all



PROFESSOR NOAH FELDMAN IS THE FIRST TO ADMIT that James Madison will probably never merit a hip-hop Broadway musical like his partner in Constitution drafting turned bitter political foe.

Madison was as understated and self-effacing as Alexander Hamilton was full of passions and extreme emotions. Still, Feldman had long since concluded that this “almost forgotten Founder” deserved far

Madison is “the Einstein and the Newton of constitutional law rolled into one,” said Feldman.

more recognition—and a fuller biography—than he’d received.

Unlike George Washington or Thomas Jefferson, no monument was built to honor Madison in the nation’s capital. “You have to see the Constitution as his monument,” said Feldman. “His influence is hidden in plain sight.”

Madison’s role in crafting the Constitution is just



one point of focus of Feldman's 800-page biography—"The Three Lives of James Madison: Genius, Partisan, President" (Random House)—which also details his role as founder of the first American political party and as the nation's fourth president.

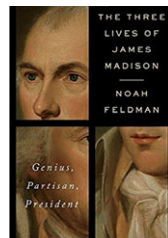
"Madison in a deep way ended up contradicting his own constitutional vision."

Feldman traces his interest in Madison back to his clerkship with U.S. Supreme Court Justice David Souter '66, to whom the book is dedicated. Souter gave his clerks assignments to work on in the summer before the justice returned from New Hampshire, and he

asked Feldman to explore Madison's thoughts on religious liberty.

Feldman was drawn again to Madison at the start of his academic career, when he focused on law and religion and studied Madison's experience fighting for religious liberty in Virginia in 1784. Writing his book "Divided by God: America's Church-State Problem—and What We Should Do About It" convinced Feldman he had to return to Madison one day as the

Feldman traces his interest in Madison back to his clerkship with U.S. Supreme Court Justice David Souter '66.



subject of a full biography.

"If you do constitutional law, as I do, James Madison looms over our world as a colossus—he's the Einstein and the Newton of constitutional law rolled into one," Feldman said. "And so I've always wanted to take on Madison as a topic and a subject, and I became convinced his story needed to be retold for the present."

It took six years for Feldman to produce what he considers the "longest and hardest thing I've ever done." It is Madison's role as political partisan about which he says he learned the most.

Madison, who wrote the Constitution with the goal of keeping political factions at bay, went on to found the first opposition political party, the Democratic-Republicans, in response to what he saw as Hamilton's excesses.

"Madison in a pretty deep way ended up contradicting his own constitutional vision," Feldman said. "That I think was the most shocking thing to me and the puzzle that most motivated me in trying to figure out the trajectory in his career."

Feldman says he came to see that shift as a "move from innocence to experience, from a theory of the Constitution" to "actually being in the government."

Just because Madison and other Founders came to a consensus when writing the Constitution didn't mean they would all interpret it the same way later. "In particular, he believed that Hamilton, his close ally in the ratification process, in a profound way was committed to a constitutional vision that he believed would destroy the Constitution itself," Feldman said.

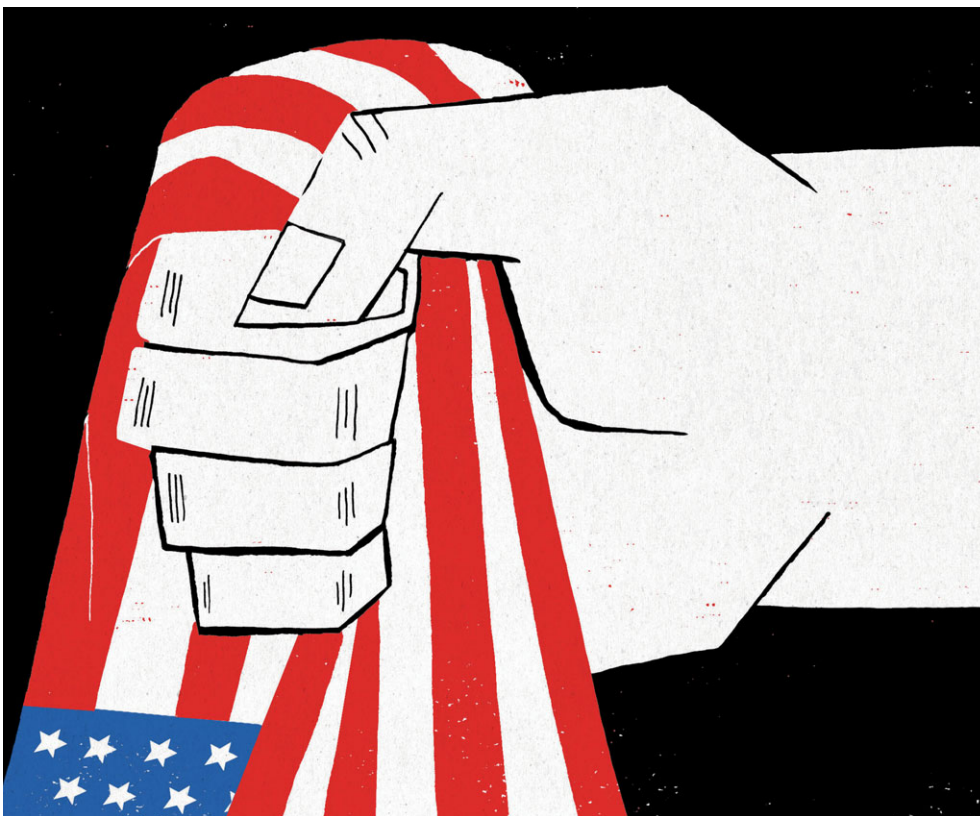
Madison's legacy of fomenting political tension and the sharp language he used to describe his foes continue to reverberate today, he says.

"When we criticize our political enemies in the United States, we don't just say that they're wrong or that they have the wrong policies, but we actually go further and claim that our political enemies are trying to destroy the Constitution," Feldman said. "We see that in our current political moment on both sides."

Equally American is the tendency to bemoan partisanship, according to Feldman, unlike in other countries where all sides recognize that electoral politics "are deeply and profoundly partisan."

"We aspire to nonpartisanship even as we tend to descend into partisanship," he added. "Both impulses were present in Madison."

Although Broadway may not be in the fourth president's future, Feldman thinks the relationship between Madison and Hamilton is inherently dramatic. He can imagine the story of their friendship and collaboration on the Federalist Papers and of the collapse of that close relationship as the subject of a great television miniseries. —SETH STERN '01



A State of Danger?

A new book considers whether authoritarianism can happen here

“IT CAN’T HAPPEN HERE,” THE novel by Sinclair Lewis written in the 1930s as fascism was rising in Europe, imagines an America overtaken by an authoritarian regime. The new book edited by Harvard Law Professor Cass Sunstein ’78, “Can It Happen Here?: Authoritarianism in America” (Dey Street Books), does not predict the same fate. Yet the contributors—several also affiliated with Harvard Law—take seriously the possibility that it *could* happen here, despite the safeguards built into the American system of government.

As Sunstein notes in the introduction, the book does not focus on the presidency of Donald Trump, although some contributors contend that his words and deeds make it more relevant to consider the possibility of authoritarianism. General topics examined include populism, the constitutional system, how a dictatorship can occur, and lessons from history.

From “The Dictator’s Handbook: U.S. Edition” to “Paradoxes of the Deep State,” 17 essays



Among the HLS contributors, former Dean Martha Minow looks back at the mass detention of Japanese-Americans during World War II and assesses whether similar action could be repeated. As she cautions, the court precedent that allowed internment has not been overturned.

Professor Jack Goldsmith, who served in the George W. Bush administration, writes on the “Deep State,” the U.S. intelligence and national security establishment.

He explores the paradox that the Deep State can be both a danger to democratic norms, as demonstrated by abuses under FBI Director J. Edgar Hoover, and a protector, such as when longtime FBI official Mark Felt leaked information as “Deep Throat” in order to expose corruption in the Nixon administration.

Professor Noah Feldman asks what each word of the title of Lewis’ book means in the contemporary context. He argues that “it,” meaning fascism in Lewis’ conception, is unlikely to happen in the U.S. and other Western democracies, given that bureaucracies are accustomed to operating under legal and cultural norms.

Foreign influence in American democracy is the subject of an essay by Professor of Practice Samantha Power ’99. She recaps Russia’s spread of “fake news” during the most recent U.S. presidential election and warns of the dangers of citizen manipulation outside the election cycle.

Sunstein also contributes an essay, on the republican government and complex system of checks and balances championed by the Federalist Papers, which he says still bolsters America’s liberty. He, too, doubts that authoritarianism can happen here. Other contributors warn of greater danger. As a whole, the essays reflect the maxim that eternal vigilance is the price of liberty. —LEWIS I. RICE

LOOK TO THE FEDERALIST PAPERS

“To many modern readers, the Federalist Papers seem formal, musty, old, and a bit tired—a little like a national holiday, celebrating events long past but lacking a sense of struggle and excitement, or even a clear message. But under remarkable time pressure, Alexander Hamilton, James Madison, and John Jay, writing under the name of ‘Publius,’ produced the best historical record, by far, of the ideas that gave birth to American exceptionalism. If authoritarianism can’t happen here (and it probably can’t), Publius helps explain why.”

From “Lessons from the American Founding” by Cass Sunstein in “Can It Happen Here?: Authoritarianism in America”



Honoring ‘a Towering Intellect’ and ‘a Good Man’

Sunstein accepts Holberg Prize

CASS SUNSTEIN ’78, THE ROBERT Walmsley University Professor at Harvard University and renowned legal scholar and behavioral economist, received the prestigious Holberg Prize at the University of Bergen, Norway, on June 6. HRH Crown Prince Haakon of Norway presented Sunstein with the prize, which is awarded annually to an outstanding researcher in the arts and humanities.

“Sunstein is one of the great intellectuals of our time,” said Dr. Pratap Bhanu Mehta, chair of the Holberg Committee. “Cass Sunstein’s work is animated by a profound sense of the ways in which human behavior poses a challenge for regulation. ... [I]n addition to his contribution to the academic field, he has also mastered the art of communicating difficult and important ideas to the public. His

Cass Sunstein traveled to Bergen, Norway, in June to receive the prestigious Holberg Prize and deliver the Holberg Lecture. His topic was “Freedom.”

work is rigorous, yet accessible, and marked by an extraordinary concern for human welfare as well as a commitment to an enlightened public discourse.”

Sunstein accepted the prize in a formal ceremony in Bergen. He was accompanied by his spouse, Samantha Power ’99, professor of practice at HLS and former U.S. permanent representative to the United Nations, and their three children. HLS Professor Lawrence Lessig also attended, and he and Power participated in a symposium. (In March, colleagues from around Harvard celebrated Sunstein at an HLS reception after the prize was announced.)

While in Bergen, Sunstein delivered his Holberg Lecture, “Freedom.” In it, he explored the relationship between freedom of choice and human well-being.

Prior to the lecture, Barack Obama ’91 appeared via video with a message of congratulations for Sunstein. Obama said he had known him since they were both law professors at the University of Chicago. He praised Sunstein’s scholarship and “the staggering breadth of collaborators he has brought along on his intellectual journey.” The sheer number of Sunstein’s partnerships gave rise to a game called “Six Degrees of Cass Sunstein, making him the Kevin Bacon of legal scholarship, with academics clambering to shrink their Sunstein number to one,” Obama said.

After Obama was elected president, he invited Sunstein to serve as the administrator of the White House Office of Information and Regulatory Affairs. “We introduced the concept of dignity into

coldhearted cost-benefit analysis,” Obama said, adding that Sunstein’s service was marked by decency, respect, curiosity and an open mind. “It’s an honor to call you a friend, not only because you are a towering intellect, but more importantly because you are a good man.”

Sunstein first joined the HLS faculty in 2008, becoming director of its new Program on Risk Regulation. He is the founder and director of the Program on Behavioral Economics and Public Policy.

Sunstein has published 48 books and hundreds of scholarly articles. In 1998, he broke new ground, together with Richard Thaler and Christine Jolls ’93, with the paper “A Behavioral Approach to Law and Economics,” which initiated a new academic field called “behavioral law and economics.” Sunstein and Thaler followed up with the best-selling book “Nudge: Improving Decisions About Health, Wealth, and Happiness” in 2008. The book discusses how public and private organizations can help people make better choices in their daily lives, and it helped popularize and cement the influence of behavioral law and economics.

Describing the key purpose of his work, Sunstein said: “I have long been concerned with how to promote enduring constitutional ideals—freedom, dignity, equality, self-government, the rule of law—under contemporary circumstances, which include large bureaucracies that sometimes promote, and sometimes threaten, those ideals. The main goal has been to deepen the foundations of democratic theory, for the modern era, and to understand, in practical terms, how democracies might succeed in helping to make people’s lives better—and longer.”

“I have long been concerned with how to promote enduring constitutional ideals.”



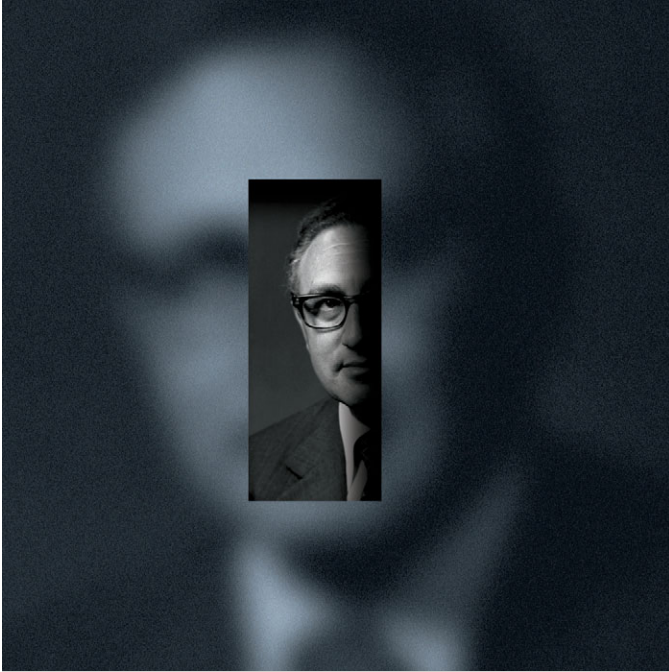
Crown Prince Haakon of Norway presents Sunstein with the Holberg Prize. Below: Barack Obama congratulates him via video.



Bottom: Four scholars invited by Sunstein participated in the Holberg Symposium: HLS Professor Lawrence Lessig (from right); Tali Sharot, associate professor of cognitive neuroscience, University College London; HLS Professor of Practice Samantha Power; and Tyler Cowen, professor of economics, George Mason University. The topic was “Democracy and Truth.”



IN BRIEF



“Kissinger the Negotiator: Lessons from Dealmaking at the Highest Level,” by James K. Sebenius, R. Nicholas Burns and Robert H. Mnookin '68 (Harper)

HLS Professor Mnookin, who for many years chaired the school's Program on Negotiation, joins two other Harvard-affiliated professors in a study of the former secretary of state's public and private deal-making, based on extensive interviews with Henry Kissinger on negotiation strategy and tactics. Pointing to “remarkable levels of sophistication and consistency in his approach,” the authors detail Kissinger's negotiations including with China, Vietnam, and his lesser-known initiative to contain Soviet influence over Southern African states. In particular, they praise Kissinger's practice of “zooming out” to larger strategic goals and then “zooming in,” using interpersonal skills to persuade counterparts.

“American Capitalism: New Histories,” eds., Sven Beckert and Christine Desan (Columbia)

HLS Professor Desan and her co-editor, the founders of Harvard University's Program on the Study of Capitalism, present essays that demonstrate the centrality of finance in American history and how it shapes politics and culture. While contributors cover traditional economic topics such as the labor market and stocks and bonds, they also explore issues such as women's rights and slavery. The essays offer new

approaches to American capitalism, write the editors, as it continues to morph and perhaps play a less central role in the world.

“The Indian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and its Impact on Lawyers and Society,” eds., David B. Wilkins '80, Vikramaditya S. Khanna and David M. Trubek (Cambridge). **“The Brazilian Legal Profession in the Age of Globalization: The Rise of the Corporate Legal Sector and its Impact on Lawyers and Society,”** eds., Luciana Gross Cunha, Daniela Monteiro Gabbay, José Garcez Ghirardi, Trubek and Wilkins (Cambridge)

The project on Globalization, Lawyers and Emerging Economies at the HLS Center on the Legal Profession has produced the first two volumes in a planned series. Co-edited by Wilkins, HLS professor and faculty director at CLP, each volume covers topics including the rise of the corporate legal sector, legal education, and regulation of legal services. Both India and Brazil in the 1990s moved from a closed economic system to one that was increasingly open to international investment and private enterprise, the editors write, which increased the opportunities and influence of the countries' lawyers and contributed to a legal profession transformed in some of the most populous countries in the world.





TRIBUTE

‘I go way back with Professor Ogletree’

Hundreds pay tribute to a man known around the world as a leading force for racial equality and social justice

ON THE HLS CAMPUS THIS PAST fall, eminent friends, students, and colleagues gathered to celebrate a man the world knows as a leading force for racial equality and social justice, and the Harvard community knows affectionately as Tree.

Charles Ogletree Jr. '78, who was the founding director of the Charles Hamilton Houston Institute for

Charles Ogletree Jr. '78 received a five-minute standing ovation at the fall event held in his honor.

Race & Justice at HLS, announced in the summer of 2016 that he had been diagnosed with Alzheimer's disease, and that he would work to raise awareness of the disease and its disproportionate effect on African-Americans. Along with the honors and reminiscences, the October 2017 celebration of Ogletree at HLS brought the announcement of a Charles J. Ogletree Chair

in Race and Criminal Justice—a way, according to Professor David Wilkins '80, “to ensure there will always be a scholar here who will carry on Tree's legacy.”

Attending with his wife, Pam, and their children and grandchildren, Ogletree received a five-minute standing ovation upon his entrance. He shook hands, and high-fived and hugged friends

and colleagues, many of whom had traveled across the country for the ceremony.

In his remarks, HLS Dean John F. Manning '85 said that Ogletree "has done what few can ever dream of: He has changed the world and made it a better place. He has also been an extraordinary teacher. How many people learned to be great trial lawyers in the Criminal Justice Institute that he designed and ran for more than a generation?"

Kenneth Frazier '78, now the chairman and CEO of the pharmaceutical company Merck & Co., brought memories of being a first-year HLS student alongside Ogletree. Even then, he said, the man's quiet dignity was much in evidence: "One of the least attractive aspects of our peers and colleagues is that many of us want to be thought of as brilliant. But he's one of the least showy people I know. Even in the first year he had a special maturity and gravitas, which I would attribute in large part to his already being married to Pam." Frazier saw the respect Ogletree commands when he met President Barack Obama '91 in the Oval Office: "He leaned toward me and said, 'I go way back with Professor Ogletree.' And I had the distinct feeling there that he was boasting."

Brandeis University Professor Anita Hill had one of the most publicly salient connections with Ogletree, who represented her in the Clarence Thomas hearings. As Hill pointed out, Ogletree put himself in possible jeopardy by representing her: "His tenure vote was imminent, and his involvement in a sensational public hearing might have made some faculty uneasy about approving his appointment. His career was on the line, with a wife and two young children, yet he agreed to join the team. He was among a lot of brilliant and tough

young women, and his willingness to be collaborative showed that he's an absolutely secure and confident man, and one that believes in equality."

Other panelists spoke of Ogletree's accomplishments as a social activist. "It's one thing to be an advocate for issues around social and economic justice, and that's enormously important," said former Massachusetts Gov. Deval Patrick '82. "It's a different level entirely to live those values, and that is what Charles has been about."

Gay McDougall, the former executive director of Global Rights, mentioned his pioneering work related to reparations for slavery and to Jim Crow laws. "He can be credited for moving that national discourse into the mainstream," she said. She and Randall Robinson '70, founder and former president of TransAfrica, pointed out Ogletree's work to raise apartheid awareness and later to help with the drafting of South Africa's new Constitution. "When the Republican majority in Congress voted to override Ronald Reagan's veto of South African sanctions, we knew we couldn't have done it without you," Robinson said.

There was also talk of Ogletree's flair and presence. Professor Carol Steiker '86, faculty co-director of the Criminal Justice Policy Program at HLS, recalled his style at the Public Interest Auction, which he ran for more than two decades to raise money for students doing public interest work. "That was Tree in his element: the voice, the presence, the humor—and the way he rocked a tux," she said. "He'd start ad-libbing and would just kill it. His famous sweet potato pies always started a bidding war, and one year I kept bidding until they were mine. They cost me an arm and a leg, but they lived up to their legendary hype—as does the man." —BRETT MILANO

STUDENT SNAPSHOT

On a Mission

Natalie Trigo Reyes '19 wants to help vulnerable communities—starting at home in Puerto Rico

After Hurricane Maria roared over Puerto Rico in September 2017, crippling the island where Natalie Trigo Reyes '19 grew up and where much of her family still lives, she felt "completely overwhelmed." Within days, however, she put together an event that raised about \$40,000 for relief efforts, collected enough emergency goods to fill three large

trucks, and joined Harvard Law Assistant Professor Andrew Manuel Crespo '08 and Lee Branson Mestre of the Office of Clinical and Pro Bono Programs to plan the school's response to the disaster.

Using her contacts (Trigo Reyes co-founded a non-profit in 2012 to strengthen the is-

land, tapping into its diaspora), she helped to organize a mission to Puerto Rico over the law school's spring break to provide legal and humanitarian aid. "Natalie was our connection to this world of different NGOs, community leaders and charitable organizations," says Crespo. "Any time we hit some sort of issue, bump or question, Natalie said, 'I'm on this.'"

Months after Maria hit, tens of thousands of Puerto Rican residents were still living without adequate shelter. About a dozen of the 29 Harvard Law students on the trip helped to repair houses damaged

Growing up in Puerto Rico helped shape her social consciousness and the type of lawyer she wants to be.



by the storm. The others, including Trigo Reyes, worked with local lawyers in Federal Emergency Management Agency disaster recovery centers located around the island, helping residents file appeals to try to claim disaster relief they had been denied. About 60 percent of the claims filed with FEMA by Puerto Rico's residents for money to rebuild homes have been rejected for insuf-

In the wake of Hurricane Maria, Natalie Trigo Reyes '19 helped to lead a group of other law students to Puerto Rico to bring legal and humanitarian aid.

ficient documentation, according to reports. Many houses have been passed informally from generation to generation, so much of the work focused on establishing a chain of ownership through affidavits, old land registry forms or death certificates. This was complicated by the fact that Puerto Rico, which was a Spanish colony until 1898, has a legal code different from that of the



JOSE JIMÉNEZ-TIRADO/VERBATTM

rest of the U.S., based partly on the Spanish civil system. Trigo Reyes and the other students tried to get through as many FEMA appeals as they could—she remembers one morning when she filed 11—yet at the same time they wanted to take time for people who were traumatized by the storm and its aftermath, and needed to tell their stories. “Having the opportunity to go to these remote locations and help people claim [what is] rightfully theirs was really emotional for me,” says Trigo Reyes. “These are U.S. citizens, and they are entitled to these FEMA benefits.”

The work she did in Puerto Rico grew naturally out of her personal values and professional experience. She came to HLS with a degree in economics and six years of experience working in federal government, including in the U.S. Agency for International Development and the chambers of Supreme Court Justice Sonia Sotomayor (as special assistant to the justice, she accompanied her on two trips to Puerto Rico). The HLS trip this spring also tied in with Trigo Reyes' quest to seek out creative ways to use the law on behalf of vulnerable communities.

Last summer she held a Chayes Fellowship at the Centro de los Derechos del Migrante in Mexico City, which uses a wide range → 16

of approaches, from advocacy to policy work to direct representations, to fight for the rights of seasonal workers who come to the U.S. on work visas. As part of the North American Free Trade Agreement renegotiation process, Trigo Reyes drafted a public comment, which the Centro submitted to the U.S. trade representative, advocating for stronger labor protections for migrant workers. As part of that same process, workers described labor conditions equivalent to modern-day indentured servitude. Unable to find satisfactory recourse through American labor laws, Trigo Reyes says, they argued for the changes they'd like to see. "They voiced their issues themselves and were able to participate in the process. I believe in that model."

This summer, she plans to continue her focus on international human rights at an NGO in Mexico or Colombia (again on a Chayes Fellowship). Beyond law school, she sees herself working in these two countries "where there is lots of human rights work to be done" and eventually going back to Washington, D.C., to focus on labor rights or refugee issues—all while "continuing to give back to Puerto Rico, of course."

Trigo Reyes says the problems there run much deeper than the destruction wrought by Hurricane Maria, which exacerbated the island's existing debt crisis, deep economic recession, and high poverty level—and laid bare the drawbacks of its nonstate status. Growing up in Puerto Rico, she says, helped to shape her social and political consciousness, along with the type of law she wants to practice, and the type of lawyer she wants to become. "When you learn early on that you're disenfranchised, you become concerned with who's representing your agenda and your issues. I feel like that has helped inform my thoughts on how you can effect change." —KATIE BACON



MAKE IT NEW

Value Innovation

Holger Spamann brings new thinking to the structure of his class and casebook



“There’s no reason that a professor should stand on a stage and lecture to students.”

DURING HIS NEARLY 10 YEARS ON THE Harvard Law faculty, Holger Spamann S.J.D. ’09 has always enjoyed teaching corporate finance, but he’s also found it challenging.

Some students have worked as traders at hedge funds or in private equity and others have been newly minted English majors who haven’t thought much about business concepts. One was a math professor while others haven’t had algebra since high school.

“You have to somehow get them on the same page and do something that’s useful for everybody,” said Spamann, who was appointed a tenured professor in 2016 after joining the faculty as a lecturer and co-executive director of the HLS Program on Corporate Governance in 2009 and becoming assistant professor in 2011. “That’s not easy.”

The solution he has been exploring this year is a corporate finance course divided into four different modules, any of which students can opt out of depending on their knowledge level.

A student who comes in with a great deal of experience in the field will be able to skip the initial module on basic valuation. Subsequent modules cover diversification and market efficiency, capital structure, and then finally auctions and market design. Students who want to only dip their feet can opt out of later modules.

Spamann, who also earned a master’s and Ph.D. in economics from Harvard and practiced briefly as an M&A attorney, says his background in economics informs his approach to corporate finance and how he teaches the subject.

“I tend to think, at the law school stage, the most important things students can take away are the concepts because the terminology, the vocabulary, they’ll pick that up as they enter different practice areas,” Spamann said. “The conceptual stuff is hard to learn and that requires some concentrated exposure.”

The modular corporate finance

course isn’t Spamann’s only recent pedagogical innovation. He’s also developed a new kind of corporations casebook, available both in book form and online.

Spamann said he wanted to develop a set of materials that emphasizes cases less and focuses more on getting students to work on actual problems inspired by business issues and financial problems. “It’s learning by doing,” he said.

Professor Guhan Subramanian J.D./M.B.A. ’98, who is co-author of a leading casebook on corporate law, said he was “very impressed” with what Spamann developed and decided to adapt this “great compilation of cutting-edge materials” for his own corporations course.

Spamann did a particularly good job integrating examples about current companies such as Facebook and Google that students can relate to and more problems that tee up discussion about issues practitioners face, said Subramanian, who also has a tenured professorship at Harvard Business School.

Exercises—rather than lectures—should also be the priority in the classroom, Spamann believes. “In this day and age, there’s no reason that a professor should stand on a stage and lecture to students,” he said. “It’s a waste of time. In class, do exercises; it’s much more effective in helping students understand concepts and apply them.”

The online course materials are available for free on Harvard Law School’s H2O open course material platform. (Spamann also has a website—simplifiedcodes.com—offering free, more accessible versions of the Delaware General Corporation Law and a guide to the Federal Proxy Rules.)

A print version of the casebook Spamann and Subramanian developed is available for sale at a price far below that of more traditional ones.

Spamann said they’re still trying to figure out the best way to make the materials as widely accessible as possible, particularly for foreign audiences. “It’s a work in progress,” he said. —SETH STERN ’01

Celebrating Lani

Paying tribute to a scholar and mentor—in the spirit she’s inspired

AT AN EVENT AT HARVARD LAW SCHOOL HONORING Lani Guinier earlier this year, Susan Sturm invoked a phrase that was familiar to most of the attendees, a mix of Guinier’s family, colleagues, collaborators, friends and students. It was a line that Guinier often used when prodding her students into pushing harder and thinking deeper: “My problem is, if you stop there ...”

To Sturm, who is a professor of law and social responsibility at Columbia Law School, that phrase is emblematic of Guinier—how she constantly pushed the boundaries of what she and her students could accomplish.

The symposium, “Building Up and Building Out,” honored the work that Guinier has done, including during her tenure at HLS. Renowned for her books such as “Lift Every Voice” and “The Tyranny of the Meritocracy,” Guinier joined the HLS faculty in 1998, following 10 years at the University of Pennsylvania Law School. She became a professor emerita at HLS last year.

“Her work reached for a redesign of our basic institutions and what politics even means, and in the process redefining race and gender identity,” said Sturm, a co-organizer of the event. “That sounds pretty daunting and exhausting, and maybe we have moments of hopelessness. But, Lani, you have taught me to marry struggle with joy, how collaboration and creativity produce astoundingly sustaining relationships. And you’ve shown me the possibility of the human spirit.”

There were further words of praise for Guinier, who was present at the event, including from Dean John F. Manning ’85: “She has done nothing short of change the way we think about law,” he said. “She’s made us rethink the fundamental connection between race and the distribution of political power in our system. She’s been a great scholar, a great teacher, and an unfailingly generous colleague.”

But in keeping with the pioneering spirit of Guinier’s work, this was no ordinary afternoon of tributes.

Bryonn Bain ’02, a student of hers who went on to become a prison activist and hip-hop artist, set the tone for the day by delivering a musical number: an unaccompanied rap whose lyrics—about hanging up on the devil on a long-distance call—had a more play-

Ted Shaw (top) described Guinier’s enduring impact, her tenacity and her vision for social justice. Bryonn Bain ’02 (right) invited participants to take a few creative leaps in Guinier’s honor.

“Be ready to open your mind, and take off your cool.”



ful political overtone. He then warned the attendees that they should be ready to take a few creative leaps: “She forced us to bring creativity and collaboration into the space, and so I’m going to ask you to do some things that you’ve never done before. Be ready to open your mind, and take off your cool.”

This launched a series of interactive events between the day’s formal discussions. Each table of attendees was assigned a “scribe,” to record and interpret the day’s events. Bain also circulated a yellow notepad for everyone to write a line or two about their experiences with Guinier or their impressions of her; the collective work became a poem that he recited at the end.

Another colleague, Tim Mitchell, engaged the group in interactive theater exercises. Mitchell, who is now director of fine arts at the Flint Hill School in Virginia, has worked with Guinier to explore the educational possibilities of theater. That day, he challenged the group to personify a food that exemplifies their idea of justice. The food choices were certainly revealing: One picked a mashed potato because it’s malleable, another chose Nutella because it’s spreadable, and another picked corn because it grows in the sun and needs to be cultivated. And perhaps for self-explanatory reasons,



another said that justice was more like mystery meat.

One of the more serious moments came during the panel called “Rethinking Zero-Sum Conventions of Power,” which invoked the most painful—and probably most famous—moment in Guinier’s career: In 1993 she was nominated by President Bill Clinton to head the Justice Department’s Civil Rights Division, only to be targeted by an opposition campaign which sometimes quoted her words out of context. This led to Clinton’s oft-criticized decision to withdraw his support, an occurrence that Guinier would refer to as her “disappointment.”

Patricia Williams ’75, a professor at Columbia Law School, recalled how disturbing that was: “I remember seeing her on TV; her lips were moving but you never heard her voice. People were speaking over it, talking about how dangerous she was and saying what she was [allegedly] saying—but never saying what she really represented.” Dayna Cunningham, who directs the Community Innovators Lab at MIT, also said she had been disturbed by that incident. But she pointed to a much earlier moment, when Guinier’s fourth-grade teacher reprimanded her for interrupting a history class by pointing out that the Founding Fathers had owned slaves. Thus, she noted, the Clinton incident wasn’t the first time that Guinier had gotten

Lani Guinier with event organizers Susan Sturm, professor at Columbia Law School (far right) and Mahzarin R. Banaji and Evelynn Hammonds, professors at Harvard University (from left)

herself in trouble for speaking truth to power.

Another panel, “Transformative Pedagogy,” shed light on Guinier’s creative teaching methods. Former student Jennifer Gachiri ’09 recalled with pride that she’d once put handcuffs on Guinier—the handcuffs were paper, but the issues being discussed were real. The context, she explained, was Guinier teaching the case of a village in India that sued Coca-Cola and won, after Coke’s water extractions in the village produced a toxic sludge that it then sold back as fertilizer. The class re-enacted the human chain that the villagers had made around the factory, and the lesson that corruption could be toppled stuck with Gachiri. “That really inspired me as a black woman and a public interest lawyer,” she said.

The day’s final tribute came from Guinier’s son, Nikolas Bowie ’14, who was recently appointed an assistant professor at HLS. Bowie particularly recalled how she taught him the importance of legal teamwork. “Law professors think they’re smarter than everybody else,” he said. “But there is rarely a situation where you’re better than a team, because nobody knows enough to solve all those problems on their own. What I’ve seen today is that everybody here was on a team with my mom.”

—BRETT MILANO

Clinical
education
at
HLS:
Four
experiences

Erik Federman '18 helped develop an interactive resource for citizen scientists through the HLS Emmett Environmental Law and Policy Clinic. His team analyzed laws in all 50 states to identify obstacles to citizen science, including laws related to trespass, public nuisance, animals and even drones.

Experiential

and

Essential

BY ELAINE McARDLE
PHOTOGRAPHS BY DANA SMITH

NEARLY 40 YEARS AGO, HARVARD LAW SCHOOL PIONEERS in clinical education Gary Bellow '60 and Jeanne Charn '70 launched the school's Legal Services Center in a house in Boston's Jamaica Plain neighborhood. In its earliest incarnation, 24 students were enrolled.

Bellow passed away in 2000, but before that, he and Charn, now a senior lecturer on law at HLS, established the Legal Services Center in a commodious complex in Jamaica Plain. Today, more than 82 percent of the HLS Class of 2018 have participated in at least one clinic and 43 percent participated in two or more. The WilmerHale Legal Services Center, as it is now known, and the clinical wing of the newer WCC building on campus buzz with the creativity and commitment of students, faculty, and clients.

With 29 clinics in a wide range of fields of law and policy, students develop skills in an experiential program that constantly adapts to their interests, as well as to new approaches and areas of the law. They may choose domestic or international projects and focus on direct services, policy, litigation, or transactional work. Opportunities range from representing military veterans in the Veterans Law and Disability Benefits Clinic, to examining the First Amendment implications of online communications in the Cyberlaw Clinic, to working with the Navajo Nation through the Food Law and Policy Clinic.

"Our clinics have a particular power because students aren't mere interns or simply second-chairing cases—we are grooming them for leadership in the world," says Clinical Professor Daniel Nagin, vice



**Students
learn to work
“alongside and
collaboratively
with community
people.”**

Alexandra Glancy '19 and Michael Trujillo '18 teamed up through the Community Enterprise Project at the Transactional Law Clinics to help small-business owners facing gentrification. They produced the “Commercial Leases 101” legal toolkit, which offers a wealth of resources for better legal protection.

dean for experiential and clinical education and faculty director of the WilmerHale Legal Services Center. A significant number of alumni from the International Human Rights Clinic have gone on to become leaders in human rights organizations, for example, and other clinics demonstrate similar influence.

Over 1,000 students enrolled in clinics this past year, either at one of 18 in-house clinics supervised by clinical faculty or through 11 externship clinics, including one that is focused on the role of state attorneys general, which, in an era rife with debate over states' rights, is in huge demand. Some 700 students engaged in pro bono work through one of the 11 in-house Student Practice Organizations, which assist clients from Cambridge to the Mississippi Delta.

The HLS clinical program is one of the largest providers of free legal services in New England. In Boston and Cambridge alone, 3,556 clients were served in 2016, and hundreds more were represented in other parts of the state and country, and internationally.

While J.D. students are required to work 50 pro bono hours before graduation, the Class of 2018 put in 376,532 pro bono hours, an average of 637 hours per student. Since 2005, HLS students have provided 4.475 million hours of pro bono legal services to people in need.

“The level of expertise of the faculty and staff, the incredible students, and the phenomenal resources of the law school allow us to be a nimble program that can respond to the needs of clients and, more broadly, to the rule of law in the world,” says Lisa Dealy, assistant dean for Clinical and Pro Bono Programs.

For a glimpse of the clinics today, here are accounts of four projects connected to pressing legal and social issues: environmental protection, gentrification of low-income neighborhoods, immigrants' rights, and prisoners' rights in an age of mass incarceration.

**SUPPORTING 'CITIZEN
SCIENTISTS' AROUND
THE COUNTRY**

IS THE AIR IN YOUR neighborhood safe? What about the water in the creek behind your home? Since gov-

ernmental bodies don't have enough resources to gather data on the countless environmental issues in our world, average people—“citizen scientists”—are increasingly collecting and analyzing data to help solve serious environmental problems.

However, some state laws hinder or even prevent

the public from engaging in these efforts. For example, a couple of years ago a law was passed in Wyoming to criminally prosecute people for inadvertently trespassing on private land in order to collect environmental data, and the government is not allowed to accept or use such data. Two summers ago, when a scientist reached out for help to Professor Wendy B. Jacobs '81, director of HLS's Emmett Environmental Law and Policy Clinic, Jacobs saw the opportunity for a student project.

Erik Federman '18 was a member of the first three-student group to take this on. His team conducted an analysis of the laws in all 50 states to identify legal obstacles to citizen science, including trespass, public nuisance, “ag-gag” (related to animals), and even drone laws, since using drones is an inexpensive way to gather scientific data. Another three-student team continued the project, and together their work resulted in the “Manual for Citizen Scientists Starting or Participating in Data Collection and Environmental Monitoring Projects,” an electronic guide that's a central repository for laws governing citizen science and tools for engaging in it.

Jacobs shared the guide with legal aid clinics, law school clinics, grass-roots organizations, scientists and others around the country. Given the Trump administration's willingness to “ignore, demean, and distort science,” she says, including defunding enforcement of environmental laws and removing information from governmental websites (the clinic is also developing tools to help scientists and others fight back against attacks on science), “ordinary people need to be empowered to step into the breach.”

“The goal is to encourage more of this activity,” says Federman, who plans on a career in environmental law. “There's a lot of excitement around citizen science in the environmental justice context, as it can be an effective way to arm communities that bear a lot of the brunt of pollution but don't necessarily get support they need to deal with it.”

The guide is not only interactive—people can upload comments about their own citizen science work—but also flexible. When Hurricane Harvey hit the Gulf Coast last August, the clinic quickly assembled a team of students to work on expanding the manual with a Harvey-specific appendix that helped the public develop strategies for getting critical information they needed about the safety of their local environments, including through Freedom of Information Act requests. Other students are now expand-





Clarissa Lehne '18 and Paulina Arnold '18 worked in the Crimmigration Clinic on a brief to assist a lawful permanent resident facing deportation for a minor crime. The brief helped win the man his release, and the victory has important implications for other immigrants, says Lehne.

“I was able to get experience with movement lawyering and bigger-picture legal advocacy.”

ing the guide to help the public prepare for disasters, both natural and man-made.

Federman says Jacobs gave his student team “a lot of leeway in designing the guide, which was really valuable to me in learning to think strategically.” While he enjoyed and appreciated his traditional law school courses, Federman—who did a second semester in Jacobs’ clinic as well as two semesters in the Food Law and Policy Clinic—adds: “At the end of the day, I’m here because it’s a professional school and I want to get professional skills. My clinical experiences have been really valuable in giving me on-the-job experience that will be directly applicable to the type of work I want to do when I leave law school.”

EMPOWERING SMALL BUSINESSES TO STAY IN THE NEIGHBORHOOD

AS BOSTON REAL ESTATE prices soar and gentrification in lower-income places like Dorchester and Jamai-

ca Plain continues apace, residential tenants aren’t the only ones losing their homes. Small businesses that serve neighborhoods and give them their distinct character have far fewer legal protections and are being evicted or forced out by rising costs.

The Community Enterprise Project at HLS’s Transactional Law Clinics helps these communities fight back with a new “Commercial Leases 101” legal toolkit, created by two students to help business owners understand the importance of having a lease and how to negotiate better terms.

Last fall, Michael Trujillo '18 and Alexandra Glancy '19, with the guidance of Clinical Instructor Carlos Teuscher, teamed up to assist small businesses facing gentrification. First, the duo reached out to neighborhood and community organizations that are fighting to preserve their communities, including Bowdoin Geneva Main Streets, Dorchester Bay Economic Development Corporation, and the Jamaica Plain Neighborhood Development Corporation. They canvassed small businesses to determine what would be most helpful before putting together the annotated toolkit, which offers a wealth of resources for better legal protections. Trujillo, who plans a career in social movement lawyering, says, “We are hoping this toolkit empowers small-business owners to have the legal knowledge to understand what a good lease looks like and ask for better arrangements with their landlords.” They presented the toolkit to local busi-

ness and community groups and held office hours to help small-business owners negotiate more favorable leases.

CEP also shared the toolkit with the city of Boston, and Teuscher plans to have other clinical students continue to work with community partners to push for more statutory protections for commercial tenants. But the toolkit could have a greater reach than just Boston, he says. Toolkits produced in the past by CEP students have had a national impact, including an immigrant entrepreneur toolkit that clinics across the U.S. are using as a model. While landlord-tenant law is state-specific, Teuscher hopes the commercial lease toolkit’s widely applicable resources will allow it to have a similar impact.

Meanwhile, the educational experience for students is exceptional, Trujillo and Glancy say. “I learned so much, from interacting with and interviewing clients to thinking about innovative ways to use legal tools—for example, things you can put in a lease that aren’t in typical leases but can increase the tenant’s power,” says Glancy, who knew about TLC before coming to HLS and was drawn to the school in part because of it.

Clinical Professor Brian Price is director of the Transactional Law Clinics, which offer students work in a wide range of areas from business formation to taxation, real estate and employment matters. “Our approach from day one is that students will be taking ownership of the cases, and that they not see themselves as assisting their supervising attorney but rather as the person who is leading the case with the guidance of the supervising attorney,” Price says.

With CEP projects like the toolkit, he adds, there are leadership lessons. “Students learn to work in a team ... and they see how lawyers—particularly transactional lawyers—can help lead not by dominating an issue but working alongside and collaboratively with community people.”

HELPING IMMIGRANTS IN A TIME OF ACUTE NEED

IN MARCH, A BHUTANESE man living in Minnesota as a lawful permanent resident but facing deportation from

the U.S. for a minor crime got welcome news: After eight months in jail, the Board of Immigration Appeals ordered him to be released and returned to his family.

“Most of our job is to let them know someone is on their side, to hear their story and fight for them.”

Annie Manhardt '18 and Tabitha Cohen '18, 2017-2018 executive directors of the Prison Legal Assistance Project. Last year, PLAP landed a huge victory when the Massachusetts Supreme Judicial Court agreed to extend the Americans with Disabilities Act to disabled prisoners seeking parole. Cohen argued the case.

Immigration and Customs Enforcement officials claimed that the man's conviction under a Minnesota statute for making threats was a "crime involving moral turpitude" under federal immigration law, mandating his deportation. Increasingly, ICE has been making this same claim against immigrants with minor criminal convictions. Students in the HLS Crimmigration Clinic—working on issues at the intersection of criminal law and immigration law—wrote a lengthy brief arguing that the conduct covered by the state statute was so broad and nebulous that it could not be considered a crime of moral turpitude under the federal law. The immigration board agreed.

The victory has important implications for other immigrants, says Clarissa Lehne '18, who helped write the brief. It's also been an important part of her legal education. "We rarely get to apply what we learn in the classroom at law school to practical work," she says. "To be able to do that and do it successfully was not only enormously gratifying, but an indelible learning experience."

At the same time, Lehne has become painfully aware that "our client is one of a vanishingly small minority who have legal representation during their immigration proceedings," she adds. "It is humbling to think about how many noncitizens caught up in the U.S. immigration system might have similarly strong arguments in their favor but no access to the resources they need to make them."

As deportation efforts have ramped up, the clinic is swamped with requests for help from immigrant rights groups around the country. Phil Torrey, who is managing attorney of the Harvard Immigration and Refugee Clinical Program and supervises the Crimmigration Clinic, says he selects the most critical cases and then works with students to determine how many the clinic can handle. He says a lot of his students will be running immigration law organizations one day, so they have to learn how to select the most impactful projects, "because you can't do it all."

Paulina Arnold '18, who worked on the Minnesota case and a similar case before the U.S. Court of Appeals for the 9th Circuit, chose HLS specifically because of HIRC. "Rather than just learning how to talk to clients and represent their interests, I've gotten a much broader range of skills," says Arnold, who plans a career in detention work. "I was able to get experience with movement lawyering and bigger-picture legal advocacy on behalf of community groups."

Since its launch five years ago, the Crimmigration Clinic has evolved from providing legal advice to detainees to doing significant litigation and policy work. When the U.S. Supreme Court issued the landmark *Padilla v. Kentucky* decision in 2010, requiring criminal defense attorneys to understand the immigration consequences of their clients' criminal charges, the clinic began doing *Padilla* advisements—researching those consequences for particular defendants, including clients represented by the Criminal Justice Institute at HLS.

Torrey's classroom course on crimmigration, which enrolls approximately 22 students and has a waitlist of over 100, is a prerequisite for the clinic, which now has room for four students. But he plans to bump up enrollment in both. "Post-November 2016, there's been an exponential explosion" in demand for the course *and* clinic, he says, as well as a growing need from immigrant communities and supporters. In addition to giving students litigation skills, the Crimmigration Clinic is unique because it's at the intersection of two very different fields of law that have distinct processes and constitutional protections, he notes.

Students are assisting municipalities that want to designate themselves as sanctuary cities for immigrants, as well as brainstorming strategies for preventing ICE from leveraging "unfounded gang allegations," as Torrey calls them, against people it wants to deport. "Once you're labeled that way, it's really difficult" to escape the serious implications, he says. Torrey represented a man who ICE claimed was a gang member because of what they said was a teardrop tattoo under his eye. "I brought him to court," he says, "and showed the judge it was actually a birthmark."

WITH NATIONAL FOCUS ON MASS INCARCERATION, INTEREST IN HELPING PRISONERS SURGES

THERE ARE APPROXIMATELY 9,000 inmates in Massachusetts prisons, and very few people know or care whether some of them

languish in solitary confinement for a disciplinary infraction they didn't commit. The 250 students in the Harvard Prison Legal Assistance Project are exceptions.

In 1970, PLAP was founded by "a half dozen scruffy law students [who] were drawn to advocating for oth-



**This year, over
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The HLS clinical program is one of the largest providers of free legal services in New England. In Boston and Cambridge alone, 3,556 clients were served in 2016, and hundreds more were represented in other parts of the state and country, and internationally.

er outcasts,” says John Fitzpatrick ’87, a PLAP alumnus and senior clinical instructor. As the law school’s feisty outsiders, “PLAppers” proudly face off against the Department of Correction and the state parole board.

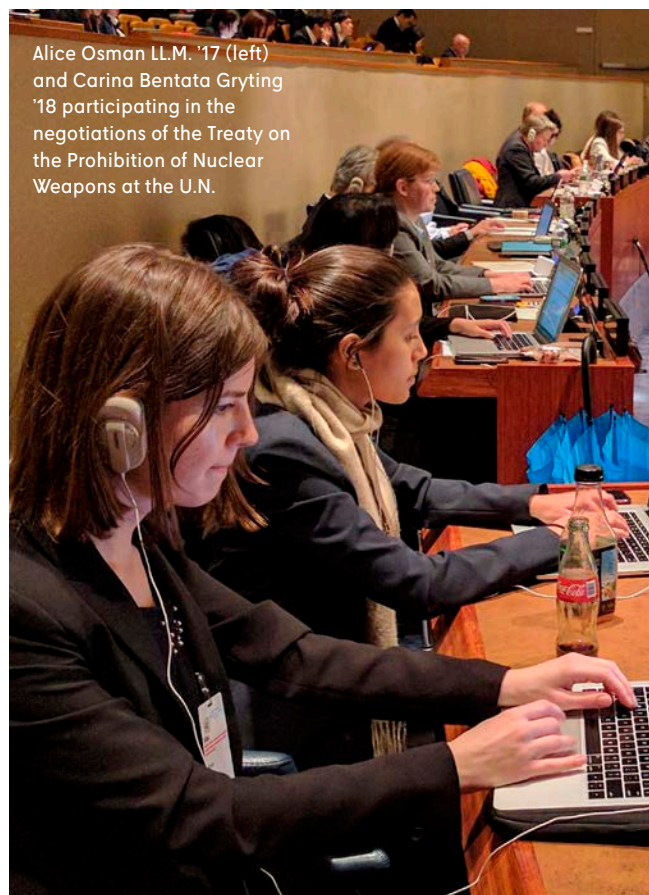
“We don’t win a lot of our cases,” says Tabitha Cohen ’18, PLAP’s 2017-2018 co-executive director along with Annie Manhardt ’18. “The cards are very much stacked against our clients. The hearing officers are DOC employees or former corrections officers—I wouldn’t say they’re impartial arbiters. And on top of that, we try to take on the more difficult cases,” Cohen says.

But last year, PLAP landed a huge victory when the Massachusetts Supreme Judicial Court agreed to extend the Americans with Disabilities Act to disabled prisoners seeking parole, in *Crowell v. Massachusetts Parole Board*, a case that Cohen argued before the high court.

“What makes us unique is that there is no other legal clinic for prisoners in the country—and maybe not in the world—that presents this wide array of direct representation to prisoners and operates year-round,” says Fitzpatrick. “Representing the underdog can only make your backbone that much stiffer, your resolve that much more focused and informed, and can also educate you in a way you would not otherwise get in law school about what the highest principles of our rule of law are about: that everyone should be treated equally under the law.”

One of 11 student-run Student Practice Organizations at HLS, PLAP operates as a prison legal services clinic, with students representing inmates in disciplinary hearings, parole hearings and revocations, and more. Spurred by national focus on the ills of mass incarceration, its numbers are soaring, says Fitzpatrick, one of three part-time supervising attorneys. It’s also popular because any HLS student is eligible and can commit to as little as one hour of work a week, adds Manhardt.

Within weeks of beginning at Harvard Law School, Cohen was learning and applying practical lawyering skills, representing an inmate charged with attempting to smuggle drugs into prison. She learned how to interview a client, draft discovery motions, cross-examine corrections officers, and give an opening statement and a closing argument, and in the end she got 11 of 12 charges dismissed, with the sentence on the final charge reduced on appeal. “Even if you don’t get the result you wanted, most of our job is to let them



Alice Osman LL.M. '17 (left) and Carina Bentata Gryting '18 participating in the negotiations of the Treaty on the Prohibition of Nuclear Weapons at the U.N.

know someone is on their side, and to hear their story and fight for them,” says Cohen.

PLAP students assist thousands of prisoners and handle 50 to 80 formal legal proceedings annually, although Fitzpatrick expects that number to hit 100 soon. Although students do not receive academic credit, their work can count toward the 50 hours of pro bono work required of HLS students. Famous PLAP alumni include Tim Kaine ’83, former governor of Virginia and the 2016 Democratic vice presidential candidate; Kaine’s wife, Anne Holton ’83, Virginia’s former education secretary; national security analyst Juliette Kayyem ’95; and Charles Ogletree Jr. ’78, HLS professor and founder of the Charles Hamilton Houston Institute for Race and Justice.

With so much student interest and prisoner need, PLAP is “overwhelmed,” says Fitzpatrick. “But being the underdog representing the underdog, that’s a position we are comfortable with and accustomed to.”

Experiential and Impactful

A sampling
of recent
wins
for
HLS clinics
and SPOs

IMPACT

In May 2018, a federal magistrate issued a temporary injunction to prevent the U.S. Department of Education from forcing former students of for-profit Corinthian Colleges to repay what the plaintiffs describe as fraudulent student debt.

CLINIC

The PREDATORY LENDING AND CONSUMER PROTECTION CLINIC at the HLS WilmerHale Legal Services Center is representing the plaintiffs in *Calvillo Manriquez v. DeVos*, a class-action suit filed in December 2017. A hearing on whether the plaintiffs should receive complete loan cancellation is expected this summer.

IMPACT

In May 2018, the U.S. House of Representatives rejected the Agriculture and Nutrition Act of 2018, a farm bill that would have cut the Supplemental Nutrition Assistance Program (formerly “food stamps”), dismantled core conservation programs, and ended many supports for local and organic foods.

CLINIC

Under the leadership of the HLS FOOD LAW AND POLICY CLINIC, the Farm Bill Law Enterprise met with 77 congressional offices in early May 2018 to share research findings on the bill’s threats to food security, rural communities and the environment. Created by the Food Law and Policy Clinic, the Farm Bill Law Enterprise is a first-of-its-kind collaboration among eight food, environment, and public health law programs, with clinical students providing recommendations and analysis.

IMPACT

In September 2017, in *Beacon Residential Management, LP v. R.P.*, a case with important implications for victims of domestic and sexual violence, the Massachusetts Supreme Judicial Court ruled that a mother may intervene on behalf of herself and her children in an eviction action brought by a landlord against her husband, despite the mother’s not being a named tenant on the lease, if she lived with her family in the apartment and alleges domestic violence in the home.

CLINIC

Three students at the Housing Justice for Survivors Project, under the supervision of the project’s founding attorney, Julia Devanthery, filed an amicus brief in the case. The project, at the WilmerHale Legal Services Center’s HOUSING LAW CLINIC, represents tenants facing housing instability as a result of domestic or sexual violence.

IMPACT

In July 2017, 122 nations adopted the groundbreaking Treaty on the Prohibition of Nuclear Weapons, the first global treaty banning these weapons. In October 2017, the International Campaign to Abolish Nuclear Weapons (ICAN) was awarded the Nobel Peace Prize for changing the course of nuclear disarmament by shifting focus from national security to the catastrophic humanitarian and environmental consequences of these weapons.

CLINIC

Under the leadership of Associate Director of Armed Conflict and Civilian Protection Bonnie Docherty ’01, the HLS INTERNATIONAL HUMAN RIGHTS CLINIC collaborated with ICAN and other partners to achieve the ban on nuclear weapons, with Docherty (who recently launched a related HLS initiative) and clinical students providing legal advice to ICAN during the negotiations. (See photo on facing page.)

IMPACT

In July 2017, the Massachusetts Supreme Judicial Court ruled, in *Lunn v. Commonwealth*, that state law enforcement officers do not have the authority to arrest and detain an individual pursuant to a request from federal immigration authorities. It was the first ruling by a state’s high court on this question.

CLINIC

The Harvard Immigration and Refugee Clinical Program’s CRIMMIGRATION CLINIC filed an amicus brief in *Lunn* that discussed the lack of legislative authorization for state or local law enforcement agents to detain someone solely pursuant to a federal immigration detainer. Five HLS students, working with Crimmigration Clinic Supervisor Phil Torrey, helped write the brief.

IMPACT

In May 2017, the Massachusetts Supreme Judicial Court extended the federal Americans with Disabilities Act to apply to disabled prisoners seeking parole.

SPO

The HARVARD PRISON LEGAL ASSISTANCE PROJECT filed the appeal in *Crowell v. Massachusetts Parole Board*, and PLAP student attorney Tabitha Cohen ’18 argued the case.

IMPACT

In 2017, numerous congressional proposals to repeal the Affordable Care Act were defeated. Each proposal threatened the health insurance of over 20 million people, with a disproportionate impact on low-income and vulnerable Americans. The chronic illness and disability communities are often cited as playing an outsized role in the successful defeat of these ACA repeal efforts.

CLINIC

The HLS Center for Health Law and Policy Innovation’s HEALTH LAW AND POLICY CLINIC played a leading role in mobilizing the chronic illness and disability communities’ advocacy in opposition to the repeal of the ACA. The clinic chairs both the national Chronic Illness and Disability Partnership and the Federal AIDS Policy Partnership, two coalitions representing medical providers, public health professionals, advocates, and people living with chronic health conditions and disabilities. The coalitions were a go-to source for policy analysis, action alerts and advocacy that helped stop the repeal of the ACA.

IMPACT

A female veteran of the U.S. Marine Corps sought disability benefits from the Department of Veterans Affairs for the ongoing mental health consequences of an in-service sexual assault by a fellow Marine. The VA denied her claim three times on the basis that the sexual assault never occurred. After extensive litigation, the claim was eventually approved in 2017, charting new pathways at the agency and in court for survivors of military sexual trauma to establish the fact of a sexual assault and to obtain justice.

CLINIC

The VETERANS LAW AND DISABILITY BENEFITS CLINIC at the WilmerHale Legal Services Center represented the veteran during three years of litigation that involved two separate appeals to federal court. Because of the tenacity and creativity of six clinical students working under the supervision of Faculty Director Daniel Nagin and Associate Clinic Director Betsy Gwin over multiple semesters, the client received over \$50,000 in back benefits plus ongoing benefits that lift her out of poverty.

Researchers at Harvard's Berkman Klein Center for
Internet & Society are collaborating with MIT
scholars to study driverless cars,
social media feeds, and criminal justice algorithms,
to make sure openness and ethics inform
artificial intelligence. / BY ERICK TRICKEY

MORALITY

IN

THE

MACHINES



WHO'S BEHIND THE WHEEL?

On March 18, 2018, a self-driving car strikes and kills a pedestrian in Tempe, Arizona, in what is believed to be the first traffic death involving an autonomous car. The ethical dilemma of who is to blame is just one of the vexing questions these cars pose that are being considered by Harvard Law and MIT researchers and students. A driverless future brings up a vast array of new legal questions about individual rights and government power, many of which will have to be addressed before the cars hit the roads en masse. / ILLUSTRATION BY HARRY CAMPBELL

Jonathan Zittrain's ambition for the Ethics and Governance of Artificial Intelligence initiative is immense.



The

experts invent and reinvent how humans experience—and can be aided by—technology.

In a new course for students at HLS and MIT, the two insti-

Berkman Klein Center for Internet & Society at Harvard is renowned for its research on the online world. Similarly, the MIT Media Lab is acclaimed for collaborations in which technologists and other ex-

tutions have come together to discuss how to regulate driverless cars, respond to fake news, and gain access to secret math formulas built to dispense justice. Two professors lead a lightning-fast discourse in their new, team-taught class, The Ethics and Governance of Artificial Intelligence.

Jonathan Zittrain '95, a Harvard Law and computer science professor, asks questions about rights and regulations, while Joi Ito, the MIT Media Lab's director (and a visiting professor at HLS), adds philosophical and political comments. Together, they riff on music-industry copyright controversies,



CRIMINAL INJUSTICE TOOLS?

Computerized risk-assessment tools have been used by some courts for decades to try to predict whether a defendant will skip bail, flee or commit more crimes if released before trial. Supporters of these tools believe they could make courts more efficient and less vulnerable to judges' personal bias. Others say they can magnify biases in the justice system data they are based on. The tools' algorithms are often secret, says Berkman Klein's Christopher Bavitz, and that creates due-process concerns. / ILLUSTRATION BY MARTA MONTEIRO

Joi Ito says when it comes to hard questions about autonomous vehicles, “just a market-driven approach will not satisfy people’s view of what is ethical.”



referencing Rod Stewart and Elvis Presley. They debate why Japanese culture places more moral restraints on capitalism than American culture.

The students pepper Zittrain and Ito with questions inspired by the news. One student asks about digital privacy rights and online companies’ freewheeling approaches to customer data.

“The American paradigm is heavily choice-based: The more you can just say you’re giving somebody a choice, whether it’s opt in or opt out, you’re done,” Zittrain says. But he thinks we face too many privacy choices to keep track of them. “If the

choice is, do you want to get screwed over or not, don’t give me the choice. Just don’t screw me over.”

“In medicine, there’s an interesting way to think about consent versus duty of care,” adds Ito. “We’re missing that right now in the digital world. Maybe there’s a way to learn from [that] and apply it to a place like Facebook.”

Zittrain and Ito aren’t just talking theory. They’re putting it into action. They’re two of the lead researchers for the Ethics and Governance of Artificial Intelligence Fund, an AI initiative established by donors in January 2017, with the Berkman Klein



FIGHTING FAKE NEWS

Exploitation of social media's vulnerabilities during the 2016 U.S. election is still making headlines. Jonathan Zittrain is one of the leaders of the AI initiative's work on media and information quality—e.g., how to define and fight fake news. Among its goals: make social media news feeds more transparent and defend them against manipulation by Russian government-sponsored trolls and other propagandists. / ILLUSTRATION BY ADAM MCCAULEY

Christopher Bavitz and other researchers and scholars have urged that courtroom tools should be studied for hidden biases.



Center at Harvard and the MIT Media Lab as anchor institutions. The \$27 million AI initiative aims to reach far beyond the two universities. Its goal: to research and brainstorm new legal and moral rules for artificial intelligence and other technologies built on complex algorithms. Backers include LinkedIn co-founder Reid Hoffman and eBay founder Pierre Omidyar, who've grown concerned about AI and other aspects of the digital world they helped create. The fund's first round of grants, in July 2017, gave \$1.7 million to seven organizations on four continents to examine artificial intelligence's development.

In Brazil in November, Berkman Klein co-hosted the Global Symposium on Artificial Intelligence & Inclusion to explore further international research partnerships.

"Companies are building technology that will have very, very significant impacts on our lives," says HLS Clinical Professor Christopher Bavitz, faculty co-director of the Berkman Klein Center and another leader of the AI initiative's research. "They are raising issues that can only be addressed if you have lawyers, computer scientists, ethicists, economists and business folks working together."

The AI initiative aims to establish rules to govern driverless cars before they hit the road en masse; to make social media news feeds more transparent and defend them against manipulation by Russian government-sponsored trolls and other propagandists; and to guard against racial bias seeping into seemingly objective courtroom tools. In short, Harvard and MIT want the public to understand and control these fast-growing technologies, before they control us.

This

past November, 11 Harvard and MIT professors and researchers wrote an open letter to the Massachusetts Legislature. They asked lawmakers not to pass a provision of the state Senate's criminal justice bill that would have required state courts to use risk-score programs while determining defendants' bail. The scholars, most of whom are participants in the AI initiative, warned the state to study risk-score programs for hidden racial or gender bias—and to consider building their own program, through an open and public process.

"It may turn out to be that it's very, very difficult to do risk scoring in a way that is fair," says Bavitz, a lead author of the letter, "because it is virtually impossible to weed out the biases."

Computerized risk assessments try to predict whether a defendant will skip bail, flee or commit more crimes if released before trial. Though some courts have used risk scores for decades, they're growing in popularity. In 2016, the Wisconsin Supreme Court ruled that judges can use, without forensic examination by defendants, computer forecasts of a defendant's likelihood to commit future crimes when deciding a prison sentence.

Supporters of risk-score algorithms believe they could make courts more efficient and less vulnerable to judges' personal biases. Critics say the algorithms can end up reflecting and magnifying biases in the justice-system data they're based on. Some risk-score tools use factors that may reflect the impact of racial discrimination on society, such as a defendant's education level, social isolation or housing instability.

In February, the Harvard and MIT researchers endorsed a revised approach in the Massachusetts House's criminal justice bill, which calls for a bail commission to study risk-assessment tools. In late March, the House-Senate conference committee included the more cautious approach in its reconciled criminal justice bill, which passed both houses and was signed into law by Gov. Charlie Baker in April.

Meanwhile, Harvard and MIT scholars are going still deeper into the issue. Bavitz and a team of Berkman Klein researchers are developing a database of governments that use risk scores to help set bail. It'll be searchable to see whether court cases have challenged a risk-score tool's use, whether that tool is based on peer-reviewed scientific literature, and whether its formulas are public.

Many risk-score tools are created by private companies that

keep their algorithms secret. That lack of transparency creates due-process concerns, says Bavitz. "Flash forward to a world where a judge says, 'The computer tells me you're a risk score of 5 out of 7.' What does it mean? I don't know. There's no opportunity for me to lift up the hood of the algorithm." Instead, he suggests governments could design their own risk-assessment algorithms and software, using staff or by collaborating with foundations or researchers.

Students in the ethics class agreed that risk-score programs shouldn't be used in court if their formulas aren't transparent, according to then HLS 3L Arjun Adusumilli. "When people's liberty interests are at stake, we really expect a certain amount of input, feedback and appealability," he says. "Even if the thing is statistically great, and makes good decisions, we want reasons."

The MIT Media Lab is partnering with Berkman Klein to research criminal justice algorithms. Its program, Humanizing AI in Law, is conducting research into how Kentucky judges use risk-assessment tools. (The program's acronym, HAL, is partially inspired by HAL 9000, the computer in "2001: A Space Odyssey," science fiction's most famous example of artificial intelligence gone rogue.) A recent paper by Ito, Zittrain and HAL researchers, "Interventions over Predictions," argues that instead of merely using algorithms to predict future crime, governments should use machine learning to analyze the root causes of crime and find ways to "break cycles of criminalization." Co-author and HAL researcher Chelsea Barabas expanded on the paper in a keynote this year for the Conference on Fairness, Accountability, and Transparency in New York City.

Meanwhile, Bavitz says, he's excited to learn the results of a study in progress elsewhere at Harvard Law. The Access to Justice Lab is conducting a randomized trial of a risk-assessment tool in Madison, Wisconsin. Lab faculty director and HLS Professor Jim Greiner says judges in Dane County, which includes Madison, have agreed to test the Public Safety Assessment, a risk-score tool developed by the Laura and John Arnold Foundation. The judges will use the tool in randomly chosen cases, and work without it in others.

Many members working on the AI initiative are pessimistic about whether bias can be purged from risk-score tools. Greiner is more optimistic. "I'm at least willing to try these risk-assessment scores as a way to improve upon unguided human best guesses," he says.

In

2014, Zittrain wrote an article for *The New Republic* headlined "Facebook Could Decide an Election Without Anyone Ever Finding Out." He argued that Facebook could alter its news-feed algorithm to depress turnout for candidates the company opposed. It was one of the first warnings that changes on Facebook's platform could impact an election.

Four years later, the world has caught up to Zittrain. Exploitation of social media's vulnerabilities during the 2016 U.S.



Ito and Zittrain teaching a classroom of HLS students, MIT undergrads, and tech-industry professionals

Potential Solutions:

- Change the engineering-centric culture:
 - Think of ways to restructure teams in order to engage among different disciplines. For example, include a design team earlier in the innovation process.
 - These types of companies may not survive.
 - Establish different rules/expectations for startups.
- Establish statutory requirements for verification data.
 - Keep in mind that we trust platforms like Facebook more than we get data from Facebook (Cambridge Analytica)

election is still making headlines. And Zittrain, the co-founder, director, and faculty chair of Berkman Klein, is, with its executive director, Urs Gasser LL.M. '03, leading the AI initiative's work on media and information quality—e.g., how to define and fight fake news.

“You have no idea if the entity you're communicating with [on social media] is automated, or is someone carrying water for someone else,” says Zittrain. So propaganda can flourish. In fact, he calls Russian efforts to influence the 2016 election a prime example of astroturfing: a fake grass-roots campaign. “Clever astroturfing campaigns can sway public opinion and shape people's view of the world,” Zittrain says, adding that scaling up a mass propaganda campaign online requires using algorithms. Defending against subtly automated mass propaganda on a social media platform in turn requires altering what the site's algorithms present to users—and those defenses can accidentally affect legitimate political debate. “Those are algorithmically driven decisions,” he says. “Depending on the code, [they] can present diametrically different views of the world.”

Zittrain's ambition for the AI initiative is immense: to democratize social media's secret algorithms, artificial intel-

ligence and similar technologies. He wants to produce public-spirited discussions that allow everyone from engineers at major companies to “people who are either using or being affected by the technology and don't even know it” to become “much more aware of the choices that were made in the design, and have a chance to contest it and talk about it.” That means engaging much of the world: 2.1 billion of the globe's 7.6 billion people are on Facebook.

“A lot of the action and activity is behind the gates of a Twitter or a Facebook,” Zittrain says. “This initiative entails developing and expanding relationships with those companies, while also maintaining the appropriate distance from them, to be able to report independently on what we see and what we think ought to happen.”

Zittrain also hopes the initiative produces technological innovations—some created at MIT and Harvard, some by third parties receiving grants from the Ethics and Governance of Artificial Intelligence Fund.

“We will also be saying, ‘Hey, Twitter, let's work together, and help figure out how you might change your code to effect this goal or that goal,’” Zittrain says. “‘Hey, Facebook, here's a

way to open up your News Feed so anybody can write a recipe for what gets seen.' That might require Facebook's buy-in to do, and we are pursuing that."

Zittrain also suggests the AI initiative could create new social platforms or news aggregators. At the MIT Media Lab, researchers have already built Gobo, a social media aggregator with transparent filters controlled by the user.

The initiative will also build on other work by Harvard and MIT researchers. Last year, Media Cloud, a collaboration between Berkman Klein and the MIT Center for Civic Media, released a study of online media coverage of the 2016 election. The study, led by HLS Professor and Berkman Klein co-director Yochai Benkler '94, mapped the wide split in influence between mainstream center-left websites and highly partisan far-right websites such as Breitbart. This February, a vast MIT Media Lab study of 126,000 stories shared on Twitter across 11 years concluded that lies spread faster than truth on the social media site. The study attracted widespread coverage and commentary.

Meanwhile, students in Zittrain and Ito's class have been studying and debating social media's effect on politics, in response to the news, and with participation by outside technologists, including from companies in the spotlight. For example, in one session, Facebook's chief security officer, Alex Stamos, spoke to the class via video link.

Jessy Lin, then a junior at MIT who's researching artificial intelligence, says hearing from Stamos in class gave her a more nuanced view of how Facebook deals with fake news and social responsibility. "They have been thinking about it and putting a lot of manpower and effort into these problems," Lin says, "but it's just obviously very complex."

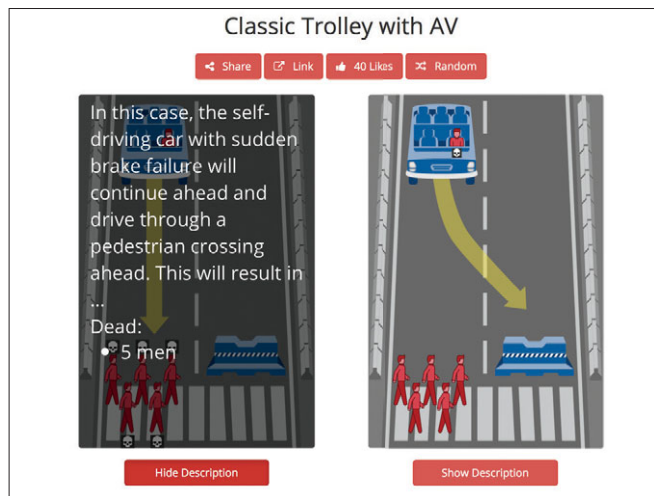
On

March 20, days after a self-driving car struck and killed a pedestrian in Tempe, Arizona, students in the AI ethics and governance class talked about what the crash means for ethics and the law. Though a "safety driver" was in

the car to take control in an emergency, Lin says the students agreed that she should not be blamed for the death. "You should not have the operator take on the brunt of the failures of the system," she says.

Who's to blame when a self-driving car crashes is just one of the vexing questions the AI initiative is tackling. Ito is the initiative's point person on autonomous vehicles. The joint effort will also tie in to work at Harvard that predates it, such as computer science professor Barbara Grosz's pioneering class and research on artificial intelligence and exploration of ethics alongside computer science, and Harvard Law Lecturer Bonnie Docherty's ('01) research supporting a pre-emptive ban on fully autonomous weapons.

The MIT Media Lab's Moral Machine website built by Media Lab Associate Professor Iyad Rahwan has polled millions of people worldwide on the wrenching problems that self-driving



The Moral Machine website asks users to decide: When a driverless car's brakes fail, should it crash into a barrier, killing passengers, or swerve into pedestrians?

cars may be programmed to answer in the moments before a crash: Is it better to swerve one way, which may kill two passengers, or another way, which may kill five pedestrians?

"The result generally comes out to: 'Cars should sacrifice a passenger if it's going to save more lives,'" Ito says, "and 'Everyone should buy that car, but I wouldn't.'" His conclusion: "Just a market-driven approach will not satisfy people's view of what is ethical." To find solutions, Harvard and MIT are building relationships with car companies—the Media Lab is already working with Toyota—with the aim of connecting them with government regulators and ethicists. Harvard Law's Cyberlaw Clinic is offering help with legal liability questions around driverless cars to nonprofits and startups.

Zittrain, who's been exploring driverless-car ethics and governance with Ito in class, says a driverless future brings up a vast array of new legal questions.

"If a city wants to decree an evacuation, can it just push a button, and all the cars flee the city with the people inside?" Zittrain asks. "Can you arrest somebody by realizing they're in a car at the moment, having it lock the doors, and taking them to the nearest police station for delivery? Can someone declare an emergency, and have their car go 90 mph while all the other cars part like the Red Sea?"

People need to confront those questions sooner, not later, Zittrain thinks. Rules written into code in 2018 might control what happens in 2025. "You can set up the dominoes early, and they *will* fall later," he says. "That's a strange movement of autonomy: not from a person to a company, or a company to a government, but from the present to the past."

A new book

No

examines the

real and

Paper

threatened power of

Tiger

impeachment



By Julia Collins

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE II, SECTION 4 OF THE CONSTITUTION

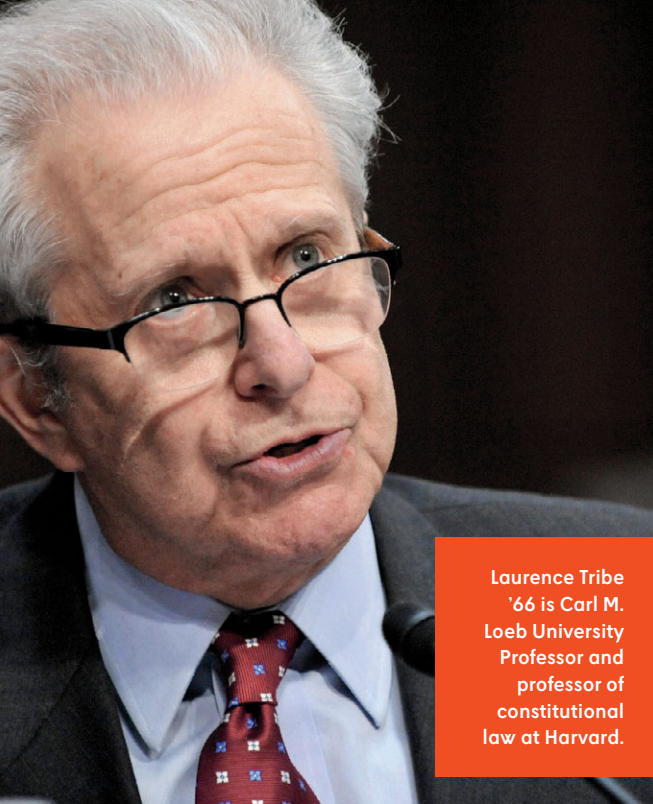
RELEASED IN MAY, “TO END A PRESIDENCY: THE POWER OF Impeachment” (Basic Books) guides readers through the perilous process for removing an American president from office. Laurence Tribe ’66, Carl M. Loeb University Professor and professor of constitutional law at Harvard, and Joshua Matz ’12, constitutional lawyer and publisher of the Take Care law blog, provide historically rich, vividly reasoned, and unflinching analysis of this profound constitutional check—from its shifting form during the Framers’ debates, to its many and varied applications since 1788, to the “permanent impeachment campaign” of today. The Bulletin asked Tribe and Matz for their

“We wanted to write a book that would be respectful of all ideological positions—except, I suppose, the nihilistic position that the American experiment has failed and should be brought to an end.” —LAURENCE TRIBE

insights on the origins and purpose of the often-misunderstood impeachment clauses and their potential role in our era of “broken politics.”

Q: Ending a presidency is a massive undertaking, yet the Framers kept their guidance on impeachment minimal and very limited on process. Why do you think they did that? Has this had good or bad effects overall?

LT: As with most of our mercifully brief Constitution, the Framers were wise enough to know how little they could predict about how the republic would fare in a hostile world and under changing circumstances. Thus they famously decided to provide only a rough outline rather than a detailed blueprint. Planning for the selection of a president, the Framers were of many minds about whether to include an impeachment power and, if so, how to structure it. Could impeachment be made potent enough to remove a despot but not so potent as to undermine an energetic chief executive or make him subservient to Congress? In our book, we extract lessons from founding debates about



Laurence Tribe '66 is Carl M. Loeb University Professor and professor of constitutional law at Harvard.

“It would be a mistake to dismiss the impeachment power as a paper

conviction by the Senate. And the fear of being humbled and humiliated—even through an unsuccessful impeachment campaign—has undoubtedly prevented many presidential misadventures that would otherwise have harmed the nation. Like a sword of Damocles, the impeachment power works its magic of deterring misdeeds not just when it falls but also while it hangs overhead. So it would be quite a mistake to dismiss the impeachment power as a paper tiger. Its roar throughout history has been loud indeed.

oric of impeachment talk. In that same period, Americans had come to expect it. Calls for impeachment, and denunciations of those calls, were now a customary part of political dialogue. It was only a small extension of that habit to debate articles of impeachment against Donald J. Trump and Hillary Clinton before either of them had been elected (let alone sworn into office).

Q: Everyone has strong feelings about the 45th president. How did you handle yours, in writing this book intended for all Americans, some of whom see welcome shake-ups where others see dire chaos?

LT: We decided to bring our views into the open, not that an effort to hide them could have succeeded anyway. But because both of us care more about preserving the democracy we embrace than we do about removing the leader we oppose, regardless of the consequences, there was no tension between our policy preferences and our principles. In particular, we don't agree with those who believe that all or even most of Trump's supporters are “deplorable” people who aren't worth taking seriously and listening to. So we wanted to write a book that would be respectful of all ideological positions—except, I suppose, the nihilistic position that the American experiment has failed and should be brought to an end.

Q: What are some of the biggest misconceptions about impeachment you have encountered?

LT: Where to begin? For one thing, huge numbers of people have the misconception that impeaching a president automatically removes him from office, whereas in fact it triggers only a trial in the Senate. Some think that removing a president for stealing an election in collusion with a hostile foreign power would turn back the clock and either reverse the results of the election or empower a court to do so—fantasies that we've tried to discourage. Another misconception is that the main thing to figure out about impeachment is what constitute “high Crimes and Misdemeanors,” whereas

whether to allow impeachment, who should exercise this power, and what limits should apply on impeachable conduct. We also explore how impeachment has been deployed over the centuries and all the judgment calls Americans have made along the way. In so doing, we bring to life the many ways in which the Framers delegated key judgments to the future.

Q: Tyranny was fresh in the Framers' minds when they wrote the Constitution. Did that influence how they devised the impeachment power?

LT: Not only did tyranny influence how they devised the impeachment power, but the risk of presidential despotism ultimately silenced many of the Framers who began with the view that no such power should be included at all. Without an impeachment process, those Framers came to see, we would render ourselves defenseless against the kinds of tyranny our Founders came to these shores and shed their blood to escape.

Q: No president has ever been removed from office through impeachment. Does that mean this “power” is not in fact all that powerful?

LT: This fact shows only how difficult the process is to use when a president is determined to cling to power to the bitter end. Richard Nixon, as you know, resigned to avoid what looked like certain impeachment by the House and all-but-certain

Q: According to your book, compared with during the first 200 years of the United States, today, impeachment is a much more disruptive force in politics. What is the “permanent impeachment campaign” you mention, and what gave rise to it?

JM: For the vast majority of our nation's history, impeachment played a marginal role in the rhetoric and practice of national politics. With only a few notable exceptions—including the Tyler, Johnson and Nixon presidencies—impeachment simply wasn't a significant part of the story. That began changing in the 1980s and 1990s: Ronald Reagan and George H. W. Bush each faced multiple impeachment resolutions. Yet it was the GOP crusade against Bill Clinton that marked a profound transformation. Born of partisan spite and rejected on partisan lines, the Clinton impeachment accelerated many of the most destructive trends in our political system. At the same time, it degraded the impeachment power. A whole generation came to view impeachment threats as ordinary aspects of our partisan civil war, in which nothing is sacred and everything can be weaponized. Under George W. Bush and Barack Obama, calls for impeachment became standard fare in national politics. By 2016, journalists, political operatives, and elected officials had spent nearly two decades mastering the strategy and rhet-

that’s arguably the *easiest* step in the process. A fixation on that single question has distracted attention from the much harder (and much more important) question of when an impeachment *should* proceed when there is a decent case that “high Crimes and Misdemeanors” may have occurred. That the House has a mandatory, constitutional duty to impeach whenever a potentially impeachable offense has been committed is a related misconception. We could go on, but the point is that there are far more—and far more dangerous—misconceptions than there are correct understandings about the impeachment power. We hope our book will help change that.

Q: You write that the widespread belief that only criminal offenses are impeachable is false, yet it “staggers on like a vengeful zombie.” What’s the danger here?

LT: The main danger is that a president who imperils democracy, commits dereliction of duty, or violates his oath of office through noncriminal means would be deemed beyond removal through the only available mechanism. The formal powers of the presidency are vast; exercised the wrong way, they could break this nation without breaking any criminal statutes. Another danger is that debates over how to save democracy from a tyrant will be replaced by debates over ultimately irrelevant legal technicalities concerning provisions of the United States Code written for *entirely* different purposes. A final danger is that the criminalization of politics is likely to be encouraged by couching national debates over the abuse of power in terms of federal criminal law.

Q: How does public opinion shape the impeachment process—what impact does today’s proliferation of polls, approval ratings, 24/7 social media, fake news and flexible notions of “truth” have on current debate?

JM: Popular presidents are less likely to be investigated, less likely to be charged with misconduct and less likely to be removed from office. As unnerving as this may sound, popular presidents almost certainly enjoy a bit more leeway to com-

mit “high Crimes and Misdemeanors.” We certainly hope that evidence of misconduct would undermine a president’s approval ratings, but history suggests that the story isn’t always so simple. This speaks to a fundamental truth of impeachment: It is a constitutional power inextricably intertwined with the political process. If the American people cannot recognize and rally against a tyrant, the game is already lost. And in this age of echo chambers, fake news and tribal truth, it’s an open question whether a broad cross section of the public could successfully pull together in the face of a threat to democracy.

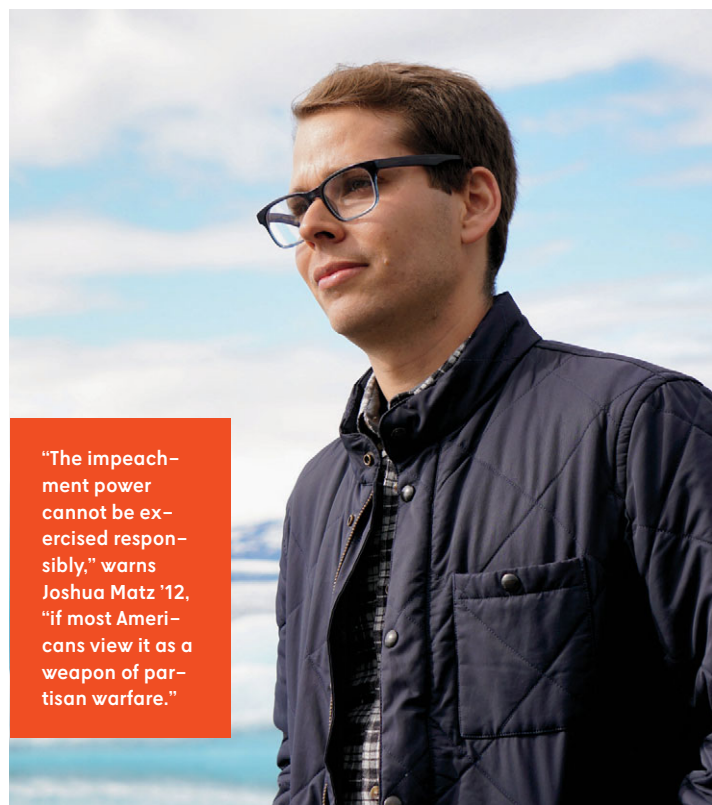
Q: Impeachment is a “democratic process” by which Americans “speaking through Congress decide,” your book states. Polls indicate that currently Americans have less confidence in Congress than in any other U.S. institution. What impact could this have on potential impeachment proceedings?

LT: That’s an excellent question. Our broken politics makes impeachment, which has always been difficult, *especially* difficult today. The paradox is that very same broken politics makes it more likely that we’ll elect a president who ought in principle to be removed through impeachment. So we’ve ended up with a tragic situation in which impeachment might be least usable and most destabilizing precisely when we need it most. The resolution to that paradox isn’t to be found within the machinery of government itself but in the conditions of our tribal and increasingly vicious culture. We need to reinvigorate our democracy and start talking *to* one another, more than *at* one another, if we’re to make it through these trying times. The children marching in over 800 cities and towns as we offer these answers in March 2018—the inspiring teenagers who have organized #MarchForOur-

Lives—are as relevant to escaping our predicament as is any new law or official action that a Congress with more spine might take on its own.

Q: You call impeachment a “noble wager,” a life-or-death-of-our-democracy bet on the capacity of the American people and their representatives to topple a rogue president. How can Americans help ensure that the impeachment power will still work if and when we need it?

JM: There’s no silver bullet. But the impeachment power cannot be exercised responsibly—or at all—if most Americans view it as a weapon of partisan warfare. Impeachment does not exist to slay or embarrass political foes; it exists to save the very foundation on which the rest of our democratic politics unfolds. Taking a more measured and thoughtful approach to impeachment is one of the first steps toward ensuring that it’s available if and when we need it. Ideally, that step would also facilitate a broader reflection on the state of our democratic politics—and a commitment to breaking past the forces of disunion and dysfunction that threaten to tear us apart. The Constitution gambles that the American people will rise to the occasion in times of crisis.



“The impeachment power cannot be exercised responsibly,” warns Joshua Matz ‘12, “if most Americans view it as a weapon of partisan warfare.”



Branch

Returns

to



Her

Navajo

Roots

As attorney general of
the Navajo Nation,
Ethel Branch '08 aims
to strengthen tribal law
and native voices

BY MICHELLE BATES DEAKIN
PHOTOGRAPHS BY MARK PETERMAN

E

THEL BRANCH '08 GREW UP ON HER family's ranch with no electricity, no running water and a long list of questions about injustice.

Why did she have to walk to an outhouse in the hot summer, when 20 miles away in Winslow, Arizona, even the poorest kids had air condi-

tioning and running water?

Why were there power plants and transmission lines crisscrossing the Navajo Nation, but so few Navajo families with electricity?

Why did she feel like she had more in common with the children pictured in National Geographic than with her non-Indian classmates in school?

Her family's sheep and cattle ranch on the outskirts of Leupp was six miles from the nearest paved road. Mud or snow could quickly make the dirt roads impassable; so, as a child, she often lived with other relatives rather than her parents so she could make it to school reliably.

As she grew up, Branch knew she had to address these questions. "That confusion as to why the world changed when you crossed the Navajo Nation boundary line was a driving question for my youth and my life," says Branch. It propelled her to study law and policy. And three years ago, at age 36, it led her to become attorney general of the Navajo Nation.

"This is my dream role," says Branch, from her office in Window Rock. "It's the most fun I will ever have. It's practicing law in every conceivable way possible."

As head of the Navajo Nation Department of Justice, she oversees a staff of 88, handling all the legal affairs of the sprawling Nation, which extends into Arizona, New Mexico and Utah in a land area the size of West Virginia. The department includes the Office of the Prosecutor, which has nine district offices that cover 13 district courts; the Office of Juvenile Justice; the Navajo-Hopi Legal Services Program; and the six units of the department (Water Rights, Natural Resources, Economic and Community Development, Human Services and Government, Tax and Finance, and Litigation). Branch has helped form a public corruption task force, battled white-collar crime, drafted legislation, spearheaded an initiative to revise the Navajo criminal code, and launched a collaborative, annual Public Safety Summit that pulls Navajo governmental partners together to focus their limited existing resources on maximizing impact in reducing violence, substance abuse, and suicide on the Nation. "It's so diverse. Every single day is so different and challenging and fascinating, and this is all done in service to my nation and my people. There is

no greater honor," Branch says.

Progress can be elusive and uneven, however. Branch estimates that half her work is suing the U.S. government to enforce treaties and agreements, and to otherwise protect and defend the rights of the Nation. In December, she filed a suit against President Donald Trump after he signed a proclamation drastically shrinking the size of the Bears Ears National Monument in southeastern Utah and removing the land protections established under President Barack Obama '91. Under her leadership, the department is suing the U.S. Environmental Protection Agency and other parties for their hand in the contamination of Navajo waters in the 2015 Gold King Mine spill, battling states to maintain jurisdiction over trust land leased to public school districts, and suing county governments for violating the voting rights of Navajo tribal members, among many other issues, ranging from water rights to uranium cleanups.

And she wages a constant and uphill battle against lawmakers, judges, lawyers, and members of the general public who don't understand tribal sovereignty. "In high school history books, Indian tribes are mentioned in the first chapter and never again, suggesting we no longer exist and we're historic relics," says Branch. "It's so detrimental when you have justices who grew up and exist in an America that has largely failed to acknowledge the presence of tribes as governments and the history of native peoples."

Harvard College was a long way from Winslow High School. Branch excelled at both, majoring in history at Harvard, and writing her senior thesis on the history of native students at Harvard.

A

AFTER COLLEGE, SHE RETURNED TO the Navajo Nation to teach school and "open up doors of access for Navajo children." Like her, many of the children lived away from their parents, either because their homes were far away from the schools or because the lack of

businesses on Navajo land meant parents had to live elsewhere to earn a living.

She knew that to really have an impact on Navajo children's lives, she would have to take on the development challenge. Accordingly, she returned to Harvard in 2004 to pursue a joint degree at the law school and the Harvard Kennedy School. Few classes were directly applicable to Navajo law. Most of that she learned through personal research projects, including her HLS-HKS paper on Navajo governmental reform. She took Tribal Legal Systems with Carole Goldberg, who then held the Oneida Indian Nation Visiting Professorship at HLS, and Federal Indian Law with Alex Skibine, who also held the Oneida Visiting Professorship. "A class I should have taken is local government

Branch estimates that half of her work as AG is suing the U.S. government—to defend and protect the rights of the Nation.

law,” Branch says. “Tribal governance is somewhat of a blend of state governance, municipal governance and federal governance.”

To more adequately educate lawyers on Navajo law, Navajo officials have been discussing the need for a Navajo law school. “We have a tremendous need for local government lawyers, and really the way to ensure that there are more attorneys on the Nation and more help available to all aspects of our local governments is to have more law-trained Navajos,” Branch says, noting that recruiting lawyers is a perennial challenge. “We have a strong mix of Navajo and non-Navajo attorneys,” she adds, but factors such as the geographic isolation and limited on-reservation housing often mean that “only the most dedicated remain with the department long-term. Those are usually people whose families live here and who are committed to strengthening Navajo law and governance. Those people tend to be Navajo people who grew up here on the Nation.”

BRANCH SOUGHT LEGAL EXPERIENCE away from the Navajo Nation before returning there as AG. She knew when she did go back, she would be given many responsibilities, and she wanted to be ready to shoulder them. She practiced tribal finance law at the firm Orrick, Herrington & Sutcliffe, in Portland, Oregon. Then she was an associate at Kanji & Katzen, in Seattle, which focuses solely on native advocacy.

In 2015, Navajo Nation President Russell Begaye asked Branch to be the 11th attorney general of the Navajo Nation. She was originally seeking the deputy AG position. Branch did a lot of soul searching and consulting with friends and mentors before agreeing to accept the top job. Nearly three years in, she calls it a wild ride. “Politics is the Navajo national sport,” she says. “It’s not basketball or rodeo.”

Professor Joseph Singer ’81, who was Branch’s 1L Property Law teacher, describes Branch as thoughtful and wise. “She’s not only a good lawyer in a technical sense, but she has a very powerful sense of the social context in which law operates.”

Robert Anderson, the current Oneida Visiting Professor at HLS, says that Branch is very adept at bridging the two worlds she inhabits. “She’s a real role model and leader in the Indian law field,” he says. “She has a winning personality; she’s brilliant; she’s a tireless advocate. The Navajos couldn’t be better off than having her at the helm.”

Branch returned to Harvard Law School in the fall of 2017 to speak at an Indian law conference. She came again this spring when she was honored as part of International Women’s Day and more recently to participate in a presentation on national monuments



litigation as part of the HLS in the Community Bicentennial Celebration.

She speaks to raise awareness about native issues and to encourage Native American law students to go back to their communities. And Branch urges HLS to continue to build its native law curriculum. “I would love it if the law school would acknowledge tribes as the third sovereign and do more to acknowledge tribal governments as legitimate, pre-constitutional governments vested with inherent sovereign rights,” she says. She’d like to see native issues woven into constitutional law classes and all aspects of the curriculum, not just relegated to Indian law electives.

Writing her undergraduate thesis, Branch learned that the founding Harvard Charter of 1650 stated that the institution would be dedicated to “the education of the English & Indian Youth of this Country in knowledge: and godliness.” At the college and at the law school, Branch says, “that mission should be taken more seriously. When Harvard was most vulnerable, resources intended to advance the mission to the Indians were used to buoy the university, but no Indians benefited. Today, Indian country greatly needs the resources of Harvard to help strengthen our communities and institutions, and today there are many Indian youth eager to access these resources to enrich our nations. There is no better time for Harvard to embrace its founding mission by opening its doors wide to Indian country.”

Nearly three years into her dream job, Branch calls it a wild ride: “Politics is the Navajo national sport,” she says, not basketball or rodeo.



TIME TRAVEL

Harvard Square, 1900. A U.S. Postal Service trolley frozen in place. The story being told on the cobbled street still unwinding. Make the past part of the present. Send your news to bulletin@law.harvard.edu.

Caitlin Long's campaign to make Wyoming more fintech friendly

Bringing Blockchain to the Cowboy State

PROFILE

Caitlin Long '94 left Wyoming for Harvard Law School and the career on Wall Street that followed,

but she's never forgotten her home state or its only university.

She grew up in Laramie, home to the University of Wyoming, where her father taught electrical engineering for 40 years and where she herself attended college.

She's served on multiple University of Wyoming boards during a career that took her from Salomon Brothers to Credit Suisse and Morgan Stanley. Most recently, she served as president and chairman of Symbiont, a financial technology startup where she evangelized for the digital ledger, blockchain.

So it was only natural that last summer Long tried donating to her alma mater using the virtual currency bitcoin to endow a scholarship for female engineers. When she found out Wyoming law wouldn't allow the university to accept her currency of choice, Long didn't take no for an answer. Instead, she decided to change the state's laws.

Six months later, after Long spent most of the 20-day legislative session "camping out" in Wyoming, Gov. Matt Mead signed a package of bills designed to make the state friendlier for cryptocurrencies and for digital asset businesses more generally.

She first saw the advantages of the financial technology during her last job on Wall Street, running Morgan Stanley's pension business.

Long learned about bitcoin in 2012 and set up her first bitcoin wallet the next year. But given her position on Wall Street and how unconventional the cryptocurrency still was at the time, she felt it was better to keep her interest quiet. In 2014, Morgan Stanley's chief technology officer asked Long to join the firm's five-person blockchain working group that vetted all potential opportunities.

In 2016, after 22 years on Wall Street, Long jumped into fintech full time at Symbiont, which developed a platform for financial market participants to create digital contracts stored in a blockchain.

Long views blockchain as a way to ensure



Caitlin Long '94,
co-founder of the
**Wyoming Blockchain
Coalition**

that financial institutions gain a better understanding of how much exposure they have to each other. "I understood pretty early on that blockchain could be a way to [do] this," she said. It can speed up transaction settlement and give both banks and regulators the ability to watch markets in real time, Long adds.

Long believes blockchain can also help bring more transparency to the financial system. Registering shares on blockchain from the outset would make it possible to trace who owns shares of stock and more accurately count proxy votes.

She cites a 2017 class-action lawsuit in Delaware in which the plaintiffs asserted that 49.2 million valid claims were filed for Dole Food Co. shares even though only 36.7 million Dole shares existed. "These are inaccuracies that shouldn't exist," Long said. She points to unsettled trades as a root cause: "Wall Street's accounting systems aren't capable of tracking those accurately and in real time."

She'd already worked on a Delaware bill designed to make it possible to issue stock shares on a blockchain when she learned that Wyoming's money transmission law barred her donation to the University of Wyoming.

To help change the state's law, Long enlisted Rob Jennings, a friend she's known since college, along with Cheyenne accountant David Pope. In November, the trio of volunteers launched the effort they dubbed the Wyoming Blockchain Coalition. They convinced state lawmakers led by state Rep. Tyler Lindholm to introduce a package of bills during the state's short legislative session this past winter.

The bills exempt cryptocurrencies like bitcoin from state money transmitter laws and they protect blockchain assets from those laws and securities regulations. Another bill tracks the initiative she'd worked on in Delaware and will allow official records of ownership to exist on a blockchain. Two other measures are designed to increase limited liability company registration in Wyoming, the first state to authorize the concept in 1977.

Together, Long says, the bills should help increase state revenue, create more jobs to retain the best science and math students, and boost Wyoming and its flagship university's position as a financial technology magnet.

"I haven't worked this hard or done something so meaningful in years," Long said.

—SETH STERN '01

Blake Strode '15 heads St. Louis civil rights law firm fighting the criminalization of poverty

No Crime to Be Poor

PROFILE

There is no shortage of serious legal issues facing poor people in Greater St. Louis, especially people of color, says **Blake Strode '15**, who was born and raised in the area. Just three years out of HLS, Strode is back home fighting the criminalization of poverty as executive director of ArchCity Defenders, a nonprofit civil rights law firm in St. Louis that has filed landmark cases that have already improved the lives of tens of thousands of low-income people.

Strode, who majored in international economics and Spanish at the University of Arkansas and toured the world for three years as a tennis professional before law school, always planned to go into public interest law. At HLS, he represented prisoners in disciplinary and parole hearings through the Prison Legal Assistance Project, helped fight evictions and foreclosures in Boston through Project No One Leaves, and was a student in the Housing Law Clinic at the Legal Services Center.

Not long after the 2014 death of Michael Brown in Ferguson, Missouri, Strode read a white paper on the over-policing of people of color in north St. Louis County that ArchCity Defenders had just published. The paper, which presaged a later Department of Justice report, "was the first time I'd seen that level of analysis of that problem in St. Louis," he says. He reached out to the organization's executive director and co-founder, Thomas Harvey, and soon found himself back in his hometown with a Skadden Fellowship to do housing-related work.

ArchCity had recently filed several cases challenging the constitutionality of modern-day debtors' prisons—the jailing of poor people because they are unable to pay court fines and fees—and Strode changed his focus to helping build the organization's civil rights litigation unit through impact litigation targeting this practice as well as police misconduct and inhumane jail conditions. In his short time there, he and his colleagues have filed more than 30 civil rights lawsuits in federal court, partnering on some with Civil Rights



Blake Strode '15, executive director of ArchCity Defenders

Corps in Washington, D.C., founded by Alec Karakatsanis '08. Strode played a significant role in obtaining a landmark judgment against the city of Jennings for imprisoning people unable to pay municipal fines: \$4.75 million for a class of about 2,000 people. Settled in 2016, the case resulted in sweeping policy changes that serve as a model for legal reforms in other courts.

In January 2018, at the age of 30, Strode was named ArchCity's new executive director when Harvey decided to leave.

"My goal is the same as our organizational goal: to combat the criminalization of poverty and state violence against poor people and people of color," he says.

"Our clients are poor and overwhelmingly people of color, which in St. Louis means overwhelmingly black. We are seeking systemic change with and for them, which is only possible through a concerted effort of both legal and nonlegal advocacy. We're calling for nothing less than that."

ArchCity, which relies heavily on private

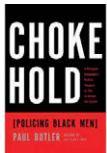
donations, was primarily a volunteer organization until a few years ago; it now has a full-time staff of 20, half of whom are lawyers, Strode says. Yet there is so much need in the community that growth is a top priority, he adds. That means building capacity in order to represent more clients and expanding to other parts of the state. ArchCity is a holistic provider, so growth also means expanding advocacy in housing, access to education, and consumer matters.

And while ArchCity's victories are heartening, "even those, we have to work very hard to hold on to, and those gains aren't enough," Strode says. The work can be especially difficult in a politically conservative area like Missouri, "where millions of people face the greatest systemic challenges on a day-to-day basis because those challenges are institutional and deep-seated." However, he adds, "The ways our clients engage in fighting back are really inspiring and inspire us to remain committed."

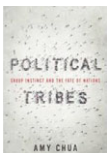
—ELAINE McARDLE



LGBT law,
doll dispute,
women
workers,
being biracial,
suppressing
speech



SELECTED ALUMNI BOOKS



“Gay Priori: A Queer Critical Legal Studies Approach to Law Reform,” by Libby Adler LL.M. '98 (Duke)

Adler, a professor at Northeastern University, critiques the mainstream LGBT law reform movement and the “equal rights discourse” that drives it, and calls for shifting priorities in order to benefit marginalized members of the LGBT community. For example, she points to LGBT resources being committed to a largely symbolic fight against a Christian student organization that sought to exclude gay students but not to a fight against a law that could hurt thousands of homeless LGBT youth. While not wanting to eliminate equal rights initiatives, she advocates for a new focus “away from grand aspiration and principled vindication and ... toward the gritty, low-profile rules, doctrines, and practices that condition daily life on the margins.”



“Chokehold [Policing Black Men]: A Renegade Prosecutor's Radical Thoughts on How to Disrupt the System,” by Paul Butler '86 (New Press)

Butler exposes the literal and metaphorical chokeholds that constrict the lives of African-Americans and provides correctives to a criminal justice system he says is designed to target black men. As a former prosecutor, now a Georgetown University law professor (and a visiting professor at HLS this past year), he acknowledges that he was once part of that system, and that has helped motivate him to change it. In addition to discussing issues like black male vio-

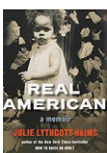
lence and providing advice on how to respond to criminal charges, he recommends a movement toward “decarceration,” including reducing the maximum punishment for criminal offenses, decriminalizing low-level offenses, and diverting money from policing to community health care.

“Political Tribes: Group Instinct and the Fate of Nations,” by Amy Chua '87 (Penguin Random House)

The latest book by the author of the much-discussed “Battle Hymn of the Tiger Mother” examines tribalism inside and outside of America and how identity politics affect the country. Within the U.S., she argues that the Left and the Right each believe that the other side is tearing the country apart (they are both right, she contends) and that blacks and whites increasingly feel threatened and misunderstood by each other, a divide that she says can be bridged only by acknowledging that we all share in a common enterprise.

“You Don't Own Me: How Mattel v. MGA Entertainment Exposed Barbie's Dark Side,” by Orly Lobel S.J.D. '06 (Norton)

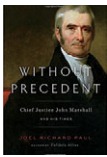
Lobel details an immense conflict centered on small dolls in a book that covers issues ranging from intellectual property law to how marketing influences children. After MGA introduced the Bratz doll, Mattel, creator of the Barbie doll, sued, claiming that Bratz was actually its property because it was designed by a Mattel employee. In addition



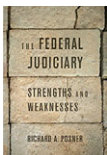


to in-depth reporting on the trial and appeal, Lobel writes about the origins of Barbie (as a raunchy German cartoon character); the flamboyant immigrant CEO of MGA; and designer Carter Bryant, whose creation of Bratz led to legal expenses of more than half a billion dollars to answer the question of who owns an idea.

“Real American: A Memoir,” by Julie Lythcott-Haims ’94 (Henry Holt)



The child of a black father and white mother born when such unions were criminalized in parts of the United States, Lythcott-Haims details her struggles as a biracial child and adult feeling like an outsider among both blacks and whites. Writing in a prose poetry style, she shares moments that reflect her search for identity—her need to invite the only black male in her high school to prom, her uncertainty in a college workshop in which people identified their racial groups, her worry about bringing her light-skinned child to a party attended by black colleagues—and how she eventually discovers self-acceptance.



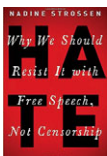
“Safe Spaces, Brave Spaces: Diversity and Free Expression in Education,” by John Palfrey ’01 (MIT)

In light of recent controversies surrounding academic freedom and free expression on college campuses, Palfrey calls for “safe spaces” in which students operate under ground rules that may protect and support them while also advocating for “brave spaces” such as classrooms that follow the doctrine of the First Amendment. The former professor and vice dean at HLS, now head of school at Phillips Academy, writes about campus “flashpoints” such as trigger warnings and microaggressions as well as how to respond to hate speech, all with the goal of allowing both diversity and free expression to flourish.



“Without Precedent: Chief Justice John Marshall and His Times,” by Joel Richard Paul ’81 (Riverhead)

Paul celebrates the unique accomplishments of the soldier, statesman, and, most prominently, chief justice of the United States who helped preserve and strengthen a fledgling nation. The author, a professor at UC Hastings College of the Law, begins with Marshall as a young soldier inspired by George Washington and shows him rising to become the longest-serving chief justice in U.S. history, who forged consensus that has never been matched, despite the disparate justices he served with on the Supreme Court. “More than any other American,” writes Paul, “John Marshall set the foundations of the Republic that have guided the nation for more than two centuries.”



“The Federal Judiciary: Strengths and Weaknesses,” by Richard A. Posner ’62 (Harvard)

A prolific author who served on the federal bench for more than 35 years before his recent retirement, Posner offers appraisals that are “relentlessly critical and overflowing



with suggestions for reform.” Acknowledging strengths such as protections for those accused of crime, he nonetheless focuses on what he sees as the judiciary’s weaknesses, particularly what he calls a “backward-looking” legal culture represented by constitutional originalism. He critiques specific judges and practices such as judges ceding writing of opinions to law clerks (he wrote his own) and having politicians appoint federal judges. As a former full-time professor, he ends by grading the judiciary on how it fulfills the responsibilities of a national court system.

“Robert McNamara’s Other War: The World Bank and International Development,” by Patrick Allan Sharma ’16 (Penn)

After guiding U.S. strategy in the Vietnam War as secretary of defense, McNamara assumed another role that has been far less known but also had a profound impact: president of the World Bank. Sharma provides a thoroughly researched analysis into McNamara’s tenure there (lasting longer than his time at Defense), which he calls “a story about good intentions gone awry.” According to the author, McNamara expanded the bank’s lending and borrowing with the goal of increasing development, yet the result was a decrease in the quality of projects and an increase in debt problems. Nevertheless, Sharma writes, McNamara’s legacy influences the World Bank today and helped link development with poverty alleviation.

“HATE: Why We Should Resist It with Free Speech, Not Censorship,” by Nadine Strossen ’75 (Oxford)

The former president of the American Civil Liberties Union critiques widespread efforts to suppress what some deem “hate speech” in countries around the world and on college campuses in the United States, calling them vague, overbroad, and ultimately counterproductive. Offering examples of people being targeted for their political or social views, Strossen contends that hate speech laws undermine freedom. Moreover, she argues, there is no evidence that they reduce discrimination or violence. Instead, she advocates noncensorial strategies of counterspeech, education and even developing a thicker skin to combat speech that we may not like but that should be protected.

“This Grand Experiment: When Women Entered the Federal Workforce in Civil War-Era Washington, D.C.,” by Jessica Ziparo ’04 (UNC Press)

In her recent book, the author details the lives and struggles of the first generation of female government workers in Washington, D.C., highlighting new opportunities as well as barriers that persisted. In order to attain employment, women typically needed to show their dependence. They were confined to a limited array of jobs that paid less than similar work done by men. Female workers were also maligned as prostitutes. Although the “grand experiment” was flawed, Ziparo praises the ambition and persistence of the federal workers who helped advance the women’s rights agenda.

IN MEMORIAM

1940–1949

HOWARD “HAL” KELLOGG '40
Sept. 19, 2017

DAVISSON F. “DAVE” DUNLAP
43 (47)
Dec. 21, 2017

EDWARD BOOMIE MIKRUT
44 (48)
Jan. 20, 2018

SUMNER SILVER '47
Sept. 22, 2017

ELIHU H. BERMAN '48
Jan. 8, 2018

JACK E. BRONSTON '48
Dec. 7, 2017

JAMES E. CRAIG LL.M. '48
Oct. 25, 2017

OTIS W. ERISMAN '48
Dec. 29, 2017

SIDNEY M. GLAZER '48
Jan. 3, 2018

MILTON PRIGOFF '48
Nov. 30, 2017

LEONARD L. SILVERSTEIN '48
Feb. 14, 2018

ALVIN M. STEIN '48
Jan. 26, 2018

SETH WHEATLEY JR. '48
Sept. 26, 2017

ALAN F. WOHLSTETTER '48
Nov. 16, 2017

JOHN B. ANDERSON LL.M. '49
Dec. 3, 2017

ROBERT W. C. ELLIS '49
June 11, 2016

EARL W. MALLICK '49
Sept. 6, 2017

FRANK J. MAXWELL JR. '49
Dec. 12, 2017

WALTER M. “MAC”
MCCLELLAND '49
Jan. 6, 2018

JULIO E. NUNEZ '49
July 20, 2017

HARRY H. RIDDICK '49
Feb. 10, 2018

THOMAS J. SULLIVAN '49
March 8, 2018

C. WILLIAM TAYLER '49
Dec. 3, 2017

1950–1959

BRENDAN T. BYRNE '50
Jan. 4, 2018

G. THOMAS EISELE '50 LL.M.
51
Nov. 26, 2017

LIONEL CHARLES EPSTEIN '50
April 5, 2017

WILLIAM M. HOEVELER '50
Nov. 18, 2017

NORMAN N. HOLLAND JR. '50
Sept. 28, 2017

ROBERT M. KIEVAL '50
February 2018

ALBERT A. RAPHAEL JR. '50
Jan. 2, 2018

HOWARD J. AIBEL '51 (52)
March 9, 2018

WALTER A. BOBROW '51
Dec. 14, 2017

HUGH A. CHAPIN '51
Dec. 13, 2017

WILLIAM COUSINS JR. '51
Jan. 20, 2018

JOSEPH M. LYNCH '51
Feb. 3, 2018

LEWIS MANILOW '51
Dec. 12, 2017

NATHAN J. SIEGEL '51
Sept. 13, 2017

TED D. TAUBENECK '51
Nov. 30, 2017

NORMAN B. TOMLINSON
JR. '51
Dec. 7, 2017

DAVID W. WALLACE '51
Dec. 24, 2017

CHARLES F. WHEATLEY JR. '51
Feb. 13, 2018

LAWRENCE BILDER '52 (54)
Feb. 11, 2018

WALLACE B. CLIFT JR. '52
Feb. 5, 2018

JOSEPH R. CORTESE '52
Dec. 7, 2017

JOHN W. KERN III '52
Jan. 30, 2018

FENTON L. MARTIN LL.M. '52
Nov. 15, 2017

FRANK E.A. SANDER '52
Feb. 25, 2018

NORMAN P. SCHOENFELD '52
Aug. 15, 2017

JOHN P. STEARNS '52 (54)
Aug. 16, 2017

CHARLOTTE P. ARMSTRONG
'53
Dec. 8, 2017

JOHN W. BARNETT '53
Aug. 10, 2017

JOSEPH B. CARNEY '53
Aug. 31, 2017

ROBERT COULSON '53
Sept. 9, 2017

DON S. HARNACK '53
Oct. 21, 2017

WILLIAM J. SMULOWITZ '53
Feb. 14, 2018

MAX S. BELL JR. '54
Dec. 6, 2017

BURTON N. BROMSON '54
Aug. 12, 2017

EDGAR R. CASPER LL.M. '54
July 2, 2016

NGUYEN PHU DUC LL.M. '54
S.J.D. '56
Dec. 9, 2017

NORMAN M. GOLD '54
Dec. 28, 2017

PAUL R. STALEY '54
Jan. 5, 2018

FREDERIC B. TANKEL '54
Oct. 7, 2017

RICHARD A. VAN DEUREN '54
Dec. 17, 2017

BURTON J. DEFREN '55 (56)
Aug. 15, 2017

GEORGE J. GILLESPIE III '55
Sept. 15, 2017

ARTHUR J. GREENBAUM '55
Nov. 18, 2017

JAMES W. HOLTZWORTH '55
Dec. 16, 2017

ROBERT KANCHUGER '55
Feb. 3, 2018

SEYMOUR T. KRECHEVSKY '55
Dec. 16, 2017

DENNIS G. LYONS '55
March 2, 2017

LEONARD A. BLANK '56
Feb. 11, 2018

WILLIS M. ERTMAN '56
Jan. 14, 2018

EDWARD OTIS HANDY JR. '56
Feb. 27, 2018

CHARLES OTTO HOWARD '56
Sept. 24, 2017

RICHARD LITTELL '56
Feb. 5, 2017

HOWARD C. MISKIN '56
Aug. 25, 2017

GEORGE A. WILLIAMS JR. '56
LL.M. '63
Nov. 6, 2017

KREAG DONOVAN '57
Nov. 19, 2017

DONALD R. DOULONG '57
Oct. 22, 2017

JOHN C. EMERY '57
Feb. 1, 2018

CALVERT C. GROTON '57
Dec. 25, 2017

THOMAS H. HAGOORT '57
Oct. 18, 2017

J. SHERMAN MCLAUGHLIN '57
Sept. 15, 2017

GEOFFREY NUNES '57
Sept. 10, 2017

FREDERICK J. PAGNANI '57
Oct. 18, 2017

BLAIR L. PERRY '57
Sept. 22, 2017

KENNETH G. RUSH '57
Jan. 28, 2018

RICHARD WEIL '57
Sept. 21, 2016

MARVIN E. BARKIN '58
Feb. 7, 2018

ALAN C. DAVIS '58
Dec. 9, 2017

DEANE HASKINS '58
Dec. 27, 2017

FRED A. “FRITZ” LITTLE '58
Dec. 28, 2017

GEORGE R. B. SCHATZKI '58
LL.M. '65
Dec. 27, 2017

PARKER D. THOMSON '58
Nov. 3, 2017

JAMES A. DORSCH '59
Jan. 25, 2018

SEYMOUR GOLDSTAUB '59
Aug. 7, 2017

DAVID I. GRANGER '59
Nov. 2, 2017

WARREN K. KAPLAN '59 (60)
Aug. 13, 2017

GORDON A. “SANDY”
MILLSPAUGH JR. '59
Sept. 12, 2017

THOMAS A. SMITH '59
Oct. 29, 2017

HENRY G. WEAVER JR. '59
Jan. 23, 2018

1960–1969

WILLIAM R. AIKENS '60
Jan. 20, 2018

PAUL P. BROUNTAS '60
Dec. 26, 2017

HOLLAND C. “CAP” CAPPER
'60
Aug. 22, 2017

JOHN L. CHAMBERS '60
Nov. 25, 2017

JOHN S. CHATFIELD '60
Aug. 6, 2017

BRADLEY B. DAVIS '60
Feb. 17, 2018

MULLER DAVIS '60
Oct. 10, 2017

ALFRED M. GOODALE '60
Nov. 10, 2017

JOHN C. KELSH '60
Jan. 12, 2018

HENRY D. PAHL JR. '60
Feb. 4, 2018

THOMAS P. PERKINS III '60
Dec. 31, 2017

TOM L. PETERSON '60
Sept. 12, 2017

ELIZABETH M.W. PINE '60
Aug. 28, 2017

MORTON ROSEN '60
Dec. 7, 2017

MICHAEL D. WEINBERG '60
Aug. 2, 2017

PHILLIP D. BOSTWICK '61
Dec. 18, 2017

MICHAEL O. LESCH '61
Aug. 21, 2017

JOSIAH S. MURRAY III '61
Jan. 1, 2018

BENSON D. SCOTCH '61
Jan. 29, 2018

JACKSON W. “CHIP” WRIGHT
JR. '61
June 27, 2017

PATRICK OWEN BURNS '62
Sept. 28, 2017

VINCENT F. GARRITY JR. '62
Dec. 18, 2017

BERNARD E. GEGAN LL.M. '62
Dec. 10, 2017

J. DAVID HUBER '62
Dec. 26, 2017

MARCEL SHWERGOLD '62
Jan. 30, 2014

TIMOTHY S. ELLIOTT '63
Aug. 17, 2017

WILLIAM R. HARDY '63
Oct. 24, 2017

NORMAN T. LARSON '63
Feb. 20, 2018

NORMAN LEIBOVITZ '63
Sept. 19, 2017

HARRY C. SIGMAN '63
Aug. 19, 2017

G. DAVID BLUHM '64
Jan. 18, 2018

GEORGE E. BULLWINKEL '64
Oct. 16, 2017

PETER F. NELSON '64
Jan. 17, 2018

EDWARD “TED” ROBERTS '64
Feb. 10, 2018

ELLIOTT ASHKENAZI '65
Feb. 14, 2018

ROBERT M. GOFF '65
Feb. 1, 2018

M. JEROME KESSLER '65
Aug. 23, 2017

ROBERT C. KIRKWOOD '65
Dec. 10, 2017

DONALD J. LISA '65
Nov. 7, 2017

ROBERT COURTNEY MANGONE
'65
Oct. 23, 2017

ARTHUR E. PAPE '65
Feb. 15, 2018

PETER VAN N. LOCKWOOD '66
Oct. 24, 2017

TERRY M. SCHLADE '66
Feb. 3, 2018

WILLIAM H. LAITINEN JR. '67
Jan. 1, 2018

DAVID S. MORTENSEN '67
Dec. 4, 2017

GORDON R. WILLIAMSON '67
Feb. 15, 2018

RICHARD R. CHEATHAM '68
Nov. 18, 2017

ROGER D. CHESLEY '68
Oct. 21, 2017

RICHARD B. OLSON '68
Jan. 3, 2018

RICHARD A. PETERSON '68
Jan. 3, 2018

JERRY A. TERRILL '68
Nov. 8, 2017

HENRY “TERRY”
CHRISTENSEN III '69
Nov. 3, 2017

FRANKLIN D. CLECKLEY
LL.M. '69
Aug. 14, 2017

ROBERT A. GINSBURG '69
Aug. 12, 2017

WILLIAM C. LANCE '69
Aug. 1, 2017

1970–1979

RONALD D. ROTUNDA '70
March 14, 2018

JANET L. BENSHOOF '72
Dec. 18, 2017

JOAQUIN G. AVILA '73
March 9, 2018

JOHN J. GRIMES '73
Dec. 1, 2017

FREDERICK K. SLICKER LL.M.
'73
Oct. 3, 2016

DAVID R. ZWICK '73
Feb. 5, 2018

DAVID P. ACKERMAN '74
March 12, 2016

WILLIAM J. EISEN '74
Aug. 10, 2017

ROBERT E. GINSBERG LL.M.
'74
March 17, 2018

GILBERT L. KUJOVICH '74
(75)
Dec. 4, 2017

VERNON C. WATTERS '75
Feb. 28, 2018

EDWARD S. FLANAGAN '76
Nov. 3, 2017

PAUL J. COADY '78
Nov. 16, 2017

ROSANNA SATTLER '78
Nov. 24, 2017

R. GLEN AYERS LL.M. '79
Sept. 27, 2017

1980–1989

WILLIAM E. “ED” BORDLEY
'82
Dec. 16, 2017

THOMAS O. RUBY '82
Oct. 21, 2017

SANDRA L. DEGRAW LL.M. '84
Sept. 30, 2017

DAVID J. VAN DYKE '84
Feb. 23, 2018

JACK E. ROBINSON '85 (87)
Nov. 20, 2017

1990–1999

CATHERINE M. O'NEIL
J.D./M.P.P. '90
Oct. 1, 2017

ARNOLD B. TAYLOR '92
Sept. 16, 2017

2000–2009

MICHAEL J. FRANCIS BYRNE
'02
Sept. 20, 2017

JULIE L. YIP-WILLIAMS '02
March 19, 2018

Online: Visit the In Memoriam section at bit.ly/inmemspring2018 for links to available obituaries.

A PIONEER IN THE FIELD OF ALTERNATIVE DISPUTE RESOLUTION

Frank E.A. Sander '52: 1927–2018

FRANK E.A. SANDER '52, A PIONEER IN THE FIELD OF alternative dispute resolution and a longtime Harvard Law professor, died Feb. 25, 2018. He was 90.

On the HLS faculty from 1959 to 2006, Sander first taught taxation and later family law and welfare law, and he served as associate dean from 1987 to 2000. He also co-founded Harvard Law's Program on Negotiation, which has advanced teaching and scholarship in the field of alternative dispute resolution.

"Frank played a pre-eminent role in shaping that important discipline, which has transformed our legal system," said Harvard Law School Dean John F. Manning '85. "He was a beloved teacher and mentor to our students, a wise and selfless administrator of our school, and a cherished colleague and friend to faculty and staff. He will also be remembered for his exceptional kindness, his unerring generosity and his ability always to bring out the best in people."

In the 1970s, when courts were increasingly jammed by backlogs and protracted litigation, Sander was struck by the contrast between litigation and labor arbitrations, in which disputes were resolved quickly, inexpensively, and effectively outside the courts. He began advocating for the use of alternatives to litigation, and his ideas gained significant traction after Chief Justice Warren Burger invited him to deliver a paper at the Pound Conference on

the causes of popular dissatisfaction with the court system.

Sander's key proposal was a "multi-door courthouse" where a court official would assess the nature of each new dispute during intake and decide on an optimal dispute resolution process (such as litigation, mediation, arbitration, conciliation, etc.)

His "multi-door courthouse" idea became a reality in cities around the world.

for that kind of dispute. The proposal caught the attention of Griffin Bell, a federal judge who later became President Carter's attorney general. With Bell's leadership, multi-door courthouses were established in many cities around the world.

Sander co-wrote the first legal textbook on dispute resolution, which is still widely used in law schools. He inspired the American Bar Association to set up its Committee on Dispute Resolution (now with



Frank Sander joined the HLS faculty in 1959.

20,000 lawyers as members). Through his teaching of students and lawyers, Sander mentored many of the first generation of leading ADR scholars and practitioners.

"He was unfailingly generous with his time and advice," said Harvard Law School Lecturer on Law David Hoffman '84, founding member of Boston Law Collaborative.

Sander was one of the leaders of the movement to bring more students of color to Harvard Law School. In 1966, he helped launch a Rockefeller Foundation-funded program

that brought 40 African-American college juniors to Harvard Law School for an introductory summer session. The program became a model for the Council on Legal Education Opportunity, which has helped thousands of students of color graduate from American law schools.

The author of 14 books, including one of the first legal textbooks to incorporate social science, Sander wrote about subjects including tax law, family law, dispute resolution and welfare law. His teaching of a tax workshop in the 1970s was notable for using the flipped classroom (where students read text at night and worked through problems in small groups in class during the day) decades before this practice became widespread.

Born in Stuttgart in 1927 to a family of secular Jews, he escaped Nazi Germany in 1938 at age 11 on a Kindertransport to England. He came to Boston via New York on one of the last passenger ships to leave England during World War II.

After law school he clerked for Chief Judge Calvert Magruder LL.B. 1916, of the U.S. Court of Appeals for the 1st Circuit, and for U.S. Supreme Court Justice Felix Frankfurter LL.B. 1906, during the term when the Court decided *Brown v. Board of Education*. Sander leaves a daughter, Alison J.D./M.B.A. '86; sons, Tom '87 and Ernest; and four grandchildren.

HLS
200



CELEBRATING THE HLS BICENTENNIAL IN LEBANON

HLSA of Arabia President **KARIM KOBEISSI LL.M. '00** (11th from left) and other alumni and guests posed with Lebanese President Michel Aoun (12th from left) at the Baabda Palace. The palace visit was part of a two-day conference which included a panel discussion on the rule of law in Arab countries and visits to unique cultural sites. The conference was among a series of HLSA events this year (including four others touched on here) marking the school's bicentennial.

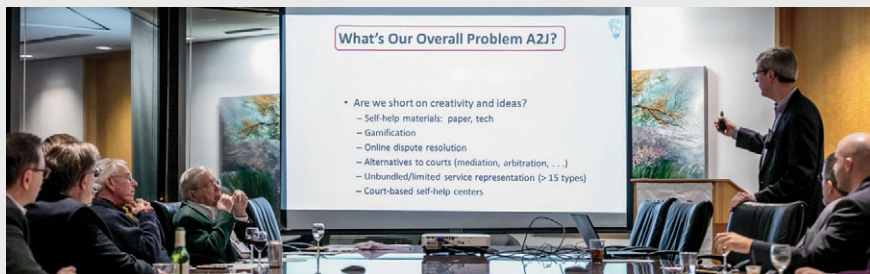


INNOVATION SYMPOSIUM DRAWS ALUMNI FROM ACROSS HARVARD

HLS Professor **SUSAN CRAWFORD** (left) moderated a discussion on artificial intelligence at the March Symposium on Innovation at Bloomberg headquarters co-sponsored by the HLSA of New York City and the Harvard Alumni Association.



Panellists included (from left) **JERRY TING '18**, Victor Santos, **ADAM NGUYEN '02** and Jamie Hale (HBS '99). The program also featured seminars on innovation in finance and innovation and society.



ACCESS TO JUSTICE

HLS Professor **JIM GREINER** (right) spoke about how rigorous research could help guide policies and decisions in the U.S. legal system, resulting in greater access to justice for individuals and families who cannot afford to hire lawyers. His talk was a highlight of the HLSA of Arizona's February meeting at Snell & Wilmer in Phoenix.

A SALUTE TO HLS JUDGES ON THE D.C. CIRCUIT

In May, members of the HLSA of Washington, D.C., attended an event recognizing the judges of the U.S. Court of Appeals for the D.C. Circuit, including (from left) **JUDGE GREGORY KATSAS '89**, **JUDGE CORNELIA T.L. PILLARD '87**, **JUDGE JUDITH ROGERS '64**, **CHIEF JUDGE MERRICK GARLAND '77**, **JUDGE PATRICIA MILLETT '88**, **JUDGE ROBERT WILKINS '89** AND **JUDGE LAURENCE SILBERMAN '61**.



COURTESY OF BLOOMBERG (INNOVATION); CAMERON BUNCH PHOTOGRAPHY (PHOENIX); COURTESY OF PRESIDENCY OF THE REPUBLIC (ROME); LINDA WANG PHOTOGRAPHY (DISTRICT OF COLUMBIA); KEVIN KAST (PARODY)



**A GRAND HLSAE REUNION
IN ROME**

Dean **JOHN F. MANNING '85** spoke at the Palazzo del Quirinale with Sergio Mattarella, the president of Italy (left), as part of the Harvard Law School Association of Europe's Annual Reunion in May. During the four-day event, 320 alumni from around the world including from India, the Philippines, Russia, Hong Kong and the United States attended. Over 50 percent of the alumni attending graduated within the last 10 years. The program included a private visit to the Colosseum, the Vatican Museums, the Sistine Chapel and Palazzo Colonna. It also featured four panels on topics from anti-corruption to Brexit. In addition to Italy's president, alumni met Maria Caselati, president of the Senate, and Giorgio Lattanzi, the president of the Italian Supreme Court. The Harvard Law School Association award was presented to **EMANUELE TURCO LL.M. '67** at the Saturday gala.



**AN EVENING WITH REP.
ADAM SCHIFF**

ADAM SCHIFF '85, who represents the 28th Congressional District of California and is the ranking member of the House Permanent Select Committee on Intelligence, spoke about national security and the global threat to our democracy at a meeting of the HLSA of Massachusetts held in April at Foley Hoag in Boston.



A DRAMATIC VISIT

Members of the newly formed HLSA Parody & Drama Society Alumni Network before this year's HLS Parody. **NICOLE KINSLEY '11**, the network's president, said that alumni from the '60s onward have told her how much the Drama Society still means to them. One of her goals is "to harness that enthusiasm" to encourage participation across the classes in future events.

Hats Off!

Celebration, kudos and a little advice for the school's newest alumni

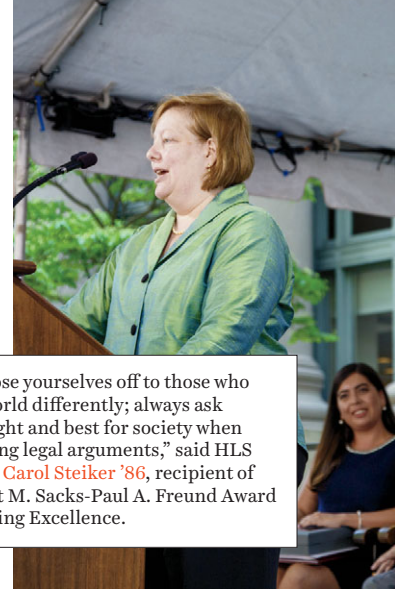
This year, HLS conferred 769 degrees: 591 J.D.s, 172 LL.M.s and six S.J.D.s. The Class of 2018 contributed a record 376,532 hours of pro bono work.



Members of the Class of 2018 gathered in May with family and friends for Commencement festivities, which featured an address from U.S. Sen. Jeff Flake (R-Ariz.); the presentation of awards to students, staff, and faculty; and a send-off from Dean John F. Manning '85.

HLS Dean **John F. Manning's** remarks included these wishes for the Class of 2018: "That you will be bold, that you will be courageous, and that you will turn this world upside down—and that you will do it by being excellent lawyers, by bringing the skills and powers of our craft to bear on a world that badly needs them. ... that you will know the satisfaction of serving that high calling and of pursuing the highest ideals of law and justice."

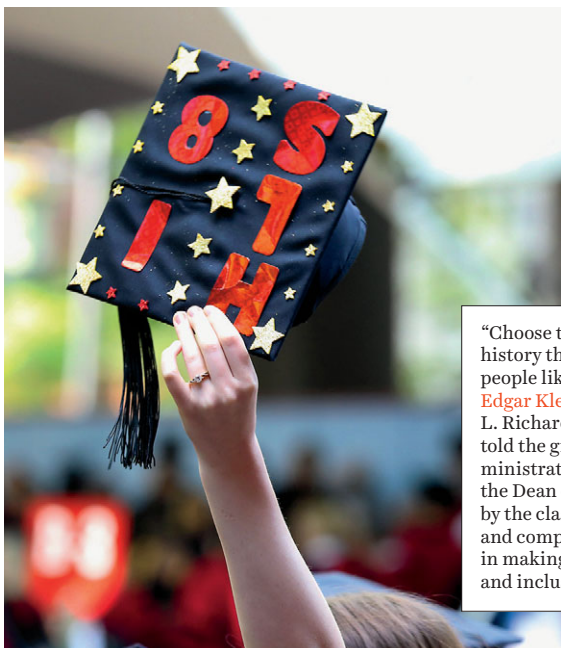




“Don’t close yourselves off to those who see the world differently; always ask what is right and best for society when considering legal arguments,” said HLS Professor **Carol Steiker ’86**, recipient of the Albert M. Sacks-Paul A. Freund Award for Teaching Excellence.



U.S. Sen. **Jeff Flake** (R-Ariz.), Class Day speaker, challenged the Class of 2018 to protect the rule of law: “There are times when circumstances may call on you to risk your career in favor of your principles. But you—and our country—will be better for it. You can go elsewhere for a job, but you cannot go elsewhere for a soul.”



“Choose to be kind” and remember “the history that this country has of welcoming people like me from all over the world,” **Edgar Kley Filho**, winner of the Suzanne L. Richardson Staff Appreciation Award, told the graduating class. Kley Filho, administrative and operations supervisor in the Dean of Students Office, was selected by the class for his “kindness, patience, and competence” and his tireless efforts in making the HLS community welcoming and inclusive.

Gallery

Evolving and Adapting: The HLS Clinical Landscape

C = CLINIC **E** = EXTERNSHIP **S** = STUDENT PRACTICE ORGANIZATION

1913

HARVARD LEGAL AID BUREAU

C The nation's oldest student-run legal services organization, it focuses on areas from family law to special immigrant juvenile status matters.

1949

HARVARD DEFENDERS

S Students represent clients in criminal show-cause hearings before clerk-magistrates. It's the only legal services organization in Massachusetts that represents low-income defendants in these hearings.

1970

HARVARD PRISON LEGAL ASSISTANCE PROJECT

S Students represent inmates in Massachusetts prisons at disciplinary hearings, parole rescission and revocation hearings, second-degree life sentence hearings, and more.

1975

JUDICIAL PROCESS IN TRIAL COURTS CLINIC

E Students work alongside judges in Massachusetts state and federal courts doing research and writing related to cases, sentences, and opinions.

1979

DOMESTIC VIOLENCE AND FAMILY LAW CLINIC

C Students manage all aspects of a family law case, from the initial client intake to representing clients, in both family and district courts.

HOUSING LAW CLINIC

C Students represent tenants who are facing evictions by private-market and subsidized landlords. In the Housing Justice for Survivors Project, they represent tenants facing housing instability as a result of domestic or sexual violence.

1980

GOVERNMENT LAWYER: U.S. ATTORNEY CLINIC

E Students are placed in the U.S. attorney's office in Boston, where they handle work in such areas as anti-terrorism, organized crime and computer crimes.

1981

HARVARD MEDIATION PROGRAM

S Students are trained in mediation and mediate court cases in Boston as well as conflicts outside of the legal system.

TENANT ADVOCACY PROJECT

S Students represent tenants of and applicants to public and subsidized housing at Housing Authority hearings throughout Greater Boston. (The organization started as Students for Public Interest Law.)

1984

HARVARD IMMIGRATION AND REFUGEE CLINICAL PROGRAM

C **E** Students represent international clients who are seeking protection from being returned to human rights abuses in their country of origin.

1987

HEALTH LAW AND POLICY CLINIC

C Originally the AIDS Law Clinic, it focuses on legislative and regulatory reforms to improve access to healthcare for low-income clients, in particular those living with chronic conditions.

1990

CRIMINAL JUSTICE INSTITUTE

C Students represent indigent clients charged in Massachusetts courts with crimes ranging from misdemeanors to felonies.

1995

CRIMINAL PROSECUTION CLINIC

E Students in district attorneys' offices represent the commonwealth of Massachusetts in prosecuting nonjury criminal cases.

TRANSACTIONAL LAW CLINICS

C Students provide legal assistance to small businesses and entrepreneurs in a variety of transactional matters, from contract review to commercial financing and leasing.

1998

RECORDING ARTISTS PROJECT

S Students do sophisticated, hands-on legal work for musicians and other entertainment clients throughout the Boston area.

1999

CYBERLAW CLINIC

C It provides legal services to clients on issues relating to the internet, new technology and intellectual property.

2001

MAKING RIGHTS REAL: THE GHANA PROJECT CLINIC

C Students work with Ghanaian organizations that focus on the human rights dimensions of Ghana's health policies and practices.

2002

HLS ADVOCATES FOR HUMAN RIGHTS

S Students engage in legal projects with partner organizations around the world that advance human rights.

2003

INTERNATIONAL HUMAN RIGHTS CLINIC

C Students work to protect the human rights of clients and communities around the world while learning the responsibilities and skills of human rights lawyering.

2004

CHILD ADVOCACY PROGRAM

E Students are placed with organizations and agencies that work to advance children's interests through direct services, impact litigation, and policy reform.

EDUCATION LAW CLINIC OF THE TRAUMA & LEARNING POLICY INITIATIVE

C **E** A collaboration between HLS and Massachusetts Advocates for Children, it helps children impacted by family violence and other adverse experiences succeed in school.

EMPLOYMENT LAW CLINIC

E Originally an in-house clinic, it focuses on workplace rights, with a particular emphasis on state and federal laws that prohibit discrimination, harassment, and retaliation based on protected characteristics.

A student in the Housing Law Clinic fielding questions at Boston Housing Court



The HLS WilmerHale Legal Services Center in Boston's Jamaica Plain neighborhood, home to five of the school's clinics

More than 100 years after students started the Harvard Legal Aid Bureau, there are now 40 clinics and Student Practice Organizations at HLS, focused on everything from cyberlaw to veterans' rights.

<p>2005</p> <p>PREDATORY LENDING AND CONSUMER PROTECTION CLINIC</p> <p>Ⓒ Students represent low-income people in cases related to predatory lending and other consumer matters including bankruptcy and debt collection defense.</p>	<p>2007</p> <p>EMMETT ENVIRONMENTAL LAW AND POLICY CLINIC</p> <p>Ⓒ Students work on local, national and international projects covering the spectrum of environmental issues.</p> <p>HLS NEGOTIATORS</p> <p>Ⓢ Working closely with the Harvard Negotiation and Mediation Clinical Program, it offers students the chance to represent clients in the fields of negotiation, dispute resolution, and conflict management.</p> <p>SPORTS LAW CLINIC</p> <p>Ⓒ Students are placed in legal departments of major leagues or sports franchises and with law firms that represent individual players, teams, or leagues.</p> <p>SUPREME COURT LITIGATION CLINIC</p> <p>Ⓒ Students gain experience in Supreme Court- and appellate-level litigation through involvement in pending cases.</p>	<p>2008</p> <p>PROJECT NO ONE LEAVES</p> <p>Ⓢ A student-run, Boston-based canvassing group, it partners with local organizers to connect low-income communities to resources to protect and assert residents' rights.</p>	<p>2010</p> <p>FOOD LAW AND POLICY CLINIC</p> <p>Ⓒ Students learn to use law and policy to impact the food system, and provide advice to nonprofits and government agencies and sustainable food producers.</p> <p>GOVERNMENT LAWYER: ATTORNEY GENERAL CLINIC</p> <p>Ⓒ Students work in the offices of state attorneys general in Massachusetts or around the country in such areas as environmental crimes, public integrity, and major crimes.</p>	<p>2012</p> <p>HARVARD LAW ENTREPRENEURSHIP PROJECT</p> <p>Ⓢ Students provide pro bono legal research and analysis to entrepreneurs at Harvard and MIT.</p> <p>VETERANS LAW AND DISABILITY BENEFITS CLINIC</p> <p>Ⓒ Students work in a variety of settings to protect the rights of military veterans and their families and people with disabilities.</p>
<p>2006</p> <p>CAPITAL PUNISHMENT CLINIC</p> <p>Ⓒ At capital punishment resource centers, primarily in the southern United States, students represent clients with capital sentences.</p> <p>HARVARD NEGOTIATION AND MEDIATION CLINICAL PROGRAM</p> <p>Ⓒ Students focus on dispute systems design, negotiation, mediation, and facilitation for U.S.-based and international clients.</p>	<p>2009</p> <p>GOVERNMENT LAWYER: SEMESTER IN WASHINGTON</p> <p>Ⓒ Students work as legal interns in Washington, D.C., in a variety of federal offices—with a focus on policy, legislative or regulatory matters—while taking a government lawyering course.</p> <p>HLS MISSISSIPPI DELTA PROJECT</p> <p>Ⓢ Students provide policy and legal services to clients in the Mississippi Delta region, one of the poorest regions in the U.S.</p>	<p>2011</p> <p>HARVARD IMMIGRATION PROJECT</p> <p>Ⓢ Students provide direct representation to asylum seekers, refugees and individuals in deportation proceedings.</p>	<p>2013</p> <p>CRIMMIGRATION CLINIC</p> <p>Ⓒ Students work at the intersection of criminal and immigration law.</p>	<p>2015</p> <p>FEDERAL TAX CLINIC</p> <p>Ⓒ Students represent low-income taxpayers in conflicts with the Internal Revenue Service.</p>
				<p>2016</p> <p>DEMOCRACY AND THE RULE OF LAW CLINIC</p> <p>Ⓒ Students participate in an externship with the Protect Democracy Project, a nonpartisan nonprofit dedicated to holding the executive branch accountable to the laws and practices that protect democracy.</p>

Pooja Bhatia '06, in Haiti through HLS Advocates for Human Rights



The WCC building is a hub of clinical activity on campus.



BROOKS KRAFT (HOUSING, WCC); GUSTAV FREEDMAN (WILMERHALE); COURTESY OF HLS HUMAN RIGHTS PROGRAM (HUMAN RIGHTS)

A Community Enterprise



DANA SMITH

TO HELP SMALL BUSINESSES FACING GENTRIFICATION, ALEXANDRA GLANCY '19 AND MICHAEL TRUJILLO '18 began with the experts. The students in the Community Enterprise Project of the HLS Transactional Law Clinics partnered with neighborhood organizations fighting to preserve their communities. Anh Nguyen, the executive director of Bowdoin Geneva Main Streets in Dorchester (shown here with her son), was one of their clients. After canvassing local businesses to find out what would be most helpful, they produced “Commercial Leases 101.” They also held office hours to help business owners negotiate more favorable leases.