

Summer 2011

Harvard Law

bulletin

ALSO INSIDE:

*HLS grad
and former
research fellow
Lobsang
Sangay
is the political
successor to the
Dalai Lama*

off the ground

get new ideas

is helping students

energy startups, HLS

From social ventures to

THE LAWYERPRENEURS



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this airborne
wind turbine on
our cover?**
A **See Page 40.**

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Fostering Innovation

“Just as energy is the basis of life itself, and ideas the source of innovation, so is innovation the vital spark of all human change, improvement and progress.” This comment by Ted Levitt, long a professor at Harvard Business School, captures much that is true about both for-profit and nonprofit activities. Innovation has not always taken center stage in legal training, yet lawyers lead and advise enterprises developing innovative technologies and industries, lawyers devise policies profoundly affecting prospects for innovation, and lawyers also invent social ventures that unleash and direct people’s desires to help others.

Our cover story features students and alumni who are launching their own ventures, and the school’s growing efforts to assist such endeavors. We offer courses and workshops on social entrepreneurship, nonprofit organizations, company creation, business strategy, designing dispute resolution systems, and law and finance of startup companies, as well as courses focused on innovation, lawyering in cyberspace, and lawyering that shapes pharmaceutical industries. The Public Service Venture Fund announced last year stimulates advising and planning, and current first-year students will be the first group eligible to compete for grants from the fund. HLS will also take part in the university’s new Innovation Lab, an incubator for public service and private enterprises. Our students and alumni pursue the satisfactions of innovation; the nation’s future and the welfare of the world

depend on new ventures. Moreover, entrepreneurial approaches are central to problem-solving and to navigating a rewarding career. As physicist James Yorke said, “The most successful people are those who are good at Plan B,” and in the current economy, learning to take and manage risks and to devise and implement effective business plans will be crucial for just about any career path our students pursue.

Public-sector service can inspire private-sector leadership, as Kenneth Frazier ’78, the new CEO of Merck, the world’s second largest pharmaceutical company, reveals in these pages. And private-sector tools can elevate public service, as demonstrated by the ingenuity of our clinics and student practice organizations, which combine financial analysis, bankruptcy representation, community partnerships, and trial and appellate litigation to staunch the fore-



closure crisis in Boston and beyond.

Looking across the globe for the best models promoting rights for persons with disabilities, HLS Professor William Alford ’77 and Visiting Professor Michael Stein ’88 run the Harvard Law School Project on Disability. After playing an important role drafting and securing support for the U.N. Convention on the Rights of Persons with Disabilities, they now advise many nations on its implementation.

Our emphasis on innovation will be strengthened greatly by our newest additions to the faculty. U.S. District Judge Nancy Gertner and tax expert Stephen Shay will be our newest professors of practice. Jacob Gerson, an expert on administrative law, will come to us from the University of Chicago. Richard Lazarus ’79, a pre-eminent scholar and practitioner in environmental law, will join us, as will tax and finance expert Mihir Desai, who will be a professor of law at HLS in addition to his current post on the faculty of Harvard Business School. Holger Spamann LL.M. ’01 S.J.D.

“Learning to take and manage risks and to devise and implement effective business plans will be crucial for just about any career path our students pursue.”

’09, a rising star in corporate law and governance, will be an assistant professor, and Robert Greenwald, a pioneer in health law and policy, and a leading advocate for people with HIV/AIDS, will be a clinical professor of law.

We mark the loss of two innovators. A giant in the legal profession, Joseph Flom ’48, architect of modern takeover practice and builder of a powerhouse global law firm, was also a visionary philanthropist and a great friend to this school. We also mourn a beloved member of our faculty, Bill Stuntz. His pathbreaking work in criminal law transcended usual debates; his teaching as a Christian theorist inspired people across our community and beyond. We celebrate their lives of creativity and inspiration.

Dean Martha Minow

REMEMBERING BENJAMIN KAPLAN

I DO NOT write letters to the editor of alumni magazines or other publications, but I could not help but react to, and thank you for, the Faculty Tribute to Professor Kaplan in the Winter 2011 issue.

My first law school class (September 1958) was Civil Procedure. I watched in terror as Professor Kaplan called on and verbally sparred with names chosen at random from a seating chart of about 125 students. The day came in October when my name was called. I do not remember the question, but I remember nervously mouthing some response. This was followed by a short series of questions from Professor Kaplan and answers from me. His teaching skills converted the wide-of-the-mark answer I had originally given into a response somewhere near the target. The experience gave me the confidence I needed that long-ago first year.

STUART L. PACHMAN '61
Roseland, N.J.

IT WAS WITH the deepest sadness that I marked the passing of Professor Benjamin Kaplan, who taught me Civil Procedure 42 years ago at the Harvard Law School. "Big Ben," as we called him—not to be in any way equated with the brutish football player—brought to his classroom a steel-trap mind, a thorough knowledge of the classics, biblical quotes, sparks of grandfatherly wisdom, a wry sense of humor, a self-deprecating wit and an unwavering love of teaching. Professor Kaplan, along with Professor Laurence Tribe and Supreme Court Justice Stephen Breyer, were simply the best teachers I ever had. Ben Kaplan was a giant of the law who challenged us in ways that still resonate—and still reward.

VAUGHN A. CARNEY '71
Stowe, Vt.



BEN KAPLAN CHALLENGED US IN WAYS THAT STILL RESONATE

MOVED BY YOUR Faculty Tribute to Benjamin Kaplan in your most recent issue, I want to second my own deep appreciation of this man, teacher and warm human being.

I had been his student in a seminar on copyright law. In applying to graduate school for an advanced degree in art history and archaeology, a recommendation was needed and I went to Professor Kaplan. Upon hearing my request, he immediately remarked I was "crazy" and then wrote one anyway, a recommendation good enough to obtain fellowships for me at Harvard and at Yale for which I was always grateful.

RICHARD BRILLIANT '54
Anna S. Garbedian Professor in the Humanities, emeritus, Columbia University

SUPREME COVERAGE

THAT COVER PHOTO of Justices Kagan and Roberts by Brooks Kraft is outstanding.

HENRY HAMMOND '62
Boston

NOT PROGRESSIVE BUT REACTIONARY

YOUR CURRENT [WINTER 2011] issue reads like a propaganda broadsheet for the various misguided causes of the left. These are not "progressive" issues but reactionary ones; the children of the '60s never learned or accepted that

they were simply wrong, but the rest of the world has moved on. There is nothing to celebrate about the Obama administration except its gradual passing.

RICHARD SYBERT '76
San Diego

A CALL FOR MORE POLITICAL BALANCE

I THANK HARVARD Law School for its video of the panel discussion [http://tinyurl.com/Heymann-Blum] on the book by Professors Blum and Heymann, "Laws, Outlaws, and Terrorists." I was led to it by a story in the Bulletin ["Looking for the Third Paradigm: When Criminal Law and the Laws of War Are Not Enough"]. However, it would have been a far better panel if one conservative had been included.

It appears that Blum and at least one other panelist believe the threat of terrorism is exaggerated, even though Islamic imperialism once was on the verge of completely dominating the civilized world. All of the panelists assumed that terrorism was in reaction to the foreign policy of the United States and not a matter of religious obligation. Finally, all panelists assumed that the legal opinions of John Yoo and Judge Bybee were motivated by political considerations and were not their honest opinions.

I think the panel would have had far more to offer had it been more politically balanced. But I was able to make up my mind on whether to buy the book.

WALLACE E. BRAND '57
Alexandria, Va.

CORRECTION: *The photo caption for "Outside the Classroom" on Page 22 of the Winter 2011 issue reversed the order of the two students in the photo. It should have read: "Professor Deborah Anker LL.M. '84, HIRC director, with Gianna Borroto '11, Defne Ozgediz '11 and Sabrineh Ardalan, clinical instructor."*

Connecting About Interconnectedness

*Committee on Capital Markets Regulation
OFFERS STUDENTS THE CHANCE* to whisper in
the Treasury secretary's ear

Since the financial crisis hit, HLS Professor Hal Scott and the Committee on Capital Markets Regulation, an independent research organization which he directs, have been working double time making recommendations on financial regulatory reform through white papers, major reports and testimony before Congress. Supporting Scott and the committee is a team of dedicated student research assistants. For some of those students, the work has been an education in its own right—and one that couldn't be more relevant to their past or future careers. ❖

**IT'S THE MOST
INTERESTING TIME TO BE
WORKING ON ISSUES OF
FINANCIAL REGULATORY
REFORM**

"At Harvard Law you always see students who have unbelievable capabilities in the areas that they are interested in."

Peter Zuckerman '12, Conor Tochilin J.D./M.B.A. '12 and Professor Hal Scott



Photographs by WEBB CHAPPELL

Peter Zuckerman '12 came to law school after two years at Deutsche Bank.

In his 1L year, he contacted Scott about working for the committee: "As someone who traded derivatives, I thought I could be of some use," he says. He researched that subject last year. This year he has been focused on the Lehman Brothers bankruptcy and issues of interconnectedness.

"What interests me now is that we are in a time when a lot of the rules for the financial system are being

rewritten. So the committee has a very important role."

The Committee on Capital Markets Regulation was originally formed in 2006, by then-Treasury Secretary Henry Paulson, to focus on competitiveness—how to reform the rules so that U.S. pre-eminence in the capital markets was not lost. In addition to Scott, it includes major figures from regulation, financial services and academia. But since 2008, its focus—and much of Scott's—has been directly related to the financial crisis, first through regulatory recommendations leading up to the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act and now through advising on its implementation.

For Max Jenkins '11, who worked in investment banking at Lazard before coming to HLS, "the massive, massive shift toward reform" encapsulated in Dodd-Frank is of deep intellectual interest. He says it's been a "riveting experience" to get to work with the committee and in particular with Scott: "It has markedly shaped my time at the law school."

Jenkins, like Zuckerman, is working this year on a study related to interconnectedness and contagion: "the idea that failure in one part of the financial system provokes panic behavior somewhere else in the system that is not directly connected."

Conor Tochilin J.D./M.B.A. '12 also came to HLS just as the crisis was breaking, after several years in finance (most recently at a hedge fund). When he began researching for the committee, "regulatory and policy issues were really front of mind," he says. "It was the most interesting possible time to be working on these issues." His many projects include "recommendations about structural improvements to the financial regulatory architecture, in conjunction with Dodd-Frank." He calls his work with the committee "a great experience—one of the best things I've done in graduate school."

Scott says since the committee was

formed, he has employed more than 50 research assistants to help with its work. "At Harvard Law, you always see students who have unbelievable capabilities in the areas that they are interested in," he says. But he calls the three who came to him directly from Wall Street "phenomenal."

He adds that one of the pleasures of working on the committee is engaging with such students and pushing them to take their research further.

Says Zuckerman: "Hal is ... the sort of guy who wants to make sure that he understands everything, and he pushes you until you get to the bottom of whatever question you are working on."

Zuckerman gave the example of the question of structured notes called "minibonds" that were central to the Lehman Brothers bankruptcy. "Hal wanted to get to the bottom of what was going on with these things. It was very complicated, ... and that was the very point. No one did understand what was going on with them, and that's why they lost a lot of money." But after much back and forth, he was able to give Scott an explanation.

Tochilin and Jenkins told similar stories. "Hal is unremittingly interested in drilling down on a subject. Any explanation you offer is always subject to a deeper level of inquiry from him," says Jenkins. "That's what's fun about it," he added. "You can always go deeper in your understanding."

Another part of the appeal for the research assistants is that the issues they are working on have such real-world significance, says Zuckerman, who came to law school to learn more about the emerging rules that are going to govern the financial world, where he plans to spend his career. (He, like Jenkins and Tochilin, is likely to return to Wall Street after law school.)

"It's not just academic," says Scott. "This is a situation where I tell them I need a memo, and it's going to result in a recommendation that the secretary of the Treasury Department is likely to pay some attention to."

—Emily Newburger

"Hal is unremittingly interested in drilling down on a subject. ... That's what's fun about it."



Max Jenkins '11

The Ripple Effect

Goldberg and students PROVIDE ANALYSIS to Gulf Coast Claims Facility administrator

This fall, Professor John Goldberg, a tort law specialist at Harvard Law School, unexpectedly found himself engaged in a research project that could impact the lives of thousands of Americans. And it needed to be completed in a matter of weeks.

It started with a phone call from Kenneth Feinberg, administrator of the Gulf Coast Claims Facility, the \$20 billion fund set up by BP after the Deepwater Horizon oil spill in the Gulf of Mexico to compensate those who had lost property, jobs and income because of the spill. ❖

WHO AMONG ALL THOSE CLAIMING ECONOMIC LOSS AFTER THE BP OIL SPILL IS ELIGIBLE FOR COMPENSATION?

“There are no standing legal rules for how a fund like this needs to be set up.”



(From left) Professor John Goldberg, Andrew Kaufman '12, Deepa Alagesan '12, Kostya Lantsman '12 and Morgan Goodspeed '12

“When you think of an oil spill, you think of beaches being soiled,” says Goldberg. “But not surprisingly there are ripple effects.” Feinberg had already been contacted by people from far outside the Gulf Coast region claiming to have lost income because of the spill.

“There are no standing legal rules for how a fund like this needs to be set up,” says Goldberg. “And one of the most important and difficult things Mr. Feinberg is asked to do is figure out who among all those claiming injury would be eligible for compensation.”

For guidance in setting up the BP fund, Feinberg wanted to know who would be eligible to recover for economic loss if, instead of applying to the fund, they took their case to court.

That’s where Goldberg came in, along with five HLS students he turned to for assistance. Working together, they provided in very short order a detailed analysis of the scope of legal liability for economic loss in connection with the oil spill, based on state and federal law, especially the Oil Pollution Act of 1990.

Goldberg says the students who assisted him were “fabulous.” Without them, the quick turnaround simply would not have been possible. And as a professor of torts, Goldberg found the issues fascinating ones to explore with his assistants, all of whom had been students in his first-year Torts or Criminal Law

courses. What was at stake, says Goldberg, was “an old problem as far as the law of torts is concerned”: who gets to recover for economic

losses allegedly caused by someone’s careless actions, “but in a modern and politically salient context.” After the Exxon Valdez oil spill, Congress enacted OPA “out of dissatisfaction with existing tort law,” he says. “The whole point of OPA,” he continues, “was to enable more oil spill victims to recover than could traditionally recover under judge-made common

FEINBERG MET WITH THE TEAM, VIGOROUSLY PRESSING THEM TO DEFEND AND CLARIFY THEIR ANALYSIS

law principles.” The traditional rule, he explains, holds that someone who suffers lost profits can’t recover for that loss unless it is the result of physical damage to property that she owns or leases. OPA, by contrast, extends liability. For example, under the statute, a fisherman who is employed by the owner of a boat damaged by the spill can recover his lost wages from a person responsible for a spill, even if the fisherman has no property interest in the boat.

“The statute clearly contemplates some connection between economic loss and property damage, but not ownership or rental. So what is the connection?” Goldberg asks. “Congress never said, at least not explicitly. Our job was to solve that mystery.”

The report reviews a wide range

Benjamin Mundel '12



“It was heartening to see ... [Feinberg’s] drive to figure out what the law is and what is fair.”

of possible claimants, and in the end, Goldberg concluded that to recover under OPA, an individual needs to have suffered economic loss because of damage to property *on the use of which* her business relies. For example, a hotel owner whose business abuts a sullied beach ordinarily used by its customers should be able to recover, even if the hotel owner doesn’t own or lease the beach.

Goldberg stresses that his analysis is not binding on anyone, including Feinberg, and that “a judge tomorrow could say that we got the statute wrong.” But he adds that, under any plausible interpretation of OPA, a large number of people who actually suffered economic loss will not be able to recover because their losses are too remote from the spill.

One of the highlights of the project for Goldberg and his assistants was the opportunity to meet with Feinberg in person. The team spent an hour in Goldberg’s office discussing their research and findings, with Feinberg vigorously pressing all of them to defend and clarify their analysis.

Benjamin Mundel '12, one of the five students working on the project, says it was a great educational experience to apply “the legal skills we’d learned in class to something that affected a lot of people and that we heard about on the news every day.”

Getting to discuss their work with “the man the government calls whenever they need to figure out how to compensate those injured in a national disaster,” says Mundel, also made a strong impression. “It was heartening to see firsthand his integrity and compassion for those affected by the oil spill and also his drive to figure out what the law is and what is fair.” —E.N.

Taking an Idea and Running with It

*Students spearhead a project proposing
CONSTITUTIONAL REFORMS FOR BAHRAIN*

“It was nice to do something that can have an impact on the real world while you’re in school.”

This winter, as protests erupted throughout the Middle East, Jason Gelbort '12 was one of the many obsessively watching the news, wondering if there was anything he could do to help. Then, on March 2, he went to a talk by Chibli Mallat, the Custodian of the Two Holy Mosques Visiting Professor of Islamic Legal Studies at HLS.

Mallat mentioned that he wanted to undertake a project on constitutional reform in Bahrain, which in recent weeks had been engulfed by pro-democracy demonstrations. (Mallat had been approached by opposition leaders in Bahrain and contacts in the U.S. State Department, who thought that a document outlining some possible constitutional reforms could be helpful on the ground.) Gelbort, who had worked the previous summer for the Public International Law & Policy Group, trying to help build a new constitution in Nepal, volunteered to help Mallat conceptualize and organize the project. The two recruited Mostafa Abdelkarim '11, who, with other students, had just helped Mallat with proposed reforms to Egypt's Constitution. They also reached out to Anjali Mohan '12 and about two dozen students from the Kennedy School and the Fletcher School of Law and Diplomacy, among other schools. For six days the group researched and drafted options for constitutional reform of Bahrain's repressive monarchy, along with seven background papers on topics such as the process of constitutional change and examples of transition.

Gelbort served as editor and project manager, and he and Mallat



Visiting Professor Chibli Mallat with Mostafa Abdelkarim '11, Jason Gelbort '12 and Anjali Mohan '12

co-wrote an essay highlighting their recommendations for proposed amendments to the current constitution, including the following reforms: establishing a democratically accountable executive role for the prime minister, balancing the powers of the prime minister and the king, increasing democratic accountability through the legislature, and ensuring judicial independence.

From Mallat's perspective, he and the students together accomplished work that he never could have on his own. "It was wonderful. They took the idea and ran with it. ... It was a process I don't think I could have done anywhere else in the world," he says.

The group sent the documents to Mallat's contacts and had them translated into Arabic, in the hopes that they could be published in Bahrain's lone independent newspaper, *Al Wasat*. But days later, the Bahraini

government cracked down, bringing in troops from Saudi Arabia to help stamp out the protests, and cutting off any chance of immediate change. (As part of the crackdown, the government took over *Al Wasat*.)

Gelbort stresses that the project was intended to inform a compromise and offer an entry point for dialogue. "We have to realize that we're outsiders and that these will be decisions made by people there," he says. He still hopes that their work will someday be disseminated in Bahrain. For now, they have published their recommendations in the *Virginia Journal of International Law Online* and posted their background papers on Mallat's website, *Right to Nonviolence*. "It was nice to do something that can have an impact on the real world while you're in school. That's something we were all hoping for," says Gelbort, "and are still hoping for." —Katie Bacon

How Judges Decide

A clinical course puts students IN CHAMBERS

By Elaine McArdle

ARRAIGNMENTS ON DRUG charges. Restraining orders in cases of domestic violence. Default judgments on overdue credit card payments and appeals on speeding tickets. When Judge Sabita Singh, an associate justice on the Massachusetts District Court, presides over these and a wide range of other civil and criminal matters, Allison Lukas '11 is there.

Lukas is a student in Judicial Process in the Community Courts, a clinical course in which HLS students are placed in internships with judges in the Boston area—including in district court, municipal court, juvenile court and housing court, and the federal district court in Boston—and meet each week for a seminar that integrates their experiences with discussion about major themes in community courts.

"It's been incredible having such unique access to the inner workings of the courts and the internal processes of a judge," says Lukas, who will be clerking for federal Judge John A. Woodcock, chief judge for the U.S. District Court in Maine, before joining Weil, Gotshal & Manges' Boston office.

Singh sits on the District Circuit Court, which puts her in a different courthouse nearly every day, from Somerville to Salem, from Lowell to Medford. "It's been a fantastic opportunity for me to not only see how the district courts work generally, but also to compare and contrast the courts in each community," Lukas adds. Singh also sits on the appellate division of the Massachusetts District Court, which gave Lukas the chance to research

THE STUDENTS GET UNIQUE ACCESS TO JUDGES, AND THE COURTS GET MUCH-NEEDED HELP

lot of cross-sections of society we don't regularly see as students here," says Lukas, who hopes to step onto the

and draft an appellate-level opinion for the judge. "It's endlessly fascinating to me to see how the stories unfold when observing the wide range of people who visit the community courts—a

bench herself one day.

Her classmate Zachary Zwillinger '11 is equally enthusiastic about the course. Every Tuesday, he takes the T to Dorchester to observe Judge Rosalind Miller, first justice of the Dorchester division of the Boston Municipal Court, which primarily handles minor criminal cases.

"For the students, being in a court like Dorchester, in particular, is a

Allison Lukas '11 with Associate Judge Sabita Singh of the Massachusetts District Court



AT MAIN JUSTICE, AN ADVOCATE FOR MAIN STREET

A venerated Supreme Court practitioner makes it his mission to expand access to the lower courts

Professor Laurence Tribe '66, who has been teaching at HLS for four decades, is back in Cambridge after nine months as the first head of the new Access to Justice Initiative at the Department of Justice, launched in March 2010 to improve access to justice for all, the middle class as well as the poor. Tribe left the post in December to continue treatment with his physicians in Boston for a benign brain tumor, first diagnosed in 2008.

Although his DOJ tenure was brief, Tribe says the initiative is on firm footing with a staff of six excellent lawyers, and he expects his successor as senior counselor to be announced soon. It has already begun a number of projects to fulfill its mission, including working with the Department of Commerce to deploy broadband technology in Washington and North Carolina to make vital resources like legal services accessible to people who are in remote locations or can't afford them. It is also working with the Vice President's Office and the Office on Violence Against Women to forge partnerships among law schools, legal services providers, and law firms in Baltimore and New Orleans to assist domestic violence victims, and it has a number of other partnerships and projects in the works. "All of these things are still in the embryonic stages," he says. "But I'm excited at the fact these efforts are blossoming, and I think they will represent an important beginning."

Tribe hopes and expects that the initiative will work with Congress to lift certain restrictions on the Legal Services Corporation, which receives federal funding to provide civil legal services to the poor. He says the Legal Services Corporation has been "unduly restricted" because it isn't allowed to

handle class-action suits or to represent certain clients. But, he adds, "One of the greatest frustrations of the position was that it is not easy to get things through Congress."

Tribe says he was honored when President Barack Obama '91 appointed him to head the new initiative. "One theme of the election was that there is a real crisis in the American justice system that might be less visible than other crises

we face, but that is fundamental, given the constitutional guarantee to equal justice for all," says Tribe, who has argued 35 cases before the U.S. Supreme Court, including the historic *Bush v. Gore* case on behalf of presidential candidate Albert Gore Jr. "President Obama and Attorney General Holder sensed it was crucial that the problems in accessing equal justice must be addressed even though they can't be solved by quick fixes."

Such a focus in the Justice Department has been needed for a long time, Tribe believes, because overworked public defenders often carry caseloads that are "much too heavy to provide a meaningful defense," while middle-class and low-income litigants have trouble navigating the civil justice system. "I think we as a country have pushed that problem under the rug and not given it the focus it deserves," he says. While changing that is a tall order, Tribe believes it can be done. "We were inspired by medical-legal partnerships, where people who come into the emergency room or neighborhood clinic might end up having problems that can be solved by a legally



Professor
Laurence Tribe '66

stern letter to a landlord who won't clean up a problem with mites, rather than giving the person expensive medications for asthmatic conditions," he says. "Finding ways of creating partnerships in a community-based context is both a great challenge and a great opportunity."

The initiative, he says, also serves a vital function in highlighting things that work in the system, and focusing a critical spotlight on those that are "pernicious." For instance, he notes, "Railroading juveniles through the system without any legal advice and accepting deals they struck without their knowing that it might derail their lives is a practice we are able to reduce simply by highlighting it."

"I've cared all my life about the problems of people being unjustly treated," Tribe says. "I thought, after 40 years of academic life, with occasional forays into arguing Supreme Court cases and helping countries draft their constitutions, this was an opportunity to help make a concrete difference in people's lives. I believed it would be very satisfying to be involved in that process, and I was right." —E.M.



Zachary Zwillinger '11 with Judge Rosalind Miller of the Boston Municipal Court, Dorchester

very, very different kind of experience,” says Miller. “We’re a very busy court with a lot of interesting issues; much of what we do on a daily basis are Fourth Amendment search and seizure issues, those con law questions they study back at HLS.”

Zwillinger watches Miller and her fellow judges handle trials, probation revocations, and motions, and then heads with them to the judges’ chambers to discuss why they made the decisions they did.

“Through my research and writing, I’ve learned about different areas of Massachusetts evidence law,” he says, “and also learned how cases move through the lower-level Massachusetts courts.” But what has been most valuable has been talking with the judges and getting insight into how they think, according to Zwillinger, who will be clerking for Judge A. Joe Fish of the U.S. District Court for the Northern District of Texas before joining Dewey & LeBoeuf’s

THE STUDENTS SEE THE NITTY-GRITTY OF HOW COURTS REALLY WORK AND HONE THEIR RESEARCH SKILLS

New York City office. “Law school is great at teaching students how to analyze situations, to weigh the strengths and weaknesses of particular positions, and to advocate one over the other,” he says. But the classroom “doesn’t really teach you how to make decisions,” he says, something these judges do dozens of times each day. “Watching and learning how to make decisions is what sets my experience in this clinical apart from the rest of my law school experience.”

This is exactly the sort of educational opportunity envisioned by Judge John C. Cratsley of the Massachusetts Superior Court when he launched the clinical course four years ago. “There is nothing in the traditional curriculum about judicial decision-making, about how courts run,” says Cratsley, who has been on the bench for 34 years, including 10 years in the District Court in Roxbury.

His proposal came at a critical time: Most judges in Massachusetts

don’t have law clerks and, with the current financial constraints, are unlikely to do so despite their often crushing workloads. “It’s a win-win,” says Cratsley. “The judges get volunteer legal assistance, and the students get to see the first level of our court system and the many urgent issues, from drug abuse to domestic violence to street violence.” He is particularly pleased with students’ reports that the judges take the teaching role very seriously, while students see the nitty-gritty of how courts really work and hone their research and writing skills.

The classroom component provides an additional dimension that postgraduate clerkships don’t offer. The seminar covers a range of subjects from sentencing policies and philosophies to

judicial ethics, from new approaches to juries—such as allowing them to take notes or ask questions of witnesses—to specialty courts including drug and mental health courts. Students write a paper rooted in the work they do for their judges. “Judge Cratsley actively encourages us to present any relevant observations we’ve had in our ‘fieldwork,’ as he calls it,” says Lukas. “Hearing other students’ comments, usually about proceedings they observed that same week, greatly enriches these discussions.”

Among the 16 clinical students in the course are two LL.M. candidates who are judges themselves, one from Japan and the other from Korea. “They add quite a bit of conversation in class about different court systems, so it’s a really good comparative discussion,” Cratsley says. The course has proven so popular, with a long waiting list, that next year he’s expanding enrollment to 20. Meanwhile, says Cratsley, “I get judges stopping me on the street, asking, ‘Can I get one of your students next semester?’” *

The Delta Force

A collaboration between HLS and local organizations seeks to TRANSFORM A REGION



STUDENTS working on the HLS Mississippi Delta Project visit Shack Up Inn to hear about what it takes for a business to be successful in the region.

By Elaine McArdle
IN OXFORD, MISS., the home of William Faulkner, the courthouse stands gleaming white in the center of a vibrant town, surrounded by upscale boutiques and restaurants. Not far away, in towns across the Delta, the courthouses are shuttered and in ruins, the shops closed down, the squares deserted. It's that stark juxtaposition that struck

Eleanor Simon '11 when she first visited the Mississippi Delta this past winter term.

"I've traveled internationally to a lot of places that are poor," says Simon, "but the poverty in the Delta is striking. It's really, really poor."

Mississippi is ranked dead last among the 50 states on a number of social indicators, including infant mortality, teen pregnancies and children

living in poverty. And the Delta region—which also includes parts of Arkansas, Louisiana, Tennessee and other states—is among the hardest hit, with few jobs, failing schools, and an epidemic of obesity and other health issues. It is also a place rich in history, the birthplace of the blues, and home to many renowned writers and musicians. It has its own distinctive beauty, Simon notes, with

farmland and flat terrain that stretches for miles.

Where others see entrenched problems, the HLS Mississippi Delta Project—an interdisciplinary effort in the HLS Clinical and Pro Bono Programs—sees opportunity for transformation. Since launching less than three years ago, the project has made strides in improving public health, promoting

economic development and assisting children in the Delta. So far, more than 100 HLS students, including Simon, have worked on a wide range of efforts related to food policy, financial services for low-income households, education and neighborhood revitalization.

Born from an idea of Herbert S. “Pug” Winokur Jr., the project is funded through the Winokur Family Foundation, which supplements support from the Mississippi State University’s Social Science Research Center.

“It seemed to me that there are so many economic development and health problems in the Mississippi Delta that mirrored problems that exist in many developing countries,” says Winokur, who holds an undergraduate degree, a master’s and a Ph.D. from Harvard. “If we can figure out how to work on health disparities and other issues there, maybe we would not only help those in the Delta but people in other parts of the world.”

The project supports a two-year fellowship for an HLS graduate to live in



DELTA RESIDENT Samuel Pollard (top left), one of the many clients assisted by the HLS Mississippi Delta Project, gets some licensing questions answered; Tom Ferriss J.D. '11/Ph.D. candidate (middle) provides legal advice to owners of a woodworking business; Senior Delta Fellow Emily Broad '08 helps with questions from entrepreneurs; and Ashley Nyquist '12 and Jeremy Haber J.D./M.B.A. '13 speak with a client about his business in Clarksdale.



Clarksdale, Miss., to pull together organizations and resources in Mississippi and at Harvard. Emily Broad '08 was named the first Delta Fellow, and under her leadership, Delta Directions, a consortium of partners in Mississippi and at Harvard, was launched.

In addition to HLS, it includes Mississippi State University, Delta State University and the University of Tennessee Medical Center as well as the Harvard School of Public Health. A number of HLS clinics and student practice organizations are also participating.

As part of this

collaboration, HLS Clinical Professor Brian Price, director of the Transactional Law Clinics, traveled to Oxford last summer to help the University of Mississippi School of Law

start the state’s first transactional law clinic. HLS students provided free legal services that have helped small businesses get off the ground, including a husband-and-wife custom woodworking shop, a family homemade soap business, an organic chicken farm and two restaurants.

This March, another group of HLS students traveled to Clarksdale over spring break to work with the current Delta Fellow, Alexis Chernak '10, and with students from the University of Mississippi School of Law to provide free legal assistance to area musicians. The students met with blues musicians and with a local intellectual

property attorney, created a guidebook on the legal rights of musicians and artists, and presented a free training session for musicians about legal issues that was videotaped so others can view it, too.

Broad, now the senior Delta Fellow at HLS working through the Health Law & Policy Clinic, supervises student projects in the Delta, many of which are focused on food policy issues. This year, she helped launch a food policy council in Mississippi and worked with students drafting a bill in Arkansas to protect small farmers from unfair competition. Students have also drafted legislation to exempt farmers markets from the Mississippi sales tax that has been signed into law as well as landing an important regulatory change enabling state farmers markets to accept food stamps.

“People are so appreciative of our work,” Broad says. “I have dozens of emails right now thanking us for all we’re doing.” *

Clinical ASSISTANCE

HLS clinics and student groups involved in the Delta Project:

The Health Law & Policy Clinic

The Transactional Law Clinics

The Harvard Negotiation & Mediation Clinical Program

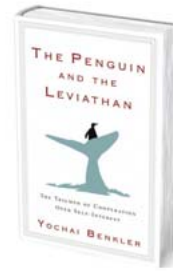
The Child Advocacy Program

Harvard Negotiators

A student practice organization, co-chaired this year by Eleanor Simon '11 and Jared Policicchio '11

Escaping the Leviathan's Shadow

Benkler makes the case for
"PROSOCIAL" SYSTEMS DESIGN



By *Julia Collins*

FOR GENERATIONS, THE assumption that selfishness drives human behavior has shaped the design of social systems in which we live and work. In his forthcoming book "The Penguin and the Leviathan: The Triumph of Cooperation Over Self-Interest," Harvard Law Professor Yochai Benkler '94 rejects this assumption as a "myth" and proposes an alternative, refreshingly optimistic model that asserts our human traits of cooperation and collaboration.

The study of cooperation is on the rise, says Benkler, an expert on the role of networks in business and society. In "The Penguin and the Leviathan," due in August from Crown Publishing, he draws together strands of research by neuroscientists, evolutionary biologists, management experts, computer scientists, software designers and others—along with vivid examples of prosocial behaviors observed in many cultures and corners of society, from Maine lobstermen to the British blood-banking system—to demonstrate that people already "act far more cooperatively and fairly than the old model would have us believe."

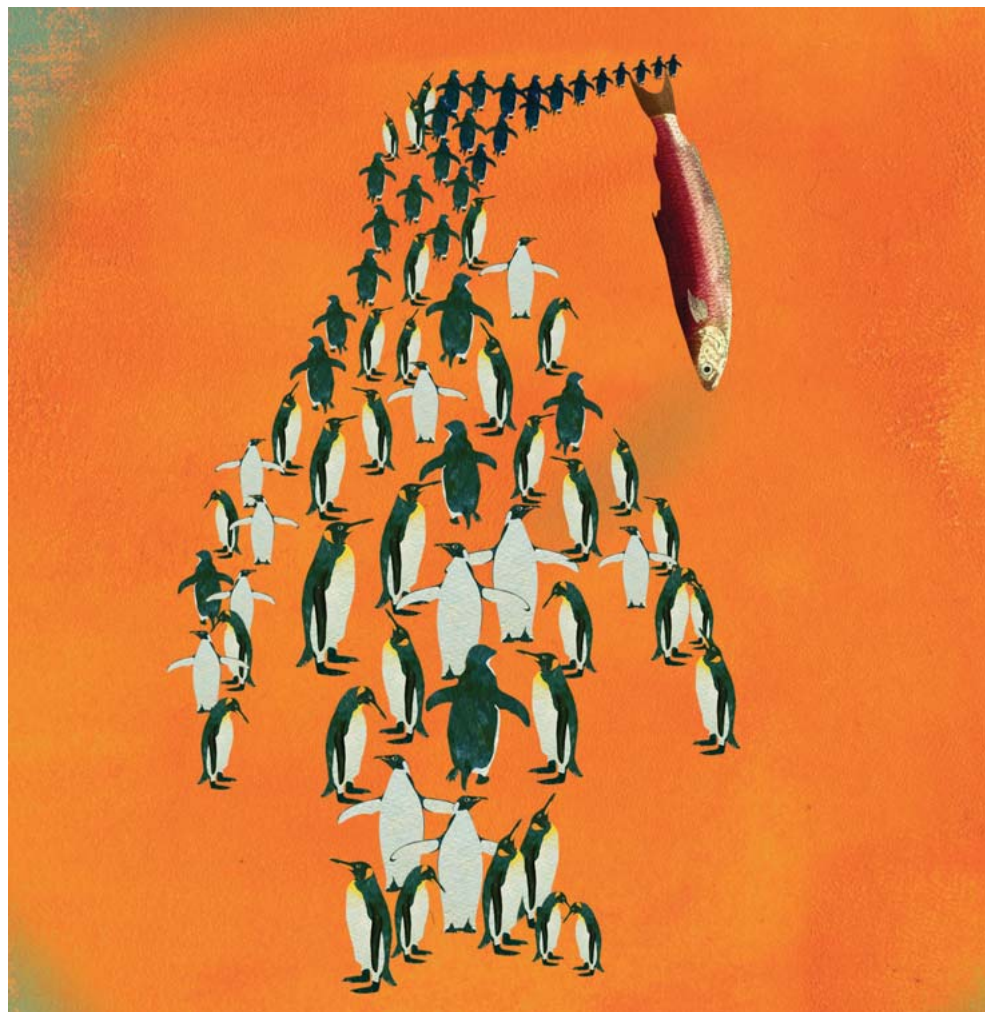
This "old model" harks back to 1652, when philosopher Thomas Hobbes published "Leviathan," arguing for rule by absolute sovereignty. Hobbes unleashed a monster, the "iconic image

of a controlling state," says Benkler, which ever since has cast its shadow over social contracts, spreading the dire message that "if left to our own devices, we'll be at each other's throats." Overlaying this Hobbesian model of state control is the market-oriented Invisible Hand metaphor, introduced by economist Adam Smith in "The Wealth of Nations"

(1776), which assumes that "by each pursuing self-interest, we make things better for all of us," not because we care for one another but because it is mutually advantageous.

"WHEN YOU TRY TO BUILD A SYSTEM WHOLLY ON SELF-INTEREST, YOU END UP WITH DISASTER."

The financial meltdown of 2008 has helped dethrone this view of humanity, demonstrating, as Benkler puts it, "that when you try to build



a system wholly on self-interest, you end up with disaster.” Over the last decade a flood of new research in far-flung disciplines—such as practical management, software design, psychology and evolutionary biology—has produced “precise and refined work that tells us what we teach kids all the time: We care about doing what’s right, intuitive and fair.” While such diverse practitioners “don’t tend to cite or read each other,” Benkler notes, independently all are reaching the same conclusions: Designing social systems according to the “carrot-and-stick approach no longer makes sense,” and the “material self-interest focus has run its course.” This is not to say that self-interest should not play a part, but it is too flimsy a scaffolding to support a social system.

Here’s where the “Penguin” of Benkler’s title waddles in. Benkler has borrowed “Tux,” the ubiquitous mascot of Linux, the free and open-source operating system, as his book’s symbol for massive collaboration. He also cites the example of Wikipedia, the online encyclopedia that anyone can access and edit and improve, which has exploded online from upstart experiment to everyday resource shared by millions. “I spent a lot of time in the first half of the last decade just getting people to accept that Wikipedia and its like are not passing fads,” Benkler says. “Now we need to see that Wikipedia’s underlying human motivations are not unique to the Net.”

The challenge is to incorporate prosocial—i.e., caring about and acting for the common good—motivations into human systems design. What does this entail? The last chapter in Benkler’s book summarizes the

main elements—among them communication, unsurprisingly, as well as “framing” and authenticity. Empathy and solidarity are requisites for recognizing the humanity of others and expanding one’s sense of identity to include them. The right kind of leadership, too, is essential to adapt to a cooperative focus. (He cites the example of Robin Chase, founder and former CEO of Zipcar, the car-sharing company, whose communitarian views shaped Zipcar from its business model to its communications.) Also important: taking into account values, notions of fairness, and social “norms” for how people perceive things *should* work.

Pockets of sound prosocial design already exist all over, Benkler points out, and enlightening examples populate his book: Toyota’s famous NUMMI plant in Fresno, Calif., with its revolutionary cooperative management and production processes; Southwest Airlines, which has turned teamwork and egalitarianism into consistent profits in a beleaguered industry; the online community of volunteers, activists and donors at My.BarackObama.com, who propelled the Obama presidential campaign to victory; Radiohead’s pay-as-you-wish downloading platform that put faith in their fans’ readiness to compensate fairly—the list is long.

Packed with stories and crisply summarized evidence, “The Penguin and the Leviathan” leapfrogs disciplines, connecting the dots from Hobbes to John Seely Brown. This little book starring the Penguin reaches out to general readers to urge a better, more complex and therefore more fully human design for the systems we all inhabit. *

Checks and Imbalances

Vermeule and Posner are bullish on EXECUTIVE POWER

Defending strong executive power is nothing new for Professor Adrian Vermeule ’93. It is a theme he and co-author Eric A. Posner ’91 first explored in their 2007 book, “Terror in the Balance.” Now, in their latest collaboration, “The Executive Unbound: After the Madisonian Republic” (published by Oxford University Press this spring), Vermeule and Posner set out to explain why the



traditional separations of power confining the executive have weakened over time—and why that’s not necessarily worrisome.

Vermeule explains that the book was an opportunity to “distill, elaborate and modify” ideas that he and Posner have been working on together and separately for years. Below, he answers six questions from Seth Stern ’01.

HLB: Are fears of tyranny—what you label “tyrannophobia”—on left and right overblown? Is everyone unnecessarily anxious about executive power?

Adrian Vermeule: Many people are. A striking feature of American political and legal discourse is that both left and right are anxious about executive power and the policies that the imperial executive pursues, but on different issues: The left is typically anxious about counterterror policy and (putative) civil liberties; the right is anxious about the regulatory state and infringements of (putative) property rights. Para-



doxically, on any given issue there is often a sufficient political coalition to sustain broad executive power, even though many believe in some abstract sense that executive power is too sweeping.

You describe “tyrannophobia” as a central element of American political culture since the nation’s founding. Are the recent comparisons of both former President Bush and President Obama to Hitler consistent with that aspect of our political culture?

Certainly. But these are just extreme examples of familiar tropes; comparisons between American presidents and foreign monarchs or dictators are as old as the hills.

Why has the center of gravity in American political life shifted to the executive at the expense of Congress and courts?

The book answers this at length. In brief, the increasing rate of change in the policy environment, combined with individual and institutional incentives on the part of legislators and judges, has resulted in delegations of ever-increasing scope, ever-increasing deference to

presidential emergency measures, more unilateral regulatory action by the executive and more presidential control of the congressional agenda.

Do courts get more credit than they deserve for acting as an effective check, particularly in the context of the post-9/11 war on terror?

One of the main props of expansive executive power is that the executive is the least dysfunctional branch. Courts do get more credit than they deserve. When a case like *Boumediene* [granting habeas rights to Guantánamo detainees] hits the headlines, people fail to realize that there is a large gap between judicial rhetoric and the reality of judicial action on the ground. As we detail, after *Boumediene*, the courts have actually done surprisingly little to oversee executive detention at GTMO, Bagram and elsewhere.

Is the shift permanent and has it intensified since 9/11 and the 2008 economic crisis? And might the balance reset should the economy improve or the war on terror ease?

There are two different time scales one might examine: the short run

and the long run. In the short run, executive power waxes and wanes with the ebb and flow of politics and the state of the policy environment, including things like public perceptions of terrorist threats and the performance of the economy. In the long run, however, executive power has tended to expand over time. An analogy is to the stock market, which fluctuates up and down but systematically trends upward when viewed over long time slices.

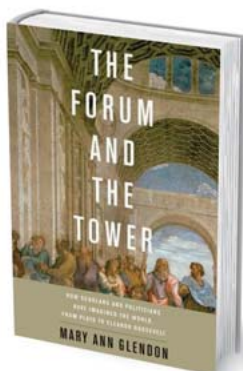
You argue that political constraints matter more than legal ones. How does public opinion act as an effective constraint on the modern president?

A paradox of the presidency: Despite their sweeping legal powers, all modern presidents and their advisers are slaves to opinion polls and other measures of ambient public opinion. Partly this is an effort to anticipate the next round of elections, but it is also an attempt to burnish the president’s legacy and more generally to lead from the front. For the most part, presidents can take the crowd only where it is willing to go. *

What Kind of Difference They Made

Glendon LOOKS TO HISTORY to inspire graduates considering a career in public life

In her long career as a law professor, Mary Ann Glendon has seen students struggle to stay idealistic in an imperfect world. Will they lose their moral compass if they choose a life in politics? Risk irrelevance if they stick to academia? Glendon, a former U.S. ambassador to the Vatican, who teaches subjects ranging from comparative constitutional law to political philosophy, has explored how great statespersons and philosophers grappled with similar questions. Their stories inform a new book, which Glendon discussed with the Bulletin this spring, “The Forum and the Tower: How Scholars and Politicians Have Imagined the World, from Plato to Eleanor Roosevelt” (forthcoming from Oxford University Press in July).



HLB: You write that your book came from observing your students. Can you say more about that?

Mary Ann Glendon: Over the years, a considerable number of the students I have known at Boston College, University of Chicago and Harvard law schools have gone on to realize their political ambitions. But what has always haunted me is that many others who came with that idea—including some of the most intelligent, principled and public-spirited—changed their minds by the time they graduated.

One student I had in mind was a former research assistant, Mike Pompeo '94. When he arrived here after graduating first in his class at West Point and serving with distinction as an Army officer, he was bent on going into politics. When he went into business instead, I felt real regret to see yet another young person of great integrity and ability swerve from his original path.

But in fact he didn't. Mike waited until he and his wife, Susan, had raised their son and assured a sound financial footing for the family. This past November, he was elected to the U.S. Congress from the 4th District of Kansas.

Does your book raise the question, What does it mean to make a difference?

If there is one preoccupation that appears more than any other in the personal essays that students submit with their law school applications, it is “Will I make a difference?” But everyone will make a difference, whether he or she means to or not. So the more sobering question is what *kind* of difference one will make. And on that point, the yield of the biographies in my book is quite mysterious—for hardly any of the protagonists ever imagined the sorts of influence their work would have in years to come, and many were strikingly mistaken.

The poet Rainer Maria Rilke famously admonished a young student to “have patience with everything unresolved in your heart” and not to search for the answers, but to “live your way into the answer.” Is your book delivering a similar message?

Yes and no. I am sure that philosophers and statespersons, as well as poets, benefit from the ability to hold the full complexity of a question in their minds.

The political philosophers profiled in my book, however, were too driven by the Eros of the mind to merely “live the questions” without searching for answers. And what sets political actors apart from poets and philosophers alike is that the latter can be as patient as they wish, but [political actors] must decide and act, often on imperfect information, and take responsibility for their decisions and actions.

You have taken care to show when the statespersons and philosophers in your book held personal doubts about their paths in life. Why?

I think it is precisely in the area of doubt about one’s own vocational direction and in the difficult borderland between political and moral compromise



MARY ANN GLENDON

where people most desire to see how others have struggled, and to what extent they have failed or succeeded. It is fascinating, for example, to see Cicero wrestle with the difficulty of deciding what to do when, as he put it, “apparent right clashes with apparent advantage,” and second-guessing or berating himself with the benefit of hindsight.

One theme of your book is that the world of the philosopher is not free of politics, and the world of the politician is not free of philosophy.

Perhaps Plato put it best when he chastised both the man of action who never looks beyond immediate concerns and the scholar who keeps his head in the clouds. The man who has “knocked about from youth in the law courts,” says Socrates in the “Theaetetus,” “acquires a tense and bitter shrewdness, but his mind is narrow and crooked. ... He passes from youth to manhood with no soundness in him and turns out, in the end, a man of formidable intellect—in his own imagination.” His warning to philosophers was that they should attend to public affairs not only out of civic duty, and not only to stay grounded in reality, but also—and just as importantly—to assure the maintenance of conditions under which intellectual life can flourish.

If you were in charge of assigning this book a category in a bookstore, where would you shelve it? Biography? Intellectual history? Politics?

All three. Best-seller would be nice, too.

Excerpted from an interview by Jeri Zeder

SUMMER Reading List

Nine faculty share their picks

Clinical Professor Robert Bordone ’97 has already started on Jonathan Franzen’s novel “FREEDOM,” a book that is “wonderful for conflict resolution types.” And he is looking forward to the all-new 3rd edition of Professor Emeritus Roger Fisher ’48 and William Ury’s classic, “GETTING TO YES.”

Professor Charles Fried will be reading “HOW TO LIVE: OR A LIFE OF MONTAIGNE IN ONE QUESTION AND TWENTY ATTEMPTS AT AN ANSWER” by Sarah Bakewell, Fritz Stern’s “FIVE GERMANY I HAVE KNOWN,” and Proust.

Professor Michael Klarman is looking forward to Eric Foner’s “THE FIERY TRIAL: ABRAHAM LINCOLN AND AMERICAN SLAVERY,” Christopher Tomlins’ “FREEDOM BOUND: LAW, LABOR, AND CIVIC IDENTITY IN COLONIZING ENGLISH AMERICA, 1580-1865,” and “CAMPY: THE TWO LIVES OF ROY CAMPANELLA” by Neil Lanctot.

Eric Foner’s “THE FIERY TRIAL” also showed up on Professor Kenneth Mack’s (’91) list, along with Manning Marable’s “MALCOLM X: A LIFE OF REINVENTION,” Daniel T. Rodgers’ “AGE OF FRACTURE,” and “BEYOND THE FORMALIST-REALIST DIVIDE: THE ROLE OF POLITICS IN JUDGING” by Brian Z. Tamanaha.

Among Dean Martha Minow’s picks are Antonio Damasio’s “SELF COMES TO MIND: CONSTRUCTING THE CONSCIOUS BRAIN” and Tolstoy’s “WAR AND PEACE” (Briggs’ translation).

Professor Mark Roe ’75 will also be reading Jonathan Franzen’s “FREEDOM” as well as Ron Chernow’s “ALEXANDER HAMILTON.”

Professor Carol Steiker ’86 is looking forward to Seth Stern ’01 and Stephen Wermiel’s “JUSTICE BRENNAN: LIBERAL CHAMPION,” Pauline Maier’s “RATIFICATION: THE PEOPLE DEBATE THE CONSTITUTION,” Isabel Wilkerson’s “THE WARMTH OF OTHER SUNS: THE EPIC STORY OF AMERICA’S GREAT MIGRATION,” Avi Steinberg’s memoir of serving as a prison librarian: “RUNNING THE BOOKS,” and Israeli novelist David Grossman’s “TO THE END OF THE LAND.”

For Professor Alan Stone, a rereading of “THE MAN WITHOUT QUALITIES,” by Robert Musil, “the neglected giant of European literature,” is at the top of his list.

Professor Jeannie Suk ’02 will be reading Siddhartha Mukherjee’s “THE EMPEROR OF ALL MALADIES: A BIOGRAPHY OF CANCER” and rereading Marcel Proust’s “A LA RECHERCHE DU TEMPS PERDU.”

Historic Failure

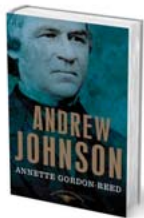
“Andrew Johnson” by Professor Annette Gordon-Reed ’84

Part of the American Presidents Series, this volume, excerpted below, examines the life and political career of Andrew Johnson, possibly the nation’s worst president, according to Gordon-Reed. At a

time of great national upheaval, Abraham Lincoln was the perfect fit to reconnect the divided

United States and solidify the rights of African-Americans, she writes. But his untimely death

left the United States with a leader whose defining personal traits were “preternatural stubbornness and racism.” Gordon-Reed’s book is a critical analysis of how Johnson, who escaped removal from office by just one vote, failed the country at a crucial historical moment.



ANNETTE GORDON-REED '84

NICOLE BENVENUTO/THE NEW YORK TIMES

[EXCERPT]

→ “Andrew Johnson was a different specimen altogether, a near polar opposite of Lincoln in his leadership style and temperament—even though on the surface he and Lincoln had much in common. ... But what made the difference between them? Why was Lincoln the right man at the right time? Why did Johnson fail so miserably when fate handed him the reins of power? Lincoln tops almost every list of the greatest American presidents, admired by conservatives and liberals alike. Johnson, on the other hand, is almost always found among the worst, if not *the* worst—the man who botched Reconstruction, who energized and gave aid and comfort to the recently defeated enemies of the United States, the first president to be impeached by the House of Representatives, escaping conviction by a hairsbreadth, one vote, in the Senate. America went from the best to the worst in one presidential term.”

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NOW ONLINE

Connecting Across Classrooms and Across Oceans

Zittrain explores the case for A NEW KIND OF CASEBOOK



JONATHAN ZITTRAIN '95

A common lament of law students is that casebooks are expensive and heavy. Others say they are static and slow to evolve. Professor Jonathan Zittrain '95 has set out to address both complaints. Co-founder of the Berkman Center for Internet & Society, Zittrain is leading a team to create an alternative casebook that is free, online and remixable. It's just one aspect of the Berkman Center's suite of classroom tools called H2O, which also includes functions for editing and annotating cases, aggregating materials, and facilitating in-classroom back channel and out-of-class discussion. Current casebook user and Bulletin reporter Jill Greenfield '12 spoke to Zittrain about the project.



Why did you develop the project?

We wanted to allow students to be exposed to the viewpoints and ideas of students not even in the classroom, who may be studying the same text at the same time within a different legal culture. The cases are all in the public domain—from the courts—so rather than have them in a bound casebook, students can see the case, annotate it, share those annotations with their study group or classmates, see last year’s annotations, and the professor or other students can critique those notations. Where it happens to coincide with another class anywhere in the world that’s studying that case, the critiques can go across

oceans. That may expose students to comparative viewpoints that would otherwise be the subject of a comparative law class that many students might not take.

What effect can you see this having on legal education?

It can create a means for natural evolution of a curriculum. The reason we don’t teach law classes off the beaten path is that there are no casebooks for unusual combinations of topics. There might be material in the curriculum that is there only because of inertia, not because it’s classic. With a flexible digital platform, a professor can easily drag and drop edited cases from others’

THESE TOOLS ARE ENVISIONED FOR ANYONE WHO WANTS TO BUILD COMMUNITY AROUND AN IDEA

syllabi into a basket, like shopping on Amazon.com, and then edit to taste, as much or as little as desired. We might see, through micro adjustments, a sort of macro evolution. There can be new canons formed one step at a time. Genealogies can be automatically maintained so that professors can see who is influencing whom—a coin of the academic realm.

You have assigned the online casebook to your Torts class this year. How is it working in practice?

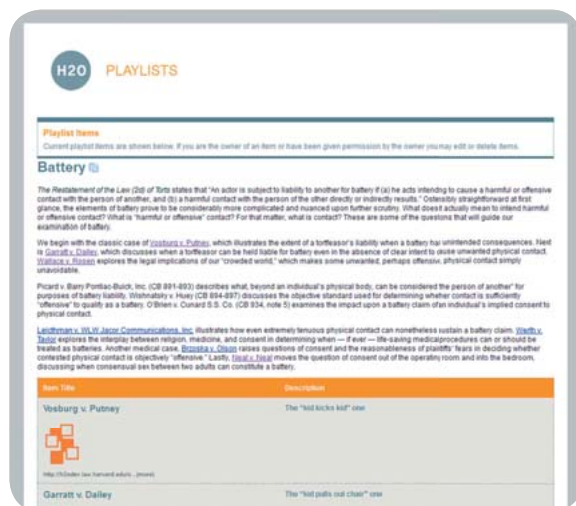
It’s a transition. Some students like it; some don’t. One of the anchor points in a first-year class is that students know exactly what reading is assigned. Materials that are more open-ended, as on H2O, where students can click

to see omitted portions of edited cases, can create questions about workload. The transition to the online casebook has illustrated that it is not just about technology—it’s also about norms and practices.

Do you see this platform having other uses outside academia?

These tools are envisioned for anyone who wants to build community around an idea. Ultimately what I would like to see built is a way for people of good faith who want to get to the bottom of a complex and rapidly evolving issue to put their questions on the table and have them answered with degrees of varying authority. I can see that being useful in a law school environment, where you’re learning to argue and back it up with facts, and it will be beneficial to the world at large where “truthiness”—arguing from predetermined outcomes with little regard for facts or argument—too often holds sway.*

THE BERKMAN CENTER’S suite of classroom tools called H2O includes functions for editing and annotating cases, aggregating materials, and facilitating in-classroom back channel and out-of-classroom discussion.



We Knew Her When ...

Former client of *HLS clinic WINS GRAMMY*



GETTY IMAGES

When Esperanza Spalding won the Best New Artist award at the 2011 Grammy Awards last February, Clinical Professor Brian Price wasn't at all surprised—he had long predicted that the former client of his HLS clinic would hit it big.

“She is super talented,” he says, “a fun-spirited person, exuberant but serious,” whose star quality was obvious from the moment he listened to sound clips on her website. Price, director of the HLS Transactional Law Clinics, and his then-student Kevin Mosher '06 represented Spalding five years ago, just after she graduated from Berklee College of Music. A jazz musician who sings and plays the bass and other instruments, Spalding was looking to sign on with a management company in Spain and needed legal help with the contracts.

Price and Mosher worked with Spalding to review and revise the proposed management agreement. Mosher got experience in client counseling and contract drafting, while Spalding got legal advice that has stood the test of time.

When Price contacted Spalding to congratulate her, she emailed him back just days later, despite the media crush accompanying her win. “Wow, thank you for your generous help all those years back! I

am still satisfied with my same manager (remember it was that contract you were working on!!!),” she wrote, with a smiley face punctuating her email.

Spalding, 26, has had soaring success in the past few years: Her 2008 album, “Esperanza,” was on the Billboard Contemporary Jazz chart for more than 70 weeks, and she’s had two performances at the White House. Price was watching the Grammys when Spalding won. “She’s truly a unique, once-in-a-generation artist,” he says.

Under Price’s supervision, HLS students in the Transactional Law Clinics and the associated student practice organization, the Recording Artists Project, assist about 30 musicians a year with recording, management, publishing, and licensing agreements plus endorsement contracts, company formation and related legal matters. The clinics also work with entrepreneurs and small businesses on a variety of transactional matters.

—*Elaine McArdle*

“Private Manning’s Humiliation”

Professor Yochai Benkler ’94 and Bruce Ackerman,
professor at Yale Law School
THE NEW YORK REVIEW OF BOOKS
April 28, 2011



“Bradley Manning is the soldier charged with leaking U.S. government documents to Wikileaks. He is currently detained under degrading and inhumane conditions that are illegal and immoral. ...

“President Obama was once a professor of constitutional law, and entered the national stage as an eloquent moral leader. The question now, however, is whether his conduct as commander in chief meets fundamental standards of decency. He should not merely assert that Manning’s confinement is ‘appropriate and meet[s] our basic standards,’ as he did recently. He should require the Pentagon publicly to document the grounds for its extraordinary actions—and immediately end those that cannot withstand the light of day.”

“Internet Democracy”

Professor John Palfrey ’01
THE ECONOMIST
Feb. 23, 2011



In an online debate on the proposition that “the Internet is not inherently a force for democracy,” Palfrey argued against Evgeny Morozov, author of “The Net Delusion: The Dark Side of Internet Freedom.” Readers determined the

winner, with Palfrey’s position receiving 58 percent of the vote.

“The Internet is inherently a force for democracy. That will not necessarily always be true, but it is the case today, given its present architecture and the way that people use the network. ...

“There must be baseline levels of literacy, education, infrastructure and technological skill among would-be protestors, and so forth. With these conditions present, the use of the Internet cuts in favour of democracy.

“The clearest evidence in favour of this premise is that the Egyptian president, Hosni Mubarak, faced with protesters in the streets of Cairo who were actively using social media to co-ordinate and project their

efforts on the ground, decided he would shut down the network altogether. ...

“The crucial fact is that, when decision-time came, Mr. Mubarak did not seek to use the network to his advantage. He decided that it was better for him, as he sought to cling to power, to take the tools away from the protesters. If the Internet fundamentally somehow favours autocrats over dissidents, Mr. Mubarak would have made a different decision in his moment of crisis.”

“Sometimes, Justice Can Play Politics”

Professor Noah Feldman
THE NEW YORK TIMES
Feb. 12, 2011



“[W]hen the brilliant, garrulous Justice [Antonin] Scalia hobnobs with fellow archconservatives, he is not being influenced any more than is the brilliant, garrulous Justice Stephen Breyer when he consorts with his numerous friends and

former colleagues in the liberal bastion of Cambridge, Mass. ...

“It is absurd for conservatives to criticize the cosmopolitan forums where judges from around the world compare notes. And it is absurd for liberals to criticize the conservative justices for associating with people who share or reinforce their views. The justices are human—and the more we let them be human, the better job they will do.”

“China’s Currency Isn’t Our Problem”

Assistant Professor Mark Wu
THE NEW YORK TIMES
Jan. 17, 2011



“When it comes to lost jobs, the negative impact of China’s currency ... is less than one might think. ...

“Since China agreed to a more flexible exchange rate last summer, its currency has appreciated a measly 3.6 percent against the dollar. ...

In going slowly on appreciation, China is giving its exporters time to adjust, thereby limiting job losses. ...

“Resolving our economic troubles will depend much more on reinvesting in education, transportation and other government services, basic science and applied research than on forcing China to yield on its currency.”

Kenneth Frazier '78 was named CEO of Merck in January.

a dose of

The new CEO of pharmaceutical giant Merck, Kenneth Frazier '78 is driven by high hopes for the company and what it can do

BY LEWIS I. RICE

IN MARCH, A New York Times front-page story cataloged the woes besetting the pharmaceutical industry, including losses of billions of dollars from expiring patents, a dearth of promising new drugs, pressure to reduce prices, and layoffs in research and development. One analyst called it a time for panic in the industry.

But on the day the news hit, Kenneth Frazier '78 didn't seem panicked, even though he had recently taken the helm of one of the world's biggest pharmaceutical companies. Named CEO of Merck in January, Frazier said that the company has existed for more than 100 years and is not about to change its core mission of translating science into medically important products. Some of those products can take up to 20 years to develop, so it's an industry in which one is well served to take the long view, he said. That is what he intends to do, emphasizing research and innovation at a time other companies are scaling back in these areas.

Merck did change recently, thanks to a huge merger with Schering-Plough completed in 2009, resulting in a larger company with more than \$45 billion in sales last year and 94,000 employees worldwide. Frazier now oversees it all. He is the first African-American to lead a major drug company and, like former Pfizer CEO Jeffrey Kindler '80, he is a lawyer in charge of a company driven by science and medicine.



OPTIMISM

While a CEO of a pharmaceutical company could benefit from a science background, Frazier said, Merck is so large and complex that anyone in the position needs to rely on subject matter experts, including scientists, to make the right choices about the programs in which to invest. At the same time, he has been able to learn a variety of skills from different assignments in his nearly 20 years at Merck. In fact, Frazier recounts how he worked more on nonlegal than legal matters there—first as a company spokesman on policy and communications issues, later as director of the global marketing and sales division, and then as president—before becoming CEO. He also served as general counsel, and for much of that time, his most important cases involved challenges to Merck’s patents. But in that position, he gained national attention for the way he handled a problem some said imperiled the very existence of the pharmaceutical giant.

In September 2004, Merck withdrew the drug Vioxx from the market after reports surfaced that those who took the painkiller were at increased risk of cardiovascular problems. Plaintiffs around the country filed thousands of lawsuits contending that the drug caused heart attacks and strokes. *Business Week* wrote at the time that due to this litigation, “Merck’s future is in question,” and the company’s stock price plunged. In a move that the publication called “fraught with peril,” Frazier decided to fight the claims in court rather than negotiate a quick settlement.

“We believed we had acted responsibly and diligently as it related to Vioxx,” Frazier said. “There are certain principles inside Merck that matter a lot to us, like scientific excellence and integrity and putting patients first, and we had felt like we’d done that. And we thought ... our actions were being mischaracterized in the press and in the legal system. So we wanted to defend in effect our good name.”

Yet that defense meant relying on juries to understand the actions of a large company in a fight against ordinary people who were claiming grievous harm. Frazier recalled that people called him crazy for taking that chance on the theory that juries are likely to follow their emotions. But he trusted the people in the jury box, and that trust was borne out. After winning most of the Vioxx cases brought, in 2007 Frazier oversaw a settlement of \$4.85 billion for 95 percent of the cases—a large amount, yet still far below what Wall Street analysts had predicted.


While some may still associate the Vioxx episode with Merck, Frazier highlights other drugs that the company has produced and what they have meant for people around the world. One example he cited was Mectizan, which fights river blindness; Merck has donated more than 2.5 billion of the tablets to developing countries dealing with this disease. The company also has provided free HIV drugs to countries like Botswana with dire need; these and other efforts mark Merck as a leader in corporate social responsibility, according to Frazier.

That doesn’t mean that his or any company can successfully operate a business by always giving away products, he said. The question for pharmaceutical companies is how to provide drugs and vaccines at prices

people who need them can afford while still making a profit.

“The health care needs of the world are so great that the challenge for this generation of Merck people is to develop business models that will allow us to sustainably and profitably provide our innovative medicines and vaccines to those vast underserved populations of the world,” said Frazier. “And I would call that both a moral and business imperative.”

FRAZIER’S OWN LIFE story is truly that of a self-made man. Growing up in a tough North Philadelphia neighborhood, he experienced few of the



A CHALLENGE FOR PHARMACEUTICAL COMPANIES IS HOW TO PROVIDE DRUGS AND VACCINES AT PRICES PEOPLE CAN AFFORD WHILE STILL MAKING A PROFIT

advantages of many of his classmates at Harvard Law. His parents had little formal education, and his mother died when he was 12. His father, whose own father was born into slavery, worked as a janitor after migrating to Philadelphia from a sharecropper’s plantation in South Carolina. Yet from Frazier’s perspective, it was not an upbringing he had to overcome but one that helped mold his future success.

“It’s actually misleading to say I grew up in North Philadelphia. I grew up in my parents’ house, which by accident of geography was in North Philadelphia,” Frazier said. “My father had a very strong view of what it took to be successful, and he in effect brainwashed all his children to think that we could do anything. He had very high personal standards. Although he was a janitor by accident of birth, I believe he could have been a CEO of any company.”

After graduating from HLS, Frazier joined Drinker Biddle & Reath in Philadelphia, where he eventually became partner. But such an outcome was not a given when he started. He credits mentors, particularly Melvin Breaux, the firm’s first African-American associate, who became partner in 1979, with smoothing out a “rough-around-the-edges” young man who was uncertain about how to navigate the social complexities of an old-line law firm. “If I had not been coached well about how to deal with a culture and a set of values that were foreign to my own, I would not have been able to be successful,” Frazier said.

He also credits senior partners, whose backgrounds could not have been more different from his, with honing his skills in becoming a trial lawyer. Most important for his career, they drew him into work on matters for one of the firm’s major clients, a company called Merck, from the very first day he practiced law. Among his cases, he frequently defended Merck against suits involving vaccines, which led him to join the pharmaceutical company in 1992. But what he has called the high point of his legal career did not involve Merck or the corporate litigation he practiced at Drinker Biddle & Reath. It began with a trip to death row

A PRESCRIPTION for health law

Conferences, research and university-wide collaboration

There is no shortage of attorneys involved in legal issues related to the pharmaceutical and health care industries. There is, however, a shortage of law schools examining those issues. Since its founding, the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics has aimed to rectify that problem. Established in 2005 at Harvard Law School by founding faculty director Einer Elhauge '86, the Petrie-Flom Center has produced works of scholarship and hosted events focused on health care and the law, including several specifically on the pharmaceutical industry.

Among its events, the center held a conference in 2009 on pharmaceutical research, development, and markets, which featured sessions on mergers and anti-trust, drug research and safety, intellectual property, pricing and marketing, and generics. Another conference that year, focused on health metrics, addressed clinical trials as well as pricing and acces-

sibility of pharmaceuticals in the developing world. Last year, the center hosted a two-day summit attended by top executives from the major pharmaceutical firms which considered ethical standards and practices related to multiregional clinical trials, especially those that involve the developing world.

That world is also the focus of a forthcoming book by Professor William Fisher '82 and Talha Syed, former Petrie-Flom Fellow. Called "Drugs, Law, and the Health Crisis in the Developing World," the book addresses what the authors call the largely preventable deaths from infectious diseases of about 9 million people a year in developing countries. The problem, they contend, stems from the holders of patents pursuing pricing strategies to maximize profits and pharmaceutical firms concentrating research and development on diseases prevalent in developed countries but not common in developing nations. Among possible

reforms, the authors propose a system of financial incentives that would induce pharmaceutical firms to develop drugs to fight disease in developing countries and to adopt pricing practices that would facilitate their greater distribution.

This spring, Fisher and William W. Chin, executive dean for research at Harvard Medical School, convened a meeting of experts from across the university to look at just the sort of problems explored in Fisher and Syed's book, but in the context of the government systems that regulate and fund the development of pharmaceuticals. The first meeting of the Working Group on Governmental Management of Pharmaceutical Products in April brought together researchers at the medical school with HLS faculty—including Elhauge and Petrie-Flom co-directors I. Glenn Cohen '03 and Benjamin Roin '05—and others from across the university. Fisher and Chin hope it was the beginning of collaborations that will yield solutions.

in an Alabama penitentiary, prompted by a request from his friend Esther Lardent, the head of the Death Penalty Representation Project of the American Bar Association, to take a case no one else could. Only later did he discover something he did not expect: His client was actually innocent. As Frazier recounted in an article on the case published in the Spring 2004 Toledo Law Review, James "Bo" Cochran, a black man convicted of killing a white store manager "despite evidence suggesting an accidental police shooting and cover-up," was "denied virtually all of the fundamental rights we associate with a criminal trial, including effective assistance of counsel and a fairly selected jury of his peers. He was 'railroaded' in the classic sense." More than five years after first visiting Cochran, Frazier and his defense team won his release after 21 years on death row.

"He had an orientation to the challenges of dealing with people who were disadvantaged and disempowered that very few lawyers who haven't done this kind of work bring to the process," said Bryan Stevenson '85, executive director of the Equal Justice Initiative, who consulted with Frazier during the case. "He's also just a terrific litigator—smart and very capable of thinking critically and tactically about is-

sues. That's where he really excelled, and I think that made the difference.

"To create justice in the world and to do the things that really matter, you have to be a lawyer who not only has ideas in your mind but also conviction in your heart," Stevenson continued. "I definitely think Ken fits that description."

Honored with EJI's Equal Justice Champion award in 2009, Frazier received another honor recently in the form of an invitation. The occasion made him think of his parents. Their strength, their lasting gift, was that they could imagine possibilities, unthinkable when they were growing up, for a child they raised in their home in North Philadelphia. They could imagine he could go to Harvard Law School, help save an innocent man's life, even become the head of a Fortune 100 company and be invited to the White House by the president. That is why, as Kenneth Frazier was sitting in the Oval Office in February talking with a fellow HLS graduate about issues like health care and jobs, he remembered the people whose abiding faith in him made the moment possible. *

Lewis I. Rice is a Boston-area freelance writer.

A photograph of two women standing on a wooden porch in a residential neighborhood during winter. The woman on the left is Black, wearing a dark grey coat and an orange scarf, looking towards the right. The woman on the right is white, wearing a light blue puffer jacket, holding a clipboard and a red bag, looking towards the right. In the background, there are houses, a red flag with a white cross, and snow on the ground.

**LAW ON THE
HOME FRONT**



← RUTHZEE
LOUIJEUNE '13
and Marielle
Macher '11
knock on doors
to inform
inhabitants of
property slated
for foreclosure
of their legal
rights as
part of HLS's
Project No One
Leaves.

***The Harvard Legal Aid
Bureau and two HLS
clinics help staunch the
foreclosure crisis in
Massachusetts***

BY JERI ZEDER

HERE'S HOW a Boston resident became a victim of the foreclosure crisis. To protect her privacy, we'll call her Beth Rede. Rede was disabled, living on Social Security disability insurance and sheltered in federally subsidized housing, when she was approached by a mortgage broker. The broker knew Rede was poor but persuaded her to buy a multifamily house, telling her that she could pay the mortgage from the rent she would collect from her tenants. Rede took two mortgages—one with an adjustable rate—totaling nearly half a million dollars, gave up her subsidized housing and moved into the multifamily. When the teaser rate expired and the adjustable rate “exploded,” Rede could no longer afford the loans. Her house ended up in foreclosure within two years of purchase. The original lender, meanwhile, had long since sold the mortgages to Wall Street banks that pooled them into trusts and sold them in bundles of mortgage-backed securities.

→ STUDENTS
TAKE part
in a daylong
canvassing
event in
Boston to
help residents
of foreclosed
properties.

Last year alone, 12,233 home foreclosures were completed in Massachusetts, where foreclosure rates are considered elevated and are predicted to remain so. That number represents some people, like Beth Rede, who were deceived by predatory lenders. Others lost their jobs in the recession or suffered some other financial setback. Nearly all are victims of swashbuckling financial industry practices that cascaded into the housing bust, and shifted the profit-making center of home financing from returns paid by carefully selected borrowers, to the commoditization of increasingly risky mortgages.

One likely outcome of the crisis is street after street of shuttered homes, particularly in poorer neighborhoods of color where predatory lending, declining property values and unemployment hit hardest. But that doesn't appear to be happening in Boston's low-income neighborhoods of Dorchester, Mattapan and Roxbury, despite their high rates of foreclosure. The reasons for that are varied and complex, but among the contributing factors are Boston-based community organizations and their partnerships with institutions such as Harvard Law School.

This is the story of how the student-run Harvard Legal Aid Bureau and two teaching clinics at the school's WilmerHale Legal Services Center—the Post-Foreclosure Eviction Defense Housing Clinic, which represents Beth Rede, and the Predatory Lending/Consumer Protection Clinic—are working together to use activism, community lawyering, bankruptcy



**ON THE
FACULTY
FRONT**

Veteran advocates and novel proposals

Poor underwriting, predatory lending, sloppy record-keeping, neighborhood blight, ill-considered or invalid foreclosure decisions, the inability or refusal of banks to negotiate with homeowners, homeowner protection scams—all these are widespread problems that **Professor Elizabeth Warren** has long been addressing. She served for nearly two years as chair of the Congressional Oversight Panel, which addressed foreclosure mitigation and consumer and small-business lending while monitoring TARP bank bailout funds. Warren earned a reputation for her fierce policing and sharp critiques. She now leads the federal government's new Bureau of Consumer Financial

Protection. Among its charges: to promote fairness and transparency in mortgage lending.

Warren is not the only HLS faculty member working on these issues. Gaining increasing notice is a proposal by **Professor Howell Jackson '82**, whose research and teaching focus on topics including securities regulation, consumer protection and financial institutions. As Jackson explains, the rise of mortgage-backed securities created new modes of investment, but their structure made resolution of common lending problems difficult. Jackson proposed that the federal government use its eminent domain power to buy all the mortgages on a property for fair market value, thereby resolving all questions of ownership and title, and then negotiate with the buyers to buy back the properties at current value. He first floated the idea among some senior Obama officials and a congressional staffer, but so far, it's gotten more attention from commentators than politicians. "Politically, the challenge of using eminent domain power is that it is a novel approach to the problem," Jackson says. "It takes the political process some time to come up with good solutions to new problems."

Katherine Porter '01,

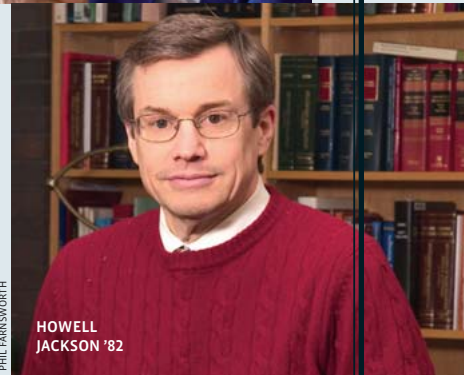
a visiting professor at HLS this past year, emphasizes that the problem extends far beyond housing: Many investors in mortgage-backed securities, she points out, are mutual funds and pension funds—essentially, middle-class retirement accounts that now face diminishing returns, thanks to the crisis. Porter, whose blog, *Credit Slips*, covers issues of credit, finance and bankruptcy, has testified on the TARP Foreclosure Mitigation Program before the Congressional Oversight Panel. She has called for greater government review of foreclosure practices and is critical of the sluggish government response to the crisis. "We must do consumer protection on the front end to build a strong middle class on the back end," she says. Why has the government not done more to end wrongful or flawed foreclosures? Porter blames fragmented regulatory authority (something she hopes will be cured by Warren's new Bureau of Consumer Financial Protection) and a failure to see that the problems of homeowners were driving the crisis and needed to be part of the solution. She mentions that some relief may be forthcoming soon from the joint investigations of the attorneys general of all 50 states.

Ultimately, Porter warns, the foreclosure crisis threatens to undermine Americans' confidence in the law. "Law schools need to care about that," she says. —J.Z.



ELIZABETH WARREN

CHRISTOPHER MARLOVE



HOWELL JACKSON '82

PHIL FARNSWORTH



KATHERINE PORTER '01

CHRISTOPHER DYDK

Katherine Porter warns that the foreclosure crisis threatens Americans' confidence in the law.



→ CITY LIFE/VIDA URBANA organizer Melonie Griffiths explains the symbolic sword and shield used by City Life to represent its dual strategy (public pressure combined with zealous advocacy) in fighting foreclosure.



↑ MARIELLE MACHER '11 distributes zone maps to her husband, David Rothstein (right), David Williams '12 (left) and Professor David Grossman.



↑ PROFESSOR DAVID GROSSMAN, faculty director of the Legal Aid Bureau

representation, and trial and appellate litigation to help redirect the path of the foreclosure wave in Boston.

Two achievements—one legislative, one judicial—have brought broad relief across the state. In August 2010, Massachusetts Gov. Deval Patrick '82 signed into law a statute that was drafted, and lobbied for, by students from the Legal Aid Bureau. The statute prevents banks that own foreclosed properties from evicting tenants without just cause. Since its passage, no Massachusetts tenants have been evicted simply because they were living in foreclosed properties. “It is definitely fair to say that evicting tenants was routine prior to our statute,” says David Grossman '88, faculty director of the Legal Aid Bureau. He estimates that thousands of tenants across the state will be spared eviction because of the law.

The next victory came in January 2011, when

court was holding lenders accountable for their failure to properly record chain of title as they rapidly sold and resold mortgages for profit.

In the SJC pipeline are two more high-impact cases. In May, the court was scheduled to hear *Bevilacqua v. Rodriguez*, which picks up a loose thread from *Ibanez*: If a bank conducts an unlawful foreclosure sale and transfers the property to a real estate speculator or investor, who has title? The Legal Services Center’s Predatory Lending/Consumer Protection Clinic run by Roger Bertling and Max Weinstein argued in an amicus brief that such a sale would unlawfully strip a homeowner of legal title, and that the investor’s remedy is through title insurance.

The other case, *Bank of New York v. Bailey*, heard by the SJC in April, looked at whether the Boston Housing Court was correct when it decided that it lacked jurisdiction to consider the validity of the foreclosure underlying an eviction case. Legal Aid Bureau student Jennifer Tarr '11 represented the homeowner. “This case is part of a wave of change,” says Tarr. “I’m privileged to be part of that.”

What Tarr means by “wave of change” is Boston’s active anti-eviction movement, which is fueled by the intense community organizing work of groups like City Life/Vida Urbana and supported by area legal clinics, with Harvard Law School playing a major role. HLS supports the movement through community lawyering as well

Training a new crop of anti-foreclosure activists

the Massachusetts Supreme Judicial Court decided in *U.S. Bank National Association v. Ibanez* that a lender cannot foreclose on a property unless it can prove ownership of the mortgage. The Legal Services Center won the case for Springfield homeowner Antonio Ibanez. And the ruling sent shock waves throughout the financial sector, even though its reach is limited to Massachusetts: For the first time, a state high

as individual representation, with a high degree of strategic coordination between the school's Legal Aid Bureau and the Legal Services Center.

HLS students litigate predatory lending cases, negotiate loan modifications, fight fraudulent "rescue" scams, handle bankruptcy matters and otherwise represent individuals whose properties have been foreclosed on. They also help clients working with Boston Community Capital, a nonprofit community development financial institution that buys foreclosed properties and sells them back to qualifying former owners at current market value with mortgages they can realistically afford. And in a lemons-to-lemonade strategy, they are pushing banks to delead their foreclosure-acquired properties. "If banks are invading the neighborhood, we might as well get a benefit out of it," says Clinical Instructor Maureen McDonagh.

Community lawyering, meanwhile, is primarily coordinated through the Harvard Legal Aid Bureau. Its Foreclosure Task Force works with Project No One Leaves, a student group founded in 2007 by Nick Hartigan '09, David Haller '09, Eric Herrmann '09 and Tony Borich '09 to keep people in their homes, post-foreclosure. Students knock on the doors of foreclosed homes, inform residents of their rights and urge them to attend meetings of City Life/Vida Urbana, a grass-roots community organization, where they learn how to fight eviction through direct action and demonstrations—and where Harvard Law students provide legal advice, often late into the night.

Students also run a weekly law clinic for occupants of foreclosed properties; provide pro bono representation through the Lawyer for the Day program at Boston Housing Court; and track newly docketed housing court cases and reach out to people facing eviction. They've won dozens of significant verdicts and settlements for tenants—some in the low six figures—against banks not keeping homes in good repair after foreclosure. These are the highest settlements and verdicts on cases of this type in the country.

"We utilize both legal and public pressure to get banks to change their policies about displacing people after foreclosure," explains Grossman. "We don't want Boston boarded up like other cities."

The experience of Ken Tilton, a client of the Harvard Legal Aid Bureau, attests to the life-changing nature of the joint work of City Life/Vida Urbana and HLS. He and his partner of

26 years, Frank, owned two retail stores and a restaurant when they bought their single-family home in Roxbury in 2004. Everything was fine until Frank got sick with cancer in 2006. With Tilton focused on caring for Frank, they eventually lost the stores, and the situation at the restaurant grew precarious. Frank died in 2008, and Tilton fell into a deep depression. Ominous letters began arriving from the bank. But then: "In 2008, someone banged on my door. It was two students. They were from City Life," Tilton recalls. He attended a community meeting. "It was an immediate cloud off me because I realized there was help out there," he says. "I watched the legal process, the vigils, and the blockades, and I became passionate about the cause." While his future is uncertain, he says he no longer fears going to court, thanks to the zealous representation of Legal Aid Bureau students Tarr and Samuel Levine '12.

Levine, who is president of the Legal Aid Bureau's Foreclosure Task Force and outreach director for Project No One Leaves, reflects on the lessons he's learned watching people like Tilton move from hopelessness to empowerment. "There is a lot of leverage beyond what the court system can provide. Power can be created outside the courts," he says. "You go to law school classes, read cases and statutes, and think that's the authority. But I've learned that there are lots of ways for people to claim power and rights."

Jeri Zeder is a Boston-area freelance writer.

↓ DAVID WILLIAMS '12, president of the Legal Aid Bureau, trains new canvassers.



ABLE

A Harvard Law School program with 675 million clients

BY ELAINE MCARDLE

Lawyering

ADRIAN BRADSHAW/GETTY IMAGES



Alonzo Emery '10 is part of the Harvard Law School Project on Disability's China team.



Professor William Alford '77 and Visiting Professor Michael Stein '88 (from left), HPOD co-founders, with Fengming Cui, director of its China program

AT LEAST 675 MILLION PEOPLE IN THE world have physical, intellectual or psychosocial disabilities, and many struggle for basic human rights including education and physical safety. In some countries, disabled children are not allowed to enroll in school or are segregated from other children. Women with disabilities are more likely to be sexually abused, and their complaints often are disregarded by authorities. Many nations offer no accommodations to or assistance for people with disabilities. And even among families and well-meaning international aid organizations, the needs of disabled people are widely ignored or misunderstood.

The Harvard Law School Project on Disability is on a fast track toward changing the treatment of people with disabilities around the world. Co-founded in 2004 by HLS Professor William P. Alford '77 and Visiting Professor Michael Stein '88, professor at William & Mary Law School, HPOD has huge ambitions. "We want to transform things entirely," says Stein, now the project's executive director. Stein first began to work with Alford, an expert on Chinese law and disability rights, after they were introduced by now-Dean Martha Minow, who herself has written and worked on disability law.

Collaborating with governments at the highest levels and working directly with people with disabilities, HPOD has made great progress in just a few years in promoting disability human rights worldwide. It has initiatives in China, Bangladesh, the Philippines, South Africa, Korea, Vietnam and other countries—all conducted on a pro bono basis. It has filed six amici briefs with the European Court of Human Rights—among them, one last year that helped overturn a law in Hungary that prevented people with disabilities from voting, in a case brought by Jan Fiala LL.M. '10. (See opposite page.) HPOD has helped place HLS students in jobs at the U.S. Department of Justice's division on Americans with disabilities and has hosted conferences, workshops and seminars at HLS. Last summer, in HPOD's first internship program, five Harvard undergraduates traveled to Bangladesh to work on disability rights. They produced reports, including two on violence against women with disabilities, that were adopted by the U.N. special rapporteur on violence against women and by the U.N. special

rapporteur on disability.

Perhaps most significantly, HPOD has played an important role in the U.N. Convention on the Rights of Persons with Disabilities, adopted in 2006. Stein was instrumental in the convention's drafting and adoption (he co-wrote a forthcoming book on the convention), and he and Alford have worked to foster its implementation throughout the world. So far, more than 145 nations have signed and more than 95 nations (plus the European Union) have ratified the convention, which is the first global human rights treaty of the 21st century and the most rapidly negotiated human rights treaty in the history of international law.

As its work becomes known, the project finds its services in huge demand. "We are inundated with more requests from across the world than we can possibly handle," says Alford. Right now, they are concentrating their efforts in two places: Bangladesh, and China, where Alford, vice dean for the HLS Graduate Program and International Legal Studies and director of East Asian Legal Studies, has traveled regularly for 33 years.

In 2007, Alford and Stein organized the PRC's first conference on disability law, in conjunction with Renmin University of China and the China Disabled Persons' Federation, which was then headed by Deng Pufang, the son of China's late leader Deng Xiaoping and himself a person with a disability. At the conference, attended by scholars from China and abroad, Stein—widely regarded as the world's foremost expert on comparative disability law—and scholars from several other nations gave a global overview of the legal rights of disabled people. The goal was never to

ADRIAN BRADSHAW/GETTY IMAGES



Alonzo Emery '10 helps run China's first disability law clinic at Renmin University of China Law School.

Something That CANNOT WAIT

Disability activist works to change guardianship system in Central Europe

A few weeks before he received his LL.M. from Harvard Law last year, Jan Fiala was handed a victory by the European Court of Human Rights.

The court ruled that the disenfranchisement of people with disabilities is contrary to the European Convention on Human Rights. The case, *K.A. v. Hungary*, was brought by Fiala in 2006 on behalf of a Hungarian citizen who, after a psychiatric hospitalization, had been placed under guardianship and was not allowed to vote in the 2006 elections.

A week after the ruling, Fiala predicted that it would lead the Hungarian government to change its guardianship laws. According to the Hungarian constitution, people under plenary guardianship—some 60,000 disabled adults—are deprived of the right to vote.

Fiala's prediction might have seemed optimistic, considering that the same government had just overturned a victory for people with disabilities that he and other advocates had been working for years to achieve.

As a lawyer at the Mental Disability Advocacy Center, in Budapest, from 2004 until he came to HLS, in addition to bringing a series of cases before the European court—17 so far—Fiala worked with a coalition of advocates, many of whom have developmental disabilities. They lobbied the Hungarian government to change laws that allowed disabled persons to be placed under guardianship against their will and deprived of the right to live independently, among other freedoms.

Fiala and his coalition were successful, but the provisions were tucked into a much broader law that the new government rejected.

In the face of this setback, Fiala has redoubled his efforts. And this year, as he predicted, the Hungarian government has struck the clause from its constitution disenfranchising those under guardianship.

Fiala returned to Hungary last June and has been involved in efforts to shape the new voting rights system. Funded in part by an HLS Henigson Fellowship, and working with a disability rights NGO in Budapest, he has continued to focus on cases before the European Court of Human Rights related to guardianship and involuntary institutionalization.

"Jan is an ingenious legal strategist and a terrific advocate," said HLS Visiting Professor Michael Stein '88, executive director of the Harvard Law School Project on Disability, with whom Fiala has been collaborating for several years and who will be one of his advisers when he enters the S.J.D. program next year. "He masterminded a series of cases before the European Court of Human Rights that have come to the fore at a time when Hungary and other Central European countries that ratified the U.N. Convention on the Rights of Persons with Disabilities are bound by its terms," said Stein, who filed amicus briefs in six of the cases.

Born a Hungarian in Slovakia, Fiala first joined a human rights NGO in college, working to draft Slovakia's antidiscrimination law. "That's when I began to understand what people here still don't understand: You don't have to be a member of Parliament to make things change," he said.

He went on to get an LL.M. in international human rights law in Budapest, but the first time he focused on the plight of people with disabilities was after a professor asked him to



Jan Fiala LL.M. '10, director of HPOD's Central European program, has brought 17 cases before the European Court of Human Rights.

help with a BBC undercover investigation of psychiatric institutions in Slovakia.

The film focused on "cage beds," in which patients were detained, sometimes for weeks, and it caused an outcry. But for Fiala, even more shocking was the discovery of the bigger system, in which people with disabilities who were placed under guardianship were allowed so little say over their lives that they could be institutionalized against their will and held indefinitely. "I had studied human rights in law school, but I hadn't heard a word about the rights of persons with disabilities," said Fiala. What he saw in the mental hospital launched his career. "It made me think, This is something the law should have a say about. This should not be going on."

Fiala said he is inspired by "the self-advocates," the people with disabilities alongside whom he's worked. He is also driven by the memory of clients, some of whom have died locked up in institutions, waiting for the legal system to bring them recourse. "It's made me realize this is something which cannot wait."

—Emily Newburger

HPOD is inundated with requests for help from around the world.

dictate a vision to China but instead to provide leaders there with a range of models from which to choose, and also to help them fashion their own, says Alford. Critical to its success is that HPOD approaches its work with deep humility and respect for the people with whom it works. “This is not something *we* are doing *for* China or *for* people with disabilities, but rather *with* them, and we are learning an enormous amount in the process,” Alford emphasizes.

2007 also marked the Special Olympics World Summer Games in Shanghai, an undertaking involving more than 7,500 athletes with intellectual disabilities that Alford, who is a member of Special Olympics International’s board of directors, helped organize. Since then, HPOD has continued to build on the conference’s success, by working with its local partners in China, hosting a second conference on disability law last October, advising on law reform, nurturing China’s first generation of legal academics with an interest in disability issues, and training other educators, families and people with disabilities. It also worked with Renmin University to establish China’s first disability law clinic. “We are expanding our funding and programming and allies in a culturally and politically appropriate manner,” says Alford, whose long-standing connection to China has been very helpful in getting traction for the project. “Every time I go to China, people ask me, ‘What are you, as a professor from Harvard, working on?’ When I say, ‘disability issues,’ it helps draw attention to an area that has not received much attention.”

In addition to Alford and Stein, two others make up the key team in China. (In Cambridge, Juliet Bowler has been the project’s administrative linchpin.) Fengming Cui, who received her Ed.D. in special education from Boston University, joined HPOD in 2008 and is the director of its China program. Cui brings personal experience to her work: A polio survivor, she was initially denied the opportunity to go to college in China, her homeland, because of her disability. “I took this path with a very deep heart, not only because of my own experience but because I believe disability work in China is not just for people with disabilities” but advances the cause of human rights generally, she says. Cui has worked with parents of disabled children in China to help them understand their rights and to help remove the shame that some feel about their children. Alonzo Emery ’10, who worked as a newspaper reporter in China before matriculating at HLS, is now an assistant professor at Renmin University of China Law School, where he helps run the disability

law clinic, serving, he says, “the nation’s most deserving—and awe-inspiring—citizens.” An alumnus of the Harvard Negotiation & Mediation Clinical Program, Emery also teaches a course on alternative dispute resolution that helps students consider the role of ADR in resolving disability-related and other disputes.

This winter term, Yilin Xu ’12 interned for credit at the clinic under Emery’s supervision, studying comparative legal frameworks for disabled students on a project commissioned by the Chinese Ministry of Education as it moves its education system to an inclusive one for disabled students. He also worked with local and international NGOs on disability rights including consumer rights for visually impaired people. And Charles Wharton ’12 volunteered with HPOD last summer in Beijing, doing a series of corporate social responsibility profiles on companies that have a good track record of hiring people with disabilities. He also co-wrote, with Cui, an academic article about disability rights in China and the challenges there in implementing the U.N. convention. Wharton will return to China this summer to continue his work.

While their efforts are focused on the rights of the disabled, the consequences are more far-reaching, they say. “Achieving rights for people with disabilities, often the most marginalized members of society, improves the lives and circumstances of other excluded groups closer to the mainstream,” says Stein, who uses a wheelchair and was the first person with a known disability on the Harvard Law Review. “If you include people with disabilities, you likely are also including other vulnerable populations such as the poor, migrants and ethnic minorities.”

Stein and Alford find this area of work very gratifying. “I have faced challenges throughout my life but also have been enormously blessed with opportunities,” says Stein. “Disability law is a vehicle through which I try to enable the flourishing of other people with disabilities, at home and abroad.”

Alford says, “I think each of us has both gifts and limitations, and it is immensely gratifying to try to enlist whatever gifts I may have to try to help others realize their gifts.” Adds Stein, “Academics tend to think about abstract concepts. To contribute in even a small way to a real person’s existence is wonderful.” *



REUTERS/ANAZ KABUL

*Lobsang Sangay
LL.M. '96 S.ʒ.D. '04
wins the confidence
of his people as the
political successor to
the Dalai Lama*

NEW DAWN

on the
Lost
Horizon

BY SETH STERN '01

↑ Sangay, voting in McLeodganj, India, to become prime minister of a government-in-exile

LOBSANG SANGAY
LL.M. '96 S.J.D. '04 is the first to admit he has rather big shoes to fill as he prepares to take office as prime minister, or Kalon Tripa, of Tibet's government-in-exile.

Ten days before the March 20 election, the Dalai Lama announced plans to relinquish his role as secular political representative and focus solely on his duties as spiritual leader of the Tibetan people.

"It's very difficult to replace or be a substitute to His Holiness," Sangay says. "He will always be my leader."

Sangay, a former Harvard Law fellow and first-time political candidate, will soon assume leadership of the Dharamsala, India-based Tibetan government-in-exile, in which he has never served, and of its struggle for greater autonomy within China.

✦ **SANGAY'S VICTORY**
over older establishment candidates represents a generational shift in power in the Tibetan exile community.

Sangay's victory over two older establishment figures represents a generational shift in power in the Tibetan exile community and only the latest remarkable achievement in the 43 years since he was born in a refugee settlement in Darjeeling, India.

His parents, who had fled Tibet, sold one of the family's three cows so he could attend a refugee school, where his political awakening began.

Sangay delivered his first political speech on behalf of the government-in-exile before an audience of 1,000 people at the age of 14. As a student at the University of Delhi, he was elected one of the leaders of the Tibetan Youth Congress and organized nonviolent protest rallies in front of the Chinese Embassy in India.

After earning a law degree from the University of Delhi, Sangay realized he needed more exposure to the larger world and a broader range of ideas: "Anyone can be an activist, but to be a more effective freedom fighter, you need more intellectual depth," he says.

In 1995, Sangay enrolled at Harvard Law School on a Fulbright scholarship. After completing an S.J.D., he became a fellow in the East Asian Legal Studies program.

Professor William Alford '77, director of EALS, who taught Sangay and was one of two principal advisers for his doctoral dissertation, says he stood out as "thoughtful, open-minded and eager to engage a wide range of people, including those from China."

Nowhere was that more evident, Alford says, than during the unprecedented series of seven conferences Sangay organized for Tibetan and Chinese scholars. The meetings on Harvard's campus provided a rare opportunity for attendees to hear each other's point of view. "It was a real breakthrough," Alford says.

Long before this election year, Sangay's name had begun circulating within the exile community as a possible candidate for Kalon Tripa. But Sangay says he was hesitant at first, unsure whether he knew enough about electoral politics.

In the fall of 2009, he started taking classes on political communications, leadership and campaigns at





REUTERS/NIKESH GUPTA

Sangay traveled around the world to meet with Tibetan exiles

↑ **SANGAY** on the outskirts of Dharamsala, India, the city that is home to the Tibetan government-in-exile

the Harvard Kennedy School. By the following spring, when his name was put forward, he felt he couldn't say no.

"I've never shied away from responsibility," Sangay says. "To say no would not be a good example for youth."

Even before the outcome of the elections was known, Sangay says he made a contribution by "raising the standard of electoral campaigning" in Tibetan elections. He felt candidates didn't work hard enough to engage with voters, who are spread out all over the world.

Sangay decided to "go to the people" to make the case for his candidacy, traveling through rain forests and hot lowlands and up to mountaintops in India to talk in monasteries or refugee camps as well as exile communities in Europe and North America.

He also employed modern campaign techniques such as a website and DVDs to lay out his agenda, and he participated in two dozen debates with his opponents.

The way Sangay reached out and positioned himself as the candidate for change proved particularly popular among younger voters, says Tenzin Wangyal, a Boston lawyer and member of the editorial board of the Tibetan Political Review.

"He's a lot more approachable," Wangyal says. "He makes people feel at ease."

The final results, announced on April 27, six weeks after the election, revealed he had won 55 percent of the vote.

Sangay will soon relocate from Medford, Mass., where he lives with his wife, daughter and mother, to Dharamsala. There, he will oversee a bureaucracy of more than 1,000 people and the seven ministries that compose the Tibetan government-in-exile.

Adjusting to secular leadership for the first time will prove difficult for many in the Tibetan exile community of 150,000 people, says A. Tom Grunfeld, a Tibetan scholar at Empire State College, State University of New York.

But as the election results were being counted in March, Sangay received a vote of confidence from his adopted hometown's newspaper. A Boston Globe editorial concluded that "nobody could be better prepared for that challenge" than Sangay, and singled out his experience bringing together Chinese and Tibetan scholars at Harvard.

"If leaders in Beijing ever decide to grant true autonomy to Tibet," the Globe wrote, "the seeds will have been planted in those classrooms where Sangay's belief in the value of dialogue was put to the test." *



Alain Goubau '11

Part of a team working on an airborne wind turbine—a tethered balloon with a turbine at its center—that could eventually be a lower-cost, lower-impact alternative to offshore wind farms

BY KATIE BACON

The Lawyerpreneurs

From social ventures to new-energy startups, HLS is helping students get their ideas off the ground

THE SEED FOR Anna Palmer's startup was planted this past October during fall break of her 3L year, when her sister roused her out of bed at 7 a.m. to go to a garage sale. Her sister was looking for a winter coat for her 2-year-old son, and she didn't trust buying items from strangers on eBay or Craigslist. If they didn't get to the garage sale early, she told Palmer, all the good stuff would be gone.

Palmer thought there had to be a better way, so later she sat down with her sister to talk it through. How would she feel comfortable acquiring used items for her child, in a way that didn't involve rushing out of the house at 7 on a Saturday? The result is Swapfish, an online community due to be launched in July, where parents can form networks over Twitter, LinkedIn and Facebook in order to buy, sell or share children's toys or clothes.

There have always been entrepreneurs at HLS. More than 150 years ago, Jonathan Greenleaf Eveleth co-founded the nation's first oil company soon after his graduation, in 1854. Alan Khazei '87 and Michael Brown '88 came up with the plan for City Year during their time at the law school. But the focus on and support for entrepreneurship have recently intensified. Last year, Dean Martha Minow announced the creation of the Public Service Venture Fund, which in 2013 will start awarding \$1 million in grants each year, some of them targeted toward graduating students trying to get nonprofit startups off the ground. "Harvard Law School is here to help all of our students pursue their dreams. Many have

ideas for new enterprises and undertakings; others develop such ideas when encouraged,” Minow says. A group of students and practicing attorneys recently formed the Harvard Law Entrepreneurship Project to provide free legal research and advice to budding entrepreneurs.

In February and March, the Bernard Koteen Office of Public Interest Advising hosted a series of well-attended workshops on how to launch a social venture, planned by Lecturer on Law Marion Fremont-Smith, who co-taught the course The Law of Nonprofit Organizations this spring,

and OPIA’s Judith Murciano, who has consistently been a strong advocate and vital resource for budding social entrepreneurs at the law school. Other classes, like Introduction to Social Entrepreneurship, taught by Suzanne McKechnie Klahr, who created a nonprofit called BUILD a decade ago, have recently been added to the curriculum.

As Palmer can attest, there are great advantages to being at the law school while trying to launch a new venture—in terms of the classes, resources and legal knowledge available. This winter she took Klahr’s class, where students were exposed to the intricacies of founding a social venture. “It was the first time I had been in a room at Harvard where everyone either wanted to start a company or had already,” says Palmer. She also took Entrepreneurship and Company Creation taught by David Hornik ’94. In the hands-on seminar she was connected with an entrepreneur named Michael Baum, the founding CEO of Splunk, an IT data company, who taught her the nuts and bolts of how to build an enterprise. “Having a mentor is extremely important, and his guidance and training were invaluable. It is what helped me launch Swapfish so quickly,” Palmer says. But, she admits, juggling the

There have always been entrepreneurs at HLS, but the focus on and support for social and private entrepreneurship have recently intensified

demands of law school while founding a business is not easy.

In the same vein, Ashwin Kaja ’11 says that the key lesson he has had to learn while trying to get his social venture off the ground is how to delegate. “You have to realize that when you’re a law student, you’re going to have less time,” he says. “A lot of times entrepreneurs will try to do everything themselves, but you can’t do that.” Kaja is the founder of Investours, an organization that fights poverty by connecting micro-entrepreneurs in developing countries with socially conscious tourists. The tourists spend time with the micro-entrepreneurs learning about their work, and then decide as a group which ones they’ll support, through an interest-free micro-loan. In Dar es Salaam, Tanzania, one group helped a community of woodcarvers buy ebony to make their traditional crafts; another supported a

A Very Enterprising Curriculum

A plenitude of classes this year focusing on innovation or enterprise

Antitrust, Technology, and Innovation
Clinical Professor Phillip Malone

The Art of Social Change: Child Welfare, Education and Juvenile Justice
Professor Elizabeth Bartholet ’65 and Lecturer on Law Jessica Budnitz ’01

Business Strategy for Lawyers
Professor Kathryn Spier

Charities Legal Documents Workshop
Lecturer on Law Victoria Bjorklund

Dispute Systems Design
Clinical Professor Robert C. Bordone ’97

Entrepreneurship and Company Creation
Lecturer on Law David Hornik ’94

Green New York
Professors Gerald E. Frug ’63 and David Barron ’94

Ideas for a Better Internet
Professor Jonathan Zittrain ’95

Innovation Policy and the Biopharmaceutical Industry
Lecturer on Law Melissa Feeny Wasserman

Innovative Contracting
Professor George G. Triantis

Introduction to Social Entrepreneurship
Lecturer on Law Suzanne McKechnie Klahr

Law and Finance of Start-Up Companies
Professor Allen Ferrell ’95 and Richard Forrest ’94

The Law of Nonprofit Organizations
Lecturers on Law Marion Fremont-Smith and Adelbert Spitzer

Leadership in Law Firms
Professor Ashish Nanda

Leadership in the Public Sector
Professor Philip B. Heymann ’60

Making Rights Real: The Ghana Project
Professor Lucie E. White ’81

Music and Digital Media
Lecturer on Law Christopher Bavitz

Online Law and Business in a Globalized Economy
Lecturer on Law Urs Gasser LL.M. ’03

Practical Lawyering in Cyberspace
Clinical Professor Phillip Malone and Lecturer on Law Christopher Bavitz

Transactional Practice Clinical Seminar
Clinical Professor Brian Price

Venture Law and Finance
Professor Jesse M. Fried ’92



Anna Palmer '11

Founder of Swappish, an online community where parents can form networks over Twitter, LinkedIn and Facebook in order to buy, sell or share children's toys or clothing

***Founder of Investours,
an organization that
fights poverty by
connecting micro-
entrepreneurs in
developing countries
with socially conscious
tourists***

Ashwin Kaja '11



David Back '12

Co-director of entrepreneurship of the Harvard Association for Law and Business and by temperament a “multipreneur,” whose latest project is developing a plan to bring car-sharing to India

woman who needed a loan to buy a vat of oil for her soap-making business. In Puerto Vallarta, Mexico, Investours has supported a fisherman who had to make repairs on the transmission of his fishing boat and a cook who needed a new oven to expand her granola business. During the organization's pilot program in Oaxaca, Mexico, the groups gave out more than 120 loans. Kaja says Investours is careful to select poverty-focused micro-finance institutions and works closely with them to make sure that "our tourists are not supporting unethical moneylending practices." Kaja, who was a semifinalist for a fellowship from Echoing Green, a prominent social venture fund that has helped organizations like Teach for America, Khazei and Brown's City Year, and the Genocide Intervention Network get off the ground, hopes to expand substantially in the coming year. And he's availed himself of the resources that exist at the law school, including working with Clinical Professor Brian Price's Transactional Practice clinic to complete the application necessary for 501(c)(3) status. Having a legal background is helpful, Kaja says, because "legal issues come up all the time, in everything we do."

In some cases, a student's legal background is what draws him or her into entrepreneurship in the first place. During the fall of his 2L year, Alain Goubau '11 took a class at MIT called Energy Ventures,

At HLS, resources for entrepreneurs include Clinical Professor Brian Price's Transactional Law Clinics

where two engineers are matched with two business school students and one student with a law or policy background to try to launch a new product concept. In this case, the inventor was MIT graduate student Ben Glass, and his idea—a design for an airborne wind turbine—came to him in the shower. Some ideas never make it much beyond the class, but Glass, Goubau and the rest of the team are working toward launching a 2-kilowatt prototype this summer, under the company name Altaeros Energies. Based on the fact that wind resources tend to be more abundant 600 feet or more above the ground, out of reach of conventional wind turbines, the team's plan is to capture that wind through a tethered balloon or blimp with a turbine at its center (the idea has been called the "flying donut from MIT"). Goubau explains that airborne wind turbines could eventually be

a lower-cost, lower-impact solution to power generation than the offshore wind farms that have generated so much controversy. The shorter-term goal is to develop a 100-kilowatt system aimed at those off the grid, including on islands, in isolated communities, on military bases, and on mining and logging sites. The chances of any given startup succeeding are small, but Altaeros has attracted some interest from significant players, including the Army, which is looking for alternatives to diesel for powering forward-operating bases, and the Navy, which sees an application for the technology on ships that use a lot of power for refrigeration. Goubau, who worked as a mechanical engineer before going to law school, plays a variety of roles for the company, including overseeing the creation of the base station for the tethered turbine and managing the company's relationship with counsel. He says that several of his classes, including Corporations and Taxation, have been useful in understanding the basics of how to set up a company. And he's experienced a more general benefit too: "Being able to sit down with my business partners and explain what this legal piece means—that's what law school has brought to me."

Like Goubau, Mehran Ebadolahi '10 helped launch a new project while he was a law student. His childhood friend Mike Ghaffary '06 came up with

BarMax, the first iPhone (and now iPad) app for bar exam preparation. "I had the idea, and I needed someone who could build out the content. I wanted someone from Harvard Law to do it," Ghaffary says. His inspiration came when he was studying for the bar exam a few years after law school and took a standard prep course. "They charged me \$4,000 for a stack of law books and mediocre lectures," he says. Like Anna Palmer, Ghaffary felt there had to be a better way—so he started designing his own format, including digital flashcards, real test questions and a detailed study calendar. Although BarMax is expensive for the iPhone—at \$999.99, it costs as much as any app can—its price significantly undercuts the competition's, and so far, more than 300 students have purchased it. Ebadolahi started working on BarMax during his 2L summer, continued throughout his last year of law school and is now working full time as the company's chief operating officer. He recalls some long nights of working to build the company while keeping up with his studies, but he says that being at the law school during that early time of the company's life was invaluable. "Most law schools, if you came to them with this idea to create an iPhone app—I don't think they would be happy with that decision. But the support at Harvard was tremendous," Ebadolahi says.

While some students become entrepreneurs

Adam Stofsky '04

Founder of N-Map, which helps human rights groups integrate new media into legal advocacy—for example, using mobile technology to improve how evidence is gathered



because they want to bring one particular idea into the world, for others, entrepreneurship is a way of life. David Back '12 is the co-director of entrepreneurship of the Harvard Association for Law and Business, a student group that seeks to connect law students to the business world. He's also what could be called a "multipreneur." "I'm most happy when I'm creating something new," he says. "Law school is very intellectually stimulating, but it's also nice to think that I'm creating something real, something that can extend beyond me and create value." After college, Back attempted to start a clean-energy business, involving a new type of generator that would use liquid magnets to take excess heat from big industrial practices such as steel milling and convert that heat into electricity. During his 1L year, he and a couple of college friends started a website for applicants to law, business

Students say there are great advantages to being at HLS while trying to launch a new venture, including advisers like OPIA's Judith Murciano

and medical schools, aggregating user-generated data to give people a sense of their chances of admission to a given school. And these days, he is developing a plan to bring car-sharing to India (car-sharing services such as Zipcar exist in more than a thousand cities worldwide, but there are none in India, says Back). Still, the clean-energy idea seems to maintain a hold on Back, and the fact that it didn't succeed is partly why he came to law school in the first place: "We learned an awful lot during that process, but the biggest lesson for me was one of humility. I thought the idea we were working on was excellent, but we didn't have the knowledge, skills, network and credentials to succeed. All of those things I lack [are] why I'm at HLS now."

Other students conceptualize their ideas during law school but wait until after graduation—sometimes years after—to fully develop them. Adam Stofsky '04, who spoke at a March 22 OPIA panel on launching a social venture, recently started the New Media Advocacy Project, known as N-Map, which helps human rights groups integrate new media technologies into legal advocacy. Stofsky stumbled upon his idea during his 1L summer, when he went "on a bit of a whim" to work for the Social and Economic Rights Action Center in Lagos, Nigeria. He was charged with writing a report about the forced eviction by Lagos'

military government of 300,000 people from a town slated for demolition. When Stofsky arrived, the evictees' lawsuit had been languishing in court for 12 years with no hearing. At the time, digital video was in its infancy, and Stofsky decided to bring along a video camera to interview his clients. "They were incredibly charismatic in front of the camera. We quickly realized that this would be much more effective than a report," he recalls. Over the rest of the summer and throughout the next school year, Stofsky worked with a lawyer in Lagos to craft a documentary in a way that would push the Nigerian government to act on the case; eventually, after showing the film to government officials, SERAC was able to get them to the negotiating table with the victims for the first time.

After graduation, Stofsky looked for an organization that combined documentary filmmaking with legal strategy in this way; but he couldn't find one, and he wasn't ready to start one himself. Instead, he developed his skills as a lawyer, clerking in the 9th Circuit Court of Appeals, working for the Lawyers' Committee for Civil Rights Under Law through a Skadden Fellowship doing legislative advocacy, and working for Debevoise & Plimpton in New York City. "I thought it was very important to be a lawyer first, and this has proved one hundred percent true. My best decision was to

delay the founding. You have to know what you're doing first," he says. With the help of an Echoing Green fellowship, N-Map got up and running in the summer of 2009. Since then, as with most startups, Stofsky says, "it's been a crazy roller coaster ride," with projects including filming a documentary inside a Haitian prison to push the government to address the issue of prisoners held indefinitely without trial, and using social media and mobile technology to change how evidence is gathered in human rights reporting.

Teel Lidow '12, the founder of the Harvard Law Entrepreneurship Project, sees the energy around entrepreneurship at HLS as part of a larger trend. "I think that there's a general sense, especially after the financial collapse, that new industries are really important, that new ideas need to be developed in terms of building the economy and adding value to the world," Lidow says. "There were a couple of decades where the most fantastic minds that came here went into industries where they weren't necessarily developing new ideas. There's a sense among the people I work with that that's been a mistake. We need to harness the creative power of these people to come up with new ideas." *

Katie Bacon is a writer based in Boston. She has written for The New York Times and The Boston Globe, among other publications.

Where Social Entrepreneurship, Leadership and the Law Intersect

New class aims to give students hands-on experience running a nonprofit

After spending a semester investigating how Citizen Schools, an organization that partners with middle schools across the country to expand the learning day, could save on program costs and best serve students with disabilities, a group of six HLS students presented their findings to their professor and fellow students—and to representatives from Citizen Schools itself.



Anna Palmer '11 describes a social media strategy to raise the profile of the nonprofit BUILD.

AYNSLEY FLOYD



↑ AS PART of the hands-on aspect of the course, students tackled research questions connected to specific social enterprises and then presented their findings.

“Two-minute warning!” shouted Lecturer on Law Suzanne McKechnie Klahr to the students as they stood at the front of a classroom in Austin Hall on an afternoon in early April.

The group of students, part of Klahr’s Introduction to Social Entrepreneurship class, had to talk fast to get a semester’s worth of research into a 20-minute presentation. Group member Catherine Kim ’12 said that the presentation “just scratched the surface” of the work they had done, the majority of which was encapsulated in an extensive report they presented to both Klahr and Citizen Schools, in which they analyzed the applicability of disability-related statutes to the Citizen Schools’ programs.

Klahr’s course aims to instruct students about the intersection of entrepreneurship, leadership, and law, and to give them hands-on experience with running a nonprofit. Klahr, a pioneer in the field of social enterprise, said she hopes the class will affect how the students choose to invest their time and resources in the social sector.

Although she hopes to practice at a large firm after graduation, Kim said she was drawn to the class because of its unique perspective on how

to “move beyond the traditional understanding of what a lawyer can do.”

As part of the hands-on aspect of the course, students were divided into three groups, each of which tackled a research question connected to a specific social enterprise. The Citizen Schools students approached their task in a variety of ways, including researching relevant state laws and examining model school districts.

The two other groups examined challenging issues facing growing nonprofits. One of the groups was tasked with creating a strategy to assess the feasibility of the first domestic social impact bond for New Profit Inc., a venture philanthropy fund. The other came up with a strategy that could be used to raise the profile of BUILD—an organization founded by Klahr that teaches high-school students about entrepreneurship—in Greater Boston and then nationally.

As these organizations consider their new undertakings, the students hope their conclusions will be helpful.

“These are very real questions for them,” Kim said. “Our work is a launching point for them as they move forward.”

—Lauren Kiel

ASSOCIATION Q&A

Malik Dahlan LL.M. '01, founder of *Institution Quraysh* and the *HLSA of Arabia*



(From left)
Malik Dahlan
with Prime
Minister of
Qatar Hamad
bin Jassim bin
Jaber Al Thani

Five years ago, Malik Dahlan LL.M. '01 founded Institution Quraysh for Law & Policy (iQ). With bases in London; Doha, Qatar; and Jeddah, Saudi Arabia, the firm advises corporations, governments, and public entities on issues of law, politics, culture and economics in the Middle East. An active member of the HLSA, in 2009, Dahlan founded the Harvard Law School Association of Arabia, which will have its official launch this fall. This spring, he shared his vision for his firm and the HLSAA.

What are your goals for iQ?

iQ's objective ... is to bring the knowledge of good laws and policy to the Arab world, by supporting efforts to strengthen the rule of law, as well as to participate in the sustainable development of the region. I get a lot of gratification in knowing that ... we have worked, in some small fashion, to help develop a region, with a young generation that is yearning for a change to the better.

What prompted the founding of HLSA of Arabia?

Seeing that an increasing number of HLS alumni are taking up leadership roles within the Arab region, we genuinely believe that HLSAA, through its members, will have a transformative role in the future of the Middle East through upholding the rule of law. This [was reinforced] through the presence of our vice president, Dr. Walid

Hegazy LL.M. '95, and a number of other members at Tahrir Square in Cairo last February during the demonstrations.

The official launch of HLSAA, in Egypt, was postponed. When will it happen?

We had planned to host this auspicious event on March 25, 2011, in Cairo [to coincide with HLSA's 125th anniversary celebrations], as this would have been an ideal platform. ... Cairo also has significance as the city where President Barack Obama '91 made his famous speech on the 4th of June 2009. ... As the political situation at the time was not stable, and before President Hosni Mubarak stepped down, it was decided, with a heavy heart, to postpone this event until fall 2011. Although we are disappointed ... , what Egypt and the wider Arab world have gained following the initial events in Cairo by way of the rule of law is indeed very precious.

We are evaluating other Arab countries to host the event, and I am happy to report that we are considering the state of Qatar; we just received this morning a letter from the prime minister of Qatar, H.H. Sheikh Hamad bin Jassim Al-Thani, inviting HLSAA to hold the event in Doha in the fall. We continue to plan to have in attendance Dr. Osama El-Baz LL.M. '61, as a keynote speaker, along with Amr Moussa, secretary general of the Arab League, as well as several distinguished HLS alumni such as Wilfried Hofmann LL.M. '60, Dr. Salah Eddin Al-Bashir LL.M. '88 and Minister Hadeef Al-Dhaheri LL.M. '83. In addition to this, we will also be honoring His Excellency Sheikh Ahmed Zaki Yamani LL.M. '56, HLS's first Arab alumnus.

**“WE GENUINELY BELIEVE
 THAT HLSAA WILL HAVE
 A TRANSFORMATIVE
 ROLE IN THE FUTURE OF
 THE MIDDLE EAST.”**

You have served as secretary of the HLSA UK and still are on the executive board of the worldwide association. In addition, you are helping plan events for the 125th anniversary celebrations. Why so involved?

I owe so much to HLS. At the exact same time as my own father was being persecuted unjustly back home, I was roaming the aisles of Langdell and Ames Hall enduring to uphold my faith in the law. It changed me as a person and as a professional. It offered me the opportunity to meet the love of my life, Sarah, my wife. I was privileged to be the first international student to receive the Dean's Leadership Award, and therefore and ever since my ZIP code was 02138, I felt that there is an important international role for HLS and its international community. *



FROM STEVEN OLIVEIRA

Associate Dean and Dean for Development and Alumni Relations

"I AM PLEASED to announce that HLS alumni and friends now have a new powerful and easy-to-use tool for staying connected with Harvard Law School through the **Harvard Law School Mobile App**. This new multiplatform app will give you access to alumni information and events, news, admissions, reunions, the faculty directory, notable books, resources and videos, with much more to come.

"We listened to our alumni who told us overwhelmingly that they are increasingly on the go—and the resources available through HLS enhance their practice of law, their common interests and facilitate a dialogue with some of the world's top legal minds. I invite you to visit <http://road.ie/hls> to download the Harvard Law School App."



AN 'EXTRAORDINARY AND INFLUENTIAL' JUSTICE: U.S. Supreme Court Associate Justice Anthony M. Kennedy '61 received the Harvard Law School Association Award, established in 1992 to honor alumni who have shown exemplary service to the legal profession, society and HLS. President Sharon E. Jones '82 (center) presented the award with HLS Dean Martha Minow during Spring Reunions Weekend.

ANNOUNCING THE NEW HLSA 125TH ANNIVERSARY WEBSITE.

Look here to find the latest alumni events, special programs and club information. →www.hlsa.org



CALENDAR

Celebrating Our 125th Anniversary

2011 marks the 125th anniversary of the HLSA. To highlight this event, the Association will host a number of receptions and dinners worldwide.

JUNE 2, 2011
HLSA OF EUROPE ANNUAL MEETING
Assistant Professor I. Glenn Cohen '03
Krakow, Poland

JUNE 21, 2011
HLSA OF FRANCE
Dean Minow
Salons of the Ministry of Finance,
Bercy
Paris

JUNE 23, 2011
HLSA OF THE UNITED KINGDOM
Dean Minow
London

FALL 2011
HLSA OF ARABIA INAUGURAL DINNER

OCT. 28-30, 2011
FALL REUNIONS WEEKEND
Classes of 1951, 1956, 1966, 1981, 1991, 1996 and Emeritus Club
Harvard Law School

➔ For the latest on Harvard Law School Association events:
<http://bit.ly/hlsaeventscalendar>
617-384-9523

Celebration of Black Alumni

SEPT. 16-18, 2011

Harvard Law School will pay tribute to our black graduates at the 3rd Celebration of Black Alumni, which will be held Sept. 16 to 18, 2011. Join us in Cambridge for a weekend filled with insightful speakers, thought-provoking sessions and the chance to reconnect with old friends.

➔ For more information, visit www.hlsa.org





A SUPREME REUNION

U.S. Supreme Court Justices Anthony M. Kennedy and Elena Kagan at Harvard Law School, April 9, 2011

Harvard Law School Spring Reunions this year brought back a record number of alumni, nearly 800. Among them were U.S. Supreme Court Associate Justices Anthony M. Kennedy '61 and Elena Kagan '86, the law school's former dean. During the April weekend, Kennedy was presented with the Harvard Law School Association Award. He and Kagan then participated in a conversation—in front of a packed room—moderated by Dean Martha Minow. The two justices shared personal stories and offered a rare glimpse into the Court's very private world.

As junior justice on the high court, Kagan—known for her sense of humor—noted she has several responsibilities,

including taking notes in conferences, since there are no outside parties present, and answering the door, which she is forced to do frequently since a number of justices—with the exception of Kennedy, she emphasized—had the habit of leaving their eyeglasses, cups of coffee and other items in their offices, necessitating frequent interruptions by staff. The two tasks get in the way of each other, she joked, since the interruptions at the door interfere with the note-taking. Kagan added—to loud laughter from the audience—that she also serves on the high court's cafeteria

committee. Just as she was known as HLS's "coffee dean" for having instituted free coffee for students, she expected her legacy on the Court to include the title of "frozen yogurt justice."

THE JUSTICES SHARED STORIES AND OFFERED A RARE GLIMPSE INTO THE COURT'S VERY PRIVATE WORLD

The junior justice is always the last to speak during conferences, Kennedy said, and when he was in that position he decided he would be more effective if he stood up while sharing his analysis of cases with his brethren. Before he had a chance to try it out, fate fortunately intervened: He was walking with Justice William J. Brennan Jr. '31 to a conference when Brennan recalled that Justice

Felix Frankfurter LL.B. 1906 would stand and lecture during conferences, which Brennan found annoying. Kennedy, of course, decided to stay seated.

Even when more serious topics were addressed during the hour-plus discussion, the tone remained intimate and lighthearted, as Minow and then alumni posed questions to Kennedy and Kagan. Noting the controversial nature of the question, Minow asked whether the laws of other nations should be cited by the U.S. Supreme Court, something for which Kennedy has been criticized by certain groups. To loud applause from the audience, Kennedy said there was a certain Know-Nothing aspect to this criticism, and

argued that a scientist would not be reviled for referring to relevant scientific studies from other countries. While the laws of other jurisdictions are not binding, he emphasized, they can serve a useful purpose in examining approaches to legal problems.

Responding to a question posed by an audience member about the glass ceiling for professional women, Kagan said the Court, now with three female justices, does not seem to have such a constraint, and said that former Justice Sandra Day O'Connor had made a similar observation when visiting the Court this year.

—Excerpted from a story by Elaine McArdle. To read the entire article, go to <http://hrvd.me/Kagan-Kennedy>

Defense's Joys and Joy's Defenses

AT THE REINS of New York's federal public defender office for two decades, Leonard F. Joy '56 represented notorious defendants in cases involving international intrigue, terrorism plots and arms trafficking.

But Joy's favorite case will always be one that reminds him why he transitioned into public defense as a young corporate lawyer. In 2000, Joy, who retired in February, represented a French mother who had forged travel documents to take her two young children out of France and away from their father, who she said beat her for seven years.

French officials, citing the 1980 Hague Convention, threatened to extradite Marthe Dubois if the federal District Court in New York did not send her children, ages 4 and 8, back to France.

The case was particularly satisfying for Joy, not just because he won but because it offered the rare thrill of defending someone "who was truly good."

Though a defense attorney's job is to ensure a vigorous defense, Joy said, defenders are not immune to the emotional weight of a client's actions. A case like Dubois' "puts forth a feeling that you're really doing something for



"WHEN THE FOREPERSON STANDS UP AND SAYS, 'NOT GUILTY,' IT'S A TERRIFIC RUSH AND A KIND OF FUN YOU NEVER GET TIRED OF."

somebody who deserves it," he said.

Joy grew up in Glen Ridge, N.J., with no lawyers in his family; his father was a musician and conductor. "I had absolutely no such skills, which was pointed out to me rather frequently," explained Joy with a characteristic dryness.

Joy, the father of three grown children, now plans to enjoy time with his wife of 57 years.

After studying mathematics at Yale University and then law at Harvard, he began his career in corporate law. He did a stint as a bank vice president and became partner in an investment firm.

"Then I decided I would do something I had always wanted to, and that was try cases, but I really didn't know how to try a federal case." He volunteered for the Legal Aid Society in Manhattan. He was hired and moved to Brooklyn, which was swamped with cases. "If anybody ever wanted to learn how to do this, that would be the way. There's nothing that substitutes for being in it and learning the process," Joy recalled.

"When the foreperson stands up and says, 'Not guilty,' it's a terrific rush and a kind of fun you never get tired of."

In 1990 he became head of the federal defender unit, which later split from the Legal Aid Society. Defenders across four offices represent thousands of clients a year in New York's District Courts.

Under Joy's leadership the office has represented some of the most high-profile defendants prosecuted by the United States Attorney's Office in New York, including, recently, would-be Times Square car bomber Faisal Shahzad and Russian sleeper agent Anna Chapman.

Despite the notoriety of some clients, Joy's most memorable cases

are ones that never received much public attention but supplied that jolt of excitement that never got old.

One such case was the trial of a U.S. Postal Service clerk accused of stealing a silver dollar out of a girl's birthday card. Prosecutors argued that a coin found on the defendant was the missing property, but the defendant testified that he had always, ever since he could remember, kept a silver dollar in his pocket for good luck.

"Then the judge asked the jury if anybody had any questions, which was very rare," Joy recalled. "And a juror asked if the judge would require the defendant to empty his pockets right then on the stand so they could see for themselves if there were any silver dollars in there."

"I nearly had a stroke. I was trying to do anything to stop this," Joy said. "But the judge said it sounded very reasonable and asked my client to pull out his pockets in front of the jury. The defendant proceeded to pull one pocket inside out, and in it there was nothing. And then we came to the other pocket ... and out came a silver dollar."

"Not the prosecutor's finest hour," chuckled Joy. "Now that's a victory."

NATALIE SINGER

“She rose above obstacles with ease”

WHEN PRISCILLA HOLMES '55 attended Harvard Law School, as a member of the third class to admit women, there was only one “Ladies Room” on campus, in the basement of Austin Hall. Women were a source of humor for some professors, who would ask them leading questions designed to make them respond with off-color answers, recalled classmate Carla Herwitz '55. Some female students suspected that professors did not read their exam booklets before issuing a grade.

But Holmes rose above these and other obstacles with ease, recalled her husband and classmate Robert E. Herzstein '55, to become the first woman elected to the Harvard Law Review. Holmes died

in December at age 86.

According to Herzstein, other students and professors were stunned that a woman could rank so highly, and some were skeptical that Holmes' election to the Law Review was not “more than simply a quirk.” But Dean Erwin Griswold '28 S.J.D. '29, “perhaps mindful of the skeptics,” wrote Holmes a letter congratulating her on her achievements. And upon her election as editor, Time magazine named her student of the week.

“I think that Harvard wasn't ready for us at the time,” Herwitz said. “But it just didn't seem to bother Priscilla. She had the maturity to handle it.”

But the obstacles Holmes encountered as she attempted to enter



THE FIRST WOMAN ELECTED TO THE HARVARD LAW REVIEW

law firm practice took more than maturity and a law review editorship to overcome.

“Many firms at the

time preferred to confine women attorneys to estate planning and domestic relations practice areas,” said Herzstein.

Partners at one firm, he recalled, did suggest that they would hire Holmes—because she could help solidify their relationship with a wealthy client by striking up a romance with him.

“These incidents were hard to swallow,” said Herzstein. “She had few peers to do battle with her. But Priscilla reacted with grace and patience.”

Holmes became an administrative and constitutional lawyer in Washington, D.C., practicing at Covington & Burling and then Arnold & Porter, where she focused much of her work on the commonwealth of Puerto Rico. She retired from practice in 1968 and focused on pro bono work and community issues.

JILL GREENFIELD '12

Where His Convictions Have Led Him

THE WAY John Kroger '96 tells it, getting caught trying to steal three hubcaps a few weeks before graduating from high school in Texas was the luckiest thing that could have happened to him.

It is perhaps an odd admission for someone who went on to become a federal prosecutor and is now Oregon's attorney general.

But getting caught—and kicked out of his parents' house—is what prompted Kroger to enlist in the Marines, an experience he credits with instilling in him a desire to work in public service.

"Everything that has happened in my life since that time is directly related to those three years in the Marines," Kroger said. "Every single day, they tell you your country is worth giving up your life for. You live through that and internalize it."

Kroger went from being a Marine reconnaissance scout to a Yale undergraduate to an aide for then-Rep. Charles Schumer '74 and then for Bill Clinton's presidential campaign, before he enrolled at Harvard Law School. After clerking for a year, he landed a job in 1997 as an assistant U.S. attorney in the Eastern District of New York, where he quickly racked up a list of high-profile convictions against drug dealers and mobsters.

But after he nearly



AS OREGON'S A.G., HE'S MADE CONSUMER FRAUD, ENVIRONMENTAL PROTECTION AND DRUG TREATMENT TOP PRIORITIES

burnt out on the job, Kroger set out on a three-month cross-country bike ride in 2000, during which he fell in love with his final destination: Portland, Ore.

Two years later, he returned there as a professor at Lewis & Clark Law School. Kroger taught only a single semester before he was drafted into joining the Justice Department team prosecuting top Enron executives.

His experiences as a prosecutor provided plenty of fodder for his 2008 book, "Convictions," in which he recounts all of his big cases and the colorful rogues he encountered along the way as well as the unease he felt about what he was doing.

Kroger admitted he was bothered by the pressure and manipulation he applied during

interrogations, which he came to view as doing "moral damage" to both interrogator and subject. He also questioned the wisdom of the war on drugs, which he concluded overemphasizes interdiction and enforcement at the expense of treatment.

The book won Kroger praise for its honest portrayal of what it's like to be a federal prosecutor. It also provided ammunition to his opponents later that year, when he decided to run for attorney general. As a first-time candidate and relative unknown in his adopted state, he had to learn how to raise money and master the art of retail politics.

"I don't look like Robert Redford, and I'm very cerebral and actually pretty introverted," Kroger said.

Nevertheless, he

managed to beat the Establishment candidate in a tough Democratic primary battle, thanks to a coalition of unions, environmental activists and the law enforcement community. He wound up the Republican write-in candidate too when the GOP didn't field its own nominee.

Since taking office in 2009, Kroger has raised the profile of the attorney general's office, which traditionally served as a behind-the-scenes adviser to state government agencies, said Norman R. Williams, director of Willamette University College of Law's Center for Law and Government.

Kroger has aggressively pursued consumer fraud cases and made environmental protection and drug treatment his other top priorities.

"By and large, he's

done a good job of presenting himself as an activist attorney general," said William Lunch, an Oregon State University political science professor and Oregon Public Broadcasting political analyst.

But Kroger's efforts early on to shake up his department, which also oversees the state's children's support services, didn't sit well with all 1,300 employees.

"Change is very hard for people," said Kroger, who said his goal is to make his office the "best in the country." He added, "We have a ways to go."

Kroger said he is "very likely" to run for reelection in 2012 but won't make any decision until later this year.

His prodigious fundraising and frequent travel around the state have political watchers there convinced he's set his sights on a higher office, such as U.S. senator or governor, positions occupied by fellow Democrats for the foreseeable future.

But in March, fresh off his second argument this term before the U.S. Supreme Court, Kroger sounded content, at least for now.

"I'd be very ambivalent running for a different office where you're a politician first and not really a lawyer," he said. "I love doing both."

SETH STERN '01

Learning from History

REBECCA HAMILTON '07 has traveled extensively in Sudan, interviewing powerful generals in the north and refugees in Darfur who had survived murderous government raids. But that was easy, she says, compared to the delicate task of talking about the book that resulted.

"Fighting for Darfur: Public Action and the Struggle to Stop Genocide," published early this year, is a look at the advocacy movement that Hamilton was part of and which she has now come to critique.

As a student at Harvard (HLS and the Harvard Kennedy School), she pressured the Harvard Corporation to divest from companies that supported the Sudanese government and was a driving force behind the formation of the citizens' campaign for Darfur, the biggest social movement in the United States since the campaign against Apartheid.

But by her 3L year, she saw that although activists were making their voices heard and shaking up the political system, it wasn't translating into change on the ground in Sudan. Hamilton took a step back to ask why. "Was it that advocates needed to do more of the same on a larger scale, or was there something wrong with the basic operating theory?" she



Rebecca Hamilton, interviewing the vice president of southern Sudan, Riek Machar

CEBRIC GEREMAYE

"IF PEOPLE DON'T SPEAK UP, THEN NOTHING WILL EVER CHANGE. THE QUESTION IS HOW TO DO IT MOST EFFECTIVELY."

asked. "I felt that nobody had gone and spoken to the people who were making policy behind closed doors to assess the impact of the Darfur advocacy," she says.

That is exactly what Hamilton has done. The inquiry that began as a research paper at Harvard turned into a four-year project that takes readers into the corridors of power. Hamilton conducted 150 interviews with policymakers in the U.S. and the United Nations, as well as officials from the Sudanese government, the African Union and the Arab League. She also tells the story of four American advocates.

She highlights the movement's successes. It got policymakers' attention and kept pressure on elected officials to take action. But she

also brings up negative consequences: "policy-makers starting to spend their time responding to the advocacy community rather than doing what was actually needed to get change on the ground."

What Hamilton finds daunting in talking about the book is conveying these lessons for the future without suggesting that citizens shouldn't be engaged with complex foreign policy issues. "You want people to retain the hope that they can make a difference. And I think that the hope is real. I think that if people don't speak up, then nothing will ever change. The question is how to do it most effectively."

Part of the problem, she says, is that activists did not put Darfur in the bigger context of the overarching con-

flicts in Sudan: the split between the predominantly Muslim north and the Christian and animist south, and the negotiations Khartoum had agreed to under international pressure.

This was a problem for the U.S. government as well, she says, adding that this divided attention buys into the Sudanese government's strategy. For example, says Hamilton, taking advantage of world attention being focused on the split between the north and the soon-to-be-independent south following a self-determination referendum in January, Khartoum has stepped up bombing in Darfur.

Sudanese people she has interviewed, says Hamilton, urge American activists and government officials to stop jumping on the crisis point. "Their

argument is that we would all be much better off if you would put the floodlights on the whole country and look at how interconnected these conflicts in Sudan are," she says.

In the end, Hamilton believes that the activist movement wasn't able to achieve results in Darfur because it was "based on a theory of change that was out of date." The lesson after Rwanda, she notes, was that "if the American public just created enough of an outcry, Washington would act, and it was Washington that had unparalleled global influence to get change on the ground." But after the invasion of Iraq, she says, U.S. power was greatly diminished, and other actors such as China were the more influential players.

Hamilton says she is heartened to see people who have been involved in Darfur advocacy engaging over the conflict in Libya and not focusing on the question of genocide as they had in Darfur (another lesson of Rwanda).

"What's at play [in Libya] are crimes against humanity, and I think it's a signal of maturity in the activist movement that they now don't have to have something labeled as 'genocide' before they understand it's something important to engage with."

EMILY NEWBURGER



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NEARLY
800 ATTEND



4

SPRING REUNIONS ➤ A RECORD RETURN

PHOTOGRAPHS BY MARTHA STEWART

1. Santiago J. Rendón LL.M. '86, Camila Canales, Gregorio Canales-Zambrano LL.M. '86 and Carolina Canales
2. Antonio Rossmann '71, David Rokoff '71, Kenneth Stahl '71, his wife Shirley Ripullone, Rick DuBard '71, Carolyn Denham and Ira McCown '71
3. 2001 LL.M. classmates Vivian Liberman, Maria Espina Molina and Nicole Duclos Toporowicz
4. William Zabel '61
5. 2006 classmates (bottom row from left) Ryan Posey, Melinda Chow Alankar, Susan Bernabucci Charnaux, Donny Low LL.M.; (top row) Jennifer Ralph Oppold, Aadil Ginwala, Daniel Urman, Michael Masters and Martin Bell
6. 1986 classmates Elizabeth Santos Regan, Amy Freilich, Mary Ruth Houston, Kenny Chin
7. Adrienne Hunter-Strothers '01 (center), her husband Bruce Strothers and Daniele Jean-Pierre '01
8. Herbert Yanowitz '61, his wife Elysa Yanowitz and their dog Toto
9. 1976 classmates Arnold Rosenberg, Douglas Campbell, Henry Beck Jr. and Charles Cole
10. 2006 LL.M. classmates Ernest Kofi Abotsi, Jeanette Aliaga Farfan, Ana Paula Martinez, Sheila Bohm and Gabriel Ejenberg
11. Enid Goubeaux and Aman Verjee '01
12. Class of 1971



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For more coverage of Spring Reunions,
go to <http://tinyurl.com/HLS-Reunions>



“Battle Hymn of the Tiger Mother” by **AMY CHUA '87** (Penguin).

The roar that accompanied the publication earlier this year of Chua’s memoir has resounded around the Internet, with seemingly everyone sharing an opinion—many vitriolic and some supportive—about the ultrastrict parenting techniques Chua espouses in the book.



“The Elusive Promise of Indigenous Development: Rights, Culture, Strategy” by

KAREN ENGLE '89 (Duke University Press).

This exploration of indigenous movements in the Americas since the 1970s focuses on how they have interacted with

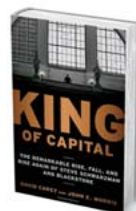
and participated in the creation of international law.



“King of Capital: The Remarkable Rise, Fall, and Rise Again of Steve Schwarzman and Blackstone” by **JOHN E. MORRIS**

'89 and David Carey (Crown Business). The authors, both financial journalists, examine how the private equity firm Blackstone survived the financial melt-down and emerged as a

force on Wall Street. They also consider whether private equity firms do more harm than good to the companies they own.



“Page One: A Year Inside the New York Times” by **ANDREW ROSSI '98**. This documentary, filmed

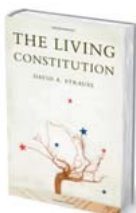


in the Times’ newsroom during a year of layoffs, when WikiLeaks was becoming a major player, explores the print media’s struggles to survive in the age of the Internet. The film debuted at the 2011 Sundance Film Festival and will be released in theaters later this year.

“The Living Constitution” by

DAVID A. STRAUSS '78 (Oxford University Press). Strauss, a professor at the

University of Chicago Law School, examines the process of constitutional interpretation and rebuts the idea of an unchanging, static Constitution. Con-



INNOVATION AND CONSOLIDATION

“The Master Switch: The Rise and Fall of Information Empires” by Tim Wu '98 (Alfred A. Knopf). Wu’s book explores how forms of information exchange developed during the 20th century—from telephone to radio and film—were born out of individual innovation and eventually consolidated into industries controlled by moguls and corporate empires.

In a history that includes portrayals of industry players such as AT&T’s Theodore Vail, Wu considers whether this pattern will be the fate of the Internet as well, putting a single power in control of “the master switch.”

A professor at Columbia Law School, Wu was a visiting professor at HLS this past year. He recently became the senior adviser to the Federal Trade Commission for consumer protection and competition issues that affect the Internet and mobile markets.

To watch Wu discuss his book at an event sponsored by the HLS Berkman Center for Internet & Society, go to <http://bit.ly/Wu-Master-Switch>.

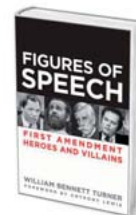


trasting his theory with the claims of “originalists,” Strauss argues that the Constitution can evolve, as it is shaped by the judicial decisions and legal and social demands of each generation.

“Figures of Speech: First Amendment Heroes and Villains” by **WILLIAM BENNETT TURNER**

'63 (PoliPointPress).

Turner looks back at individuals—including Communists, Jehovah’s Witnesses, Ku Klux Klansmen, prison war-dens, federal judges, pornographers and even James Madison—who played a role in the cases that have developed our modern understanding of the First Amendment.



Amazing Grace

SINCE WILLIAM STUNTZ'S death on March 15 at age 52, the renowned scholar of criminal justice at Harvard Law School and evangelical Christian has been eulogized in many ways, from the service at Park Street Church, to quotations in numerous obituaries, to the postings from his former students on an HLS journal site, to the appreciation on the New York Times editorial page. Below are excerpts from some of those remembrances.

"AMONG HIS MANY gifts to us was the grace with which he lived his life. In knowing Bill, we couldn't help but be reminded to live life as our better selves. Bill once wrote, 'We understand that the world is not what it should be, and that our own capacities to understand it are severely limited.' He described and lived his life in recognition of the need for humility and also for judgment and work to repair what we find around us."

DEAN MARTHA MINOW, from a statement to the Harvard community, March 15

"STUDENTS—YOU SHOULD KNOW that my dad adored teaching you, and that he spoke to us of your accomplishments as though they were more important than his own. His most treasured accolade was the teaching award he received from the students at Harvard, because it meant that you had enjoyed your time with him as much as he had enjoyed his time with you."

SARAH STUNTZ, at her father's memorial service at Park Street Church, March 19

"IF SOMEBODY MADE a good point, he would say in this really appreciative tone, 'Nice ... nice,' He would say it in the kind of tone that someone else might use to describe a sports car or a vintage wine, and his whole face would light up. As a colleague, whenever I elicited a 'nice,' I was thrilled, but for students, I think it was empowering because he was willing to recognize how much they could contribute and how great their ideas could be. ...

"One of the things that's striking about Bill was that he was in many ways a bundle of contradictions. ... He was really successful, and yet extraordinarily humble. He was more conservative than many on the faculty, and also more radical in his views. His contradictions didn't cancel each other out; they added up to make him really what people mean when they say 'a true original.' He's someone who, I think, is truly irreplaceable. There are a lot of wonderful people, but there really isn't anyone like him."

HLS PROFESSOR CAROL STEIKER '86, quoted in *The Boston Globe*, March 18

"IT'S 2006, AND I'm in Professor Stuntz's office. ... I didn't know much about evangelical Christians, but I thought it was safe to assume that what made them different from other Christians was the fact that they evangelized. ... So I sat across from Professor Stuntz and hesitantly broached the subject: 'So you may have noticed ... that I am not quite Christian. I just wanted to know ... is that ok?' ... Then Professor Stuntz leaned forward conspiratorially and



GRACE BENSON PHOTOGRAPHY

whispered, 'Can I tell you a secret? I'm so glad you're different from me. If everybody thought the way I did, life would be so damn boring.'"

TEJINDER SINGH '08, from a tribute posted with those of other students, on the Harvard Law & Policy Review site

"THE WHOLE TIME I was an assistant professor, he was very ill, yet ... he would stop by my office, he would read all my drafts [of articles] and have something to say about them, with great insight. I really think he was one of the main reasons, the primary reason, I became a professor, that I became a criminal law scholar."

HLS PROFESSOR JEANNIE SUK '02, from the Harvard Law School online tribute, March 15

"I HAD THE privilege of co-authoring several articles and a blog ['Less than the Least'] with Bill. I say privilege, but it didn't always feel that way. I felt somewhat like the composer Salieri must have felt in the wonderful movie 'Amadeus' when he was helping Mozart with one of his last compositions. Salieri was a perfectly fine composer, but he wasn't exactly Mozart. ... At first, Salieri can see where Mozart is heading. 'Yes, yes,' he says, and writes down the notes. But pretty soon he's simply stumped. He can't figure out where Mozart will go next. This is what working with Bill felt like. I would

keep up with him for a while, and sometimes even anticipate where the ideas were going; but then he would take the analysis to some new level, leaving me way behind. Bill could make connections that no one else saw, often demonstrating that the conventional wisdom has things exactly backwards."

DAVID SKEEL, professor at the University of Pennsylvania Law School, from the Park Street Church memorial service, March 19

"THE COLLAPSE OF American Criminal Justice' by William Stuntz, to be published this year, is the capstone to the career of one of the most influential legal scholars of the past generation.

"The book argues that the rule of law has been replaced by the misrule of politics, with a one-way ratchet of ever-expanding criminal laws giving boundless discretion to police and prosecutors, leading to a system that wrongly punishes too many black men. ...

"When he refuted legal orthodoxies in his quest to return mercy to criminal justice, literally redefining the field, he was living his faith. On many of America's leading legal thinkers his influence was more profound. He reaffirmed for them the alliance between faith and reason and, finally, between knowledge and goodness."

LINCOLN CAPLAN '76, from a New York Times editorial appreciation, March 23. Reprinted with permission from the author.

A Giant in Corporate Law and Public Service

JOSEPH H. FLOM '48, the last living name partner at Skadden, Arps, Slate, Meagher & Flom and an architect of takeover practice, died Feb. 23, 2011, in New York City. He was 87. Flom helped transform a small New York City firm into one of the most powerful legal institutions in the world. He was also a visionary philanthropist who launched transformative initiatives at Harvard Law School and elsewhere.

In the 1960s, Flom rose to prominence as a top lawyer in corporate mergers and acquisitions, especially as an adviser in proxy battles. He is widely recognized as the pioneer of takeover strategies used today by bidders, targets and investment bankers. He is profiled in Lincoln Caplan's ('76) book "Skadden: Power, Money, and the Rise of a Legal Empire" and Malcolm Gladwell's "Outliers: The Story of Success."

A strong supporter of Harvard Law School, serving on the Dean's Advisory Board, he was involved in many far-reaching philanthropic endeavors over the course of his career, at the school and beyond. In 1988, he co-founded the Skadden Fellowships, a program through which the firm annually supports at least 25 law school graduates to work in public interest jobs for up to two years.

"Joe Flom was a giant in the legal profession, a giant in the world of corporate transactions, a giant in public service and a giant in the life of Harvard Law School," said Dean Martha Minow. "No one could consult with Joe without coming away invigorated, challenged to reach higher and enlarged by his imagination. His legacies will

live on in what we and others strive for in the pursuit of law's service to the world."

Flom grew up in Brooklyn in the 1920s and served stateside during World War II. He was accepted to Harvard Law School without a college degree and graduated cum laude in 1948. He later received an honorary doctorate in humane letters from Queens College and an honorary doctorate of laws from Fordham University.

In 2005, with the Petrie

Foundation, he founded the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at HLS in response to the need for leading legal scholarship in these fields. The center tackles a wide range of issues, bringing together top scholars from a variety of fields in an interdisciplinary approach. He also helped endow the Carroll and Milton Petrie Professorship of Law at HLS, currently held by Einer Elhauge '86.

"Joe Flom has been hugely

important in helping lead Harvard Law School in the fields of bioethics, biotechnology and health law policy, providing not only generous financial support but important inspirational leadership in urging the school to confront the mass of issues raised by advances in biotechnology and to tackle today the bioethical and biopolicy issues of tomorrow," said Elhauge, who is also the founding director of the Petrie-Flom Center. "I have never met someone so farsighted in the fields of others and so selfless in seeking to contribute to them."

In 2006, Flom founded the Joseph H. Flom Global Health and Human Rights Initiative, a partnership between the Petrie-Flom Center and the Human Rights Program at HLS. The Joseph Flom Professor of Law and Business, endowed by Skadden and its partners, including Flom, was established at the school in 1998. It is currently held by Guhan Subramanian J.D./M.B.A. '98, who teaches courses in negotiation and corporate law.

Professor Robert Clark '72, who served as dean of HLS from 1989 to 2003, said of Flom: "The more I got to know Joe, the more I felt we were soul mates in important ways. We both felt that the law school played a really important role in society by training good corporate lawyers. Having businesses run according to a sound set of corporate law rules contributes to the way they function and how much good they do for all the people touched by them. ... But Joe was not only one of the very best corporate lawyers ... he was someone who cared about other social policy matters, as we know from his ultimate gifts to the law school."



"NO ONE COULD CONSULT WITH JOE WITHOUT COMING AWAY INVIGORATED, CHALLENGED TO REACH HIGHER AND ENLARGED BY HIS IMAGINATION." —DEAN MARTHA MINOW

1930 – 1939

JORGE S. CASTELEIRO '35
Feb. 22, 2009

A. ARTHUR GIDDON '35
Nov. 24, 2010

JOSEPH A. PATRICK '35
Sept. 16, 2010

HENRY WEIGL '36
Oct. 30, 2010

MILTON M. CARROW '37
Nov. 14, 2010

SIDNEY F. HOOPER II '37
Feb. 14, 2011

JOHN LITWACK '37
Nov. 9, 2010

H. TURNER FROST '38
Oct. 20, 2010

WILLIAM K. VAN ALLEN '38
Feb. 3, 2011

CHARLES F. WOODARD '38
July 31, 2010

SAMUEL Z. GORDON '39
March 16, 2011

JOHN O. HONNOLD JR. '39
Jan. 21, 2011

CLYDE A. LEWIS '39
Feb. 4, 2011

RAYMOND F. NOONAN '39
Jan. 10, 2011

1940 – 1949

ARTHUR L. ABRAMS '40
Dec. 23, 2010

CHRISTOPHER T. BOLAND '40
Nov. 30, 2010

JOSEPH W. GRIER JR. '40
Dec. 23, 2010

JOHN E. MORRISSEY JR. '40
March 23, 2011

EMANUEL GANTZ '41
Jan. 27, 2011

DANIEL HOFFERT '41
April 11, 2010

WILLIAM M. REGAN '41
Jan. 20, 2011

PETER V. SNYDER '41
April 15, 2010

FLOYD W. TOMKINS JR. '41
July 22, 2010

RICHARD J. "DICK" FRANZ III '42
Feb. 6, 2011

G. ARTHUR HOWELL JR. '42
Nov. 25, 2010

DAVID S. JUNKER '42
Feb. 5, 2011

SOTERO H. LAUREL LL.M. '42
Sept. 16, 2009

LOUIS L. POPLINGER '42
Nov. 20, 2010

RUSH E. STOFFER '42
Sept. 10, 2010

JACKSON G. AKIN '43
Nov. 30, 2010

MYRON "MIKE" KALISH '43
Jan. 9, 2011

ROBERT B. LANGWORTHY '43
March 6, 2011

CHESTER I. LAPPEN '43
Dec. 18, 2010

ARTHUR LEVY JR. '43
Feb. 18, 2011

JOSEPH QUATTRONE '43
Nov. 26, 2010

JOHN A. REILLY '43
Oct. 7, 2010

JAMES D. VOORHEES '43
Dec. 4, 2010

MARVIN S. COWAN '45
Dec. 12, 2010

DAVID J. K. GRANFIELD '47
July 31, 2010

JOSEPH H. FLOM '48
Feb. 23, 2011

CHARLES FREDERICKS JR. '48
Dec. 30, 2010

ROBERT REED GRAY '48
April 5, 2011

HASKELL H. GRODBERG '48
Feb. 12, 2010

WAYNE JOHNSON JR. '48
Oct. 20, 2010

NEWTON KALMAN '48
April 18, 2010

SUMNER Z. KAPLAN '48
March 22, 2011

JOHN KENNEDY '48
Dec. 31, 2010

ROBERT N. MCNUTT LL.M. '48
Dec. 17, 2010

W. DONALD MCSWEENEY '48
Feb. 12, 2011

EDWARD C. SEDDON '48
Dec. 18, 2010

ALAN J. STEIN '48
Dec. 6, 2010

GEORGE H. ALLEN '49
Sept. 18, 2010

RICHARD A. BEYER '49
March 10, 2011

CASIMIR DE RHAM JR. '49
Feb. 6, 2011

T. MCLEAN "MAC" GRIFFIN '49
Nov. 11, 2010

EDWIN W. LADD JR. '49
Jan. 1, 2011

EDWARD S. MASKET '49
March 4, 2011

KENNETH S. OLTARSH '49
Aug. 5, 2010

EDWARD C. STUART '49
March 9, 2011

1950 – 1959

JEROME E. ANDREWS JR. '50
Nov. 11, 2010

BLAINE EVANS '50
Nov. 29, 2010

CHARLES C. HARTMAN JR. '50
Dec. 26, 2010

JOHN S. HOLTEN '50
Oct. 7, 2010

LOUIS A. MCCARTEN '50
Jan. 10, 2011

RAPHAEL MUR '50
Dec. 5, 2007

DONALD E. PARADIS '50
Nov. 28, 2010

FRANK R. RINALDI '50
Jan. 9, 2011

LEONARD DECOF '51
Dec. 31, 2010

SHERWIN KAMIN '51
Oct. 27, 2010

JAMES T. LYNN '51
Dec. 6, 2010

RICHARD C. MARCUS '51
Nov. 19, 2010

A. ROBERT MATTHEWS '51
Sept. 5, 2010

LAWRENCE D. SHUBOW '51
Feb. 22, 2011

JAMES K. EDWARDS '52
Oct. 31, 2010

ALLAN N. LITTMAN '52
Dec. 20, 2010

MURRAY M. MCCOLLOCH '52
Oct. 28, 2010

ARTHUR A. MURPHY '52
Sept. 20, 2010

J. LAWRENCE STIER '52
Feb. 20, 2011

HOWARD A. WEISS '52
Aug. 27, 2010

ROBERTA A. G. BRUNDAGE '53
Oct. 31, 2010

DAVID T. BRYANT '53
Sept. 27, 2010

ARNOLD B. GARDNER '53
Dec. 26, 2010

LYMAN T. JOHNSTON '53
July 5, 2010

STUART T. PEELER '53
Sept. 14, 2010

MICHAEL G. C. BUCUVALAS '54
Nov. 7, 2009

JOHN H. BUSTAMANTE LL.M. '54
Oct. 5, 2010

JOSEPH DE FRANCO '54
Jan. 27, 2011

ROBERT S. GOTTESMAN LL.M. '54
Jan. 1, 2011

ALLAN S. LERNER '54
Oct. 25, 2010

IRVING H. LEVY '54
Sept. 5, 2010

ROBERT B. MATUSOFF '54
March 2, 2011

STUART M. NEELY '54
Oct. 17, 2010

JACK H. OLIVE '54
March 11, 2011

JACK B. POLISH '54
June 3, 2008

STEPHEN M. BERNARDI '55
Nov. 21, 2010

PRISCILLA HOLMES '55
Dec. 16, 2010

THOMAS D. JOHNSTON '55
Oct. 7, 2010

REMSEN M. KINNE III '55
Jan. 22, 2011

IRVING T. NELSON '55
Dec. 15, 2010

MELVIN R. SEIDEN '55
Jan. 14, 2011

JEROLD S. SOLOVY '55
Jan. 19, 2011

BERRY H. EDWARDS '56
Dec. 7, 2010

JOSEPH F. FIDLER JR. '56
Dec. 21, 2010

HENRY H. NORWOOD '56
March 2, 2011

E. DONALD SHAPIRO '56
Dec. 27, 2010

ELLIOTT H. STONE '56
Dec. 19, 2010

JAMES URDAN '56
Nov. 28, 2010

RICHARD M. WALL LL.M. '56
Sept. 14, 2010

C. MURRAY ADAMS '57
March 29, 2011

FRED BUNKER DAVIS '57
Oct. 30, 2010

SETH WALLER '57
Jan. 4, 2011

JERRY D. ANKER '58
Feb. 1, 2011

PAUL H. BARIS '58
March 22, 2010

GORDON G. BUSDICKER '58
Aug. 2, 2010

JAMES D. DANA '58
March 20, 2011

PAUL D. HOLLEMAN '58
Jan. 22, 2011

P. MICHAEL PHELPS '58
Feb. 10, 2011

JOHN H. "JACK" STROH '58
Oct. 17, 2010

WILLIAM J. KIERNAN JR. '59
Oct. 31, 2010

WILLIAM B. WARREN '59
Oct. 8, 2010

1960 – 1969

MICHEL H. BERTHIER '60
Nov. 23, 2010

SAMUEL J. M. DONNELLY '60
Jan. 11, 2011

NORMAN L. KASPARSON '60
Oct. 13, 2010

EDWARD C. MCLEAN '60
Nov. 3, 2010

FERDINAND P. SCHOETTLE JR. '60
Nov. 24, 2010

CHARLES O. GALVIN S.J.D. '61
Jan. 27, 2011

RICHARD A. GRISCOM '61
Jan. 12, 2011

ASHER RUBIN '61
Sept. 30, 2010

EDWARD R. BUSCH '62
Dec. 10, 2010

PAUL MURPHY '62
Oct. 21, 2010

DAVID G. TRAGER '62
Jan. 5, 2011

RICHARD CALDWELL '63
Oct. 19, 2010

STANTON J. PRICE '64
Nov. 1, 2010

PETER BOOTH '65
Dec. 23, 2010

NEAL S. MCCOY '65
Sept. 25, 2010

DANIEL R. MITCHELL '66
March 21, 2011

DONALD P. ROTHSCHILD LL.M. '66
Feb. 28, 2011

ARAM R. SCHEFRIN '66
Nov. 4, 2010

DAVID H. HICKMAN '67
March 8, 2011

PATRICK L. BAUDE LL.M. '68
Jan. 26, 2011

GERALD J. GERVINO '68
July 10, 2010

JOHN O. J. SHELLENBERGER III '69
Dec. 1, 2008

1970 – 1979

JAMES L. SEAL '70
Oct. 4, 2008

JONATHAN BRANT '71
Nov. 29, 2010

JOSEPH CHOATE JR. LL.M. '71
Oct. 14, 2010

HENRY A. HUBSCHMAN '72
Feb. 9, 2011

GEOFFREY C. PACKARD '73
March 17, 2011

L. MARSHALL SMITH LL.M. '73
Oct. 25, 2010

DONALD A. BACEK '74
Feb. 11, 2010

LAWRENCE D. BRAGG III '74
Jan. 1, 2011

PETER M. DAVIS '75
Feb. 2, 2011

MARY ANNE HENRY '76
Feb. 5, 2011

JOHN E. ROSINO '77
Jan. 2, 2011

STANLEY S. SCOTT '79
Feb. 14, 2011

1980 – 1989

LEROY R. HASSELL '80
Feb. 9, 2011

JOHN H. ADLER '84
April 4, 2011

PAULA ESCARAMEIA LL.M. '86 S.J.D. '88
Oct. 4, 2010

WENDY SCHNIFFER CLAYTON '88
Nov. 29, 2010

1990 – 1999

KEITH AOKI '90
April 26, 2011

JOSEPH M. FERNANDEZ '91
Dec. 18, 2010

DONALD P. HENSEL '95
Oct. 16, 2010

Robert J. Katz '72 is the new chairman of the Dean's Advisory Board. Katz is a senior director at Goldman, Sachs & Co., for which he served as general counsel from 1988 through 2000. Prior to joining Goldman Sachs, he was a partner at Sullivan & Cromwell in New York City. Katz is a 1969 graduate of Cornell University and is vice chair of its board. At HLS, he won the Sears Prize and was president of the Harvard Defenders, providing pro bono legal services to low-income clients charged with crimes. After HLS, he received a Knox Fellowship and attended the London School of Economics before serving as a law clerk to the late Irving R. Kaufman, chief judge of the U.S. Court of Appeals for the 2nd Circuit.

A Conversation with Robert J. Katz '72

What does the chairmanship of the Dean's Advisory Board mean to you personally?

I'm having fun. I can think back to my arrival at Harvard Law School in the fall of 1969, soon to be 42 years ago. What it means to me is an awfully long and close and affectionate relationship with the law school. This is a significant step, obviously, for me along that path, which causes me to look back with some wonderment when I think of how little I knew or understood and how inadequate I felt when I arrived. So this is a continuation of a journey that is extremely meaningful to me at a personal level. On top of that, I have a great fondness and regard for both this dean and her predecessor, and for all members of the board past and present that I've had the privilege to serve with, and especially for Finn Caspersen ['66], a great leader for the school, a giant, and one whose shoes I am humbled to try to fill and doubt I can quite fill.

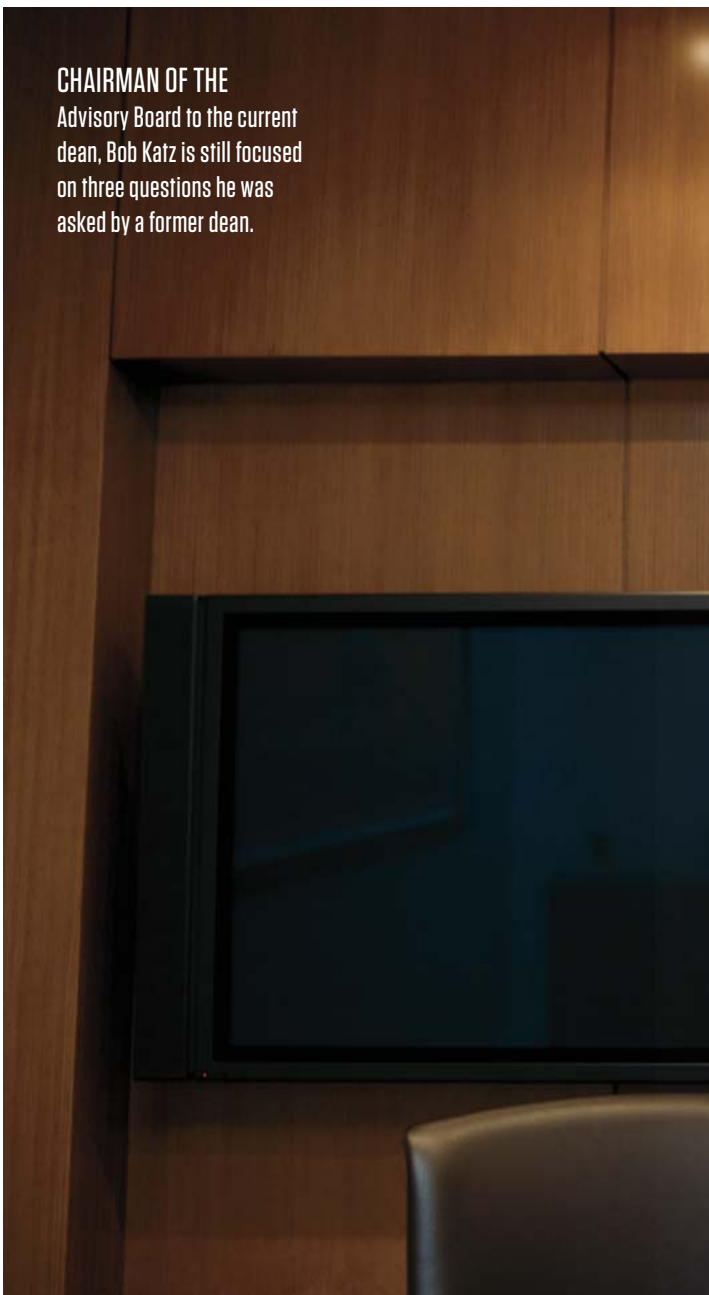
What challenges do you see facing legal education today?

All elements of higher education in the U.S., for sure, and presumably worldwide, face a major challenge in terms of access. The costs and the value proposition for meeting those costs—whether funded by student or family resources, by financial aid provided by philanthropy or public sources, or in the case of state institutions, by legis-

lative appropriations, or all of the above—have as much to do with the individual interests in preserving access to something inherently and economically worthwhile as with societal interests in the propagation of knowledge, the development of leaders and the delivery of service to the community. I think

the necessity of protecting and preserving access to the academy is a challenge that most appropriately falls to the alumni, and that alumni ought to take the greatest ownership of.

What's the biggest difference you see between HLS now and when you were a student?



CHAIRMAN OF THE Advisory Board to the current dean, Bob Katz is still focused on three questions he was asked by a former dean.

It's a visibly different student body than in the Vietnam War era. Because of people serving in the military or alternative routes they took in lieu of service, many were coming from other paths of endeavor that had neither a view toward nor were particularly relevant to their subsequent

entry into the law school. Secondly, the class [today] has much more gender balance and is much more racially balanced. Having said all that, notwithstanding the new buildings and faculty turnover and changes in the curriculum and first-year sections being a different size, I think the fundamen-

tal drivers, ingredients and outputs of the Harvard Law School experience haven't changed. And I see this, in part, because I'm also somewhat in touch with the younger generation, having had a son [James Katz] graduate in 2009 from the law school and the Kennedy School, and continuing to

interact with young practitioners at the two firms where I have worked, and elsewhere. You see very similar degrees of intellectual curiosity, energy, personal aspiration, purpose-filled effort and lives, analytical approaches and critical thinking.

You've been very generous to HLS and to Cornell. What is your philosophy about giving back to the law school?

I like to use a quote from former Dean Bob Clark ['72], at a lunch I once attended, when he said, "I just want to ask three questions: First, did attending Harvard Law School make a substantial and probably unique difference in your life? Second, do you acknowledge that was only possible because Harvard Law School was here through the efforts and generosity of people who came before you? And if you accept the first two, do you acknowledge your obligation to do the same for the next generation?" That's my syllogism, at the very personal level. I don't believe there is an obligation to philanthropy, but it's why an individual should *want* to do this.

Any summary thoughts?

I would add that Martha Minow and I do have a lot of fun together and laugh a lot. I hope to continue doing that, and even more so. When I said I was having fun, I meant it. *

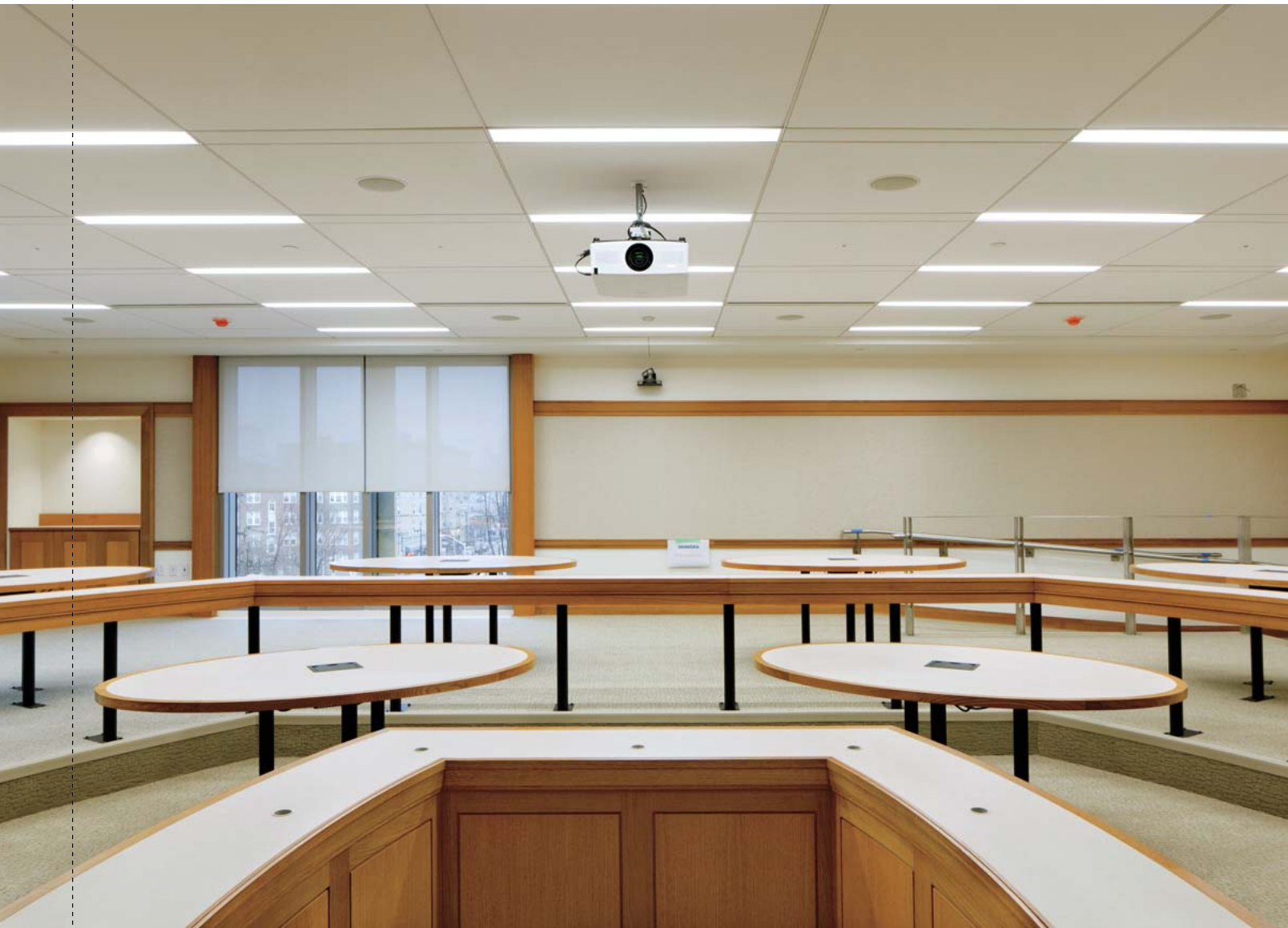
Photograph by BETH PERKINS



GALLERY

By Design

Innovative classrooms and wide-open spaces



Wasserstein Hall contains two cluster classrooms (above and opposite, top center)

that combine a traditional classroom with a modular, breakout seating arrangement

to allow for more interactive teaching and small-group work. The Graduate Student

Lounge (this page, top) will be one of the many new gathering places. The academic

wing (opposite) will help create a much-needed supply of classrooms of varying

sizes and configurations, all within an environmentally friendly building.



Construction of the **Wasserstein Hall, Caspersen Student Center, Clinical Wing** project is tantalizingly near completion. By January, students will be gathering and dining in the Caspersen Student Center and working in the Clinical Wing, which will bring together under one roof many of the growing number of clinical opportunities at HLS. The first classes will be taught in Wasserstein Hall during winter term. The vistas are wide-open, as will be the new opportunities for innovation, learning and collaboration.



VIEW OF 2ND FLOOR GALLERY LOOKING SOUTH
WASSERSTEIN HALL • CASPERSEN STUDENT CENTER • HARVARD LAW SCHOOL NORTHWEST CORNER BUILDING
CAMBRIDGE, MASSACHUSETTS
ROBERT A.M. STERN ARCHITECTS

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K²: The View from the Summit

U.S. Supreme Court Associate Justices Anthony M. Kennedy '61 and Elena Kagan '86 at HLS in April, participating in a discussion moderated by Dean Martha Minow

