



# CREATE CHANGE

## PUBLIC INTEREST AT STANFORD LAW SCHOOL

<http://publicinterestlaw.stanford.edu>

Fall 2004

## Getting to Know the New Dean: Kramer Ushers in Next Era



PHOTO: LINDA A. CICERO

Larry Kramer, Richard E. Lang Professor of Law and Dean

**L**arry Kramer, Stanford's new Richard E. Lang Professor of Law and Dean, arrives with a breadth of experience and expertise to lead SLS into a bold new future. A graduate of the University of Chicago Law School, he clerked for Judge Henry J. Friendly on the Second Circuit prior to clerking with U.S. Supreme Court Justice William J. Brennan, Jr. He has been a professor at the University of Chicago and University of Michigan law schools. Most recently, he served as associate dean for research and academics and on the faculty at NYU School of Law. He has taught Civil Procedure, Federal Courts, Constitutional Law, and American Legal History.

### What inspired you to become a lawyer and law professor?

It was an accident, really. I graduated college with no plans to attend law school. I wanted to be a writer. So I moved to New York and was just living and hanging out with friends, imagining I was a deep and tortured artist. My mom was none too happy with this, and eventually she pestered me into applying to law school. I agreed to go just to make her stop—planning on dropping out after a few weeks, so I could say, “See, I tried, I didn’t like it, I’m going back to New York.”

Much to my surprise, I discovered that I loved it. It was really hard—harder than anything I had done before—but also incredibly interesting. I loved the way in which law

connected up both to the intellectual and the practical. It was a discipline as complex and sophisticated as any, but one that also mattered in the world. And being a good lawyer required some sense of both dimensions. That was really unique, at least in my experience. I still feel that way.

### What have been some of the most enjoyable aspects of your career?

There have been many. I love writing. I love teaching. I even love the administrative stuff—why else become a dean? But I suppose the most enjoyable aspect of my career to date has been the freedom it afforded me to try many things and to participate in every aspect of law. I have been able to work in all three branches of government: advising Congress on legislation, clerking in the courts, and working with the executive in various ways. I have been able to litigate and to work as a lawyer. And I have had the freedom to spend time on whatever interested me: to read and write about what I wanted and make that the basis of courses to teach. Very few people have so much flexibility to keep their professional lives fresh.

—continued on page 5—

## CONTENTS

**2**  
Welcome from Diane T. Chin, Director of Public Interest and Public Policy Programs

**3**  
Professor Jenny Martinez comments on Supreme Court detainee cases

**4**  
Public Interest Community News Briefs

**6**  
Fall 2004 Calendar of Public Interest Events

2004-05

**Public Interest and Public Policy  
Faculty Mentors**

**Michelle Alexander '92**

Associate Professor of Law (Teaching),  
Civil Rights Clinic

**George Fisher**

Professor of Law and Robert E. Paradise  
Faculty Scholar

**Jonathan Greenberg '84**

Director, International Graduate Programs,  
and Lecturer in Law

**Deborah R. Hensler**

Judge John W. Ford Professor of Dispute  
Resolution

**Erik Jensen**

Co-Director, Rule of Law Program

**Pamela S. Karlan**

Kenneth and Harle Montgomery Professor  
of Public Interest Law

**William Koski (PhD '03)**

Associate Professor of Law (Teaching),  
Youth and Education Law Clinic

**Lawrence C. Marshall**

Visiting Professor, Autumn 2004  
Professor of Law and Legal Director of  
the Center on Wrongful Convictions,  
Northwestern University School of Law

**Jenny S. Martinez**

Assistant Professor of Law

**Miguel A. Méndez**

Adelbert H. Sweet Professor of Law

**Maude Pervere (BA '70)**

Senior Lecturer in Law and Director, Ne-  
gotiation and Mediation Teaching Program

**Deborah L. Rhode**

Ernest W. McFarland Professor of Law

**Jayashri Srikantiah**

Associate Professor of Law (Teaching),  
Immigrants' Rights Clinic

**Michael S. Wald**

Jackson Eli Reynolds Professor of Law

**Allen S. Weiner '89**

Associate Professor of Law (Teaching) and  
Warren Christopher Professor of the Prac-  
tice of International Law and Diplomacy

**DIRECTOR'S NOTE**

*Be the change you wish to see in the world...*

- Gandhi

Serving the public, advancing justice, creating change. That's what lawyers and advocates do every day, working with and for communities to improve their lives. It is one of the most rewarding possibilities of our profession, and one of the most profound responsibilities we face.

At Stanford Law School, the Public Interest Program's goal is to ensure that our students, alumni, and faculty receive the support they need to grapple with the hard issues, work with the clients who need us most, and challenge the systems that don't advance justice.

The goals of our new electronic newsletter are small – to connect us all in a virtual public interest community and to give you news about the people and programs at SLS that are creating change, sometimes groundbreaking. In our inaugural edition, we introduce you to Dean Larry Kramer, bring you a report on Professor Jenny Martinez's fight to protect civil liberties, and provide you with information on upcoming programs that we hope many of you will be able to attend.

Quarterly, we will highlight public interest alumni and faculty, bring you news of exciting developments at the law school, and tell you true stories about the clients that the SLS public interest community is assisting to change their lives and the world around them.

Please feel free to send us your stories and ideas. Contact our staff if you want more information about anything you've read. Reconnect with this community if you've been out of touch for a while. Public interest at SLS is on the move, dynamic, exciting. It's all about creating change.

Diane T. Chin

**ABOUT CREATE CHANGE**

This newsletter is designed and produced by Public Interest Programs staff. Unless specifically noted, all articles are written by staff as well.

Special thanks go to **Ann Dethlefsen**, Law School Communications, for her assistance in launching this inaugural issue.

*Create Change* is published quarterly. Articles, letters, and photos are welcome. Please send them to: *Create Change*, c/o Public Interest Programs, Stanford Law School, 559 Nathan Abbott Way, Stanford, CA 94305-8610. Or contact us via email at: **public.interest@law.stanford.edu**

**Public Interest Programs**  
**Diane T. Chin**, Director  
**Anna Wang**, Assistant Director

# Professor Jenny Martinez Comments on Recent U.S. Supreme Court Detainee Cases

Assistant Professor of Law Jenny Martinez was in the spotlight when she argued before the Supreme Court in *Rumsfeld v. Padilla* last April on behalf of Jose Padilla, a U.S. citizen detained since May 2002 by the federal government. She may appear again as the case makes its way through the system, after the Court remanded the case to the District Court for reconsideration. The Court determined that jurisdiction properly sat in South Carolina, and not where the case was originally filed.

Public Interest Programs recently sat down with Professor Martinez to discuss Padilla and the other “enemy combatant” rulings handed down the same day: *Hamdi v. Rumsfeld* and the Guantanamo Bay cases, *Rasul v. Bush* and *Al Odab v. United States*. The cases raise unique issues because the government claimed that Geneva Convention principles do not apply to any of the detainees because they are not prisoners of war but unlawful enemy combatants with allegiance only to a terrorist agenda. The nation, as well as many other parts of the world, waited for the decisions with great anticipation, as these were the first cases heard by the Supreme Court centering on the post-9/11 challenge of balancing the protection of civil liberties with the challenges created by terrorism.

While the Supreme Court did not reach the merits of *Padilla*, it did issue major rulings in the other cases. Those rulings will critically shape the reconsideration of the issues raised by *Padilla*. They also provide insight into how the individual justices may rule on the merits of *Padilla* if it reaches them again.

The most relevant of the cases is *Hamdi*. The plaintiff is also a U.S. citizen like Jose Padilla. However, there was not a clear majority in the resolution of significant questions of law. This means that, although *Padilla* is certainly entitled to the same rights to counsel and a hearing in federal court that

have been established by *Hamdi*, he may be entitled to considerably more, given that he was arrested in the U.S. rather than captured on an overseas battlefield.

For instance, while a majority of the Court in *Hamdi* found that Congress granted the President the authority to order the in-



Jenny Martinez, Assistant Professor of Law

definite detention of U.S. citizens captured in Afghanistan through the Authorization for Use of Military Force (passed shortly after September 11 authorizing the President to use armed forces in the fight against terrorism), the Court’s plurality decision by Justice O’Connor carefully reserved the issue of whether that authorization would extend to persons not detained in Afghanistan. Thus, the Court’s decision in *Hamdi* left open whether the President has authority to detain as enemy combatants persons who are arrested in the U.S.

At least four members of the Court ruled that the President has no such authority. Justices Scalia and Stevens argued in their dissent in *Hamdi* that absent a Congressional suspension of the writ of habeas corpus, the executive has no authority to detain U.S. citizens without criminal charges, including citizens captured on overseas battlefields.

Justices Souter and Ginsburg also found that the President had no authority to detain

U.S. citizens as enemy combatants, but they relied on a statute, the Non-Detention Act, which bars the detention or imprisonment of U.S. citizens by the Executive branch absent an act of Congress.

As Professor Martinez explains, “Everyone looks back and considers the fact that the Supreme Court didn’t come out against *Korematsu* [*v. United States*, 323 U.S. 214 (1944)] and *Dred Scott* [*v. Sanford*, 60 U.S. 393 (1856)] as a blight on Supreme Court history. In the 1970s, Congress looked back and saw that they dropped the ball when Japanese Americans were interned by the Executive Branch, as Congress didn’t do anything to really authorize it, but also didn’t do anything to stop it. So they passed the Non-Detention Act to ensure that the deprivation of civil liberties won’t slip under the radar again.”

She further notes, “There is a real value in having the Legislature talk about the tradeoffs between civil liberties and national security rather than have the Executive Branch declare by fiat. The Act was viewed as a check on the President’s power and made clear that in the absence of explicit Congressional authorization, the Executive Branch would not have the power to lock up citizens again.”

Professor Martinez argued that the Authorization for Use of Military Force passed by Congress shortly after 9/11 fails to meet this standard because it does not explicitly address detention of U.S. citizens or meet the high standard of the Non-Detention Act to empower the President to detain U.S. citizens. Moreover, there was no indication in the debates that Congress intended to give the President the power to detain and incarcerate citizens.

She emphasizes that this is a critical observation, “[because] the Supreme Court held in [*Ex Parte*] *Endo* [323 U.S. 283

—continued on page 5—

## SLS Public Interest Community Celebrates Summer in Style



Associate Professor Jayashri Srikantiah (left) chats with Aravinda Seshadri '06, Alex Han '06, and Alex's partner, Tom Jackson, at Professor Deborah Rhode's home.

Public Interest Programs had a busy summer full of social events to bring together students, alumni, and faculty in the Bay Area and in Washington, D.C.

First, Professor Deborah Rhode, Public Interest Programs, and the Stanford Center for Ethics hosted public interest students and faculty at her home on Sunday afternoon, July 11.

Dean Larry Kramer and Associate Professor Jayashri Srikantiah attended the poolside party and met many of our public interest students for the first time. Professors Michelle Alexander '92, Pam Karlan, Allen Weiner '89, and Bob Weisberg '79 were also on hand and chatted with students about their summers.

Lawrence Quill, Associate Director of the Stanford Center for Ethics, mingled with students and faculty as well.

Later that same week, public interest alumni and students gathered at Consumers' Union in San Francisco the evening of

Thursday, July 15, 2004 to catch up with old and new friends.

This Bay Area gathering kicked off the first of several alumni events to come, as PIP strives to strengthen our public interest alumni network. Local San Francisco alumni from the classes of 2003, 2001, 1998, and 1988 attended the event.

**This Bay Area gathering kicked off the first of several alumni events to come, as PIP strives to strengthen our public interest alumni network.**

Special thanks go to Mark Savage '88 and the rest of the Consumers' Union staff for graciously allowing us to use their office.

On the other side of the country, PIP hosted an event for public interest alumni and students in Washington, D.C. on Tuesday evening, August 17.

Jennifer Chou '05, Rashida Edmondson '05, and Jessica Wolland '06 helped coordinate logistics and outreach for the casual outdoor event.

Public interest alumni from the classes of 1990 and 1996 attended and mingled with the students. ■

## Travel Scholarships to Conference Available

Public Interest Programs will offer travel scholarships to ten students to subsidize the cost of attending the 2004 Equal Justice Works Career Fair and Conference in Washington, D.C. on October 28 and 29.

The Equal Justice Works Career Fair and Conference is the largest public interest career fair in the nation. Last year, over a thousand public interest employers and students met to discuss internship and full-time job opportunities through informational interviews and prescheduled interviews.

This year's list of participating employers should be available on the Equal Justice Works website shortly: <http://www.equal-justiceworks.org/careerfair/>.

This is also an excellent opportunity to attend career development and public interest law conference sessions to gain insight into legal trends and practical information to aid in a public interest job search.

At last year's conference, topics included the growing moratorium on the death penalty, affirmative action and its place in college admissions, and public interest fellowships. Session speakers included consumer advocate Ralph Nadar and John Payton, the attorney who argued the University of Michigan affirmative action case before the Supreme Court.

With so many practitioners and students from across the country, one can also network with other public interest-minded colleagues.

Yael Zakai '05 has attended the conference for the past two years and highly recommends it. She says, "Even when I went as a 1L and couldn't interview with anyone, I still found it to be a great experience. It was a chance to meet a lot of public interest employers from all across the country."

There is also an awards dinner Thursday evening, October 28, in recognition of public interest lawyers and students. Awards are presented to the Outstanding Law School Dean, Exemplary Public Service Work of Law Students and/or Law Projects, and Outstanding Faculty or Staff.

Students interested in receiving a scholarship to partially fund travel expenses should contact Anna Wang for details at [annawang@law.stanford.edu](mailto:annawang@law.stanford.edu). ■

# Kramer Offers a Peek Into His Priorities

*continued from page 1*

## What is your favorite story about clerking for U.S. Supreme Court Justice William J. Brennan, Jr.?

Unfortunately, many of the best moments have to remain confidential. But Justice Brennan was an extraordinary person—maybe the only person I have ever met who utterly lacked malice or jealousy. He was plenty smart, but what made him a special judge was that he brought who he was as a human being into his judging. It gave him the courage and confidence to do things that most lawyers would have shied away from. It also meant that the other Justices loved and respected him—even those who disagreed with everything he believed. He celebrated his 80th birthday the term I clerked, and we threw him a surprise party. Everyone on the Court participated. The printers printed out a special invitation (in the form of an order compelling attendance) and all eight of the other Justices came just to say “Surprise!” We made a goofy t-shirt from the invitation, and they even wore it. And, believe me, they would not have done that for just anyone.

## What are your priorities for the coming year as the new dean?

The first year will be the easiest and the hardest one. I plan to spend most of this year in conversation with the faculty, the students,

the alumni, and the university, so we can figure out where to take the law school from here. Stanford is in very good shape right now. It has a strong faculty, great students, committed alumni. But the world is changing fast, and we need to decide what kind of school we want to build for the next generation. So the first year will be spent trying to figure that out, in broad terms at least. After that, we’ll start the really hard task of making it real.

**“The world is changing fast, and we need to decide what kind of school we want to build for the next generation.”**

## What is your advice to students who want to pursue public interest or public sector careers?

Stick to it. Don’t become cynical. Don’t become smug. And don’t let yourself slide into seeing the law as something purely instrumental.

## What are your initial impressions of SLS?

Well, arriving in the summer means they are only partial. I have been impressed with the seriousness of the place, with the way people work hard and care very much about what they do. I have also been impressed with its friendliness. So many people on the faculty and staff have shown a willingness to think broadly about what is in the best interests of the school. It’s a great culture that way. I look forward to seeing it in full operation, with students present and all engines go. ■

*Larry Kramer became Dean on September 1, 2004.*

---

# Martinez Shares Insider’s View on Civil Liberties Case

*continued from page 3*

(1944)] that wartime measures that restrict liberties must be interpreted no broader than is unmistakably clear from the face of the statute. Most people remember *Korematsu*, where the Court upheld racially based military orders excluding Japanese Americans from certain areas of the country, but forget that on that same day the Court also ruled in *Endo*, which strikes down the internment of Japanese Americans who were undeniably innocent. In *Endo*, the Court looked at the general enactments of Congress and found that nothing in the acts indicated that the President was allowed to detain citizens in internment camps.”

Even with Congressional authorization, Professor Martinez noted, there are limits on how much the government can infringe on a citizen’s right to liberty. “Just because

Congress says the President can lock people up without criminal charges doesn’t mean it’s constitutional; it’s just that Congress has to say the Executive can do it before the courts should even consider whether the Constitution allows it.”

It is clear from this brief discussion that the U.S. war on terrorism raises significant new legal issues. In joining the legal team representing Jose Padilla, Professor Martinez has been able to bring an insider’s perspective on the case into her classroom, as well as provide students the opportunity to work on legal research for the case.

Professor Martinez points out, with a smile, that as a Civil Procedure professor, this case demonstrates just how critical a role civil procedure plays in litigation. She had her students discuss the case in her course last semester but some students seemed to downplay the importance of

procedure. While the conflict in balancing civil liberties and national security drew the most attention in the media, the Court did not reach the merits of the case, but ruled on procedural issues.

She adds that one of the lessons that students can learn from the *Padilla* case, as well as *Hamdi* and the Guantanamo Bay cases, is that one shouldn’t be timid in the pursuit of justice even in the face of unbelievably low odds.

Professor Martinez also wants to encourage students to reach out to faculty. She comments, “I had students just knock on my door, volunteering to do legal research for the *Padilla* case. The faculty here are doing interesting things and students should take the initiative to get involved.”

And for the record, Professor Martinez still believes that there was proper jurisdiction in New York. ■

# PUBLIC INTEREST EVENTS

## FALL 2004

Unless otherwise indicated, all events will be held at Stanford Law School, Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California. For more information, write to [public.interest@law.stanford.edu](mailto:public.interest@law.stanford.edu) or call (650) 723-2519.

### SEPTEMBER

---

Wednesday, Sep. 1	Public Interest 1L Orientation Presentation	1:30-2:15 p.m.
Wednesday, Sep. 8	Public Interest Career Planning for 2Ls	1:30 p.m., Room 180
Wednesday, Sep. 8	Public Interest Faculty Mentor Reception	5:30 p.m., Crocker Garden
Monday, Sep. 13	U.S. Department of Justice Honors Program Presentation	12:20 p.m., Room 190
Wednesday, Sep. 15	Public Interest & the Law Firm Experience	12:20 p.m., Room 80
Wednesday, Sep. 22	Budgeting & Money Management for Public Interest 1Ls	12:20-2:00 p.m., Room 80
Wednesday, Sep. 22	Public Interest Alumni Reception	5:30 p.m., Crocker Garden

### OCTOBER

---

Monday, Oct. 11	Externship Informational Workshop	12:20 p.m., Room 271
Wednesday, Oct. 13	Public Interest Career Options Dinner Panel	6:30 p.m., Room 180
Wednesday, Oct. 27	Public Sector Career Options Dinner Panel	6:30 p.m., Room 180
Oct. 28 - Oct. 29	Equal Justice Works Career Fair & Conference	(Washington, D.C.)

### NOVEMBER

---

Monday, Nov. 1	1L Job Search Workshops (limit of 40 students per session)	12:20 p.m. & 4:00 p.m., Room 90
Wednesday, Nov. 3	1L Job Search Workshop (limit of 40 students per session)	12:20 p.m., Room 90
Thursday, Nov. 4	1L Job Search Workshop (limit of 40 students per session)	4:00 p.m., Room 90
Monday, Nov. 8	Resume & Cover Letter workshops	12:20 p.m., Room 90
Wednesday, Nov. 10	Resume & Cover Letter workshops	4:00 p.m., Room 90
Saturday, Nov. 13	Shaking the Foundations Conference	
Sunday, Nov. 14	Shaking the Foundations Conference	
Week of Nov. 15	Using Online Job Search Resources for 1Ls	4:00 p.m., Swig Room
Monday, Nov. 29	Interviewing Workshop for 1Ls	12:00 p.m., Room 79A
Nov. 30 - Dec. 29	Mock Interviews for 1Ls	3:00-6:00 p.m., Room TBA