

Dahlia Lithwick '96 on Covering the Supreme Court  
A Profile of California Chief Justice Ronald George '64

# STANFORD LAWYER

62

FALL 2008 ISSUE



KINKS IN THE  
GLOBAL SUPPLY CHAIN  
Can Laws Keep Us Safe?

# From the Dean

BY LARRY KRAMER

Richard E. Lang Professor of Law and Dean



LAST SPRING, WE REVAMPED THE LAW SCHOOL'S GRADING SYSTEM, REDUCING THE NUMBER OF GRADES TO FOUR (H, P, R, F). To my surprise, the change received extensive coverage in the national media. True, we're only the third law school to adopt this kind of system, but similar schemes have been in use at medical schools and business schools (including Stanford's) for many years. Then again, maybe slowness to reform how we grade shouldn't be surprising. The boot camp aspect of law school including first-year grade obsession and the whole "paper chase" experience remains indelibly stamped on many lawyers' identities and is a favorite cliché of popular culture. More than a few of the letters I received, including those from supporters of the change, had a "we walked 12 miles barefoot in the snow" quality about them—particularly insofar as reducing grade pressure was among our stated goals.

The simple truth is that our grading system had become dysfunctional. Pieced together over time and many incremental reforms, it comprised 21 grades (2.1–4.3 awarded in increments of .1), with a rigidly enforced 3.4 mean. If one student did an outstanding job and deserved a 4.3, the only way to reward her or him was by lowering the grades of classmates to preserve the mean. Except that many courses were "off mean," meaning that instructors could give whatever grades they wanted. Predictably, they awarded high grades freely, and so whether a class was "on" or "off" mean became a significant factor in student course selection—often superseding the content of the class or whether it suited a student's educational needs.

Worse, the outcomes of our grading system conveyed a false sense of precision in describing differences among students. Many employers, especially judges, placed heavy reliance on the distinction between someone with, say, a GPA of 3.694 and someone with a 3.648. Yet there is, in fact, a tremendous amount of what statisticians call "noise" in a grading system that draws such fine distinctions, particularly since law school exams are seldom objective and grades are based on essays or papers. If students are to be grouped by results as measured in exams, the number of students who are similar is more realistically captured in fewer groupings—each of which is much larger than in our old system. Students in the bottom half of the class were particularly disadvantaged, as many employers picked a numerical GPA cutoff that, given the reality of our students and their performance, would scarcely survive rational basis scrutiny as a ground for drawing distinctions.

The time had come to wipe the slate clean and start over, which is precisely what we did—though only after consulting with employers, faculty at other schools, students, and alumni. The system we adopted still offers sufficient incentives for those who want to show their stuff, and students can and will distinguish themselves by the number of Hs they earn. The resulting cohorts will be larger, however; no longer will one be able to ordinarily rank every student above or below every other student. And that's a good thing—because these larger groupings will more accurately reflect what real differences exist than are measured by exam performance. Employers can still choose cohorts from which to hire (top third, top half, etc.), but grades will do less of the work when it comes to making final decisions (as they should), and employers will need to give greater weight to individual factors that ought to matter more, such as a student's particular background and experience, additional or other skills, passion for the work, and so on.

We will, in the meantime, reap a number of pedagogical benefits. To the extent students have felt anxiety about exams and grades, there will be less of it—not so much less, we trust, that students will cease working but less that is unproductive and that detracts from the experience of actually learning. And because there is less need to translate student performance into a single, faux-precise numerical measure, faculty will be able to experiment more with the kinds of work they assign, mixing things up and giving work that challenges different skills. Plus, because our reform includes fixed ranges for the number of H grades that can be awarded, the need and incentive to "forum shop" based on how a particular professor grades should disappear.

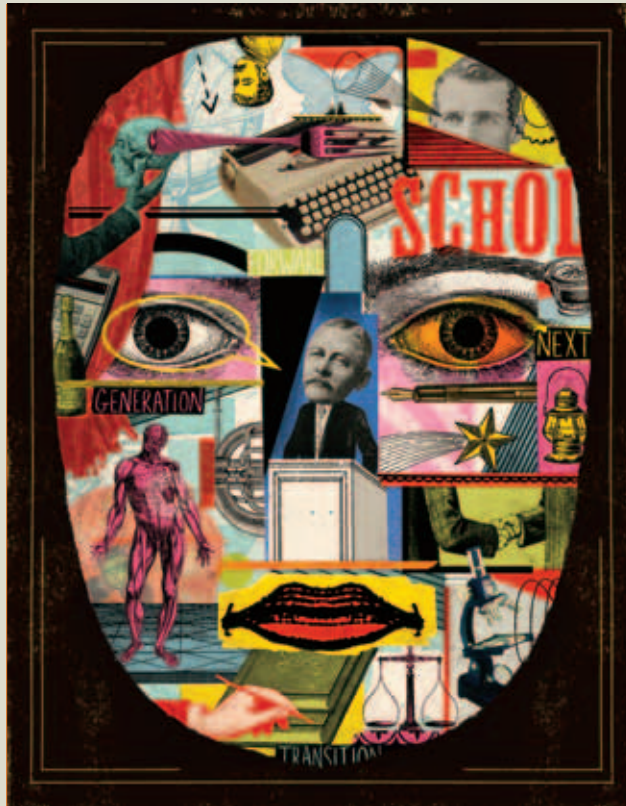
Above all, this change is a vote of confidence in our students. We trust that they are ambitious and engaged enough to learn without the threat of a draconian grading scheme. We trust that they are remarkable enough that employers will be impressed without transcripts purporting to make fine-grained distinctions among them. Stanford Law School students are extraordinary. They bring so much more to the table than can ever be conveyed in a number like 3.785. Our new grading scheme should lead those who hire them not just to see that, but to act on it.

# STANFORD LAWYER FALL '08

## Cover Story

### 20 KINKS IN THE GLOBAL SUPPLY CHAIN

Can the U.S. control product safety and enforce Western labor standards in an increasingly global market? This report examines the legal implications of an international supply chain in which constant pressure to manufacture products for less has exposed safety and ethical concerns.



Cover Illustration by  
Jason Holly

## In Brief

2 [Alumni and School News](#)

## In Focus

8 [THE CHIEF: RON GEORGE AT THE HELM OF CALIFORNIA'S SUPREME COURT](#)

A look at the career of California Supreme Court Chief Justice Ronald George '64, leader of one of the largest judiciaries in the country and world.

12 [BILL NEUKOM: BATTING 1,000](#)

From technology to the legal profession to baseball: A profile of former Microsoft GC, outgoing ABA president, and new managing partner of the SF Giants Bill Neukom '67

14 [PREPARING THE NEXT GENERATION OF LEGAL SCHOLARS](#)

Stanford Law School's reputation at the fore of legal education is due in large part to its excellent faculty. What is the law school doing to prepare the next generation for the legal academy?

18 [LEGAL EDUCATION IN AFGHANISTAN](#)

Stanford Law School students' efforts to develop legal education in Afghanistan

## Legal Matters

28

[DAHLIA LITHWICK](#)

Supreme Court columnist Dahlia Lithwick '96 discusses with Professor Jeffrey Fisher the ins and outs of covering the nation's highest court.

## Faculty News

33

Stanford Law School faculty news

## New Faculty

34

An introduction to new faculty and visiting faculty

## Clinic News

36

Highlights from the Mills Legal Clinic of Stanford Law School

## Point of View

38

Professor Daniel Ho on tracking media bias

## Perspectives

40

[LAW IN NAMIBIA](#)

Andrew Ardinger '09 (BA '06) on legal work in Namibia with the International Human Rights Clinic

## In the News

42

Faculty and alumni speaking on issues of the day

## Graduation

44

## Departments

[FROM THE DEAN](#)

45 [CLASSMATES](#)

90 [IN MEMORIAM](#)

92 [KUDOS AND](#)

[UPCOMING EVENTS](#)

93 [LETTERS TO EDITOR](#)

## STANFORD CENTER ON THE LEGAL PROFESSION LAUNCHED

CAN ASSOCIATES WORKING AT LARGE FIRMS FIND A DECENT WORK/LIFE BALANCE? WHAT HAVE GLOBALIZATION AND MERGER-MANIA DONE TO THE TRADITIONAL LAW FIRM? How can the profession increase access to legal services? These are just a few of the questions that the new Stanford Center on the Legal Profession (CLP) will grapple with. Launched this September, the center will be led by Deborah L. Rhode, Ernest W. McFarland Professor of Law. CLP will support research, teaching, programs, and policy initiatives that address crucial issues facing the profession. • Rhode says one of CLP's focal points will be the lives of lawyers. Plans call for empirical research on legal workplaces. For example, one proposed project will study firms that have successful alternative workplace structures governing compensation and quality of life or different models of service such as Axiom, which has jettisoned partnerships, profit sharing, and billing requirements in exchange for giving attorneys choice about assignments in which they work from home or from client offices. • "Increasing competition in legal services has had enormous effects and it's not clear that the current business model is sustainable," says Rhode. "We're looking for ways to address the competitive obstacles to improving quality of life—an area that has received very little attention from academia."

Another CLP priority is leadership development, which has been largely absent from law schools, even though many JDs go on to fill leadership positions in firms, nonprofits, and the public sector. In addition to developing interdisciplinary courses with business schools, the center intends to create continuing education offerings to help legal leaders sharpen their managerial and business skills.

Improving bar regulatory structures is another big theme, as is access to justice. "The United States has the world's highest concentration of lawyers, but one of the least adequate systems of legal assistance," says Rhode. The center has received its first major grant from the Sokolove Charitable Fund to address this issue. Called the Roadmap to Justice Project, its goal is to bring together leaders in the field to develop a national agenda for expanding access to legal services for low- and middle-income individuals.

To achieve its goals, the center will draw on the expertise of several SLS faculty, including Norman W. Spaulding '97, Nelson Bowman Sweitzer and Marie B. Sweitzer Professor of Law and associate dean for curriculum, and Michele Landis Dauber, professor of law and Bernard D. Bergreen Faculty Scholar. Other potential collaborators include Stanford's Graduate School of Business, the Rock Center for Corporate Governance, the Levin Center for Public Service and Public Interest Law, and the Stanford Center on Ethics.

"Work/life integration and professional development are the two most common career issues raised by the students and alumni I counsel," says Susan C. Robinson, associate dean for career services. "If we can find ways to drive change in these areas, we can hopefully stem the tide of attorneys leaving the legal profession."



# R I E F

## Fellow Honors

Two JSD students—one still at SLS, one recently graduated—have garnered attention for their scholarship.

The American Society of International Law awarded Benedetta Faedi, JSM '07, JSD '11, with a 2008 Helton Fellowship, which provides recipients grants to pursue research on international law and human rights issues. Faedi is using the grant to investigate why some Haitian victims of sexual abuse become active in armed groups, and to develop strategies for improving women's participation in conflict resolution. In addition to being tapped for the Helton Fellowship, Faedi was named a 2008-2009 graduate dissertation fellow of the Michelle R. Clayman Institute for Gender Research at Stanford.

Manuel A. Gómez, JSM '02, JSD '07, won the Law and Society Association's 2008 Dissertation Prize—the first time a Stanford student has won the honor since it was created in 1999. Gómez's dissertation, "All in the Family: The Influence of Social Networks on Dispute Processing," presents empirical research on how social connections shape the way in which conflict is processed in the Venezuelan business sector.

## National War Powers Commission Releases Findings

STANFORD LAW SCHOOL served as a partner institution to the bipartisan National War Powers Commission, whose study of the respective war powers of the president and Congress was released in early July. The commission was co-chaired by former Secretaries of State Warren Christopher '49 and James A. Baker III.

In its report, the commission recommended that Congress repeal the War Powers Resolution of 1973 and substitute a new statute—the War Powers Consultation Act of 2009—that would provide for more meaningful interchange between the president and Congress on matters of war. Among the features of the proposed legislation is a provision that the president must consult with Congress before ordering a "significant armed conflict" expected to last longer than one week.

"We have tried to be as specific as possible in this report and in this legislation," says Christopher. "We have defined the kinds of armed conflict that would be covered by the statute and have laid out a clear course of action for both the president and Congress that is practical, constructive, and deliberative."

As a partner institution SLS provided scholarly expertise, conducted research, and hosted a commission meeting in January 2008. A PDF version of the report is available at [www.law.stanford.edu/news](http://www.law.stanford.edu/news).



JAMES A. BAKER III AND  
WARREN CHRISTOPHER '49

## TWO SLS STUDENTS WIN INTERDISCIPLINARY FELLOWSHIPS

Tamar Kricheli-Katz, JSM '05, JSD '12 (PhD '12), and Binyamin Blum, JSM '06, JSD '11 (MA '11), are young scholars with much in common: Both hail from Israel, where they attended the law school at The Hebrew University of Jerusalem and clerked for the Supreme Court of Israel. And now, each has been awarded one of Stanford's new Interdisciplinary Graduate Fellowships, a top honor the university gives to doctoral students immersed in interdisciplinary research. • Pursuing doctoral degrees in law and sociology at Stanford, Kricheli-Katz studies organizational practices, especially those associated with changing legal regimes. One of her papers examined the concept of "organizational fields."

"The question she pursued is one many have speculated about but have never answered empirically until now," says Michele Landis Dauber, professor of law and Bernard D. Bergreen Faculty Scholar and a professor (by courtesy) in the Department of Sociology. "This is a significant contribution for any scholar, but a truly impressive one for such a young student."

Blum, who received his JSM from Stanford Law in 2006 as part of the Stanford Program in International Legal Studies, is researching the transplantation of English common law into the Middle East following World War I, specifically criminal procedure and rules of evidence, to suit local circumstances in Palestine and Iraq.

"Binyamin's research is at the cutting edge of work in the fields of law and history and addresses an issue of crucial social importance: the problem of legal transplantation and its unintended consequences," says Amalia D. Kessler (MA '96, PhD '01), professor of law and Helen L. Crocker Faculty Scholar and professor (by courtesy) of history, who serves as Blum's advisor.

To read more about how SLS is cultivating interdisciplinary scholarship, see "Preparing the Next Generation of Legal Scholars" on page 14.

## SLS Adopts New Grading System

THIS FALL THE CLASSES OF 2010 AND 2011 WILL BE THE FIRST TO USE THE LAW SCHOOL'S NEW GRADING SYSTEM, which eliminates the complex numerical scheme in favor of a system of honors, pass, restricted credit, and no credit (H/P/R/F). Approved by a faculty vote this past May, the shift aims to motivate students to choose classes regardless of the grading reputation of the professor and to encourage faculty to experiment more with the kinds of assignments they require.

"Our grading system was unnecessarily complicated, plus there was a sense that it created a degree and kind of grade pressure that was unwarranted and unhelpful," says Larry Kramer, Richard E. Lang Professor of Law and Dean, who notes the change comes after a year of faculty, student, and alumni study and debate around the issue.

Previously, all students received one of 21 numerical grades ranging from 2.1 to 4.3. Each grade had a letter equivalent ranging from A+ to F.

Many on the faculty found dividing, for example, 30 final exams into 20 different grades, too arbitrary. And the difference between exam courses, graded on the mandatory mean, and off-mean courses seemed to affect course selection in odd ways.

While some details of the transition to the new system have yet to be worked out—such as what to do about honors at graduation, including the Order of the Coif—here are the basics: This year's 2Ls, the incoming 1Ls, and all future classes will be graded under the new H/P/R/F regime. 3Ls will finish their Stanford careers on the traditional numeric system. To read more about the new grading system, see "From the Dean" on the inside front cover.

## Stanford ACS Chapter Gains Momentum

THE STANFORD LAW CHAPTER OF THE American Constitution Society for Law and Policy (ACS) is in growth mode these days. Last year it hosted 27 events, won two awards, and its president, Andrew Blotky '09 (BA '02), was elected to the ACS national board of directors. With 200 members and counting, the Stanford Law chapter ranks among the largest and most active of ACS's over 160 student chapters.

Founded in 2001 in the wake of *Bush v. Gore*, the national ACS organization has emerged as a liberal answer to the Federalist Society for Law and Public Policy Studies, which, since its beginnings in 1982, has grown into a nationwide network for conservative lawyers and law students. Stanford Law students established a founding chapter of the Federalist Society in 1982.

Recently, Stanford Law's ACS members have focused many of their efforts on cultivating connections beyond the law school. Last fall they launched ACS Bay Area Networking & Development (BAND), which brings together law students and lawyers in small groups to discuss public policy and legal issues. Each "ACS family" has between eight and 14 members and meets four times per year.

"The goal is to connect ACS members in the Bay Area who wouldn't normally cross paths," says Blotky. "There isn't a set agenda other than working to build a stronger progressive community."

The BAND project was recognized with an award at the ACS National Convention in Washington, D.C., this June, which 15 SLS students attended. The SLS chapter also was singled out at the convention for its strong programming efforts, which have ranged from debates on the death penalty to visits from federal circuit judges.

Many of the group's events—including a talk with fired U.S. attorney John McKay—have provided fodder for its popular *Summary Judgments* podcast (<http://acslaw.stanford.edu/podcast>), which discusses policy issues relevant to the ACS community.



MEMBERS OF STANFORD LAW'S ACS CHAPTER

## Law Library Hires International Specialist

Stanford Law School students studying international law will get some extra help from the library this year with the addition of a specialist librarian, Sergio Stone, who joined the library staff in fall 2008. The first-ever foreign, comparative, and international law (FCIL) librarian at the Robert Crown Law Library, Stone aims to help students test the waters of international legal studies without fearing complex foreign legal systems.

Stone, a native of Chile with a bachelor's degree from Carleton College, a library science degree from the University of Denver, and a law degree from New York University, says that his main goal is to "lower the barriers of entry for faculty and students to engage in FCIL research." He explains that this involves "disseminating information tailored to specific courses, locating opportunities to study or work overseas, creating strategic alliances with foreign law libraries, and building collections to meet the new curricular and clinical needs." These new collections include specialized online databases, such as China Law Express. Prior to joining Stanford, Stone served as an FCIL librarian at the University of Denver.

## BECKER CO-FOUNDS \$4 MILLION FREEDOM PRIZE FOR REDUCING OIL FOOTPRINT

**I**N 2005, JOSH BECKER, JD/MBA '98, WAS VACATIONING IN ITALY WHEN HE RECEIVED A PHONE CALL FROM HIS FRIEND AND FELLOW ENTREPRENEUR JACK HIDARY. "He told me there was an energy bill in Congress and the time was right to do something," recalls Becker, co-founder and general partner of New Cycle Capital, a socially conscious venture fund. • Clean energy supporters had something in mind: a competition—funded by Congress—to reward groundbreaking efforts to reduce U.S. dependence on foreign oil. Called the Freedom Prize, the award would focus not on research and development but rather on existing technologies and strategies being used to promote energy independence. • "We wanted to make an immediate impact on the environment, and we knew from experience that prizes can be an effective tool for supporting public policy," says Becker, who with Hidary helped develop the X PRIZE competition to build an uber-efficient car that can exceed the equivalent of 100 miles per gallon.

Once back in the States, Becker traveled with Hidary to Washington, D.C., where Congress was debating the Energy Policy Act of 2005. They met with the staff of New Mexico Senator Jeff Bingaman '68, then the ranking Democrat on the Senate Energy and Natural Resources Committee and one of the bill's top negotiators. And, a Stanford GSB connection netted them a sit-down with the staff of Texas Congressman Joe Barton, who chaired the House Energy and Commerce Committee. What happened next was straight out of "Lobbying 101."

"We'd show up at the joint committee hearing and buttonhole members during the break," explains Becker. "We created a whirlwind around the idea."

Their efforts paid off. The competition was written into the bill, and this June the Freedom Prize Foundation and the U.S. Department of Energy kicked off the program, which will award prizes ranging from \$500,000 to \$1 million in the coming year. (Applications are available this fall at [www.freedomprize.org](http://www.freedomprize.org).)

Becker has a knack for applying entrepreneurial ideas to public policy issues. In 2005 he teamed up with Hidary to co-found SmartTransportation.org, which led to New York City's switch to hybrid taxis. (Today the city has more than 920 hybrid taxis; the entire fleet will be hybrid by 2012.) Becker is also the founder and chair of Full Circle Fund, an alliance of business leaders focused on tackling public problems through philanthropy and policy advocacy. As for the Freedom Prize, Becker is excited to see what innovations people come up with in the program's five categories: industry, schools, government, military, and community. "At the end of the day our goal is to get major institutions in society to decrease their oil use—and to improve the environment," he says.



## SCLC Conference Confronts Biological Threats

ALTHOUGH THE BEST-LAID PLANS ARE LIKELY TO CHANGE if a pandemic or bioterrorism attack hits the United States, having no plans in place is a sure guarantee for disaster. That's what Department of Homeland Security Secretary Michael Chertoff told attendees of the Germ Warfare, Contagious Disease and the Constitution symposium held in Washington, D.C., in April 2008. The event, hosted by the Stanford Constitutional Law Center (SCLC) and the Constitution Project, a nonprofit public policy organization, brought together policymakers and constitutional experts to discuss how state and federal officials might respond to epidemics while protecting individual rights. Stanley Morrison Professor of Law and former Dean Kathleen M. Sullivan, who directs SCLC, moderated an afternoon panel that included Pamela S. Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, and Robert Weisberg '79, Edwin E. Huddleson, Jr. Professor of Law.

Earlier in the day, about 60 legal scholars and public officials—including former Secretary of Defense William Perry (BS '49, MS '50) and former California Governor Gray Davis (BA '64)—participated in a closed-door roundtable discussion of a fictitious scenario that explored federal and state governments' possible responses to an unfolding deadly epidemic as it crossed state lines. Participants included officials from the Department of Justice, the Department of Homeland Security, the military, the Centers for Disease Control and Prevention, and other agencies.

Watching the action was a group of third-year Stanford Law students who played a key role in preparing for the exercise. As part of a spring *Constitutional Law Workshop*, the students developed legal briefs written from the perspective of an individual, a state government, and the federal government. The briefs were provided to conference participants, who used them during the simulated exercise to inform discussions of how the scenario might play out in court in a real crisis. Most of the workshop's 12 students attended the conference thanks to Peter S. Bing (BA '55), who provided support for the initiative.

"Students had a wonderful opportunity to talk with policymakers and to see the interplay between legal advice and policy formation," says SCLC Fellow Laura K. Donohue '07, who initiated the event and is the author of a new book, *The Cost of Counterterrorism*. "More broadly, the conference stimulated a deeper discussion about how current laws should be changed to take account of emerging national security threats as well as constitutional concerns." —with reporting from Lisa Trei



PAMELA S. KARLAN, KATHLEEN M. SULLIVAN, ROBERT WEISBERG '79 AND FELLOW PANELISTS

## BY THE NUMBERS: THE LEVIN CENTER'S YEAR IN REVIEW

The John and Terry Levin Center for Public Service and Public Interest Law oversees a broad range of initiatives designed to foster a culture of service at Stanford Law and in the broader legal profession by creating pro bono opportunities and encouraging all law students to contribute their time and skills. The following is a roundup of some of the center's many accomplishments in its first year:

- In 2008, Stanford provided \$585,500 to support 103 law students during their summer public interest internships with nonprofits and government agencies worldwide, an increase of almost 30 percent in funding.
- SLS alumni received a record number of public interest fellowships this year including three Skadden Fellowships, two Equal Justice Works Fellowships, five U.S. Department of Justice Honors Program positions, and five other postgraduate fellowships.
- 210 law students performed 4,008 hours of pro bono service, nearly doubling the hours reported during the prior academic year.
- The center's Social Security Disability Pro Bono Project represented 22 clients in social security disability matters and counseled another 15 homeless individuals at public benefits advice sessions.

For more information on the ongoing work of the John and Terry Levin Center for Public Service and Public Interest Law, please go to the website at [www.law.stanford.edu/program/centers/pip](http://www.law.stanford.edu/program/centers/pip).

### The New Law School Building: Designed for Interdisciplinary Collaboration

The Stanford Law School community will be getting some much-needed space as plans for a new law school building move ahead. With a groundbreaking ceremony scheduled for spring 2009, the building could be ready for occupancy as early as December 2010. Completing Crown Quadrangle, the new structure will replace Kresge Auditorium—expanding the law school campus with approximately 63,000 square feet of offices, clinics, and seminar and meeting rooms.

"This new building, and the opportunity it affords us to promote our vision architecturally, will be the foundation upon which all else rests," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "A building that fosters interaction will go far to create a more engaged and engaging environment, all to the benefit of the teaching and scholarship that go on at the school."

For more information about plans for the new building, please go to [www.law.stanford.edu/school/offices/external\\_relations](http://www.law.stanford.edu/school/offices/external_relations).



A VIEW OF THE NEW LAW SCHOOL BUILDING FROM THE MUNGER GRADUATE RESIDENCES

## Public Service Loan Forgiveness Program Expanded

"AS EDUCATORS WE DREAM OF PREPARING ALL STUDENTS FOR CAREERS IN WHICH THEY FLOURISH AND CONTRIBUTE TO THE BETTERMENT OF THE WORLD," says Lawrence C. Marshall, professor of law, associate dean for public interest and clinical education and the David and Stephanie Mills Director of Clinical Education. "Stanford's LRAP program can make that dream a reality for our students who wish to pursue careers in public service." • After pioneering loan forgiveness more than 20 years ago, Stanford Law School this year made several significant enhancements to the Miles and Nancy Rubin Loan Repayment Assistance Program (LRAP). With the help of an anonymous \$2 million contribution and an additional \$1 million matching gift from Miles Rubin '52 (BA '50) and his wife Nancy, a career in public service is now more affordable than ever for Stanford Law alumni. • Stanford Law's LRAP provides loan repayment assistance by lending participants funds each year so they can pay their often substantial educational debt while doing low-paying public service work. A portion of Stanford Law's annual LRAP loan is then "forgiven." The big changes to the program involve the salary level and timing for complete loan forgiveness. Previously, a percentage of the Stanford Law LRAP loan was forgiven only after three years of continuous public service work, with 100 percent forgiveness not possible until year five. With this latest enhancement to the program, 100 percent of Stanford Law's annual LRAP loans are forgiven after each year of public service employment, starting the very first year. Additionally, program participants can earn more income without losing a portion of their loan forgiveness now that the cumulative yearly income at which full forgiveness may be achieved has been raised from \$45,000 to \$50,000. • "The average LRAP participant will likely see a 25 percent increase in his/her annual LRAP benefits," says Susan Feathers, executive director of the John and Terry Levin Center for Public Service and Public Interest Law.

A look at the educational-debt-to-expected-salary equation highlights the challenge for alumni seeking a public service career. In the late 1980s tuition at Stanford Law was approximately \$12,000 per year and the average graduate left with approximately \$40,000 in educational debt, while the starting salary at a private firm was about \$60,000 and in the public sector between \$20,000 and \$35,000. Today, Stanford Law tuition is just over \$40,000 per year and graduates can expect to leave with an average of \$100,000 in educational debt. But starting salaries for associates at big law firms have more than kept pace with tuition inflation: Today graduates working at private firms in a major city can expect an associate's salary of

\$160,000 plus bonus. Yet public service salaries have limped along and are currently about \$40,000 to \$50,000, rising to \$55,700 for Justice Department entry level positions in the Washington, D.C. area.

Growth in the program is equally compelling. In 1987, there were four participants in Stanford Law's LRAP. Today, the program provides benefits to about 100 alumni, with more added after each year's graduation.

"I believe that loan forgiveness in these circumstances is a moral obligation for Stanford," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "The costs of legal education are such that the subsequent debt has made it impossible for some of our graduates to choose a career in one whole sector within the profession."

# THE CHIEF: RON GEORGE AT THE HELM OF CALIFORNIA'S SUPREME COURT

By Sharon Driscoll



Chief Justice of California RONALD MARC GEORGE '64 IS AT HOME IN HIS CHAMBERS AT THE SAN FRANCISCO OFFICES OF THE SUPREME COURT. It's a large, stately space but welcoming, with a cluttered desk, a comfortable sofa, and a large table—the piles of folders on it carefully removed each Wednesday for the justices' meeting at which cases are discussed. Described as a judicial scholar, a visionary manager, and an effective lobbyist for the court system, George has embraced his role as chief of the largest judiciary in the world. He puts in long hours in chambers, on the bench, in courthouses around the state, and in Sacramento, where he is frequently found meeting with the governor and members of the legislature. During his tenure as chief justice, he has overseen a massive overhaul of the state's judicial system—his aim being to “establish the judicial branch as a true third arm of government, as it should be.”

Appointed to the court by Republican Governor Pete Wilson in 1991 and elevated by him to chief justice in 1996, George has defied the expectations of conservatives and liberals alike. He has consistently cited his reliance on the rule of law, contained in the statutes and precedents of California and the constitutions of both the state and the United States, as the governing influences on his jurisprudence—not any particular ideology. Already nationally known as a leader in court administration, Chief Justice George has even more firmly secured his place in history with his recently authored decision *In re Marriage Cases*, which legalized same-sex marriage in California. Seventeen years after his initial appointment to the California Supreme Court and after more than 36 years on the bench, George has gained a reputation as a fair-minded moderate who can surprise supporters and detractors of various political views with his independence.

Chief Justice George did not aspire to a life on the bench. After graduating from Beverly Hills High in Los Angeles, he headed to Princeton University's Woodrow Wilson School of Public and International Affairs to study for a State Department career. It was while on a trip through western Africa in 1959, during which he observed the consequences of the U.S. government's hands-off approach to international affairs, that he began to question his direction.

“It didn't really comport with my career objectives,” he recalls. “I found that there were a lot of diplomats who had no contact with the local population. My motives for going to law school probably weren't the noblest. I wanted to leave my options open and have the broadest range of possibilities, and I thought a training in the law would do that.”

But the combination of his undergraduate studies in politics and diplomacy and what he describes as the brilliance of Stanford Law's constitutional faculty, particularly Gerald Gunther, proved to be the right preparation for a stellar career on the bench.

George graduated from Stanford Law School in 1964 with an offer to join the California state attorney general's office as a deputy attorney general. Very early on, one of George's criminal cases reached the U.S. Supreme Court, and he was lucky enough to stay with it.

“I had to sort of fight to keep it because I was a rather young lawyer. But they told me they were very pleased with how I handled it,” says George.

During his seven-year tenure, he went on to represent the State of California in five more arguments before the U.S. Supreme Court and about a dozen more before the California Supreme Court, including the appeal from the conviction of Sirhan Sirhan for the assassination of Senator Robert Kennedy. Then Governor Ronald Reagan took notice of the rising prosecutor's talents and appointed George to the Los Angeles Municipal Court in 1972. So it was that just a few weeks after his 32nd birthday, George began his career on the bench. He was subsequently elevated by Governor Jerry Brown to the Los Angeles Superior Court in 1977 and by Governor Deukmejian to the Courts of Appeal in 1987.

Though labeled a conservative law-and-order judge, George quickly developed a reputation for independence—particularly while presiding over the Hillside Strangler case in the early 1980s as a judge on the Los Angeles



**“BASICALLY, I CALL THEM AS I SEE THEM. I CAME TO THE COURT AND  
I COME TO EACH DECISION WITHOUT ANY PREDETERMINED  
FIXED POINT OF VIEW.” Chief Justice George '64**

County Superior Court. George made the unprecedented decision to reject the Los Angeles County district attorney's request to dismiss the murder charges after the government's star witness changed his testimony. Instead, George referred the case to the state attorney general's office where it was successfully prosecuted in a two-year trial in his court.

"I handled death penalty questions. I handled Sirhan Sirhan. People look to easy signals to categorize," he says. "But certainly the Hillside Strangler case, where I didn't rubber-stamp what either the prosecution or the defense wanted but instead exercised my own judgment, is an illustration of independence."

That independence has, at times, been

met with opposition from conservatives in the state. Soon after his elevation to chief justice, he took up the controversial "parental consent in abortion" case, in which he and the court found that the state's constitutional right to privacy extends to girls under 18 and therefore parental consent is not necessary for abortion. Anti-abortion activists mounted a concerted effort to defeat George in his 1998 reelection bid. Despite this effort, he won handily with a 75 percent majority.

"Basically, I call them as I see them," says George. "I came to the court and I come to each decision without any predetermined fixed point of view. I think the obligation of any judge is to make an independent decision based upon the

record of the evidence and the state of the law, and that does not result in always fulfilling predictions of outside observers."

That adherence to the law and refusal to base decisions on public preferences recently came to the fore once again, when, on May 15, 2008, in a 4-to-3, 121-page decision authored by George, California's Supreme Court ruled that the right to marry extends to all regardless of sexual orientation. California joined Massachusetts as the second state in the country to recognize this right. But George, and the California court, went one step further than Massachusetts with its ruling by applying strict scrutiny to laws regulating sexual orientation as it does to issues of race, religion, and gender.

One of the most heavily briefed cases in the history of the California Supreme Court, with 45 amicus briefs filed by a range of organizations across the state and country, the case and the decision have been controversial. Although the opinion was hailed by many as a finely analyzed civil rights decision, some voiced their opposition to the holding and are supporting a November ballot measure to undo the decision.

"I made a conscious effort to just see where the law would take me," says George about his approach to the case. "But once I determined how I would be writing the opinion, then I could not help but be affected—just in my own attitude, not in my decision making—by the fact that this certainly was an historic event. And maybe that was brought home espe-

cially by virtue of the fact that the justices of the court who comprised the majority relied heavily upon the California Supreme Court decision in *Perez v. Sharp*."

The court's 1948 decision in *Perez v. Sharp* striking down a ban against interracial marriage was both groundbreaking and years ahead of public opinion. It took approximately 10 years for any other state to follow California's lead and 20 years for the U.S. Supreme Court to come to the same conclusion in the landmark *Loving* case.

"The *Perez* case was very controversial at that time and now it's accepted as standard reality," he says. "So there are constants in the law, but the law, of course, does need to accept current social and political realities in determining what the law requires. Past practice alone may not pro-

vide justification for discrimination."

Responding to critics of the decision, George points to the state's constitution.

"It really boiled down to a fundamental question: When is a court overreaching in its function and when is it shirking its responsibility to go forward regardless of public clamor," he says. "And that was the level of discourse we had on the court, not overly moralistic or *ad hominem* or—and I mention this because some of the opinions that other states have rendered have verged on this—homophobic."

He adds that the overwhelming feeling he has for the justices on the court is one of "pride" and that many of his fellow chief justices from around the country have contacted him to praise the way that both those joining and those dissenting from his judgment worked together.

## The Right to Marry

**WHEN GEOFF KORS '86 SAT DOWN WITH THE EQUALITY CALIFORNIA BOARD OF DIRECTORS FOR HIS** first meeting as the group's newly appointed executive director, he made a bold prediction: Marriage for same-sex couples would be legal in the state by the end of the decade. That was seven years ago. Last May, California's Supreme Court validated his optimism with passage of the historic *In re Marriage Cases*, which declared marriage a constitutional right for everyone in the state, regardless of sexual orientation.

For Kors and the legions of activists in the lesbian, gay, bisexual, and transgender (LGBT) rights movement, the decision was the culmination of years of planning and hard work. Since 2001, Kors has overseen the development of a comprehensive strategy for at-

taining one of Equality California's primary goals: equal rights for all in marriage. The first step, says Kors, was to win over the hearts and minds of Californians. The group commissioned social psychologists to research the issue and then developed a public education campaign.

"We had to put a human face on the issue," says Kors.

"You can make a logical argument to people, but if they've grown up thinking things should be a certain way, it doesn't always work," says Toni Broaddus '99, who founded Californians for Civil Marriage in 2002 (which merged with Equality California in 2003) and is now executive director for the Equality Federation, the national alliance of all state-based LGBT equality groups. "We've found that creating public acceptance actually makes it much easier for the

courts to rule in what we think is a rational and logical way."

### The Personal as the Political

On New Year's Day 2004, John Lewis '86 and his partner of now 21 years, Stuart Gaffney, made a daring New Year's resolution: Sue the State of California for fully equal marriage rights. To

get started in the movement, Lewis decided to attend Marriage Equality USA's annual "Freedom to Marry Day" rally at San Francisco City Hall on February 12, 2004. Expecting a protest, Lewis was instead greeted with the news that San Francisco's Mayor Gavin Newsom had just lifted the same-sex marriage ban.

"I called Stuart and said get

GEOFF KORS '86, TONI BROADDUS '99, JOHN LEWIS '86 AND MAYA HARRIS '92 OUTSIDE SAN FRANCISCO'S CITY HALL.



**T**HE JOB OF CHIEF JUSTICE OF CALIFORNIA CONCERNS much more than the thousands of cases that seek hearing before the court each year and the more than 100 cases it annually decides—it's also a huge management undertaking. The chief justice serves as chair of the Judicial Council, the constitutional entity charged with overseeing the statewide administration of justice. It is in this role that George's background in diplomacy has paid off, particularly as he has spearheaded and lobbied for an unprecedented reform of the state's judicial branch, a system that comprises more than 1,700 judges, approximately 450 commissioners, 20,000 court employees, and a budget of about \$4 billion.

Since taking on the role of chief justice, George has successfully led ef-

forts to change the state's trial courts from county-based to statewide funding, which, he says, has brought more financial stability and equalized the services and the accessibility of the courts. He and the council also lobbied for a constitutional amendment that permitted the unification of the 220 municipal and superior courts in the state into 58 superior courts, one in each county. Currently, he is leading the court system's work to transfer ownership and management of the vast majority of California's 451 courthouses from counties to the state, including a \$5 billion courthouse construction bond to support this move, now through the legislature.

After more than 36 years on the bench, the law is not just a job for George. It's a passion. In his late 60s, he

has no plans to slow down anytime soon. An avid runner, he no longer takes on marathons, but he still puts in 10-plus-hour days at the court, makes time to travel with his wife and sons, and enjoys a good book (*Team of Rivals* about President Lincoln's cabinet his current choice). Seeing no reason to give up a life he loves, he fully expects to seek reelection when his term expires in 2010.

As for a legacy, George says he doesn't have time to dwell on that.

"I think it's best left to people on the outside, to academics and journalists and others, to put things in context, historical and otherwise," he says. "Hopefully, I'll be viewed as somebody who gave his all to the opportunities provided someone fortunate enough to occupy this position." **SL**

down here, we're getting married," recalls Lewis.

Lewis and Gaffney were one of the first 10 couples married that day.

Marriages were halted within a few weeks, and those performed were invalidated by the California Supreme Court six months later. But Lewis and Gaffney fulfilled their New Year's resolution and became two of the named plaintiffs in the now historic lawsuit that overturned California's marriage ban.

Since 2004, Lewis and Gaffney have joined Kors and Broaddus in actively supporting efforts to win the freedom to marry, including lobbying the legislature, and engaging the media. They've also embraced face-to-face outreach—joining a bus tour to take the message out of the Bay Area and across America.

"We wanted to build empathy

within the public and, of course, the courts, to create a sense of common humanity, to show that this common humanity ultimately lies behind the due process and equal protection clauses of the Constitution," says Lewis.

### **A Legislative Push**

Hand in hand with public education has been a legislative strategy. In the lead-up to the California Supreme Court decision, Equality California oversaw the passage of nearly 50 bills in the California Legislature advancing LGBT rights, including the pivotal 2003 domestic partnership legislation, which set the stage for marriage equality.

The strategy worked. On May 15, 2008, California's Supreme Court reached its decision *In re Marriage Cases*, which legalized same-sex marriage.

"The California Supreme Court is the most influential

state high court in the country," says Maya Harris '92, who, until September, was executive director of ACLU of Northern California, which was co-counsel in *In re Marriage Cases* and has partnered with Equality California on many of its legislative efforts. "The decision heralds a sea change in California history, and it will spark profound shifts in American society."

"It was so eloquently written. It renewed my faith in the rule of law," says Broaddus of the California Supreme Court's 221-page majority decision, which was written by Chief Justice Ronald Marc George '64 and supported by Justice Carlos R. Moreno '75 in a 4-to-3 vote. And several of the more than 45 amicus briefs filed from a range of organizations across the state and country came from Stanford Law faculty, including one co-signed by Kathleen M. Sullivan and Pamela S. Karlan and another

co-signed by Michael S. Wald and Richard Banks (BA/MA '87).

Lewis and Gaffney married, again, on June 17, 2008, with Lewis's former boss and mentor, and former Stanford Law Assistant Dean, U.S. District Court Senior Judge Thelton Henderson, performing the ceremony.

Looking ahead, Kors, Lewis, Broaddus, Harris, and others are focusing their energies on defeat of Proposition 8, the November ballot initiative that calls for the California Supreme Court decision to be overturned.

Meantime, Kors is, for the first time in his life, contemplating marriage: "You grow up in a culture knowing, from the time you're a little kid, that you're not going to have this thing, this key institution in society. But then, suddenly, you have it. You're fully equal. It is truly an astonishing experience."

## BILL NEUKOM: BATTING 1,000

By Randee Fenner (BA '75)

Sometimes the most

INTERESTING CAREERS ARE THOSE WITHOUT A ROAD MAP. WILLIAM H. "BILL" NEUKOM '67, whether through serendipity, extraordinary prescience, or both, is living what many JDs—and baseball fans—can only dream of. After rising to the head of the legal department of a software icon, he was elected to represent his profession as president of the American Bar Association. If that weren't enough, he will now assume the role of general managing partner of the San Francisco Giants. And he's not done yet.

Like many successful lawyers, Neukom had no particular interest in the law when he was a teenager growing up in San Mateo, Calif., until he was elected chief justice of the first Student Court at his high school. But the experience wasn't enough for him to change course. He kept to his plan to study philosophy and headed east to Dartmouth College.

By senior year he found he had no great passion for pursuing a PhD, but he had developed an "abiding instinct for fair play." He notes, "I wanted to paint on a bigger canvas, and I thought it was a high calling to solve people's legal problems." After doing "surprisingly well" on the LSAT, he returned to the Bay Area and entered Stanford Law School in 1964.

"It was an amazing atmosphere, being surrounded by very smart people and 'scary-smart' professors," says Neukom, who notes that he developed a great appreciation for the law while at SLS.

"Bill always exhibited a keen intellectual curiosity. He was an excellent law student who even then always cared about the greater good and what the law should be, not necessarily what it was," says Charles G. "Chuck" Armstrong '67, president of the Seattle Mariners Baseball Club. "Moreover, he was the center on our intramural basketball team that went to the championship game before losing."

Yet, despite the remarkable environment at Stanford, Neukom says that he didn't get out of it all of what he should have. "I took it too seriously—I just ground through it, lost in the 'trees' and missing the 'forest.'"

As a result, he was unsure of what he wanted to do when he graduated. "San Francisco firms were hiring students with better records," he recalls. He decided to try Seattle when he saw a job notice on the law school bulletin board for a "law clerk/bailiff" in the King County Superior Court.

In Seattle, he found himself literally working as a bailiff: "This was not a

prestigious position. I filled water pitchers and babysat juries."

But he also spent time briefing his judge, Hon. Theodore S. Turner, whom he recalls fondly as "a Renaissance man who loved the law." Turner presided over both motions and trials, and Neukom was exposed to a variety of advocacy under the tutelage of someone he now regards as one of his first mentors.

From there, Neukom joined a small law firm but after eight or nine years decided he wanted more range in his practice. He knew William Gates Sr. and, bringing some clients with him, Neukom joined the firm of Shidler McBroom Gates & Lucas (later Preston Gates & Ellis) in 1978.

Neukom was still in a temporary office when Gates Sr. asked him to advise his son's software startup. Neukom says he has "never known why Bill Gates Sr. would approach a new lateral hire with absolutely no technical background to take on that task."

It is tempting to say that the rest is history. Neukom left the firm and became Microsoft's first general counsel, heading the legal department from 1985 until 2002. During that time, Microsoft began its historic rise as a global software giant, while Neukom's team was at the center of the developing legal field of intellectual property.

Neukom, operating in the eye of the hurricane, initially didn't have a real awareness of the massive effect Microsoft was having on the computing world. "I thought I was just part of a first-generation company that was on a mission to create useful technology," says Neukom. But he steered the company through Microsoft's legal growing pains, including the 1998 federal government antitrust action, against which Neukom defended the company.

Neukom rejoined the Gates firm—now K&L Gates—in 2002 and soon became the chair of the firm, which gave him an opportunity to pursue his long-



**"I WANTED TO PAINT ON A BIGGER CANVAS,  
AND I THOUGHT IT WAS A HIGH CALLING TO SOLVE  
PEOPLE'S LEGAL PROBLEMS." Bill Neukom '67**

time interest in community and professional affairs.

Always an active participant in the ABA, Neukom served as a state delegate and eventually ran for and was elected ABA president. His term expired in August 2008, but not before he had launched World Justice Project, which is dedicated to bringing the rule of law to developing nations. Neukom explains that every ABA president has a pet project but he wanted something that would stand alone and continue after his presidency. He sought and received funding from numerous outside sponsors, including a \$1.75 million launching grant from the Gates Foundation.

Many in his position might be content at that point to rest on their laurels. But Neukom is about to undertake what some would consider another dream

job—general managing partner of the San Francisco Giants.

According to Neukom, a die-hard Giants fan whose love affair with the team began when it moved to San Francisco in the late 1950s, this was "not in the master plan." But working for Microsoft—and accumulating valuable stock options—allowed him to invest in the owners' group that was formed in 1992 to keep the Giants in San Francisco. Over time, Neukom was able to increase the size of his investment—and thereby increase his role in the team's operations. Now he will take on the job of CEO, a full-time position that will require him to be in San Francisco as many as six or seven days a week, although Seattle will remain his home.

"Operating a major league baseball

team is akin to managing a public trust," says Armstrong. "One is the designated caretaker for all the fans and the community in which the team plays. And every day you are held accountable. It is an amazing experience and difficult to explain to others."

"If anyone can bring the San Francisco Giants back to the top, it's Bill," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "He's a brilliant, effective, and inspiring leader, whether at the helm of a software giant, the ABA—or a baseball team."

One of his goals for the organization is to define "the Giants' way" of playing baseball—whatever that may be. Giants fans certainly hope that means that Neukom will continue his winning streak in his most recent endeavor. **SL**

## THE NEXT GENERATION: PREPARING FOR THE LEGAL ACADEMY

By Scott James Shackelford '09

T

he fictional Professor KINGSFIELD OF *THE PAPER CHASE* FAME WOULD PROBABLY NOT BE HIRED AT HARVARD LAW SCHOOL TODAY. To become a contracts professor at Harvard, Kingsfield was likely near the top of his class, held a prestigious position on the law review and an equally sought-after clerkship. He may have briefly practiced, and was tenured shortly thereafter, while writing mostly doctrinal work. To be hired at Stanford, Harvard, or any top-tier law school today, Kingsfield would need a whole different set of credentials. Grades and clerkships matter less than publications and a well-developed research agenda. As a result, Stanford Law and schools across the nation are grappling with how best to prepare students interested in academic careers for this new environment.

Teaching was the primary job of faculty members in law schools a generation ago. "Law faculties across the nation were full of really smart law students, but not necessarily great scholars," says Larry Kramer, Richard E. Lang Professor of Law and Dean. Today new hires no longer get the benefit of the doubt; their scholarly potential must be proved from the outset. "This new focus means that the classic big three—law review experience, grades, and clerkships—have lost importance," says Lawrence M. Friedman, Marion Rice Kirkwood Professor of Law.

The driving force of change in the legal academy over the past generation has been scholarship, both at entry level and at time of tenure. "Until about 25 years ago, scholarship played a relatively minor role in the legal academy and tended to take one narrow, doctrinal form. The typical law professor wrote one tenure piece and then never wrote anything again other than casebooks or hornbooks," says Barbara H. Fried, William W. and Gertrude H. Saunders Professor of Law. That began to change in the 1970s with the birth of the law and economics and critical legal studies movements on campuses across the country. "These movements were defined by the fact that students who came out of the 1960s were much more sophisticated in what they sought to do as scholars," says Kramer. Although standards differ widely from department to department, at time of tenure today the quantity and quality of writing expected of law professors is as rigorous as in any part of the university.

But what explains this shift? University administration is part of the story. According to Friedman, "Universities have been putting more and more pressure on law schools to apply the same scholarly standards as other departments in universities. This means placing a greater emphasis on research and publications." Hence the proliferation of law professors with doctorates in other fields—these scholars already have proved capable of producing a body of excellent work. The increasingly interdisciplinary nature of the legal academy has also led to new opportunities in the field.

"What counts as legal scholarship has broadened significantly over the past twenty years," says Fried. As the definition of legal scholarship has expanded, so too has the attraction of law teaching for students and scholars who are interested in more than doctrinal work. Today, legal academics are not only blogging and writing newspaper op-eds, but are also researching the legal aspects of a greater variety of fields than ever before. A few examples of broad scholarship by faculty at Stanford Law include Richard Thompson Ford's (BA '88) book *The Race Card: How Bluffing About Bias Makes Race Relations Worse*, and Alison D. Morantz's award-winning empirical study of workers' compensation claims.

That is not to say that a PhD is now required to enter legal academia. But, "just plain being smart and having good lawyerly skills aren't enough to get you a teaching gig anymore. You need to have produced at least some good scholarship, and have something else," says Kramer. "That something else might be training in another discipline, or it might be experience and thoughtfulness about how the law operates in some area. But something."

Responding to the change in scholarly expectations, Stanford Law offers a wide variety of programs and initiatives designed to make its students competitive on the law teaching market. The law school also offers substantive fellowships that give law graduates the chance to gain teaching experience and focus on



SCHOL

FORWARD

GENERATION

NEXT

TRANSITION

research and writing in their chosen field. These fellowships are the equivalent, in many ways, of “post-docs” in other fields, but this is such a new idea in law schools that even current fellows have been struck by it. “When I got the corporate governance fellowship three years ago, it was not yet established that the position was a path to teaching. Now, it’s expected that you’ll go on the market,” says Brian JM Quinn ’03 (MLS ’01), the corporate governance and practice teaching fellow at Stanford Law until July, who joined Boston College Law School’s faculty as assistant professor in fall 2008.

In addition to the legal research and writing fellowship program, Stanford Law offers specialized fellowships in a range of fields including clinical education, corporate governance, the Stanford Program in International Legal Studies (SPILS), law and the biosciences, Internet and society, constitutional law, environmental law, criminal justice, and more. And new fellowships are being added almost yearly. In total, Stanford Law has more than quadrupled the number of fellows over the past five years from eight to approximately 36 in the fall 2008 term.

“The fellowship program at SLS has been a fabulous experience,” says Laura K. Donohue ’07, fellow at the Stanford Constitutional Law Center from 2007–2008, who now clerks for Judge Noonan on the Ninth Circuit. “When I started my fellowship there were 18 fellows, which was already the largest number at any top law school. But we’ve since more than doubled even that number.”

But it’s not just a numbers game that is driving growth. “The development of these fellowships is critical to give potential teachers and scholars a chance to develop before hazarding the market,” says Kramer. “Fellowships help improve the overall quality of legal teaching and scholarship and thus

greatly benefit legal education.”

“The faculty has been extremely supportive and I’ve learned a huge amount. I’ve finished a book and organized several conferences with Professor Kathleen Sullivan,” says Donohue. Donohue’s most recent conference addressed the constitutional issues of quarantine in a biological weapons attack that featured speakers from the White House, U.S. Department of Defense, U.S. Northern Command, and the Centers for Disease Control and Prevention. “And I got to do that just because Kathleen asked what would I like to do,” says Donohue.

**B**YOND FELLOWSHIP PROGRAMS, Stanford Law offers numerous formal and informal joint degrees. Over the past two years, Stanford Law has established 20 joint degree programs with different departments, schools, and interdisciplinary programs at Stanford that allow students to get a master’s degree or PhD concurrently with their JD. This has never been more important given how quickly legal education is changing.

“Universities have traditionally been structured as a set of adjacent boxes: humanities, business, etc.,” says Kramer. “Now, the boxes are beginning to dissolve. What we’re seeing is a change in higher education itself. Instead of scholars working alone on articles and books as goals unto themselves, scholarship is increasingly defined in terms of projects that require scholars to work collaboratively in teams with students, academics, and policymakers. Books and articles are becoming by-products rather than end products of an ongoing effort to address and solve a larger project or problem in the real world.”

As a result of these entrepreneurial efforts, Stanford Law is doing increasingly well in placing its graduates and fellows in this highly competitive environment. In the past two years alone, 22 Stanford Law graduates were appointed to tenure-track

teaching positions, which represents 6 to 7 percent of each graduating class. The 22 people who secured jobs represents 70 percent of the total number of Stanford JDs who went on the market in those two years—an astonishingly high success rate.

And fellows have organized to support their success on the job market. Two years ago, for example, the fellows began a series of workshops on the law faculty hiring process, along with strategies for effective teaching and writing. “The year before we started this, six fellows got jobs at second-tier law schools and one at a tier-three school. In this last cycle, every single fellow who went on the market got a job at a top-tier law school,” says Donohue.

Stanford Law has made such a push to assist legal scholars for several reasons, according to Fried. “We have an obligation to all of our students to do the best job we can to train them for the legal careers they want,” she says. “Law professors also have a disproportionate amount of influence in shaping the next generation of lawyers and policymakers, and in shaping policy itself. And as interdisciplinary work becomes more and more important in law, world-class universities like Stanford have a critical role to play in training legal academics as well as lawyers.”

Today, more students than ever are choosing a career in legal academia. And the hiring process sponsored by the Association of American Law Schools (AALS) has become the gauntlet through which these aspiring law teachers must pass. The process involves submission of a summary of publications, research interests, and references, which hiring law schools then examine. Those who are picked for interviews attend the annual AALS conference, known not so fondly as “the meat market,” and follow up this process with interviews at interested schools.

Why the increase in applications to teach law? Theories range widely from

## Kauffman Grant Supports Innovation

ORIGINAL RESEARCH REQUIRES TIME: time to incubate an idea, time to conduct fieldwork, time to do rigorous analysis. And, as the saying goes, time costs money. • Enter the Ewing Marion Kauffman Foundation—the world’s largest foundation devoted to entrepreneurship—which has awarded Stanford Law School a grant to support promising legal scholars whose work is focused on law, innovation, and economic growth. One of six law schools to be awarded the grant, Stanford Law will receive \$180,000 over three years to support Kauffman Legal Research Fellows.

“Research to understand linkages between the law and innovation is vital to educate courts and policymakers when making decisions that affect economic growth,” says Robert Litan, vice president of research and policy at the Kauffman Foundation. “This grant seeks to engage scholars in this important work at the beginning of their careers.”

“It’s a perfect symbiotic relationship. Where better than Stanford, after all, to invest in further understanding entrepreneurship and innovation?” says Larry Kramer, Richard E. Lang Professor of Law and Dean. “And it’s enormously helpful to the school and its students to enable them to pursue this critically important research.”

This grant builds on previous support from the Kauffman Foundation, which last year provided more than \$700,000 to fund research projects exploring the intersection of law, entrepreneurship, and economic growth.

The inaugural Kauffman Legal Research Fellows are Stefania Fusco, JSM ’05, JSD ’09, and Markéta Trimble Landová, JSM ’06, JSD ’10, who are both pursuing doctoral research on patents.

Fusco is zeroing in on the impact of patent protection on financial innovation. She is interested, in particular, in the aftereffects of the 1998 State Street Bank decision (*State St. Bank & Trust Co. v. Signature Financial Group*), which, in allowing a patent for consolidating different kinds of mutual funds, opened up the door to patenting mathematical formulas and business methods.

With that in mind, Fusco is trying to discover whether there is a correlation between securities innovation and patent applications. She has already created a database of new types of securities—for example, asset-based securities—and examined patent applications submitted after *State Street*. While Fusco’s results are not conclusive yet, the data she has gathered suggests that innovation is happening regardless of whether people are applying for patents. This year the Kauffman Legal Research Fellowship will support the next stage of her research: conducting interviews with the producers and the consumers of securities products.

“I hope my research will shed light on the effect of the patent system on the financial industry and inform judges who have to decide the boundaries of patentability,” says Fusco.

Like Fusco, Trimble is doing empirical research—as she puts it, “complementing theory by seeing how things are working on the ground.” For her dissertation she is analyzing challenges patent owners face in enforcing their rights globally.

“In the past, most infringements were localized in one particular jurisdiction, but globalization and the Internet have changed that,” says Trimble. “Now a patent may be infringed by an entity that is not even located in the country where the patent is held.”

Trimble has identified roughly 90 U.S. cases filed in 2004 in which the sole defendant was a foreign entity. Her next step is to analyze the cases (How did they come about? Is the pressure to settle in these cases higher than usual?) and to interview the entities.

“I want to point out the difficulties companies have when they have to enforce patents and suggest possible mechanisms that the courts and others could use to approach patent enforcement in a more global way,” says Trimble, who notes that the European Union is currently weighing a proposal for a regional court system that would allow European patent litigation to be handled in a centralized manner. —AMY POFTAK (BA ’95)

market conditions to disenchantment with firm life. “The academic life provides something that is hard to replicate elsewhere—the opportunity to decide for yourself what you think is important and true and to put that at the center of your work as a teacher, scholar, and citizen,” says Fried. Quinn adds, “I love to teach, research, and think. From that standpoint, teaching law is a perfect job.”

Of course, the professorial lifestyle is certainly not for everyone. “You have to flourish in a highly unstructured environment,” according to Friedman.

**D**ESPITE THE DRAWBACKS, LAW teaching is still compelling to many students and attorneys. Given the change in legal academia, close student-faculty contact has never been more important to finding a position. “In short, what has always mattered most to graduate students in other disciplines has become increasingly important in law: the quality of the faculty and breadth of course offerings in areas of most interest to the student, opportunities for writing, and the relevant faculty members’ track records as academic mentors,” says Fried.

“The law school faculty, especially Mike Klausner and Ron Gilson, have been tremendously helpful to me during this process,” says Quinn. “Not just in the classroom, but also mentoring, giving advice, going over paper topics, reading drafts, and generally making sure that I was headed in the right direction. I wouldn’t have been successful without their support.”

*Scott James Shackelford ’09 is a PhD candidate in international relations at the University of Cambridge, and a co-founder of SLS Academy, a student organization that supports those interested in academic careers. For more information about SLS Academy and the fellowship program at Stanford Law, go to [www.law.stanford.edu](http://www.law.stanford.edu) **SL***

## LEGAL EDUCATION IN AFGHANISTAN: A TEXTBOOK CASE

By Amy Poftak (BA '95)

S

tanding at the front

OF HIS CLASSROOM THIS AUGUST, MOHAMMAD HAROON MUTASEM ASKS THE STUDENTS IN *Introduction to the Law of Afghanistan* to open their textbooks. It is afternoon at the American University of Afghanistan (AUAF) in Kabul and the first class of the semester. As the students leaf through the text, it is hard to know which is more astonishing: that they are using the first law textbook of its kind in Afghanistan, or that their American peers at Stanford Law School wrote it. • “We knew going in that we couldn’t pretend to be experts on Afghanistan,” says Ben Joseloff ’08, who was in charge of writing the chapter on criminal law. “But we did have expertise being law students.” • Joseloff worked on the textbook as part of Stanford Law School’s Afghanistan Legal Education Project (ALEP), a new student-led initiative to help Afghan universities improve the quality of their legal education. The goal is to produce lawyers—and more of them—versed in current Afghan law and equipped to rebuild the country’s institutions after two decades of conflict. More broadly, the project team hopes to promote public understanding of formal law in a country where the rule of law remains weak. • A 2007 report issued by the United Nations and the Government of Afghanistan is telling: There are only 236 lawyers in the country licensed to represent clients in court. That’s one private lawyer for every 128,000 citizens. • Worse, new lawyers are often unprepared to practice law. According to lecturer in law Erik Jensen, an expert on rule of law in post-conflict countries, there is no school in Afghanistan that adequately trains students to be legal practitioners. Most courses are almost entirely theoretical. What’s more, the country’s six law schools—each divided into faculties that teach either *Sharia* law or a combination of civil law and political science—have outdated curricula that overlook such developments as the 2004 Constitution. Complicating this is a scarcity of printed materials, from judicial decisions to basic textbooks. • “Traditional Afghan legal education doesn’t deal with why we need a rule of law and how government institutions



SLS STUDENTS AND ERIK JENSEN IN KABUL, AFGHANISTAN

work,” says ALEP’s Anne Stephens ’09.

The courses taught at AUAF, *Introduction to the Law of Afghanistan* included, represent a departure from tradition. Opened in 2006 with funding from international and Afghan donors, AUAF is the only university in Afghanistan to offer a liberal arts education in English.

*Introduction to the Law of Afghanistan* kicked off this August with Mutasem teaching 35 students. Plans call to add two more courses by fall 2009—ALEP is developing texts in commercial law, international trade, and criminal law—with the goal of establishing a full law curriculum. Depending on funding, they will translate the texts from English into Afghanistan’s official languages, Dari and Pashto, and make them available for free to any law school in the country.

### A Project Takes Root

The idea for ALEP first germinated last year when Alexander Benard ’08 was looking for a project to help Afghanistan.

“Having family from Afghanistan I’m very aware that rule of law is a huge challenge there,” says Benard, whose father, Zalmay Khalilzad, served as the U.S. ambassador to Afghanistan for two years.

Benard asked a friend who sat on the AUAF board if the fledgling school needed help with its law program—only to learn the school didn’t have one.

Benard’s friend introduced him to a fellow board member—who, serendipitously, was Stanford general counsel Debra Zumwalt ’79. Intrigued by the idea, Zumwalt connected Benard with AUAF President and CEO Thomas Stauffer. Stauffer met Benard while on a trip to the Bay Area. A week later, Benard received a call from Afghanistan. It was Stauffer.

“I met with the Afghan Supreme Court and they told me I need a law program.”

Benard joined forces with Eli Sugarman ’09 and together they presented a research proposal to Larry Kramer, Richard E. Lang Professor of Law and Dean, and

drafted Jensen to advise them. Next, they recruited Joseloff, Stephens, and Jason Berg '08. Berg was a natural choice: Prior to law school, he had been a Marine officer stationed in Afghanistan and Iraq.

The collaborators spent months gathering massive amounts of information about Afghan law, politics, and history, and developing a Rolodex of contacts in Afghanistan.

"Usually these texts are written by foreigners who don't have any cultural context," says Jensen. "Lesson number one for my students is that they have to have the local context or it's not worth pursuing."

They decided to start with an overview of Afghanistan's legal history and state institutions and then zero in on property rights, commercial law, criminal law, and individual rights.

Among the huge challenges they encountered was presenting the complexities of the Afghan legal landscape. The country has distinct but overlapping systems that govern disputes between parties: the formal legal system codified by the 2004 Constitution and customary law overseen by village councils, or *shuras*.

As a quality control check, the group vetted the textbook draft with experts on Afghanistan and post-conflict countries during a two-day symposium in March. Three SLS faculty—Robert Weisberg '79, Mark Kelman, Richard Craswell—and Stanford history professor Robert Crews also took part in the critique, focusing on areas of expertise.

"They did a superb job of reviewing the chapters for pedagogy and general principles of law," says Jensen.

For the students, the recent experience of life as a 1L came in handy. The group pulled techniques from SLS classes that resonated with them, including fictional cases and role-playing exercises.

As the text was taking shape, Benard and Sugarman met Mutasem, a Kabul University professor who was completing his LLM at the University of Washington. AUAF later hired the 25-year-old Mutasem, considered by many to be one

of the most promising young law professors in the country.

With the text well under way and a potential professor identified, the students and Jensen made a fact-finding visit to Kabul over spring break.

For five days in March, the team crisscrossed Kabul visiting key actors in the public and private sectors. They met with senior staff at the Ministry of Justice and the Ministry of Interior and paid a visit to the chief justice of the Supreme Court. They sat down with Kabul's police chief, a former general, and peppered AUAF



THE ALEP TEAM AND AUAF PRESIDENT AND CEO THOMAS STAUFFER (TOP); A MEETING WITH CHIEF JUSTICE ABDUL SALAM AZIMI (BOTTOM)

and Kabul University faculty and students with questions about the state of Afghan legal education.

"We saw firsthand how the rule of law can be destroyed," says Stephens, who dyed her naturally blond hair black to blend in as much as possible during the trip. "There's a whole generation that's gone and very few people who can remember what it was like when there was a vibrant rule of law in Afghanistan."

As for the group's security, Jensen says the group talked extensively about safety before and during the trip.

"The city feels like a normal developing country," says Joseloff. "But there are unpredictable threats."

That notion hit home when, exiting police headquarters in Kabul, the group noticed a gaping hole in the building where there had been rocket attacks.

"You see 50 bullet holes in buildings, open sewers, a huge security presence," says Sugarman. "But despite all that, there is a desire to change, a feeling of 'we've had enough; let's get it right this time.'"

On day two of the trip, the ALEP team toured AUAF. A walled campus patrolled by guards with AK-47s, it is hard to believe the complex—now an Internet-connected facility teeming with 400 students—used to be a Taliban detention center. Though the campus was reconstructed in 2005, vestiges of its former use remain—bullet holes in walls and in a room that served as a torture chamber, shoe prints of former detainees.

The ALEP team met with 20 students eager to pursue a legal education.

"They were excited but a little skeptical," says Joseloff. "Here we are, young Westerners coming in to teach them their history."

At the same time, they enthusiastically pressed ALEP to continue its work.

"The feedback from students was overwhelmingly positive," says Stephens. "They were very direct in telling us that they wanted a full law school."

In the meantime, ALEP continues to raise money—a major hurdle given that the project is entirely funded by private sources—and develop textbooks, with the vision of creating a model for legal education reform that can be used in other post-conflict and developing countries.

"This is an awesome opportunity to have an impact on the world early in your legal career and to get an understanding of how the law works—and doesn't work—in other parts of the world," says Zumwalt.

To see photos of ALEP's Kabul trip, visit [www.law.stanford.edu/publications/stanford\\_lawyer](http://www.law.stanford.edu/publications/stanford_lawyer). For additional information, please contact Eli Sugarman (esugarma@stanford.edu). SL

K I N K S

I N

T H E

G L O B A L

S U P P L Y

C H A I N :

CAN LAWS KEEP US SAFE?

Mattel's recall of nearly one million toys made in China sent the more than \$71 billion global toy industry into a frenzy in August 2007. In the United States, the company's revelations that some of its products were coated with lead paint and others contained magnets that could detach in a baby's mouth, drove executives at other toy companies to their BlackBerrys. • "Given all the intense public scrutiny on this issue, everyone was hyper-focused on product safety—from the government, which wanted to be seen as doing something about it, to the manufacturers, who wanted to make certain that their supply chain quality control was adequate," says Peter Winik '80 (BA '77), deputy managing partner and global co-chair of the product liability and mass torts practice group at Latham & Watkins in Washington, D.C. "It was all a little tense back then." • China was feeling the pressure, too. Teams from the General Administration of Quality Supervision, Inspection and Quarantine, or AQSIQ, Beijing's quality-control department, fanned out to inspect factories across the southern Guangdong province, where many of the toys on U.S. shelves are produced.

B Y A L E X A N D R A H A R N E Y

ILLUSTRATION BY  
JASON HOLLY

PHOTOGRAPHS BY MAREN CARUSO



Back in the United States, lawyers were moving quickly as fears of foreign-made products made news headlines. By mid-August, even as Mattel continued to announce additional, larger recalls, outraged customers had filed a class-action lawsuit against Mattel and its Fisher-Price brand in a federal court in Manhattan. The California attorney general and the Los Angeles city attorney filed suit against Mattel, Toys“R”Us, and 18 other companies, alleging that they had made or sold products that contained illegal amounts of lead.

The recalls, and the flurry of activity that ensued, brought to light an uncomfortable reality: While shifting manufacturing of consumer goods overseas has saved money, it has also complicated the supply chain. And reports of child and forced labor used in developing countries to make goods for the American market fly in the face of labor standards developed in the West over the last century. In exchange for lower prices, companies—and the public—have relinquished control over the manufacturing process. Politicians, multinationals, and consumers are realizing that there are serious flaws in the monitoring of product safety and working conditions overseas—and they raise urgent questions about liability and responsibility when things do go wrong.

---

### The Cheap Labor Dilemma

---

Long before the recent debate over outsourcing and offshoring began, before CNN commentator Jack Cafferty called Chinese exports “junk,” and before members of Congress began pressing for tariffs on Chinese imports, U.S. retailers were quietly increasing their purchases of goods overseas.

Back in the 1950s, Japanese textiles and clothing were so cheap—including the famous “one-dollar blouse”—that they provoked an outcry from U.S. textile makers. In 1980, domestic manufacturers made 70 percent of the apparel purchased in the United States. By 2006, roughly 90 percent of apparel sold here was imported. Today, 99 percent of footwear sold in the United States is made overseas. About 85 percent of toys and 59 percent of electrical products are manufactured abroad. Many come from China, where export prices have been as low as one-fifth of the cost of goods made in Europe or the United States. In 2007, China exported \$321.5 billion worth of goods to the United States.

But the risk with this type of manufacturing is that as the number of companies in the supply chain increases, transparency declines. Seungjin Whang, the Jagdeep and Roshni

Singh Professor of Operations, Information, and Technology at Stanford’s Graduate School of Business, explains the inherent risk in what he calls the “double-O” model—offshore outsourcing. “Here is the challenge—there is still too wide a span of entities involved,” he says. “You can’t have control over your supplier’s supplier’s supplier, who may be 500 miles away from a major airport.”

These problems are not limited to China. In June, the BBC reported that Primark, a large U.K. discount retailer, had been relying on child labor in India. Primark canceled its orders from the three suppliers where underage workers had been found.

At the same time, companies are starting to acknowledge that their approach to monitoring labor abuses by their overseas suppliers, based on codes of conduct designed in the 1990s in response to anti-sweatshop campaigners, are not working.

“The companies that have been at this for the longest time, the apparel companies, think that monitoring is not working all that well, nor do the leading non-governmental organizations (NGOs) working on labor standards,” says Joshua Cohen, professor of political science, philosophy, and law and director of the Program on Global Justice at the Freeman Spogli Institute for International Studies (FSI). Cohen has launched a collaborative project, Just Supply Chains, with Richard M. Locke, an MIT Sloan School of Management professor, to explore alternative ways of improving conditions in global supply chains.

“There isn’t yet a sufficiently consistent and powerful set of forces aligned that say ‘fix this and if you do, we’ll give you benefits in the marketplace that enhance your competitiveness,’ ” says Robert H. Dunn, former chairman, president, and chief executive officer at Business for Social Responsibility, a nonprofit group of global companies that promotes more ethical business practices. Dunn, the former vice president of corporate affairs at Levi Strauss & Co., the first brand to introduce a code of conduct in the 1990s, is now president and CEO of the Synergos Institute, a nonprofit organization that works on poverty and social justice issues. He has also lectured on corporate social responsibility at Stanford’s Graduate School of Business.

---

### Regulating Product Safety: *Ex Ante* or *Ex Post*?

---

In theory, the best way to control for supply chain risks would be for governments in developing countries to make tough laws and enforce them. But while developing countries have laws and regulations on product safety and working conditions, they are not consistently enforced. Other priorities, including attracting foreign investment, creat-



"THE REALITY  
IS THAT THERE IS  
NO CONSIDERED,  
THOUGHTFUL SYSTEM  
OF REGULATING  
GLOBAL SUPPLY  
CHAINS."

Helen Stacy

THERE IS A  
MISMATCH BETWEEN  
THE ORGANIZATION OF  
PRODUCTION AND THE  
DISORGANIZATION OF  
LABOR MARKET  
REGULATION."

Joshua Cohen



ing new jobs, and lifting millions of people out of poverty, generally come first.

"The reality is that there is no considered, thoughtful system of regulating global supply chains," says Helen Stacy, senior lecturer in law and senior fellow at FSI's Center on Democracy, Development and the Rule of Law. Instead, a motley assembly of international institutions, domestic courts and government agencies, bilateral trade agreements and multinationals now oversees the conduct of the millions of factories making goods for Americans.

The task of policing U.S. international supply chains, then, has fallen through the cracks.

At the national level, laws like the Toxic Substances Control Act of 1976 regulate the dangerous chemicals in products. The U.S. Food and Drug Administration monitors pharmaceuticals manufactured abroad, conducting inspections of factories before drugs are approved for import. But before more than 90 deaths in the United States were linked earlier this year to heparin, a blood thinner made in China, the FDA's funding for pre-approval overseas inspections had been cut.

The Consumer Product Safety Commission (CPSC) is the main organization through which consumers can raise their product safety concerns. Based in Bethesda, Md., the CPSC develops standards, recalls dangerous products, and informs consumers about potential risks. It has even banned certain products containing lead. But it is severely understaffed; the CPSC's 420 employees are responsible for monitoring more than 15,000 types of consumer products.

By contrast, the European Union has introduced the Rapid Alert System for non-food consumer products (RAPEX) to circulate information about dangerous consumer products throughout Europe. Europe also has tough standards on the chemical content of toys. In 2006, the EU introduced the RoHS standard, which limits the amount of six hazardous substances including lead, cadmium, and mercury in electronics.

Still, Alan O. Sykes, James and Patricia Kowal Professor of Law, questions the need for more regulation, arguing that the United States has "the strictest product liability laws in the world." He explains that any product sold in the United States that causes injury is subject to American laws—no matter where it was made. "There's no question about it," says Sykes. "The domestic sellers are hit directly by the tort system and they will pass the effects of that up to whomever they're dealing with abroad in the supply chain."

The only caveat, he adds, is that in the tort system, injuries must be traced confidently to the product that caused them.

"It's not obvious that a big federal regulatory bureaucracy will solve what is essentially a problem outside of the U.S. And when things do go wrong, we have a much more vigorous tort system here than in Europe and other countries—and an

expensive one for the manufacturers. So there's a strong motivation for domestic sellers to ensure that their products—no matter where they are made—are safe," says Sykes.

And the U.S. government is putting more muscle behind the system. Under legislation signed into law in August, mandatory federal standards governing product safety will get a lot tighter and the CPSC will get new resources to do its job. The beefed-up standards are focused primarily on children's products and include, among others, the amount of lead and hazardous chemicals allowed in the manufacturing of toys and cribs. Mandatory testing and safety certifications for children's products, as well as detailed tracking labels that indicate where and when the goods were made, will be required. These laws also strengthen the power of the CPSC to notify the public more quickly about product hazards. And penalties for faulty or unsafe products will rise to \$15 million. These penalties should also apply to manufacturers, distributors, and retailers that fail to report dangerous products.

"This is the most profound overhaul of product safety laws in decades," says Winik. "And they're only going to get tighter from here."

In contrast to the product safety laws, U.S. legislation holding manufacturers to account for labor abuses in their supply chains abroad is much less clear. Critics maintain that the institution charged with setting labor standards has no real power. This group, the International Labour Organization (ILO), includes representatives from management, government, and labor and 182 member states. It can name and shame countries that violate its core standards, known as ILO Conventions. But the ILO cannot punish countries or companies for these violations.

---

### Diverging Needs

---

There is a mismatch," argues Cohen, "between the organization of production and the disorganization of labor market regulation."

Trade agreements similarly offer little recourse for workers. The North American Free Trade Agreement (NAFTA) and the Central America–Dominican Republic Free Trade Agreement both include labor accords. So do U.S. trade agreements with Cambodia and Jordan. But these labor clauses are still controversial.

"Business has resisted the idea of doing anything that would mix labor and trade," says William B. Gould IV, Charles A. Beardsley Professor of Law, Emeritus. Opponents of tougher legislation argue that it would handicap U.S. companies when competing with those from other countries. At

---

## JUST SUPPLY CHAINS PROJECT

---

A DECADE AGO, American apparel and footwear executives, facing sharp criticism and public pressure, began writing codes of conduct to encourage better practices from overseas suppliers. Today, the same executives are arguing that these codes are not very effective. Many agree that voluntary standards have failed to significantly improve labor standards, while others question the benefit to the bottom line.

Yet few agree on a new solution. "There's a lot of disagreement about the most plausible, effective strategies for promoting decent compensation, healthy and safe workplaces, and freedom of association," says Joshua Cohen, Stanford professor of political science, philosophy, and law; director of the Program on Global Justice at the Freeman Spogli Institute for International Studies; and co-editor of the *Boston Review*.

In January, Cohen set out to resolve this impasse. Together with Richard Locke—professor of political science, and Alvin J. Siteman (1948) Professor of Entrepreneurship at MIT's Sloan School of Management—

Cohen created the Just Supply Chains project, a collaborative research effort by academics, non-governmental organizations, companies, international agencies, and unions to define a new agenda for achieving greater fairness in global labor markets.

One of the questions the project aims to address is about the willingness of consumers in developed countries to reward "sweat-free" or "fair trade" companies by either paying more for their products or increasing their brand loyalty. Having a better grasp of consumers' attitudes toward sweatshops would help companies introduce new product labeling, similar to coffee companies' use of the Fair Trade label.

Another focus of the group, which met for the first time in January at MIT and again in May at Stanford, is the "business case" for labor standards. Do better factory conditions enhance companies' bottom line? Do gains in operational efficiencies, quality, and health and safety flow from corporate compliance programs? What is the return on investment in labor stan-

dards? These, Cohen says, are among the big questions for the Just Supply Chains project.

Some of the answers may lie in developing countries like Brazil and India, where labor ministries are experimenting with innovative programs—another issue the participants in the project are discussing.

Though research on this topic is sorely needed, the group is after something more than ivory-tower talk. Project participants come from Nike, Gap, Coca-Cola, Ford, HP, and Apple, as well as NGOs, unions, and labor ministries, and the aim is to build a long-term collaboration mixing research and practice.

Yet even as the project progresses, global supply chains are changing. "The current globalization of production was built around a few key assumptions," says Cohen. "Cheap labor, cheap energy, stable climate." As rising fuel prices increase the cost of sourcing abroad, the debate around supply chains will have to change—an issue the project will be addressing in a January meeting coordinated with Stanford's GSB's Supply Chain Management program.

the same time, U.S. trading partners that are vital to global supply chains, such as China and India, insist on a separation of the two issues. And the issue is even more contentious for developing nations.

"In the course of recent trade negotiations, there have been efforts to include labor standards in the trade agreements, such as with NAFTA and the U.S./Peru agreement," notes Sykes. He explains that the developing nations strongly resist having the labor standards of wealthy countries imposed upon them for the simple reason that they can't afford to. But they also see it as an effort by interest groups in developed countries to in effect be protectionists, to raise the cost of production in developing countries in a way that makes them less competitive.

"The developing countries fight tooth and nail against more enforceable labor standards and things of that nature in international agreements," says Sykes. "And that's why the effort to link labor to the World Trade Organization was a complete failure.

And the labor agreement in NAFTA is just window dressing—it doesn't really do anything to speak of. And there's a continual fight going on, even now, on Capitol Hill with the new free trade agreements as to whether there will be any meaningful labor standards in them."

For now, the only law that can hold companies accountable for labor conditions in their overseas suppliers is one that has been on the books for centuries. The 1789 Alien Tort Claims Act (ATCA), also known as the Alien Tort Statute, gives U.S. federal courts jurisdiction over "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." The law of nations, or international law, refers to commonly agreed human rights and labor standards. But barriers to its application are high, despite repeated attempts.

Though lawyers are increasingly filing cases against U.S. companies for labor violations abroad, use of the ATCA for human rights and labor cases remains controversial.

"While there have been efforts to use the ATCA to address labor issues in the supply chain such as underage or forced labor, the statute has not thus far proved a very effective tool for addressing such issues," says Jenny S. Martinez, associate professor of law and Justin M. Roach, Jr. Faculty Scholar. "The barriers for proving liability under the statute are quite high, and plaintiffs must show that a defendant violated a clearly established norm of international law, which is often very difficult."

"This is not a way of changing people's lives here and now," argues Stacy of efforts to apply the ATCA to international labor cases. "It's a way of saying there are bigger principles at stake."

The legal remedies in U.S. courts for abuses in global supply chains remain weak. "Until we get some kind of consensus on regional trade agreements or until we get these Alien Tort Claims Act cases advancing," says Gould, "we're really not going to have an opportunity for the kind of symbiosis that we need between public law and private mechanisms."

---

#### Self-Monitoring: Reality v. Theory

---

Filling the vacuum in the law are the codes of conduct retailers and brands have been using to monitor their overseas suppliers for the past decade and a half. Most codes include requirements that factories follow the local labor laws, not use child labor, and work a maximum of 60 or 72 hours a week. Discount retailer Target, for instance, mandates a safe and healthy workplace and "wages and benefits in compliance with local laws."

While this looks good on paper, in reality most companies' sourcing strategies—which involve pressing factories for continual price declines, switching orders between factories, making last-minute changes to designs, and shortening the lead time for products—make their codes of conduct hard to enforce. To meet the dual demands for low prices and good working conditions, some factories have reportedly evaded the codes of conduct by forging fake timecards and coaching workers to tell inspectors what they want to hear. Retailers and brands, facing intense competition at home, remain unconvinced about the bottom-line benefits of these compliance programs—a factory that pays higher wages and provides safety equipment for its workers may well have to raise its prices as a result.

Social auditing is "onerous, it's costly, and it's not necessarily effective," says Dunn. "It satisfies no one."

Some brands, such as Nike and Adidas, which faced the most pressure from anti-sweatshop activists in the 1990s, have acknowledged that traditional compliance programs are not doing

enough to improve working conditions in their suppliers.

Gould believes that the missing link is an international court of labor justice, along the lines of the International Court of Justice in The Hague, where workers could file their complaints. But he concedes that today, "we're light years away from" being able to establish such an institution.

---

#### Consumer as Last Resort

---

In the meantime, lawyers, product-quality specialists, and activists agree that the only way to make progress on these issues is to change the mentality of both managers in developing countries and buyers from the West. As multinationals' supply chains have gotten longer and more complex, factories have moved increasingly far away, both geographically and mentally, from the consumer.

An underlying problem in product-safety cases, says Winik, is a "lack of awareness on both sides of the ocean. Companies in China should not be making lead jewelry for any market and one wonders why those products are still being imported."

Other observers argue that the best way to control suppliers is to use fewer of them. "One option," says Whang, "will be to shorten the supply chain. Another option will be to reduce the number of suppliers so that we can trust them." He points to Japanese companies that have a network of 250 suppliers, but work most closely with 10.

Monitoring of the overseas production of drugs such as heparin, the blood thinner, should improve since the FDA agreed in July to team up with Australian and European officials in inspecting facilities. In June, the FDA asked Congress for more funds to beef up inspections abroad, including opening new offices in China.

In the long term, the most fundamental solution must start with consumers. Stacy, for one, is optimistic that this will come to pass. "The long-term trend is that global trade, connected to increasingly sophisticated electronic communication, will lead to an increasing internationally aware buying public, which will increase pressure from consumers on manufacturers and importers to market ethically produced goods."

Dunn believes that progress toward a solution is likely to be slow. "Unfortunately," he says, "in the absence of crisis, it can be hard to move the agenda for some of these kinds of problems other than in a very slow and incremental fashion."

*Alexandra Harney spent nine years at the Financial Times, covering China, Japan, and the UK. She is the author of The China Price: The True Cost of Chinese Competitive Advantage.* SL

# Q & A

---

## LEGAL MATTERS

### THE IMPORTANCE OF BEING IRREVERENT:

A conversation with Dahlia Lithwick on covering the Supreme Court

---

*"Joseph Margulies represents Munaf/Morgan and Omar/O'Hara. His first few minutes of argument are impressive. He's in the middle of distinguishing Hirota from his clients' case when suddenly Justice Stevens kind of hurls himself at his head like an enraged bobcat in a bow tie. 'Does your case depend entirely on the fact that these are American citizens?' Margulies tries to reply, but Stevens cuts him off again and then again. And yet again. Stevens beats on him like a*

*drum about whether or not the detainee's citizenship matters and then about whether or not the place of detention matters, and by the time Kennedy gets his mitts on Margulies, it's no longer clear what matters at all. Justice Ginsburg kneecaps him with yet another hypothetical, and Justice Alito starts up again with the citizenship."*

From Slate's Supreme Court dispatches: "Oral Argument From the Court. Jail of Two Cities: The Supreme Court Gives the Right to Habeas Corpus a Swirly." By Dahlia Lithwick, March 25, 2008

**Dahlia Lithwick '96** has emerged over the last few years as the cool face of the law—an answer to bad lawyer jokes everywhere. A Stanford JD and former Yale debater, she's an accidental journalist who, after a brief stint as a law clerk, lucked into a reporting job at the online magazine *Slate*. A decade later, her columns, now also in *Newsweek*, reach millions of readers and are helping to shape the debate on a range of issues from Guantanamo to fair wages for women.

Lithwick wields her pen like someone on a mission, throwing open the curtains of the closed world of the U.S. Supreme Court and shedding light onto sometimes obtuse legal questions. This is important stuff, and her dispatches relay the weight of the matters with snappy commentary—the sort of writing that you want to read out loud over the breakfast table. And that is what Lithwick is doing—bringing previously lofty legal issues into the average American's home, her humor drawing in lawyers and lay people alike. And the law has never been so interesting to follow.

*"Professor Jeffrey Fisher of Stanford University represents the class of plaintiffs in this case, and in addition to having the best hair of the Supreme Court appellate bar, he is also one of its coolest new additions."* From *Slate's* Supreme Court dispatches: "Oral Argument From the Court. Oil and Water: The *Exxon Valdez* Case Runs Aground at the Supreme Court." By Dahlia Lithwick, February 27, 2008

It's easy to fall into the superlatives trap when describing Professor **Jeffrey L. Fisher**. He has made it onto many of the "top" lists lately: *The Daily Journal's* "20 under 40" of the most influential young lawyers, the *National Law Journal's* "40 under 40" top ten, *The American Lawyer's* "Fab Fifty" list of up-and-coming litigators under 45. Though still in his mid-30s, it's clear that Fisher is no longer just up-and-coming.

When Fisher joined the law school faculty in 2006 to co-direct the Supreme Court Litigation Clinic, he was already a leading Supreme Court litigator and nationally recognized expert on criminal procedure with roughly two dozen cases and four oral arguments before the Court under his belt, including wins in the landmark right-to-jury-trial case of *Blakely v. Washington* and Confrontation Clause case of *Crawford v. Washington*. Since then he has reveled in his role as clinic teacher, immersing himself—and his students—in Supreme Court work, including arguing an additional five cases before the Court, the most recent being *Kennedy v. Louisiana*, in which he persuaded the Court that the Eighth Amendment forbids imposing the death penalty for crimes against individuals in which the victim does not die. It's safe to say that Fisher has not only arrived, but is at the top of his game. —SHARON DRISCOLL

**Fisher:** LET ME START WITH THE MOST OBVIOUS QUESTION OF ALL, WHY DID YOU GO TO LAW SCHOOL?

**Lithwick:** That's actually a good question. First, I was a Yale debater and literally every one of us went to law school. I knew I was pretty good at talking on my feet so cab driving was out.

Also, between college and law school I wrote a book about Paul Newman's camp for terminally ill kids. I had worked at the camp while I was in college and had gotten very, very involved in the lives of some of these kids and their health insurance woes and their inability to get specialized education. There were a hundred million ways in which the law was failing them.

And third there was Marian Wright Edelman: commencement speaker to a whole generation of women.



**I GRADUATED FROM DUKE IN '92 AND THERE SHE WAS.**

So then you know. And didn't all these women who planned to be actresses and orthodontists and chicken pluckers hire themselves off to law school instead? She really did have that kind of influence. The idea of being a children's advocate had never

crossed anyone's radar until she gave that spate of commencement speeches. I was one of those women.

APPLICANTS FOR THE CLINIC SEEM TO ALL SAY "I'M A REAL SUPREME COURT JUNKIE." WERE YOU ONE TOO AT SLS?

Not one bit. Were you?

NOT SO MUCH, BUT IT SEEMS THERE HAS BEEN A SHIFT SINCE WE GRADUATED FROM LAW SCHOOL. NOW THERE'S A CONTINGENT OF LAW STUDENTS CLOSELY FOLLOWING THE COURT.

I think that's right. It's embarrassing to admit—but when I set foot in the Supreme Court on my first day covering it, I'm not sure I could have named all nine justices. There wasn't the calcified Supreme Court that we had at least until two years ago, which—like the cast of *Seinfeld*—didn't change year after year.

DO YOU THINK THAT YOUR WORK FOR SLATE, AND THAT OF OTHERS ONLINE, HAS HELPED TO BRING THE COURT MORE INTO THE FORE OF LAW STUDENTS' CONSCIOUSNESS AND INTO AMERICAN PUBLIC DISCOURSE MORE GENERALLY?

I've heard that from other reporters on the Court—that one of the things *Slate* did when it started covering the Court was to cover it in a really accessible way—and so broaden the audience of interested people. And then, certainly the Internet and particularly these amazing professor blogs have done a lot to introduce new audiences to the Court—including those who perhaps perceived it as too inaccessible and mystifying. In my case, humor probably helped that effort a lot.

I'VE HEARD THAT YOU WISH YOU HAD ENJOYED SLS MORE.

Well, don't we all? There were months when I felt like I was going through law school on my knees. I was a duck out of water the whole time. I also had very thin skin.

WITH RESPECT TO THE OTHER STUDENTS? OR WAS IT THE MATERIAL?

It was partly the other students, partly the big-firm sensibility, that feeling that every choice you made was hedged against certain outcomes. I found it very narrowing. I went through in this deranged panic—worried that maybe taking a misstep would mean having to work at Starbucks for the rest of my life.

I TELL STUDENTS, "YOU CAN GO TO SEATTLE; IT'S OKAY."

Every student needs to hear that. Barbara Babcock happened to be that voice for me, the person who said you don't have to do what everyone else is doing.

IT'S HARD FOR STUDENTS TO SEE THIS WHEN THEY'RE IN THE MIDST OF LAW SCHOOL, BUT IT'S OFTEN THE WACKIEST CHOICE OF ALL THAT OPENS UP NEW OPTIONS YOU NEVER KNEW YOU HAD. AND I WONDER IF YOU WANT TO TALK ABOUT THAT, BOTH IN TERMS OF GOING TO RENO AS YOU DID AND HOW YOU GOT ON WITH SLATE TO BEGIN WITH.

It flows into what I was saying before about being so afraid of missteps. Missteps are always the smartest thing you ever do. I got a clerkship in Reno and so off I went.

YOU CLERKED FOR CHIEF JUDGE PROCTER HUG JR. '58?

Yes. He was made the chief of the Ninth Circuit at the exact time that I was graduating, which was in January because I had dropped out for a little while—see above insanity and despair. So he was suddenly allocated space for a fourth clerk and I happened to be one of a handful of people just graduating. I clerked for him and that was amazing, because he was amazing and because I developed a slight gambling addiction. He also let me do some of his speechwriting and writing for lay readers and this was when I thought, "Oh, I almost prefer to write about the law from the outside."

SO, THE LIGHT BULB WENT ON.

That's right. I stuck around Reno for a couple of years working in a divorce firm, which was not my thing. So I quit. I quit to just write. I had socked away \$10,000, enough to pay rent and write, and that was what I did for a couple of months. Then I was in Washington visiting a friend, and *Slate* was maybe a year old at the time. I just happened to be sleeping on this friend's couch when in the middle of the Microsoft trial *Slate's* reporter left. So *Slate* was looking for someone to fill in, just anybody with a pulse to cover the trial, while looking for a "real writer" to do it. The people at *Slate* called my friend, who couldn't take the job—and she handed me the phone.

THE BET PAID OFF.

Yes. I literally was sleeping on the right couch in the right apartment at the right time. I had never really done any journalism and I didn't understand antitrust at all. I didn't know what I was doing, but I just went in and told jokes. I'd file stories all week long and every Friday I'd say, "Could I maybe have this as a permanent gig until the end of the trial?" And they'd say, "No, we're still looking for a real writer." So it was an exercise in taking a flyer. But I was lucky, because for me it was the perfect forum in which to write—this instant, slightly quirky humor, kind of "law as theater." It was absolutely the luckiest kind of confluence: *Slate* and Microsoft and the law and me, all being in the right place.

SO WHEN SLATE HIRED YOU, DID YOU HAVE ANY CONSCIOUS GOALS ABOUT WHAT YOU'D BRING TO YOUR COVERAGE?

If I had known how strict and almost monolithic the conventions in Court coverage were, I might not have been quite as brave as I was. I don't know why I just took it for granted that the bandwidth of Court coverage was as broad as the bandwidth of political coverage in the U.S. I just assumed it.

It took me about six months to realize I was out of my frickin' mind, that what I was doing was not even close to what other people were doing. If I had known how irreverent I was being with respect to how other people talked about the Court, I'm not sure I could have done it. Of course I wanted to be funny and irreverent, but going back to that first question—because I wasn't a Court junkie. . . .

YOU DIDN'T HAVE THE REVERENCE.

Right, I just didn't know.

“I’m trying to grow a stiff enough spine to write the piece about this.  
 I think one justice in particular has crossed over the line into advocacy and  
 it’s unbearable—or very hard to watch.  
 But nobody calls him out.” DAHLIA LITHWICK ’96

DO YOU SEE IT AS A PROBLEM THAT THE COURT IS STILL OFTEN COVERED IN THE MAINSTREAM MEDIA WITH SUCH KID GLOVES?

Yes. And what I do has gone from being sort of a happy accident to almost a mission. Certainly one of my objectives has been to distance myself from the older convention of Supreme Court reporter as acolyte. That’s not to condemn my colleagues though. However, I find it particularly dangerous in such a closed-off Court. It’s actually antidemocratic to cover the Court as though it’s a mystical, marble temple and God’s work comes out of it.

GOING BACK TO THE REVERENCE ASPECT OF COVERING THE COURT—WHEN YOU STARTED, THE COURT WAS NOT RELEASING TRANSCRIPTS BUT EVEN ONCE IT DID, IT DIDN’T IDENTIFY THE INDIVIDUALS ASKING THE QUESTIONS, RIGHT?

Right. The “it doesn’t matter who is asking the question because there are no individual personalities on this Court” mystique—the myth of “there’s no difference between Scalia and Ginsburg.” That was what I was trying to fight. I tried to say it matters tremendously who’s asking the question, because these are real people with real politics and real agendas.

But you risk crossing the line into over-politicizing the whole thing, making it so that irreverence becomes its own end and not a means to an end and the Court becomes ridiculous. I want to be clear that I’m not unaware there’s peril in mockery and in taking everything too lightly, but I try to stay on the right side of that.

ANOTHER RISK, I TAKE IT, IN WRITING ABOUT THE COURT AS A COLLECTION OF INDIVIDUALS IS THAT IT COULD FEED THE CRITIQUE—OFTEN LEVELED BY RIGHT-LEANING JURISTS SUCH AS JUSTICE SCALIA—THAT THE COURT’S DECISIONS ARE SOMETIMES NOTHING MORE THAN IMPOSITIONS OF THE WILL OF FIVE UNACCOUNTABLE LAWYERS. IT SOUNDS LIKE YOU’RE SAYING THAT YOU WANT TO EMPHASIZE THAT INDIVIDUAL OPINIONS MATTER WHILE NOT GIVING UP ON THE IDEA THAT THE LAW IS ALSO DERIVED FROM OBJECTIVE SETS OF PRINCIPLES.

I think that if there were a broader bandwidth of voices talking about the Court, the truth would out. The problem is we don’t have that cacophony; we have a respectful whisper, like people narrating golfing shows. That’s the problem. So relative to the respectful whisper, I realize it looks like I’m jumping up and down and shouting. That’s a problem of circumscribed coverage.

HAVE YOU EVER BEEN SITTING THERE DURING ORAL ARGUMENT DYING TO ASK A QUESTION?

Yes. More than that, and this is present company absolutely excluded, there have been times when I wanted to leap up and say, “Sit down. You’re wrecking this for everybody.” I think reporters are really good at knowing when somebody is dying out

there. Sometimes there are lawyers who are just horrific and no matter how bad they are, you’ll never see it reported. It’s strange to hold your powder in moments like that. If you were watching a baseball game and the pitcher just lay down on the ground and refused to pitch, you’d write it.

WELL, IF IT WERE A TRIAL, YOU’D WRITE IT. WOULDN’T YOU?

I think so.

BUT NOT A SUPREME COURT ARGUMENT.

It’s a very weird thing. Here’s the nut of it—there’s a way in which we’re very, very aware of ourselves as being part of this grand constitutional process—and just as there’s supposedly no difference between Justices Scalia and Ginsburg at oral argument, there shouldn’t be a difference between good oral advocates and bad oral advocates, because that would suggest that the advocates make a difference and we aren’t supposed to believe that.

There is a duality about reporting the law as something other than just pure politics and horse-trading. We can’t quite figure out where we come down on the spectrum: on the one hand reporting it as politics or on the other as some kind of lofty holding that endures for the ages because it was made by a very different process than the sausage-making machine of the legislative branch. We ping between those two poles.

AND AS FAR AS CALLING THE JUSTICES THEMSELVES ON THEIR QUESTIONING, THAT’S COMPLETELY TABOO. WHY ISN’T THEIR OWN CONDUCT DURING ARGUMENTS FAIR GAME FOR REPORTERS?

I’m trying to grow a stiff enough spine to write the piece about this. I think one justice in particular has crossed over the line into advocacy and it’s unbearable—or very hard to watch. But nobody calls him out. And so few people are privy to the Court. Again, it’s the reverence and tradition. This is another argument for cameras in the courtroom. But I guess the answer is if there’s a critical mass of people seeing it, it’s only a matter of time before it starts to get written.

IF YOU COULD UNILATERALLY IMPOSE ONE CHANGE ON THE COURT, DO YOU HAVE IN MIND WHAT THAT WOULD BE?

And you don’t mean six different faces?

I DON’T MEAN CHANGING PERSONALITIES.

You’re going to squawk, but I think I would say cameras, gavel to gavel. More than any other thing, their absence is the most unfair, inexplicable, and antidemocratic.

CERTAINLY THE PUBLIC WOULD HAVE A GREAT BENEFIT FROM SUCH COVERAGE. WOULD IT CHANGE THE COURT’S WORK FOR THE BETTER OR IN SOME OTHER WAY?

I think that the people who are inclined to grandstand would

grandstand and then the people who are inclined to be under the radar might be spurred to speak a little bit, if there was some consequence. I don't believe, just from hearing the state court experiments with it and the lower court experiments with it, it would turn into all Ito all the time, as in the O.J. fiasco. I think that's a wrong-headed argument. But I think it would take awhile to normalize. And I don't think Americans would watch it instead of *Dancing with the Stars*. But the people who really care about the Court would have access to the Court and that would be great. The notion that little snippets are going to be taken out of context is just perverse because little snippets are taken out of context in print reporting. So there's no principled argument against it.

**AS A SOMETIME ADVOCATE, I DON'T THINK I WOULD DO A SINGLE THING DIFFERENTLY IF I KNEW IT WAS BEING FILMED.**

No. The notion that advocates would start barking like seals is an insult to the people who argue there. This isn't MTV. These aren't people whose livelihoods depend on making an impression on the public. The reasons against cameras are so painfully bad, and the idea that the Court is making its decisions out of its own narrow self-interest is doubly egregious.

**DO YOU THINK THAT THE JUSTICES READ YOUR ARTICLES?**

The justices that I've met have all known who I am and have been really nice. I think Justice Stephen Breyer (BA '59) was probably the one who went out of his way to say that it was important that someone was humanizing the Court and that he loved that enterprise. But I think my writing took a serious turn for the worse the very first time I heard that. I think it was O'Connor '52 (BA '50), and her clerks got word back to me that she was reading me. My husband said that for a year afterwards every article opened with "Looking resplendent today, Sandra Day O'Connor." He said I was just so ridiculously smarmy that for a while he couldn't bear to read me. So I guess the answer is certainly the ones that I have met have said to me that they read my articles, obviously with maybe different levels of enthusiasm.

I try very, very, very hard not to let that fact affect how I write.

**YOU'VE WRITTEN A LOT OVER THE YEARS ABOUT JUSTICE SANDRA DAY O'CONNOR, A STANFORD GRAD HERSELF. HOW BADLY DO YOU THINK THE COURT NEEDS ANOTHER WOMAN, OR ANOTHER STANFORD GRAD? OR BOTH?**

Absolutely! Clearly the Court desperately needs another Stanford grad or alternatively somebody who has been on the faculty. There is something to be said for Stanford insofar as it's not "inside the beltway"; it's not "my life experience was working in Washington, then working in the executive branch, and then working on the Court." I do think there's something to be said for the sort of wide-open spaces view of the western, rugged individualistic O'Connor. There is a geographic aspect that has fallen away. If truth be told, and I go back and forth on this, I am more interested in O'Connor as a pragmatist—as somebody who is a broker of deals and who has had real-world experience,

having served in the legislative branch as well as having hung out a shingle and tried a bunch of cases—than O'Connor as a woman. In other words, I think we desperately need another O'Connor, but not for the frilly cravat. Rather, her kind of very, very hardheaded, real-world approach is sorely missed on the Court right now. That said, I also feel the Court is a fundamentally different place with one woman as opposed to two.

**HAVE YOU SEEN A CHANGE IN JUSTICE GINSBURG SINCE JUSTICE O'CONNOR LEFT?**

She herself has said as much—that it's very hard to be the one woman, because then you become the proxy for all women. You see it in her writing, which has become much more explicitly female. I don't think that's a role she particularly cherishes or ever wanted. It has been forced upon her, which is interesting given that she came up from a very different place than O'Connor in terms of coming up through the women's rights movement, but I still think that she has only very, very recently come to a place where she feels either comfortable or the necessity of being really vocal about being a woman.

**SO WOULD YOU EVER WANT TO ARGUE A CASE? COULD YOU IMAGINE YOURSELF DOING IT?**

Of course, I'd love to. Yes. Not in front of this particular Court, because I think that for the first time in history there would be justices who set someone on fire. But otherwise I'd love to.

**DO YOU HAVE ANY PARTICULAR PROJECTS OR GOALS FOR YOUR WORK OVER THE NEXT FEW YEARS, ONES THAT WE CAN ALL LOOK FORWARD TO?**

I've got a book proposal in the hopper. It's hard to even contemplate writing a book about the Supreme Court after Jan Greenburg and Jeff Toobin had their go at it, but I'm trying to get a book going about covering the Court.

I really do feel I might be one of those lucky people who stumbled into the perfect job when she was 30 years old. Every once in awhile I ask myself whether this is what I want to be doing forever and ever. But I wake up every morning, and I'm so—happy. You must feel like this too, Jeff.

**I WAS GOING TO SAY, I FEEL THE SAME SORT OF GIDDINESS SOMETIMES.**

Yeah. I don't think many people get that. I can't quite fathom what would be as wonderful as this.

**MAYBE WE CAN TRADE JOBS FOR A YEAR SOMETIME.**

**YOU ARGUE A FEW CASES, I'LL WRITE A FEW DISPATCHES, AND THEN WE'LL TRADE BACK.**

And risk you mocking my hairstyle? I would never yield my pen to you after that column. This coming October will be my 10th year and every once in awhile I think, "What am I going to do next?" But I figure as long as I wake up every morning and I can't wait, then I should be doing what I am doing.

**IT WAS FUN CHATTING.**

*Listen to excerpts from this interview at:*

[www.law.stanford.edu/publications/stanford\\_lawyer](http://www.law.stanford.edu/publications/stanford_lawyer)

# FACULTY NEWS

## Kessler Granted Tenure

Stanford Law School granted tenure and awarded a full professorship to Amalia D. Kessler (MA '96, PhD '01). Kessler's scholarship focuses on the evolution of commercial law and civil procedure. Her work, *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France*, was recently published by the Yale University Press. Professor Kessler also holds an appointment (by courtesy) with the Stanford University Department of History. "As has been the case with all our recent promotions, Amalia's tenure file was just astonishingly strong," says Larry Kramer, Richard E. Lang Professor of Law and



Dean. "She has already established herself as one of the emerging stars in both legal history and comparative law. And she's still just getting started."



## Lemley Recognized as Top Intellectual Property Lawyer

Mark A. Lemley (BA '88), William H. Neukom Professor of Law, was recognized by *IP Law & Business* and *The Daily Journal* for his outstanding work in intellectual property law. *IP Law & Business* named Lemley one of the top 50 intellectual property lawyers under 45. The publication cites Lemley's prolific scholarship in the field as the author of numerous books, including a two-volume treatise *IP and Antitrust*, and nearly 90 scholarly articles. Additionally, as of counsel at Keker & Van Nest, Lemley has represented companies including Genentech, Google, and Intel, arguing two U.S. Supreme Court cases and three Federal Circuit cases. Lemley directs the Stanford Program in Law, Science & Technology and the LLM Program in Law, Science & Technology.

## Kelman Appointed to American Academy of Arts and Sciences

Mark G. Kelman, James C. Gaither Professor of Law and vice dean of Stanford Law

School, has been appointed to the American Academy of Arts and Sciences, one of the nation's oldest and most prestigious honor societies. A prolific scholar, Kelman joins the ranks of influential leaders including past members George Washington, Albert Einstein, Ralph Waldo Emerson, and Sir Winston Churchill. Kelman has been a member of the SLS faculty for more than 30 years. His most recent research has focused on debates about the fundamental nature of heuristic reasoning associated, respectively, with the "heuristics and biases" school and the "fast and frugal heuristics" school.

## Ho Awarded Warren Miller Prize

Daniel E. Ho, assistant professor of law and Robert. E. Paradise Faculty Fellow for Excellence in Teaching and Research, is the recipient of the Oxford University Press Warren Miller Prize, awarded for the best article published in the journal *Political Analysis*. Ho received the honor for his article "Matching as Nonparametric Preprocessing for Reducing Model Dependence in Parametric Causal Inference," co-authored with Kosuke Imai, Gary King, and Elizabeth A. Stuart. This is the third time Ho has been honored for his writing. Previous awards include the McGraw-Hill Award for the best article published by political scientists on law and courts

(2006), and the Pi Sigma Alpha Award for the best paper delivered at the Midwest Political Science Association meeting (2004).

## Sivas Appointed Professor of Law (Teaching)

Deborah A. Sivas '87 has been promoted from lecturer in law to Professor of Law (Teaching). Sivas will continue as director of the Stanford Environmental Law Clinic, a role she has held



since 1997. Under her direction, students have successfully litigated cases including the conservation of Joshua Tree National Park, the preservation of the Medicine Lake Native American sacred site, and the protection of U.S. waters from unpermitted ballast water discharge. Currently, Sivas serves as chair of the board of directors for the Turtle Island Restoration Network.

## MICHAEL WARA

Assistant Professor of Law Michael Wara '06 approaches environmental problems with the empirical mind of a scientist and the analytical eye of a lawyer.

"A lot of my work asks real-world, practical questions that can only be answered by gathering lots of data," he says. • Part of a new generation of cross-disciplinary scholars, Wara is currently tackling important questions around climate change. In particular, his research focuses on the emerging global carbon trading market and mechanisms for reducing greenhouse gas emissions after the Kyoto Protocol expires in 2012. His broader interests also include the legal, financial, and technological constraints on the production of energy. • Wara's most recent research sheds light on the Kyoto Protocol Clean Development Mechanism (CDM), a carbon-trading market that works by paying developing countries to adopt lower-polluting technologies. Wara's findings, published in *Nature* and the subject of a follow-up working paper with co-researcher Professor of Law David Victor, suggest that CDM is not an effective incentive for reducing emissions. • "Urgent reform is needed," says Wara, who believes a variety of other regulatory and legal strategies will be required to effect real change. "If we don't engage developing nations now, it's like running on a treadmill and not going forward."

• Wara, who is also a fellow at the Program on Energy and Sustainable Development at Stanford's Freeman Spogli Institute for International Studies, draws on an extensive background in oceanography, geochemistry, and climate science—the roots of which can be traced to his undergraduate years at Columbia University in the early 1990s. • "In college I was sucked into the science of climate change," says Wara. "At the time there were so many unanswered questions, including whether it was real." • A junior year spent working in a lab convinced him to pursue the topic as a scientist. So he headed to UC Santa Cruz, where he received his PhD in ocean sciences in 2003. During that time, his doctoral work on the El Niño/La Niña system and its response to changing climates was published in *Science*, a premier journal in the field. • "As I was getting my PhD, I realized that the more interesting question for me was 'so what do we do,'" he says. "That drew me into law and policy." • Wara decided to get his JD at Stanford Law, after which he worked on climate change and land use issues as an associate at the San Francisco office of Holland & Knight. In 2007, he returned to Stanford Law as a research fellow in environmental law and as a lecturer in law, teaching an *International Environmental Law* seminar that drew a cross section of law, engineering, and environmental studies students. • In addition to his scholarly work at Stanford, Wara is teaching *Environmental Law and Policy* this winter. • "Michael is a pioneer in the next generation of legal academics working on the environment—scholars who can think about and approach issues of environmental law and policy with a deep understanding of the underlying science and technology," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "There is no more important work to be done, and Michael is on the cutting edge." —AMY POFTAK (BA '95)



# CULTY

## VISITING FACULTY

### BARTON BEEBE

#### BENJAMIN N. CARDOZO SCHOOL OF LAW, YESHIVA UNIVERSITY

Barton Beebe will be visiting Stanford Law this winter from Cardozo School of Law at Yeshiva University, where he is an associate professor of law. He will be teaching *Intellectual Property: Trademarks*. Beebe has taught at New York University School of Law and the Munich Intellectual Property Law Center as a visiting professor, as well as at the State Intellectual Property Office in Beijing, China. Before joining the Cardozo faculty, Beebe clerked for Judge Denise L. Cote of the U.S. District Court of the Southern District of New York. He holds a BA ('92) from the University of Chicago, a PhD ('98) in English from Princeton, and a JD ('01) from Yale Law School.

### ERIC A. FELDMAN

#### UNIVERSITY OF PENNSYLVANIA LAW SCHOOL

Visiting Professor of Law Eric A. Feldman, professor of law and senior fellow of bioethics at the University of Pennsylvania Law School, is teaching *Torts* in the fall and *Law and Society in Japan and Law, Politics, and Ethics of Tobacco Control* in the winter. An expert in Japanese law, Feldman has been a visiting professor at both Waseda University and Seikei University in Japan, at the Institut d'Etudes Politiques de Paris in France, and at the University of Trento in Italy. He holds a BA ('82) from Vassar, a JD

('89) from Boalt Hall School of Law at the University of California at Berkeley, and a PhD ('94) in jurisprudence and social policy from the University of California at Berkeley.

### ROBERT W. GORDON

#### YALE LAW SCHOOL

Robert W. Gordon, the Chancellor Kent Professor of Law and Legal History at Yale Law School, returns to Stanford Law this winter as the Edwin A. Heafey, Jr. Visiting Professor of Law, teaching *History of American Law, 1880-1980*. Gordon's areas of expertise are contracts, American legal history, evidence, the legal profession, and law and globalization. Prior to joining the Yale faculty, he taught at the University of Wisconsin and was an esteemed member of the Stanford Law School faculty from 1982 to 1995. He holds both a BA ('67) and a JD ('71) from Harvard.

### ELIZABETH E. JOH

#### UC DAVIS SCHOOL OF LAW

Elizabeth E. Joh, professor of law at UC Davis School of Law, joins Stanford Law for the 2008-2009 school year as the Herman Phleger Visiting Professor of Law. Joh will teach *Criminal Law* in the fall and *Criminal Procedure: Investigation and Police, Law, and Society* in the winter. Prior to joining the faculty at UC Davis, she clerked for the Honorable Stephen Reinhardt of the Ninth Circuit Court of Appeals. An expert in criminal law and procedure, private policing, and criminal sanctions, Joh has

published multiple papers on the Fourth Amendment as it applies to technology and genetic privacy. Joh received her BA ('94) from Yale, her JD ('00) from New York University School of Law, and her PhD ('04) in law and society from New York University Graduate School of Arts and Science.

### LAURA ROSENBURY

#### WASHINGTON UNIVERSITY SCHOOL OF LAW

Visiting Professor of Law Laura Rosenbury joins Stanford Law, teaching *Children and the Law* and *Feminist Legal Theory* this fall. Before joining the Washington University School of Law (WUSL) faculty, Rosenbury served as an adjunct professor at Fordham University School of Law and an associate at the New York law firm of Davis Polk & Wardwell. After receiving her degrees from Harvard-Radcliffe College (BA '92) and Harvard Law (JD '97), she clerked for Judge Carol Bagley Amon, U.S. District Court, Eastern District of New York, and for Judge Dennis G. Jacobs, U.S. Court of Appeals, Second Circuit. In 2006, Rosenbury was named WUSL Professor of the Year.

### ADAM SAMAHA

#### UNIVERSITY OF CHICAGO LAW SCHOOL

Adam Samaha, assistant professor of law and Herbert and Marjorie Fried Teaching Scholar at the University of Chicago Law School, joins Stanford Law this fall as the Edwin A. Heafey, Jr. Visiting Professor of Law to teach

*Constitutional Law II: Free Speech* and a seminar on *Originalism's Alternatives*. After receiving degrees from Bowdoin College (BA '92) and Harvard Law School (JD '96), Samaha clerked for Chief Justice Alexander M. Keith of the Minnesota Supreme Court and for Justice John Paul Stevens of the U.S. Supreme Court. He later was a visiting scholar and visiting associate professor at the University of Minnesota Law School and practiced law at the Minneapolis firm of Robins, Kaplan, Miller & Ciresi LLP. In 2007, he received the University of Chicago Law School Graduating Students' Award for Teaching Excellence.

### NETA ZIV

#### JSM '97, JSD '01

#### TEL AVIV UNIVERSITY, THE BUCHMANN FACULTY OF LAW

Visiting Professor of Law Neta Ziv is a senior lecturer at Tel Aviv University, the Buchmann Faculty of Law. She will teach *Law and Social Change in Divided Societies* at Stanford in the fall. Ziv has practiced for the Association for Civil Rights in Israel and has served as a lead attorney in human rights cases litigated before the Israeli Supreme Court. At Tel Aviv University, she serves as director of The Cegla Clinical Law Programs and academic supervisor of the Human Rights Clinic. She is a founding member of the Israel Women's Network Legal Center and vice president of the New Israel Fund. Ziv received her JSM and JSD from Stanford Law School.

## IMMIGRANTS' RIGHTS CLINIC: SUCCESS LIES IN PLANNING

By Sharon Driscoll

**B**EING A VICTIM OF DOMESTIC VIOLENCE IS DEVASTATING, BUT HAVING A VIOLENT SPOUSE THREATEN TO HAVE YOU DEPORTED FROM THE COUNTRY CAN MAKE AN ALREADY DIFFICULT SITUATION MUCH WORSE. Sadly, this is an all too familiar scenario encountered by students working in Stanford Law's Immigrants' Rights Clinic (IRC), but one for which there is a legal remedy—and a learning opportunity. • “Marta,” an immigrant from Mexico, had been with her husband, a U.S. citizen, for several years before he became physically violent. He'd promised to file her application for permanent resident status but never did. When she finally left him he threatened to report her to the immigration authorities if she didn't return. So her situation was bleak when she brought the case to the IRC. Not only was she afraid of her husband, she was afraid of being thrown out of the country and separated from her children. • The first thing that Ling Lew '09 and her clinic partner Mindy Jeng '09 did when they were assigned Marta's case was to come up with a strategy. They worked closely with IRC Director and Associate Professor of Law Jayashri Srikantiah and Cooley Godward Kronish Clinical Teaching Fellow Jennifer Lee Koh to develop a detailed case plan that included a play-by-play outline of everything from client interviews to a list of witnesses to a legal brief. • “Preparation is everything,” says Lew. “It's something that Professor Srikantiah drilled into us.” • During class time, they readied for their case by reviewing—and reviewing again—their case plan. They prepared for interviews by videotaping role-playing exercises—each taking a turn at interviewing the “client”—and then studying their work in playback. They wrote numerous drafts of the letter brief that they ultimately submitted to the immigration authorities on Marta's behalf.

And they met with a Stanford psychiatrist, a faculty member at the School of Medicine who works regularly with the IRC.

“This was my first time working in depth with someone who had experienced domestic violence,” Lew says. “Having the benefit of professional psychiatric advice was invaluable. We eased into the discussion of abuse and didn't even ask our client about it in our first interview. We had to build trust.”

Lew and Jeng filed a petition for legal status for Marta under the Violence Against Women Act and, thanks to their efforts, she has been granted a work authorization permit and is waiting for the results of the petition.

The clinic targets two areas of great need in Northern California and ones which were not being fully addressed by existing legal services organizations—assistance for immigrant survivors of domestic violence and immigrants facing deportation from the United States because of past criminal convictions. Started four years ago by Srikantiah, Stanford Law's IRC is now working at capacity with many more clients seeking representation than the clinic can take on. “We're constantly inundated with requests for help,” says Srikantiah. “It's gratifying to see students graduate from the clinic and go on to assist immigrants in their practice, whether on a pro bono basis or full time.”

Along with direct service client cases, students in the clinic are also assigned to work on legal advocacy projects

### Case Roundup

The **Community Law Clinic's** Larisa Bowman '09 and Christina Rubalcava '09 successfully represented a client who faced eviction because his disability benefits had ended and he could no longer afford to pay rent. In addition to negotiating a move-out date that coincided with his entry into a substance-abuse treatment facility, Bowman and Rubalcava obtained a \$1,000 judgment for their client. Peter Bach-Y-Rita '09 filed and was granted a motion in the Santa Clara County Superior Court to have the records of a

client expunged. His client was convicted of a misdemeanor in the 1970s, but has since turned his life around and become a leader in the local AA community.

**Criminal Defense Clinic** faculty and students, including Jordan Blumenthal '09 and Erin Schanning '09, obtained a new hearing for a client whose attorney failed to present powerful mitigating evidence. The client was sentenced to life imprisonment under California's “three strikes” law following a felony conviction for making violent

# N E W S



representing immigrants' rights organizations ranging from the American Immigration Lawyers Association to local nonprofits on everything from developing know-your-rights materials to impact litigation. For Alison Sylvester '09 and Julia Weiland '09, that meant putting aside more traditional lawyerly work to write an opinion piece on unlawful immigration raids. The piece was published in May 2008 in the *San Francisco Daily Journal*.

"I think it's important to help individuals, but it's equally important to advocate on behalf of a whole group and to get the message more widely known," says Sylvester. "This is particularly relevant to immigration cases, which can be so emotionally charged, and a lot of that comes out in the media. It's important for lawyers with some training and experience in the field to put forward an informed view."

Now in the advanced clinic—and her last year at Stanford Law—Lew is thankful she had the opportunity to cut her lawyerly teeth in the supportive environment of the IRC.

"I feel well prepared," says Lew. "And learning in the clinic, we had the luxury of teachers who gave us good feedback and ensured we learned the skills we will need. We also had the luxury of time—time to absorb the lessons, and time to reflect on them. It has been a tremendous experience, both rewarding in helping our client and in learning how to be a good lawyer." **SL**

threats in a verbal altercation. Blumenthal and Schanning investigated the case and filed a habeas corpus petition in state court.

The **Environmental Law Clinic** recently received summary judgment in a suit seeking a fee waiver for the Center for Biological Diversity under the Freedom of Information Act. Noah Long '08 argued the case and convinced the court that the Office of Management and Budget had unlawfully denied the fee waiver.

In June, the **International Human Rights Clinic**, acting as co-

counsel with the International Justice Network, filed a lawsuit against the United States government on behalf of Canadian journalist Jawed Ahmad. Ahmad has been held without charge in military custody at the detention facility at the U.S. Air Base in Bagram, Afghanistan, since October 2007. [To read about the clinic's recent work in Namibia, see page 40.]

The newly launched **Organizations and Transactions Clinic's** first semester last spring reaped significant results. Among them, Bev Moore '09 and Jon Novotny

'08 designed a model contract for a Bay Area county to use when engaging mental health care providers; Susan Cameron '08 (BA '03) and Alice Yuan '08 played a central role in planning and documenting a pending merger of six nonprofit charter schools; and Brent Harris '09 (BA/MA '04) and Melissa Wagner '08 worked with an East Palo Alto nonprofit to draft contract documents for establishing a new farmers market in the city.

The **Youth and Education Law Project** successfully handled

a case involving an elementary school student with a traumatic brain injury and severe visual impairments whose school was trying to move her to a classroom without support for visually impaired students. Thanks to Alexis Casillas (visiting student) and Inbal Naveh '09, who interviewed teachers, parents, and administrators, reviewed medical reports, and located a national expert who conducted a vision analysis of the student, the school voluntarily withdrew its claim against the student and her parents.

## DOES MEDIA CONSOLIDATION STIFLE VIEWPOINTS?

HOW THE SUPREME COURT CAN PROVIDE AN ANSWER

By Daniel E. Ho and Kevin M. Quinn

W

hen Rupert Murdoch LAUNCHED HIS BID FOR *Newday* this year at a price of \$580 million, consumer groups were up in arms. Common Cause assailed the proposed acquisition as “a step back that will hurt our democracy.” S. Derek Turner of Free Press charged, “New York, like the rest of America, needs more media choices, viewpoints, and competition—not more consolidation.” And when the Federal Communications Commission considered related matters in 2002, more than half a million comments flooded the agency. Yet for all the wrangling, is it true that media consolidation stifles viewpoints?

The Supreme Court, it turns out, can help answer this question. But not in the way you might think.

For decades, the FCC has maintained a set of ownership regulations that limits the number of media outlets one entity can own. Newspapers, such as Murdoch’s *New York Post*, come under the purview of the FCC’s “cross-ownership rule,” restricting common ownership of newspapers and broadcast stations in a market.

Most of federal law on the matter is predicated on an assumption that consolidation will reduce so-called “viewpoint diversity.” Put another way, viewpoints may converge with common ownership. Yet economic or communications theory doesn’t squarely provide a conclusion to that premise. Over the past decade, recognizing the theoretical ambiguity, the courts and the FCC have increasingly required empirical evidence in support of this convergence hypothesis.

The trouble is that the evidence so far has been, well, flimsy.

The concept of viewpoint diversity, as the courts have recognized, is elusive. And when, in 2002, the FCC commissioned a handful of empirical studies on the connection between ownership and viewpoint diversity, it didn’t find much. Indeed, this elusiveness led Commissioner Jonathan Adelstein to conclude that the FCC’s proceeding was “like submitting a high-school term paper for a PhD thesis.”

But the lack of conclusive evidence may be the result of either poor measurement of viewpoints or because ownership and viewpoints aren’t directly

related. Little consensus exists as to which story is right.

Fortunately, rapid advances in statistics are making rigorous assessment of the convergence hypothesis possible. While “viewpoint” is an elusive concept, it does have observable consequences—in the same way that elusive concepts of “ability” or “intelligence” have observable implications. The virtue of standardized tests, such as the SAT, is that each test answer can be viewed as a noisy indicator of a student’s underlying intelligence. Similarly, as political scientists have recognized, we can summarize legislators’ views based on their voting records on common bills. The crucial step is collecting information about answers (or votes) to common questions.

Where might we look for answers to common questions about viewpoint diversity when newspaper editors don’t sit for a test, such as an SAT? Here’s where the Supreme Court comes in. Supreme Court justices vote on the merits of roughly 100 cases each term. And newspapers regularly editorialize on these decisions. Connecting newspaper editorials to the opinions of the justices solves the difficult problem of quantifying editorial viewpoints, which the FCC has recognized as a crucial component of viewpoint diversity.

With a large research team at Harvard and Stanford, we collected every editorial position on a Supreme Court decision by the top 25 newspapers from 1994 to 2004 (roughly 1,600 editorial positions) and coded these as agreeing with the majority or minority on the Court. Supreme Court cases are ideal for this study as they represent a staggering array of discrete issues.

With some refined statistical adjustments, this evidence allows us to scale newspapers in terms of their comparability on a single dimension. One can think of it as running from “liberal” to “conservative.” The scale tells us how each newspaper would have voted as a 10th justice and allows us to assess how viewpoints change with mergers and acquisitions of

newspapers. Essentially, the results reveal what a reasonable reader would infer after reading the editorial pages of 25 newspapers and the opinions in some 500 (nonunanimous) Supreme Court cases over a period of 10 years. It is in this sense that the Supreme Court is helping us learn about newspapers.

Figure 1 (on page 41) presents some sample results for *The New York Times*, *New York Post*, *Washington Times*, and *Washington Post*. The results quantify editorial viewpoints (and uncertainty as represented in the bands) meaningfully: The overall probability that *The Washington Post* is to the right of *The New York Times* is nearly 1. The *New York Post*'s phantom jurisprudence most resembles that of Justice Scalia. More importantly, our analysis allows us to examine the dynamic evolution of newspapers. *The New York Times*,

for example, has been consistently trending to the left of Justice Stevens.

So what happens with a newspaper merger? One important test is the merger of the editorial boards of the *Atlanta Journal* and the *Atlanta Constitution* in 2001 to form *The Atlanta Journal-Constitution*. This merger appears to corroborate the convergence hypothesis: The *Journal-Constitution*'s viewpoint lands squarely between the two prior papers. But they arrive at that middle position in an unusual way.

In 1995, both the *Journal* and the *Constitution* supported the five-justice majority in *United States v. Lopez*, which struck down a federal statute prohibiting guns in school zones. But shortly thereafter, the papers diverge considerably. In 1999, for example, the *Constitution* argued that the court "ruled wisely and well" when it found that a school could be liable

for discriminatory acts committed by students, while the *Journal* charged that the decision "opened yet another floodgate to lawsuits." The viewpoints of the editorial board members differed so sharply between the two papers that the merged *Journal-Constitution* faced serious difficulty forging a consensus position on cases. As a result, around 2006 the paper became the first major U.S. newspaper to disband the practice of unsigned editorials. The individual columns again came to reflect diverging liberal and conservative viewpoints in line with those followed prior to the merger. Paradoxically, then, the merger may have unified Atlanta's readership, with the net effect of exposing more readers to more viewpoints.

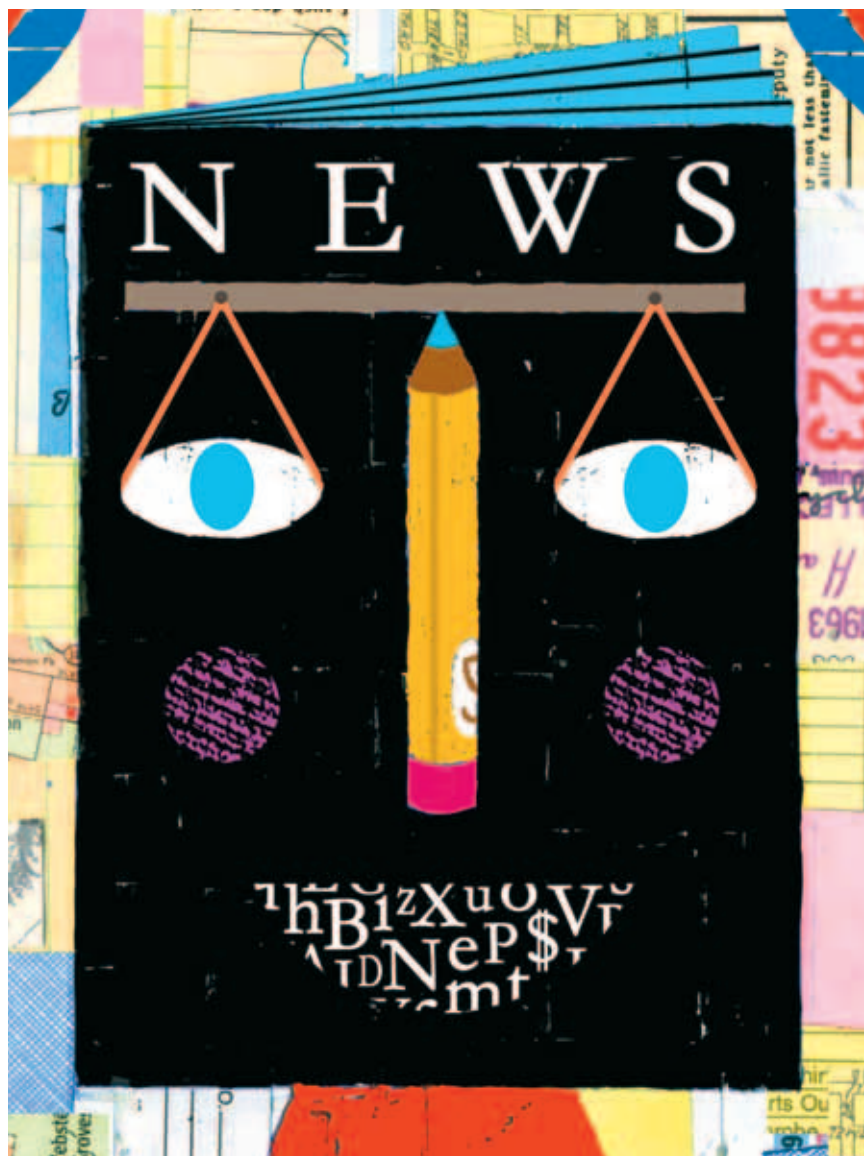
Of course, the Atlanta experience may be unique. Examining all acquisitions occurring between the newspapers in our data, effects were varied and depended on the circumstances of the ownership change: for chain acquisitions (e.g., Hearst's acquisition of the *San Francisco Chronicle*), editorial viewpoints remained stable; but after *The New York Times* acquired *The Boston Globe*, the papers switched positions.

Our analysis suggests three lessons. First, consolidation does not inexorably cause convergence or divergence in viewpoints.

Second, our analysis points to the promises and perils of empirical assessment in law and regulation. Using tools developed across applied statistics allows thorny questions of public policy and regulation to be examined with data. If, for example, consolidation systematically diversified viewpoints, there would be little use in maintaining various ownership regulations.

On the other hand, such inquiry isn't easy. Courts and agencies shouldn't expect too much. Our approach, for example, does not assess viewpoints expressed in news reporting, nor can we realistically examine the effects of vast changes of federal regulation. Judges and policymakers don't necessarily have the luxury of making

CONTINUED ON PAGE 41



## LEARNING LAW IN NAMIBIA

By Andrew Ardinger '09 (BA '06)

**L**ast December, I

BUMPED INTO TWO FRIENDS OUTSIDE THE LAW SCHOOL. ONE SUGGESTED WE GRAB A SANDWICH. "I can't swing lunch today," I said. "But, hey, when we're in Namibia?" • The casual glibness of my remark underscored how fortunate the three of us felt that we would be spending the second half of spring semester immersed in international human rights law, working on a variety of projects in and around Namibia's capital, Windhoek. The experience that we shared with seven other International Human Rights (IHR) Clinic students, a coordinator, our instructor Professor Barbara Olshansky '85, and clinic fellow Kathleen Kelly seemed so distant then but feels so indispensable today. • In Namibia, we not only addressed pressing legal issues, we also experienced the country. We visited the dunes at Sossusvlei, rode next to elephants in Etosha National Park, and watched rhino, zebra, and wildebeest drink from watering holes. We got to know University of Namibia students, as they attempted to teach us the local language Oshiwambo and some phrases in Damara and Afrikaans. On Sundays, we ate grilled meats at a weekly *braai*. The bungalows we called home for our six-week stay were comfortable and wired for Internet access. Despite its size, Windhoek retains the feel of a small colonial town where it seems everyone knows everyone else, so by the end of our time there, it felt like home. • The first part of the semester was spent at Stanford preparing for the trip. We discussed the possibilities and pitfalls inherent in various approaches to international human rights work, explored social and political issues unique to Namibia, and began laying the foundation for the work that we would do once there. • For one project, Josh Kretzman '09, Bola Olupona '09, and I worked with the Legal Assistance Centre, a Namibian NGO, in its efforts to invalidate water-extraction permits that the government had granted a Canadian uranium mining company. While Namibia is rich in uranium, it is not rich in water—a vital tool for extracting uranium ore. Despite the shortage of water, the company had received rights to remove 1 million liters of water per day that flowed beneath the dunes of the Namib Desert where only squat succulents and blue beetles seemed to survive. • Worse still, the area designated for mining included major portions of one of Namibia's most prominent national parks, home to the iconic red dunes. The short-term economic interest in ex-

tracting uranium, with its invasive removal processes, stood in direct opposition to Namibia's long-term interest in developing its eco-tourism industry, and to the welfare of those who call the region home.

A new democracy and a developing nation, Namibia achieved independence from South Africa in 1990. However, laws that had been in place over the preceding decades under South African rule were still being used as Namibia developed its own laws. Such was the case with the water law: Although Namibia had passed an enlightened Water Resources Management Act in 2004, difficulties in executing that law meant it relied upon the old South African water law, promulgated and passed for a physical and political climate completely different from present-day Namibia.

Despite these contradictions, I was impressed by the lack of cynicism in the government officials with whom we interacted. They treated the litigation as a collaborative effort to determine the contours of the legal regime governing water, and the mining controversy an opportunity to assess and weigh the comparative advantages of water extraction for mining to the nation as a whole. Ultimately, a court invalidated the permits. Now, when



BARBARA OLSHANSKY '85, ANDREW ARDINGER '09 (BA '06) AND JOSH KRETZMAN '09 MEETING WITH NAMIBIA'S OMBUDSMAN JOHN WALTERS

mining companies apply for permits, the process will prove much more rigorous and include all stakeholders—local communities, the government, NGOs, and the mining concerns—in a greater

capacity than before. I have faith that as laws and regulations regarding water usage develop, they will reflect more fully Namibia's public interest.

For my second project, Josh and I, with a University of Namibia LLM student, drafted legislation that would implement Namibia's obligations under the Convention Against Torture. Josh and I researched our way through the libraries at Stanford, the University of Namibia's Human Rights and Documentation Centre, and the Namibian Parliament. We reviewed legislation from several countries, as well as the effectiveness of such legislation and, more importantly, where and when and how it had broken down. We combed through years of newspaper reports to ascertain how, if, and when torture or other cruel, inhuman, or degrading treatment arose in the Namibian context, and we surveyed the current law of Namibia to look for gaps that could be filled. Finally, we met with the national ombudsman, the person in charge of investigating reports of government impropriety in Namibia. He suggested we edit the draft legislation into short, medium, and long versions for the Law Reform and Development Commission (LRDC), the body in charge of drafting laws for consideration by Parliament.

Our research and drafting finally complete, we presented our findings to the LRDC on our last full day in Namibia. The commission included the prosecutor-general, the ombudsman, and other high-ranking officials. I spoke to the assembled dignitaries, falteringly at first, and then answered questions.

Before we left, Tousy Namiseb, the head of the commission, addressed the group. "This is a blessing," he said, pointing to our draft. Then, while detailing plans to workshop and edit the bill, he turned to us and added, "You are a blessing." I hope it does not come across as overstatement to say I felt the same way about my experiences with the IHR Clinic.

To learn more about the IHR Clinic and to view a slideshow from the Namibia project, please go to [www.law.stanford.edu/clinics](http://www.law.stanford.edu/clinics). **SL**

## POINT OF VIEW

### Does Media Consolidation Stifle Viewpoints?

CONTINUED FROM PAGE 39

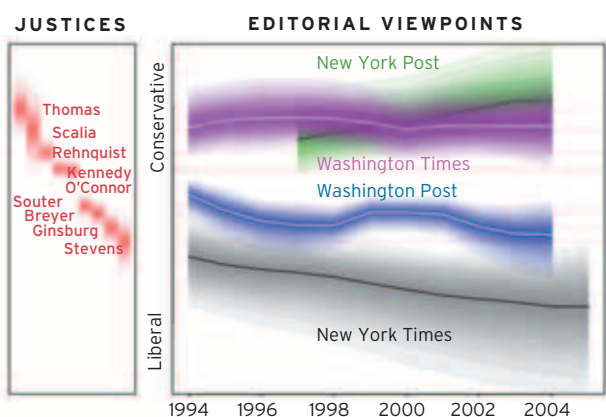
decisions after the data have been systematically gathered and analyzed. This difficulty of evaluation suggests a type of precautionary principle: Incremental, as opposed to wholesale, modification of federal regulation facilitates policy evaluation.

Last, our study sheds light on and informs what factors the FCC should consider in applying its waiver policy to the likes of Rupert Murdoch. Whether media consolidation stifles viewpoints may ultimately turn on the minutiae of the ac-

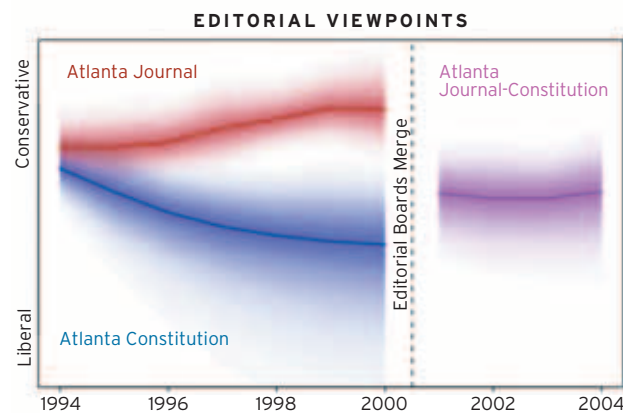
quisition: e.g., the terms of organizational restructuring, guarantees of editorial independence, and employment conditions.

That's the trouble when you face the data. It might show you that the devil's in the details.

*This piece was co-written for the Stanford Lawyer by Daniel E. Ho, assistant professor of law and Robert E. Paradise Faculty Fellow for Excellence in Teaching and Research, Stanford Law School; and Kevin M. Quinn, associate professor, Department of Government and Institute for Quantitative Social Science, Harvard University. The article is forthcoming in the Stanford Law Review and is available at <http://dho.stanford.edu/>. **SL***



**FIGURE 1: Estimates for Viewpoints for Select Newspapers and Supreme Court Justices.** The left panel presents the median viewpoint estimate for each justice of the natural Rehnquist court. On the same scale, the right panel presents the viewpoints of *The New York Times*, *New York Post*, *Washington Times*, and *Washington Post* over time, based on each paper's editorials. The solid lines represent our median estimate of editorial viewpoints, and the colored bands visualize the uncertainty of those estimates. The *New York Post* is estimated starting in 1997 because electronic versions of the paper were unavailable earlier.



**FIGURE 2: Editorial Viewpoints for Atlanta Journal, Atlanta Constitution, and the combined Atlanta Journal-Constitution.** This figure illustrates the divergence in viewpoints between the two editorial boards prior to merging. After the merger, the viewpoint of the combined board falls between that of the two former papers. As in Figure 1, the solid lines represent median viewpoints, and the color shading captures the uncertainty in estimates.

"I think that unfortunately the current administration has squandered a lot of trust in the executive branch. . . . It's not just a party issue. Both parties have made extravagant claims of presidential power when they were in the White House, including some of our greatest presidents—Lincoln, Franklin Delano Roosevelt." KATHLEEN M. SULLIVAN, Stanley Morrison Professor of Law and former dean, and director, Stanford Constitutional Law Center, as quoted in a July 29 Associated Press article, "Judicial Conference Considers Executive Powers." Sullivan participated in a panel at the 2008 Ninth Circuit Judicial Conference that discussed executive authority.

"Given the pivotal role of freedom of the press in the development and maintenance of a true democracy, the United States should not seize journalists like Jawed Ahmad merely because they are doing their jobs." BARBARA OLSHANSKY '85, Leah Kaplan Visiting Professor of Human Rights and director of the International Human Rights Clinic, in a June 5 Associated Press story, "Detained Journalist Sues Bush Administration," about a Canadian journalist being held as an enemy combatant in Afghanistan. Olshansky and the clinic are representing the now-freed journalist, Jawed Ahmad, in a lawsuit against the U.S. government.

"All the flavor's been chewed out of that gum." JORDAN ETH '85, quoted in a May 28 article from *The Recorder*, "The SEC's Next Big Things." Eth commented on the anticipated end of the SEC's stock option backdating investigations in the Bay Area.

"You're now going to face lawsuits often brought after close elections by individuals who were denied the right to vote in circumstances where the litigation will have to be done quickly. We saw, for example, in the 2000 election what happened. And it's entirely possible things like that will happen if it's a close election this fall." PAMELA S. KARLAN, Kenneth and Harle Montgomery Professor of Public Interest Law and co-director, Supreme Court Litigation Clinic, on the April 29, 2008, broadcast of NPR's *Morning Edition*, regarding the Supreme Court's decision to uphold Indiana's voter ID law.



## ALUMNI AND FACULTY SPEAK OUT

# in the

"The danger is that people's lives can be changed in bad ways because of mistakes in the technology. . . . The danger for the science is that it gets a black eye because of this very high-profile use of neuroimaging that goes wrong."

HENRY T. "HANK" GREELY (BA '74), Deane F. and Kate Edelman Johnson Professor of Law, and director of the Center for Law and the Biosciences, and the Stanford Center for Biomedical Ethics' Program in Neuroethics, quoted in *Scientific American*. The August article, "Can fMRI Really Tell If You're Lying?" discusses the implications of using functional magnetic resonance imaging as a lie detector.



"People are working hard and pursuing many avenues; in time, they will find routes that work. This is quite unlike the Kyoto process, which was marked by very rapid negotiations that produced agreements that looked good on paper, but didn't really reflect what important governments, such as the U.S., could actually deliver." DAVID VICTOR, professor of law, in *The New York Times* article,

"Global Warming Talks Leave Few Concrete Goals," published July 10. Victor discusses the G-8 conference on global warming, highlighting several barriers to progress.

"The day when the federal government can tell people the basis they've been put on the watch list is the day we can have more confidence in biometric identification." MARC ROTENBERG '87, commenting on vetting data for government watch lists in a July 6 *Washington Post* article, "Post-9/11 Dragnet Turns Up Surprises: Biometrics Link Foreign Detainees to Arrests in U.S."



“Race will play to Obama’s advantage as well as to his disadvantage. . . . Anyone in this campaign will, in some senses, need to tread carefully to avoid an implication that an attack on Obama is racially tinged.”

RICHARD THOMPSON FORD (BA ’88), George E. Osborne Professor of Law, in a June 5 *Wall Street Journal* article, “For Better or Worse, Race Likely to Play Major Role.”

“For non-law geeks, this won’t seem important but this is huge. . . . In non-technical terms, the Court has held that free licenses set conditions on the use of copyrighted work. When you violate the condition, the license disappears, meaning you’re simply a copyright infringer.”

LAWRENCE LESSIG, C. Wendell and Edith M. Carlsmith Professor of Law, as quoted in a BBC News story, “Legal Milestone for Open Source.” The article, published August 14, reports on a recent U.S. federal appeals court ruling protecting the use of open source software.

“[Good] governance is a little bit like porn. . . . I can spot it when I see it, but it is hard to say what it is.”

ROBERT M. DAINES, Pritzker Professor of Law and Business and co-director, Arthur and Toni Rembe Rock Center for Corporate Governance, referring to Supreme Court Justice Potter Stewart’s famous comment about recognizing obscenity, in a July 7 *Fortune* article, “Who’s Watching the Watchdogs?” The story reports on a Rock Center study co-authored by Daines.

“Once solidly in power, Democrats are more likely to push the envelope in areas like the environment and health [rather than civil liberties].” LARRY KRAMER,

Richard E. Lang Professor of Law and Dean, in a July 9 analysis piece, “Narrow Minded,” by *The New Republic*’s Jeffrey Rosen about Supreme Court Justice John Roberts.



# news



“Think about record companies. . . . They’ve all been in this position, and some have survived it and some have not. Apple completely reinvented [itself]. IBM did not. TiVo did not. Microsoft constantly reinvents itself. Google has sort of a one-hit, brilliant wonder and is now trying to look for lots of other revenue streams but really hasn’t, in my mind, succeeded. So I wish I could come up with what the iPod is for us.”

KATHARINE WEYMOUTH ’92, as quoted in a July 15 *Condé Nast Portfolio* story, “The Last Media Tycoon,” about Weymouth’s new role as publisher of the *Washington Post*.

“If there’s one thing you can say about this Court, it is that it still sits on a knife’s edge.” JEFFREY L. FISHER, associate professor of law (teaching) and co-director, Supreme Court Litigation Clinic, as quoted in the *Washington Post*. The June 29 article, “A Win by McCain Could Push Split Court to Right,” discusses the possible future of the U.S. Supreme Court.

“The opinion was courageous. . . . It will secure his place in the history of the California Supreme Court. There were escape hatches he could have used, such as tossing the issue to the legislature, and he rejected them. He faced the question head on and answered it.”

JANE SCHACTER, William Nelson Cromwell Professor of Law, commenting on California Supreme Court Chief Justice Ronald George ’64 in *The Daily Journal* story, “How Will Marriage Ruling Affect Chief’s Legacy?” published May 19.



“Suppose you could travel back in time and have five minutes with your younger self at graduation. What would you say?” asked Joseph Bankman, the Ralph M. Parsons Professor of Law and Business, during Stanford Law School’s graduation on May 4, 2008. • Bankman, who was honored with the 2008 John Bingham Hurlbut Award for Excellence in Teaching by the graduating class, was

selected to deliver the keynote address. He said that to prepare for the speech he e-mailed a survey to his students from the Class of 1988—the year he started teaching at the law school. In addition to inquiring about their lives and careers, he asked what they would tell the Class of 2008.

Some gave practical advice of varying relevance, from “Consider the commute: Is it really worth an extra two hours a day to take that job?” to “If you see a shrink, the only stuff that really works is cognitive behavioral therapy.” But the most common admonition Bankman received was “to follow your own path.”

“Work with people and issues, and in places, that you enjoy. Life is too short for compromise,” wrote one survey respondent.

“Listen to that little voice inside you,” wrote another.

“It’s important advice but it’s not exactly as concrete as you might want, is it?” mused Bankman. “I mean, it would have been better if they had told you the secret [is] labor law is where it’s at. Or that everything goes great in Seattle.”

Bankman continued more seriously: “They left you with the responsibility of listening for and following that inner voice.”

SLS faculty members  
Thomas C. Grey (BA ‘63),  
Joseph Bankman,  
Deborah L. Rhode, and  
Barbara Babcock



# GRADUATION

## Class of 2008 Urged to Chart Own Paths

Chinwuba Onyedikachi “Onye” Ikquakor ’08, co-president of the graduating class who was chosen to speak by vote of his peers, praised his “brilliant, fascinating and breathtaking” classmates and spoke of a future that they would shape together.

“We’ll all take the same JD,” he said. “But with different pasts and different futures we will make that JD into a thousand different things, a thousand different admission tickets to a thousand different careers.”

He said, “The degree will not define us. We will define this degree.”

After announcing that the Class of 2008 had raised more than \$100,000 for the class gift, Ikquakor turned the ceremony over to his co-president, Brooke E. Nussbaum ’08. Nussbaum presented Evelia Ramirez, a member of the law school’s custodial staff, with her second Staff Appreciation Award and Bankman with the Hurlbut Award.

After Bankman’s speech, Larry Kramer, the Richard E. Lang Professor of Law and Dean, proffered advice in the context of several classic law cases. One case Kramer cited was *Murphy v. Steeplechase Amusement Co.*, in which Judge Cardozo famously told the plaintiff, “The timorous may remain at home.”

“Don’t you be timorous,” said Kramer. “We’re facing terrible challenges today. But if history teaches anything, it is that great challenges bring great opportunities. And, indeed, you leave here with opportunities to make a difference that are indeed rare.”



Graduates of the Class of 2008 gather outside Memorial Auditorium.

## I N M E M

**CHARLES W. BURKETT '39 (BA '36)** of Atherton, Calif., died March 8, 2008. Charles spent 39 years as an attorney for the Southern Pacific Railroad, attaining the position of assistant general counsel, and was an instructor at San Francisco College of Law for 30 years. He was a member and former president of the Stanford Club board of directors. Charles loved traveling and hiking and was an active member of the Sierra Club. Charles is survived by his children Tim, Yvette, and Charlotte; seven grandchildren; siblings Nancy and John; and many nieces and nephews.

**HARRY V. GOZA, JR. '42 (BA '39)** of Redlands, Calif., died October 27, 2007. He is survived by his wife, Josephine.

**GLORIA MIDGLEY BEUTLER '44 (BA '43)** of Napa, Calif., died April 3, 2008. She was 84. In 1947, Gloria married and spent the next 20 years as a submarine captain's wife, moving frequently while raising four children. Gloria resumed a career in law in 1972, working for the Legal Aid Society, followed by private practice. She worked for 10 years as the attorney for the Napa Valley School District. Gloria was an active supporter of the local Democratic Party and the County Planning Commission, and she enjoyed singing in the choir in the Unitarian Fellowship in Napa. She was preceded in death by her husband, Albert, in 1986. She is survived by her children, Midgley, Susanne, Thomas, and David, and nine grandchildren.

**ADOLPH WM. BARKAN '48 (BA '39)** of San Mateo, Calif., died February 23, 2008. Adolph had an auspicious military career; he was one of three men involved in obtaining a Japanese codebook from a merchant vessel in San Francisco before the war, and he earned Battle Stars in five invasions prior to his discharge from the Naval Intelligence Service as lieutenant commander. Adolph left Stanford Law to complete his education at the banking school at Rutgers and the advanced management program at Harvard. Much of his career was spent working at Wells Fargo & Co., which he left as executive vice president in charge of the Southern California executive office upon his retirement in 1978. An active man and dedicated to education, Adolph was the director of the Los Angeles YMCA, among his many other positions. Adolph was predeceased by his daughter, Constance. He is survived by his wife of 65 years, Joan; his sister, Phoebe; his son, John; and four grandchildren.

**JACK R. DECKER '48** of Paradise Valley, Ariz., died February 5, 2008.

**MALCOLM HARVEY FURBUSH '49 (BA '47)** of Los Altos Hills, Calif., died March 27, 2008. Prior to attending Stanford, Malcolm served as an officer in the Pacific Fleet in WWII. Malcolm was a longtime employee in Pacific Gas & Electric Company's law department and retired in 1986 as executive vice president. He is survived by Margaret "Marnie" (BA '47, MA '49), his wife of 59 years; sons David and Gordon; daughter Suzanne and son-in-law George; and three grandchildren. [Also see shaded box p. 47.]

**MARCHISIO CHARLES "MARK" CALI '50 (BA '44)** of San Jose, Calif., died April 9, 2008, at age 86. Mark spent much of his life in the Bay Area, with the exception of time spent serving in the 13th Armored Division of the U.S. Army in WWII. He practiced law in San Jose for more than 30 years, and he was an accomplished criminal defense attorney, known for his dramatic "Perry Mason"-style arguments. Mark also served on the board of the San Jose Water Company, following in his mother's footsteps, and was succeeded by his son, Mark Jr. He is survived by his wife, Barbara; children Carlee, Mark, Charles, Leeann, and their spouses; and many grandchildren.

**ROBERT C. LOBDELL '50** of Menlo Park, Calif., died July 7, 2008. Robert, former vice president and general counsel for the *Los Angeles Times*, was recognized as one of the nation's leading First Amendment attorneys. His major legal successes included a landmark case brought by the Federal Trade Commission, in which he successfully defended the right of media companies to give discounts to frequent advertisers. He also helped free journalist Bill Farr in 1973, after he was jailed for 46 days for refusing to reveal his source in the Charles Manson murder case. After retiring, Robert served on the local boards of a few local groups, including

the Long Beach Museum of Art. He is survived by his wife of nearly 56 years, Nancy; children Jim, John, Terri, and William; and 11 grandchildren.

**MARSHALL L. MCDANIEL '50 (BA '48)** of Malibu, Calif., died on January 22, 2008. He was 83. Marshall enlisted in the U.S. Navy after graduating from high school and trained fighter pilots before serving as a pilot himself during WWII. After completing his education at Stanford, Marshall joined and greatly assisted in the development of Los Angeles real estate company Kilroy Realty Corporation, where he worked for 50 years. He is survived by his daughters, Stacie Olson and Alison McDaniel; and grandchildren, Courtney, Lauren, and Brynn.

**ERNEST LEROY NEWTON '50** of Greensboro, N.C., died February 10, 2008. He was 99. After receiving his undergraduate degree at the University of Wyoming, Ernest worked at the *Wyoming State Journal*, later buying the paper to become editor and publisher. In 1947, he sold the paper to attend Stanford. He finished his law degree at the University of Wyoming in 1950. Ernest practiced law in Lander, Wyo., and then served as executive director of the Nevada Taxpayers Association from 1962 to 1983. Ernest also served on the Western Interstate Commission on Higher Education and worked with the Reagan presidential transition team. He was the author of a weekly syndicated column on tax policy. He was predeceased by his wife of 67 years, Celia. He is survived by sons, James and Robert; daughter, Mariana; and several grandchildren and great-grandchildren.

**GLENN WARNER '50 (BA '48)** of Dana Point, Calif., died March 27, 2008.

**THE HONORABLE JOSEPH GEORGE BABICH '51 (BA '48)** of Sacramento, Calif., died April 27, 2008. He was 82. Joseph led a distinguished career in the Sacramento Superior Court and at the time of his appointment to the Sacramento County Municipal Court bench in 1957 was the youngest judge in California. In 1964, Governor Edmund G. Brown appointed Joseph to the superior court, where he served for 20 years. Joseph was active in his community church, attending mass daily, as well as in the Croatian community. He was predeceased by his wife, Eleanor, and by his daughter Therese.

**G. EDWARD FITZGERALD '53** of Pasadena, Calif., died April 14, 2008. He was 79. Ed served in the Army as a legal counselor during the Korean War. Later, he served as a trial attorney and senior partner with Gibson, Dunn & Crutcher LLP in Los Angeles for more than 40 years. He also became a member of the American College of Trial Lawyers in 1985. Ed is survived by his wife, Beverly; brother Robert; sister Mary Morton; and son John Fitzgerald, daughter Brynn Hale, stepsons Brad and Bill Barney, and granddaughters Lauren Barney and Madison Hale.

**JAMES R. MAURER '53 (BA '51)** of Sierra Madre, Calif., died May 9, 2008. James worked as a corporate lawyer in Southern California for 27 years, followed by a teaching position at the University of Arkansas School of Law. He retired to Tucson, Ariz., and moved to Sierra Madre. James was preceded in death by his daughter, Caroline. He is survived by Suellen, his wife of 55 years; children James Stephen, Elizabeth, Joseph, Margaret, Mary Rose, Thomas, Sarah, Katharine, John, and Benjamin; 29 grandchildren; and great-grandchildren Caitlyn and Graham.

**ROSCOE STANLEY WILKEY '54 (BA '51)** of Olivenhain, Calif., died July 11, 2008. Between the years 1956-1970, Roscoe was a partner at McInnis, Focht & Fitzgerald (now McInnis, Fitzgerald, Rees, Starkey & McIntyre) in San Diego, Calif., where he specialized in civil jury and medical-legal matters. In 1970, he was appointed judge of the Superior Court of San Diego. He held the position for nine years. Roscoe served in various community capacities including president of the Barristers Club, two-time president and board member for 12 years at the San Diego Downtown YMCA, member of the Community Advisory Board of the City of Encinitas, member of the Parks & Recreation Commission of the City of Encinitas, and a deacon of The Village Community Presbyterian Church in Rancho Santa Fe. His professional memberships included the California State Bar Association, the California Judges Association, and the American Board of Trial Advocates.

After retirement, he remained active in private practice and served as an arbitrator for the superior court. He also enjoyed watercolor painting and traveling. He is survived by his beloved family, including his wife, Norada Marshall; daughter, Linda; son, David; daughter-in-law, Holly; and grandsons, Justin and James Wilkey.

**KENNETH M. DICKERSON '56** of Belmont, Calif., died June 19, 2008. Kenneth joined the Merchant Marines in 1944. He later joined the Navy, serving on an auxiliary minesweeper in the Pacific during WWII and as an officer in the Korean War. Kenneth joined a growing law practice after his graduation from Stanford Law, eventually becoming a partner in the firm today known as Aaronson, Dickerson, Cohn & Lanzone. He also served as legal counsel for the San Mateo County Harbor District for nine years, councilman for the city of Belmont for three years, and as the mayor of Belmont for two years. He was well known in his career as city attorney of Belmont for 31 years and Fremont for 22 years. He is survived by his wife, Jan; daughters, Manuella, Cristy, and Lori; sons-in-law; and six grandchildren.

**W. MARSH FITZHUGH III '56** (BA '53) of San Marino, Calif., died April 14, 2008.

**ALONZO L. LYONS IV '56 (BA '50)** of Boise, Idaho, died August 21, 2008. Al's talent as a track runner brought him to Stanford on a scholarship, where he won the PAC-10 championships in the mile. Following service in the U.S. Air Force during the Korean War, Al returned to Stanford to study law. After practicing and teaching law in California, Al moved to Idaho, where he worked for Albertsons as general counsel until his resignation in 1969. Until his retirement he was senior partner at Lyons, Bohner, Chasan, and Walton. He was involved in the Stanford Club of Idaho for many years, including a stint as president. Al was a gifted watercolorist and cartoonist, sharing his talent with children and other students. He is survived by his wife, Phyllis; children Shirley, Ellen, Annie, Katie, and Lonny; sons-in-law; and 10 grandchildren.

**RICHARD LOREN BERGER '58 (BA '53)** of Glendale, Calif., died October 27, 2006. He is survived by his sister, Reva, his brother, Eugene, and several nephews, nieces, and cousins.

**ANDRE L. DE BAUBIGNY '58 (BA '53)** of San Francisco, Calif., died April 20, 2008. Before his passing, Andre penned a note describing his life. "I adore my wife and Helene and Andre—I have been blessed by being a part of them—Life has been too good to me and therefore no one should mourn my passing—No man who has ever walked this earth has had a more full life, filled with love, respect and happiness. . . My last words to all—LOVE is the most important ingredient for a full life!" He is survived by his wife, Gretchen; daughter Helene and son Andre.

**ROBERT DUANE CARROW '58** of Novato, Calif., died May 11, 2008. He was 74. Robert spent much of his life in Novato, serving as a city council member for three years and as mayor in 1964-65. He was dedicated to preserving the area's green space, authoring legislation to prevent development along the ridgelines. Robert was known for his passionate civil rights activism. In the 1970s he was involved in the 16-month trial of the San Quentin Six, now the longest recorded trial in California history. Robert was called to the English Bar by the Honourable Society of the Middle Temple in 1981, making him one of the first American attorneys to be qualified in the United States and England. He is survived by his wife, Jacqueline, their seven children, and 12 grandchildren.

**OTTO JOSEF KLAUSHOFFER '58** of Gloucestershire, England, died April 10, 2007. He was 83. Otto served in the German Army in WWII and was captured by the United States and held as a POW. After graduating from Stanford Law, Otto worked for Law Book Publishers in San Francisco. After moving to London, Otto continued to work for American publishers. During the mid-70s, Otto retired from publishing and pursued a series of jobs including running a bed and breakfast. He is survived by his wife, Rosemary, and children Alexandra and Matthew.

**BRYANT M. "SKIP" SMITH '58 (BA '55, MA '55)** of Costa Rica

died July 28, 2007. After graduating from Stanford Law, Skip taught at the law school and the Stanford economics department from 1958 to 1961. He worked for Kelso, Schnake, Lehrer, Cotton & Holmes in San Francisco, and, when the firm moved, he remained in the city to work for Angell, Adams and Holmes. In the early 1970s he left the practice to move into corporate law. After retiring in the late '90s, Skip moved to Costa Rica where he lived with his two dogs. He is survived by his sons Ross, Marks, and Miles.

**ROBERT C. STETSON '58 (BA '56)** of Rancho Santa Fe, Calif., died July 30, 2008. Robert completed his undergraduate work at Stanford on a full academic scholarship and continued his education there in law. He had a long career in law and was employed by Consolidated Freightways for 30 years as vice president and general counsel. Robert was also a distinguished author and published several articles for scholarly publications, as well as a book charting the history of Pajaro Dunes in Monterey, Calif. He loved playing bridge and traveling. Robert is survived by his wife, Mary; sons Christopher and Sean; daughters-in-law Xiaoyun and Leslie; stepson Jim and his wife, Julia; and six grandchildren.

**RICHARD CHARLES BARTLETT '64 (BA '61)** of Cascade Locks, Ore., died April 24, 2008. He was 67. Richard was born in Hong Kong and immigrated to the United States as a teenager in 1957. After graduating from Stanford Law he worked as an attorney in private practice in Portland, Ore. He is survived by his sister Pamela; his children, Lisa, Marie, and Charles; and one grandchild.

**THOMAS J. READY '65** of Pasadena, Calif., died January 26, 2008. Thomas served in the U.S. Navy in the Pacific Fleet before attending Stanford Law School. Upon graduating, he joined O'Melveny & Myers in Los Angeles. Over the course of his career in law, Thomas belonged to many firms, serving as partner at Agnew Miller & Carlson, as well as Hufstедler & Kaus. Thomas ended his career serving as in-house counsel at Westrec Financial, Inc., and was a fellow of the American Bar Foundation. He is survived by his wife of 48 years, Margaret; siblings Ann, Bill, Peter, and Cathy; children Tom, Catherine, Laura, and Ann; and 11 grandchildren.

**LAWRENCE M. COHN '66** of Glen Allen, Va., died January 14, 2007. He is survived by his wife, Lynn.

**LYNN LEHMANN '68** of Denver, Colo., died May 17, 2008. He was 67. After graduating from law school, he worked for four years in the Army's Judge Advocate General Corps. Lynn dedicated his life to helping children, working on the Colorado Children's Code, which helped to improve the living situations of children under six who had been removed from their homes. Additionally, he spent hundreds of hours working with the Bridge Project, tutoring disadvantaged children, and he started several projects that helped to properly train employees working with abused, abandoned, and neglected children. He is survived by his wife, Peggy; his sons, Jon and Andy; and his brother Timothy.

**ROBERT W. MCCULLOH '73** of Redwood City, Calif., died November 19, 2007. He is survived by his brother, John.

**MARCIA GRIMM '81** of San Francisco, Calif., died April 13, 2008. After graduating from Stanford Law School in 1981 with a focus on land use, environmental, and natural resources law, Marcia served on the Stanford Public Interest Law Foundation and interned at the California Coastal Commission. In 1982, she joined the staff of the California Coastal Conservancy and was promoted to senior staff counsel in 1990. During her time at the conservancy, Marcia helped to preserve nearly 200,000 acres of wetlands, dunes, parks, agricultural land, open space, and hundreds of miles of trails. She composed key parts of bills establishing the San Francisco Bay Conservancy Program and the California Coastal Trail. She was also a talented pianist and a member of the Dolphin Club. She is survived by husband, Michael Buck; daughter Madeleine and son Zane; parents Robert and Roberta Grimm; sisters Carole Barnes, Leslie Archer, and Nancy Grimm; and brothers Michael and Mark Grimm.

---

# kudos to

MICHAEL ARRINGTON '95 was one of *Time's* "100 most influential people in the world."

DEBRA BELAGA '78, BONNIE ESKENAZI '85, REGINA PETTY '82 (BA '79), and ROSALIND TYSON '78 were profiled in "Top 75 Women Litigators," a special supplement to *The Daily Journal*.

ORLANDO LUCERO '83 (BA '80) was elected to the Stanford Associates' Board of Governors.

ROSEMARY SHEA TARLTON '91 was recognized on *The Daily Journal's* "Top 10 Trademark Lawyers" list.

FRED VON LOHMANN '95 (BA '90) and EDWARD V. ANDERSON '78 (BA '75) were included in *The Daily Journal's* list of "Fifty Leading IP Litigators in California."

MARY B. CRANSTON '75 (BA '70) received a 2008 State Bar of California Diversity Award.

JENNIFER HERNANDEZ '84, SRIKANTH SRINIVASAN, JD/MBA '94 (BA '89), and ANTHONY ROMERO '90 were selected for inclusion in *The National Law Journal's* "50 Most Influential Minority Lawyers in America" list.

Judge STEPHEN V. MANLEY '66 of the Superior Court of Santa Clara County was named the 2008 recipient of the Chief Justice's Award for Exemplary Service and Leadership for his outstanding contributions in developing drug and mental health courts.

JOHN FREIDENRICH '63 (BA '59) and his wife JILL (BA '63) were awarded the Stanford University School of Medicine Dean's Medal.

PROFESSOR JOSEPH A. GRUNDFEST '78 appeared on *Lawdragon's* "100 Lawyers You Need to Know in Securities Litigation" list and on *Directorship's* "Top 100" list of corporate governance influencers.

---

## UPCOMING EVENTS AT SLS

The Race Card: Thinking About Civil Rights  
in the New Millennium  
<http://law.stanford.edu/theracecard>  
October 24-25

Patent Litigation at the  
International Trade Commission  
[http://lst.stanford.edu/patent\\_litigation](http://lst.stanford.edu/patent_litigation)  
October 28

Closing the Tax Gap  
<http://law.stanford.edu/taxgap>  
November 8

Public Service Awards Dinner  
[www.law.stanford.edu/program/centers/pip](http://www.law.stanford.edu/program/centers/pip)  
November 10

Fiduciary College  
[www.fiduciarycollege.com](http://www.fiduciarycollege.com)  
January 6-7

Directors' College  
[www.directorscollege.com](http://www.directorscollege.com)  
June 21-23

For more information about these and other events, visit [www.law.stanford.edu](http://www.law.stanford.edu).

## Stanford Law Students Back From War

This letter is in response to the article in the Spring 2008 issue titled "Stanford Law Students Back From War."

In the Class of '70, I was the only combat veteran—I believe. We had Lou Guerrieri '71 (BA '58), a career naval aviator, just retired, who, I believe, had never served in combat. We also had Jim Beery '70, a Marine Corps officer, who, I also believe, had not served in armed conflict. I served 18 months in the Vietnam War (between 1964 and 1967) as a U.S. Naval officer. When I entered law school—in September 1967, still wearing my uniform, inasmuch as I was not processed out until mid-September—I had in my pocket a very coveted possession indeed: a 5-A draft card, indicating that I had completed my required military service. Such a card could have fetched serious sums of money back then; most of my classmates were draft eligible. I was also 29 years old amongst my classmates who were mostly around 21 to 22.

As I read the article by Sharon Driscoll, the memories came flooding back. Many people at present are too young to remember just how unpopular the war in Vietnam was. Even as early as in 1967. Of course, it got much more unpopular as time wore on and casualties mounted. Some of my classmates took secret looks at me, which—combined with envy that I didn't have to go where they might—barely hid the thought that I was a warmongering monster. At first, I had very few friends. When I served, I didn't get to put letters on my bulkhead (synonymous with "wall" in Navy talk) from kids, saying, "I hope you don't die." However, I did get hit with rotten tomatoes in civilian airports, wearing my country's uniform, on the infrequent occasions that I got leave. Times were different then.

I didn't think that the Vietnam War made sense. Just as I don't think the Iraq War makes sense or that it ever did. But my country was calling and I didn't hide behind the Canadian or Swedish borders, nor behind a phony 4-F, or a phonier Air National Guard assignment, flying airplanes everyone

# letters to the editor

knew were too old, outdated, and unfit to face the modern MiGs with which the North Vietnamese air force was equipped. A person such as this is our present commander in chief, who orders wars and invasions to begin and sends young people to face the enemy from whom he, himself, hid when his country called. I could not help but applaud the very astute observation by Sean Barney '10 when he commented on the fact that the Iraq War was not undertaken seriously, not discussed and debated sufficiently and the country's soul not searched adequately because "I think that's a reflection, in part of the very, very few veterans in Congress and in public life, proportionately, compared to what it was in the past." Back in the late '60s and early '70s, there were constant demonstrations on campus—all of which I attended—against the war. What puzzles me is where are the youth of today? Why are they not on the streets, screaming their heads off, demanding an immediate withdrawal from Iraq?

The one thing that military service did by way of preparation for law school and a legal career of trial work is teach me—early and often—how to take abuse with a smiling face, often from superiors (later called "judges") who were sometimes quite inferior in intelligence and education and whose decisions frequently made little sense. In this, I think the four people mentioned in the Driscoll article share my sentiments. Good luck to all of them in their legal careers and in life!

ADAM VON DIOSZEGHY '70 (BA '64)

## Reaction to Hufstедler Profile

Thank you for your wonderful piece "Judge Hufstедler: A Lifetime of Achievement," by Randee Fenner (BA '75), Spring 2008 issue. The article expanded my knowledge of the incredible scope of Judge Hufstедler's achievements, which are truly awe inspiring.

The article also increased my admiration for Stanford Law School, which consistently admitted outstanding women during the 1940–50s despite the high attrition rate and gloomy post-graduation prospects these women faced. Of course, the law school's commitment to women paid off spectacularly, not only with superstars like Shirley Hufstедler '49 and Sandra Day O'Connor '52 (BA '50) but with the many excellent women alumni since.

KENTA K. DUFFEY '82

# STANFORD LAWYER

ISSUE 79/VOL. 43/NO. 1

### Editor

SHARON DRISCOLL  
sdriscoll@law.stanford.edu

Associate Dean for Communications  
and Public Relations

SABRINA JOHNSON  
sabinaj@stanford.edu

Art/Design Direction  
DAVID ARMARIO DESIGN

Production Manager  
LINDA WILSON  
linda.wilson@stanford.edu

Deputy Editor  
AMY POFTAK (BA '95)

Class Correspondents  
66 CREATIVE ALUMNI

Copy Editors  
JOYCE THOMAS  
ARTHUR PATTERSON

Editorial Interns  
KRISTEN BARTA (BA '09)  
ERIKA AMAYA (BA '09)

Production Associates  
LUANNE HERNANDEZ (BA '05)  
MARY ANN RUNDELL

*Stanford Lawyer* (ISSN 0585-0576) is published for  
alumni and friends of Stanford Law School.

### CORRESPONDENCE AND INFORMATION

#### SHOULD BE SENT TO:

Editor, Stanford Lawyer  
Stanford Law School  
Crown Quadrangle  
559 Nathan Abbott Way  
Stanford, CA 94305-8610  
alumni.publications@law.stanford.edu

CHANGES OF ADDRESS SHOULD BE SENT TO:  
alumni.relations@law.stanford.edu

Copyright 2008 by the Board of Trustees of  
Leland Stanford Junior University  
Reproduction in whole or in part without permission  
of the publisher is prohibited.

ISSUES OF THE MAGAZINE SINCE FALL 1999 ARE  
AVAILABLE ONLINE AT  
www.law.stanford.edu/publications/stanford\_lawyer

*Stanford Lawyer* is listed in:  
Dialog's Legal Resource Index and Current Law  
Index and LegalTrac (1980–94).

GRAND GOLD WINNER



Stanford Lawyer  
WELCOMES LETTERS FROM READERS, THOUGH  
BREVITY INCREASES THE LIKELIHOOD  
OF PUBLICATION, AND LETTERS MAY BE EDITED FOR  
LENGTH AND CLARITY.



Stanford University  
Stanford Law School  
Crown Quadrangle  
559 Nathan Abbott Way  
Stanford, CA 94305-8610

Non-profit  
Organization  
U.S. Postage Paid  
Palo Alto, CA  
Permit No. 28



Introducing Stanford Law's New Online **SoPro** Network

COMING JANUARY 2009



**Join**

Create your personal profile. Post news and photos. Read updates from SLS classmates.



**Get Social**

Join your class group. Chat with old friends and connect with new ones.



**Share Knowledge**

Participate in private or public discussions about legal issues, careers, and more.



**Learn About Upcoming Events**

Find out about local alumni events, register, and see who else is planning to attend.

**1**

Visit SLS Connect.

[www.law.stanford.edu/slsconnect](http://www.law.stanford.edu/slsconnect)

**2**

Create an Account.

Choose a Screen Name.

**3**

Get **Social**,

Get **Professional**.

**4**