



# THE COMMENTATOR

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The Student Newspaper of the New York University School of Law

September 21, 2006

## The Big Easy Falls on Hard Times

BY SARAH BETH CHRISTENSEN,  
STEINHARDT SCHOOL '07

Lawyers, law students, and other members of the American Constitution Society filled a large classroom at Columbia University last week as the Honorable Judge Sarah Vance of Louisiana took the podium to discuss the legal troubles in post-Katrina New Orleans.

Judge Vance expressed her empathy and concerns for the disaster's victims during her speech, which examined Katrina's damage from a legal perspective. She touched on the familiar but still-painful (and ongoing) human suffering that resulted from the floodwater that engulfed 80% of New Orleans, killed hundreds, and displaced thousands. She also briefly mentioned the heavily discussed subjects of race, class, planning, leadership, and bureaucratic obstacles.

After a thorough description of these well-recognized Katrina issues, the judge focused on her description of New Orleans as a city rife with dreadful constitutional violations and a grave lack of financial and managerial resources to correct them and to establish process and procedures to abide by federal law.

According to Vance, the city's criminal justice system was dysfunctional pre-Katrina and now sustains a mere fraction of its obligatory functionality. Before the hurricane the public defender's office received the bulk of its inadequate funding from the payment of traffic tickets and had no central computer system or organized records system to keep case and client files. Even before the storm the office was shamefully understaffed and had to handle roughly 90% of the city's criminal caseload. The city's public defenders worked for the office part-time and the majority of their income came from private practice work. They didn't meet their clients before the trial to prepare their cases, and worked areas of the court instead of working a case from start to finish.

Even before the hurricane, a client of the New Orleans public defender's office had little chance of a fair trial. Now, after the devastation, everything is much, much worse.

Before the levy broke, the state evacuated 5,000 prisoners to other Louisiana facilities. The judge characterized this move as completely lacking in organization and planning, and undocumented to the point that the state had no record of where the evacuated prisoners were after

the flood. The judge told of a woman charged with prostitution sent to the state's largest maximum-security all-male prison. Another unnerving description of the prison system's failure involved a young man evacuated to a different prison before the flood who sat in a prison cell in another Louisiana city for two months longer than the maximum sentence for his alleged crime without ever actually being charged with the crime.

In New Orleans, legal problems abound outside the prison system as well. Crime is rampant due to the lack of police; the barren, gang-friendly devastation of many of the city's neighborhoods; and the unavailability of mental healthcare or substance rehabilitation programs. Vance reported that gangs run many neighborhoods and have tightened their hold due to the increased demand for drugs and lack of police intervention. Turf wars occur regularly and witnesses of violence often refuse to testify for fear of gang retribution.

Combining this new terrifying atmosphere with the pre-existing lack of organization and funding, it comes as no surprise that the city of New Orleans does not know exactly how many pending criminal trials there are. Vance said that after the floodwaters subsided, it was difficult for the DA's office to start trying cases because their entire evidence room was flooded. A team of experts from the Smithsonian have been reportedly successful in their attempts to restore the evidence to its original state. Unfortunately citizens do not have access to the Smithsonian team to restore titles and vital property ownership papers, wills, birth certificates, social security cards, and other documentation. Often these documents have been lost or completely ruined and the courts have no time or resources to help mediate disputes involving identity and property ownership when other legal issues are weighted more heavily.

Judge Vance also worries about the future of elections in New Orleans. Adherence to federal and state voting laws will be a challenge for state officials. One major issue is the many displaced citizens in Louisiana, Texas, and other states across the nation. In the last mayoral election, these displaced individuals employed satellite voting by mail to cast their ballots. The NAACP has filed a lawsuit (*Wallace vs. Blanco*) to force the state to allow refugees living out-

of-state the opportunity to register to vote if they were not registered before the flood. The important constitutional question of whether displaced citizens of New Orleans remain eligible to vote in the city's elections is yet to be resolved. Likewise for the concern over the quality of the city's 2008 presidential polling places and New Orleans citizens' access to these locations.

As the judge wrapped up her list of post-flood legal disasters, her clear voice revealing her slight drawl only when she uttered the name of her beloved city, a clear change came over the tone of the seminar. The conversation shifted from a scholarly discussion of constitutional issues to a hard-sell recruiting mission for lawyers and law students. A young lawyer spoke up from the audience and told of his new job with the District Attorney's office and spoke of the satisfaction of helping to change the badly damaged system from the inside. Another audience member described a rewarding experience as a summer intern in Louisiana.

Although the "working in the balmy humidity of New Orleans for low pay and long hours" daydream is likely lower on the totem pole than other fantasies for most New York City law students, the personal and long-term career benefits could be compensation enough for many. The restructuring of the various court offices in New Orleans along with the unprecedented need for legal aid in both criminal and civil matters presents a unique opportunity to the legal force. Interested NYU Law students or alumni should contact [www.katrinalegalaid.org](http://www.katrinalegalaid.org) or contact the New Orleans District Attorney's Office to follow-up on the possibilities of beginning or refreshing your career in a place you are desperately needed and where you can affect real change.

## NYU Grad and Supreme Court Clerk

BY ROBERTO L. REYES-GASKIN

If securing a clerkship after law school represents a very prestigious next step, then clerking with the Supreme Court is its zenith. This year, one NYU graduate, Nicholas Bagley (J.D. 2005), has joined the ranks of the privileged few and will be working for the highest court of the land. He will be working Justice John Paul Stevens, nominated for the bench at the highest court by President Ford in 1975.

Bagley, from San Diego, CA, is a graduate of Yale College, where he majored in English. At New York University School of Law, he focused on administrative law, "but not exclusively," also taking higher courses in property and environmental law. Nicholas also served as Notes Editor of *New York University Law Review*. While "so many great professors" influenced his interests, particularly significant were Larry Kramer (Civil Procedure and Constitutional Law), who is now Richard E. Lang Professor and Dean of Stanford Law School; NYU's current Dean, Richard Revesz (Environmental Law); and Michael Schill, presently Dean and Professor of Law at UCLA School of Law.

Bagley says that although the "substantive areas [of the law] are important," perhaps the element that prepared him most for a clerkship was NYU Law School's

emphasis on legal writing. He wrote numerous papers while in law school, including a note on the Office of the Comptroller of Currency (OCC), the federal administrative body that oversees the banking system. Ironically, the issue of whether that agency overstepped its authority by regulating against excessively high interest rates

has passed through the court system and reached the Supreme Court this year.

As is typical of Supreme Court clerks, Bagley first

clerked for a Circuit Court judge. From 2005 to 2006, he worked with Judge David Tatel of the District of Columbia Circuit. Bagley calls his first clerkship a "terrific experience." It was exciting because a new case came across his desk every week that related mostly to complicated, regulatory and administrative issues. He especially appreciated the "humbling and exciting" opportunity to discuss cases on the court's docket with Judge Tatel. Bagley's duties will be different this coming year, including reviewing petitions and advising Justice Stevens on which cases the court should hear, since the Supreme Court has discretionary power over which cases to take. The Supreme Court will also be an intellectual change of pace for Bagley because it reviews many criminal and habeas corpus cases, areas of the law that he did not see while on the D.C. Circuit.



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## Communism Hates You, and You Should Hate It, Too

BY TUDOR RUS '07

Johnny Weir, reigning three-time U.S. National Champion in figure skating, sports a warm-up jacket glorifying the former Soviet Union while representing the United States at the 2006 Winter Olympics. Hipsters singing late-night karaoke on the Lower East Side are wearing t-shirts alternately displaying the hammer and sickle and the Soviet Union's Cyrillic acronym "СССР." E-mails are being forwarded on one of the law school's student group lists with the introduction "Dear comrades:".

Has our society's attention span really become that short? Are we really that ignorant of history, even of our own history?

What most of these people have forgotten (or chosen to ignore) is the fact that communism was a tyrannical and oppressive form of political-economy which murdered millions and egregiously violated the human rights of countless others worldwide. Whatever can be said about the egalitarian niceties of communism "on paper," in practice, the ideology was nothing

more than a violent and despotic means that a few individuals used to rule billions of others.

Not one communist regime has been imposed peacefully or democratically. Mao, Lenin, Castro, and Kim Il-Sung all came into power by the sword – none of them ever won any (unrigged) elections.

Furthermore, if any of "the people" showed the slightest bit of opposition to the policies implemented by the ruling class, the military and the secret police were used to squash any opposition. Dissidents were regularly imprisoned, beaten, tortured, and killed. When Czechoslovakia's communist government began to reform its policies and reduce individual oppression in the late 1960s, the Soviet Union and its communist allies invaded the country in order to re-assert hard-line communist control.

One did not, however, need to truly oppose the communist regime in order to be subject to its wrath. Under communist regimes, the wide definition of what constituted "enemies of the people" (a.k.a. prop-

erty owners, religious leaders, intellectuals and independent elites and anyone else who might have had an independent, non-communist thought), ensured that indiscrimi-



nate violence would be used against even the obedient.

Millions were murdered in the Soviet Union, China, and Cambodia because of the inherited wealth they possessed or because of their religious or intellectual backgrounds. Hundreds of thousands more received the same treatment in Romania, Poland and Hungary.

Communism, therefore, required the massive use of violence to exist.

Violence was required to bring a communist regime to power, and the use of violence was required to maintain its control over "the people."

Communist regimes not only killed and imprisoned their citizens indiscriminately, but also prevented individual citizens from exercising any of their human rights. Not one communist regime allowed free speech, free exchange of goods and services or free exercise of religion, and none of them implemented a fair system of criminal procedure. In fact, any attempts to exercise such rights were punished through "re-education" in hard-labor camps or prison time.

Communism also doomed generations of individuals worldwide to poverty. In post-WWII Europe, the countries that embraced free-market principles – Germany, France, Italy, England, Belgium, etc. – quickly recovered from the war's destruction, and were able to improve the economic lot of their citizens. The countries dominated by the former Soviet Union – Romania, Hungary, Poland, Yugoslavia, etc. – created inefficient command economies

that in many instances were not even able to feed their own people.

By preventing the establishment of free-market methods of exchange in large swaths of the globe, communism prevented billions of individuals from working their way out of poverty. In China alone, the shift from communist command-economy to free market policies has reduced the number of people living below the World Bank's poverty line (less than \$1 a day) by several hundred million.

Wearing "СССР" t-shirts and glorifying other symbols of communist ideology in other ways amounts to an endorsement of some of the most violent, oppressive and murderous regimes on Earth. Billions of people around the world suffered under the tyranny of communism, and, by choosing to flaunt the symbols of this despicable ideology, many in our society show nothing but disrespect for the injustices these individuals have had pressed upon them.

*Rus grew up in communist Romania and came to the United States at age 11.*

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*The Student Newspaper of  
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## Stevenson Gives Inspiring Talk

BY JULIA FUMA '07

Bryan Stevenson spoke in a Lipton Hall overflowing with 1Ls on Monday, September 18. The 1L's, bright eyed and bushy tailed, listened to Stevenson's moving and often humorous speech. Even those 2L's and 3L's who had heard the speech before seemed inspired upon their second or third listen.

Stevenson is a professor of law at NYU and the Executive Director of the Equal Justice Initiative of Alabma. A 1995 recipient of the MacArthur Foundation's 'genius' awards, he has overturned dozens of capital convictions and won numerous other awards.

Stevenson described his decision to go to law school. He majored in philosophy but realized that no one would pay him "to philosophize". So he decided to go to law school. He said that he hated law school until January of his second year. That year he went to Georgia to work with clients on death row. He was assigned the task of telling a man on death row that he was not at risk of being executed in the next 12 months. Thus, even though they could not give the prisoner a lawyer, he was safe for the time being. "But then we had the most amazing conversation." They talked for a long time, and Stevenson said that "I could not deny that just by being there I changed the quality of this man's life." No one told him at the beginning of law school that by studying law you could change the quality of a person's life. He was telling the audience that they can.

Stevenson's work focuses on criminal justice and capital crimes. He spoke of the disparities within our society and particularly in the criminal justice system. In 1972, according to Stevenson, there were 200,000 people in jails and prisons. Today there are 2.3 million people. In Montgomery, 1 out of 3 black

males between 18 and 30 is incarcerated, on probation, or parole. In Alabama 31% of the African American male population has permanently lost the right to vote. They can't get into public housing. They can't get food stamps. Their families can be evicted from public housing.

Many of the men on death row in Alabama are represented by lawyers



who are drunk, who don't care, who are poor, and who hate their clients. 60% of men on death row in Alabama were represented by court appointed attorneys who receive a maximum of 1000 dollars for their work.

However, particularly crushing for Stevenson is the Supreme Court's treatment of the death penalty. When the Supreme Court reinstated the death penalty in Gregg v. Georgia, there was still the possibility that death penalty would be unconstitutional if it could be shown that it was biased.

The NAACP Legal Defense Fund went to work and the Supreme Court heard their case in 1987 in *Mcklesky v Kemp*. Lawyers showed that in Georgia a person was 11 times more likely to get the death penalty if the victim is white than black. The odds rose to 22

times more likely if defendant is black than if the defendant is white. Simply put, race was the greatest predictor of the death penalty.

He said that reading the Supreme Court's decision in *McKlesky* was crushing. The Supreme Court essentially said that if it addressed claims of bias in the death penalty, it would have to deal with it in all areas of criminal law. Brennan, in his dissent, called this a "fear of too much justice." The Supreme Court said that a certain quantum of bias is inevitable. Stevenson simply can't reconcile the decision with the sign in the Supreme Court that says "equal justice under the law."

Stevenson described himself as a product of *Brown v. Board*. It was lawyers who let him go to high school. He contrasted that decision with *McClesky*. "In 1955 the court could have said segregation is too big a problem. But they didn't. They had a vision of justice that compelled them to say no, it's not inevitable." Talented and committed lawyers have since been working to implement the vision of *Brown*.

While there is a great deal of injustice in the world, Stevenson said that it is important not to lose hope. "I really came here to reinforce this notion that if you have power and are willing to say something [about injustice], you can turn it into something that is like justice. But none of this will mean anything if you don't have hope that you can change things."

Stevenson ended by urging the audience to keep basic decency in mind. To remember that "Each person is more than the worst thing he's done." That "If you lie you're not just a liar and if you kill you're not just a killer". In every person "there's a basic human right and dignity that must be upheld and defended."



Old and New in Bob Dylan’s Modern Times

BY CHRIS BRADLEY ’07

Bob Dylan’s new album may be titled *Modern Times*, but there’s nothing particularly up-to-date about it. The shortest track on the album is four minutes and fifty-five seconds long, and the other nine tracks hover around six minutes (or more). The songs adhere strongly to traditional blues forms, with verse after verse punctuated only by the jamming of Dylan’s backing band.

In fact, in everything he does these days, Dylan seems to be asserting that the past and the present are not as separate as they seem. The 65-year-old singer mentions Alicia Keys in the first song of his new album, has his own radio show on XM Radio (“Theme Time Radio Hour with Your Host Bob Dylan”), and appears in iPod commercials; but he also insists on sounding more and more like a throwback blues singer of a bygone era on each of his most recent albums (and if you’ve seen the iPod commercial, you also know that he has taken to dressing the part of such a singer as well).

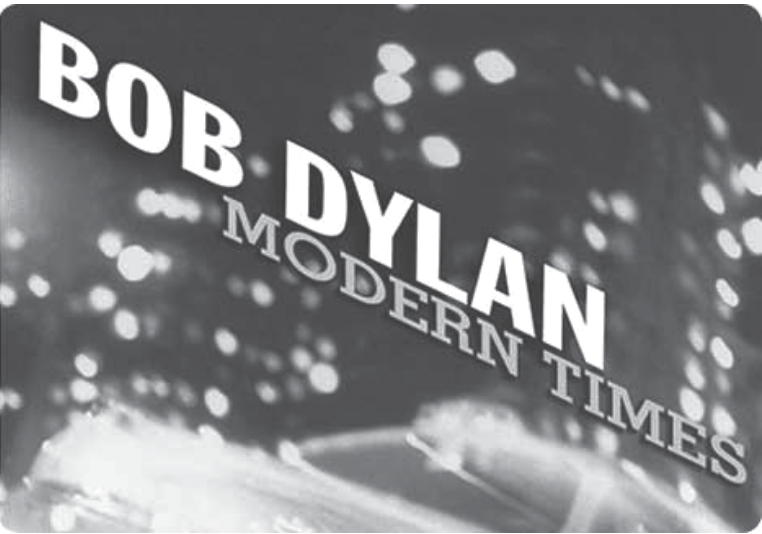
Explaining what Dylan is up to requires starting two albums ago, with Dylan’s Grammy-winning *Time Out of Mind* (1997). *Time Out of Mind* is an atmospheric, dark record of a haggard old singer dealing with what it will mean to shuffle off his mortal coil. The centerpiece of the album is a song called “Not Dark Yet,” each chorus of which ends with the line, “It’s not dark yet / But it’s getting there.” Not that *Time Out of Mind* is all introspection. Dylan manages to find time for his favorite genre, the spurned-love song (“You took a part of me that I really miss / I keep asking myself how long it can go on like this / You told yourself a lie; that’s all right mama, I told myself one too”), and a couple of wryly upbeat blues songs also found their way onto the album.

*Time Out of Mind* generally manages to be buoyed by a feeling that even though darkness is on the way, the vibrant world sung of in the album can never be quite stilled, no matter how deep the coming darkness.

The weight of the past on *Time Out of Mind* had a lot to do with the twilights of life and of love. Musical traditions and influences

evidenced sense of humor, and what is a sincere *love* of the material he is *thieving*, takes the sting out of any accusations of pretension or preciousness.

Instead, what I came away with from “*Love and Theft*” was a sense that present and past are both equally available for the songwriter/storyteller. In a way, drawing attention to what he steals



were definitely present as well, but they were enlisted in the service of the singer; the singer was not yet, as he is in *Modern Times*, in their thrall.

“*Love and Theft*” (2001) is less straightforward, but still accessible. The music is energetic and easy to like. Its slick, crisp blues sound was produced by Dylan himself (under the pseudonym Jack Frost), working with a group of exceptional musicians. The lyrics are also immediately compelling, but there is more than meets the eye: the lyrics are laced with quotations or almost-quotations (notice the punctuation of the album’s title) from F. Scott Fitzgerald, Civil War generals, nursery rhymes, oral histories of Japanese gangsters, and who knows what else. It sounds like a cheap gimmick, but Dylan’s thoroughly

is a gesture of humility on Dylan’s part. He may be (justly) thought of as a wildly original songwriter, but he is also a product of more traditions than he or anyone else can count. And he knows it.

His awareness of, and appreciation for, the past comes out just as clearly in his quirky and enthusiastic radio show, as well in his autobiography, *Chronicles: Vol. 1* (2004). The book features much less of the self-indulgence you might expect from a superstar singer-songwriter’s autobiography, and much more appreciation of the artists he grew up with and listens to.

Both *Chronicles* and “*Love and Theft*” are thoroughly self-revelatory, but in a subtle, understated, and more challenging way. These days, part of Dylan’s art is, as it were, providing a listeners’ guide to

Dylan. His career, well into its fifth decade, is making more and more sense as it goes on. It is an inversion of what we usually think of as the role of history: in this case, it is Dylan’s present that illuminates Dylan’s past.

Not that this is the whole story. While much of his recent work elucidates his past, other changes have been taking place in Dylan’s musical outlook. As compared with other aging acts like the Rolling Stones, Paul McCartney, Bruce Springsteen, U2, or (on the few occasions he performs) Paul Simon, his live performances for at least the last ten years have taken on a quite distinct shape. Whereas most acts play their old (and new) songs in easily-recognizable form, essentially the form that the songs take on their albums, Dylan leaves nothing intact in his songs. I have never heard him play the same song twice in anywhere approaching the same form. Slow ballads take on a more up-tempo or jangling feel; hard songs become sentimental; guitar jams extend what used to be careful, tight constructions. He experiments, pushes—and assembles teams to experiment and push with him. He has lately taken to playing keyboards, on far stage left, so that members of his band actually take most of the spotlight for themselves, as if Dylan has always been just the impresario of a great blues band—and never a protest-singing center-of-attention.

*Modern Times* translates this live experience to an album. Dylan of course sings throughout each track, but you sense that every second he is not singing (and, as I said above, these are long songs, so there are quite a few moments in which he is silent), he is just tapping his foot and letting his band have some fun. This approach has its virtues. The al-

bum sounds gorgeous: the sound is lush, balanced, interesting, expressive, and, while old-fashioned, still original. But the approach also has its drawbacks, among them that the songs are not as strongly shaped as they could be. They do not always maintain their momentum through their entire length, and a number of forceful melodies are overwhelmed by the sheer amount of music packed into each song. Like “*Love and Theft*,” it was produced by Dylan (as Jack Frost), and maybe this forms part of the explanation for the shape of both albums. Both exude a deep appreciation for what it means to play in a band – the interplay of musicians with one another, exchanging ideas, pushing songs in different directions. Dylan the producer spends less time glorying in Dylan the singer than glorying in Dylan’s band. But while he still managed to keep the songs on “*Love and Theft*” under control, with disciplined songwriting and tight production, Dylan’s looser grip on the production of *Modern Times* dissipates some of its energy.

So, in the end, *Modern Times* is only a very good album. It is inevitably a disappointment after the previous two albums, which are among Dylan’s very best. It features a number of beautiful songs that I will gladly hear Dylan play live in the next few years. But he should give Daniel Lanois (who produced *Time Out of Mind*) or some other great producer the keys next time around. Along the same lines, the dominance of the forms and sounds of the past overwhelms what is new in *Modern Times*. The writer of “Subterranean Homesick Blues” and “Like a Rolling Stone” should try to manage a little more creativity in song structure and instrumentation. Maybe what Bob Dylan needs – whether with regards to his band or to the past – is a little less humility.

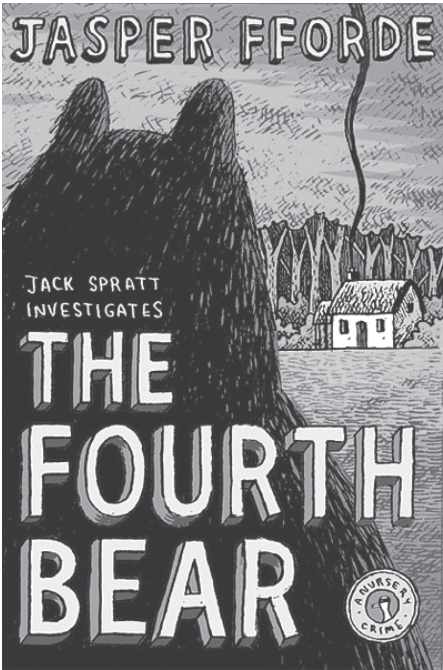
Nursery Crimes

BY DEREK TOKAZ ’08

Anthropomorphized bears; a World War I theme park; and a seven foot tall, homicidal gingerbread badass: is there anything else you could want in a book? If so, then your inner child is probably dead, and you won’t enjoy *The Fourth Bear* by best-selling author Jasper Fforde. But, if you haven’t failed at life, then you’ll probably enjoy the second installment of Fforde’s “Nursery Crime” series.

*The Fourth Bear* is the sequel to Detective Jack Spratt’s investi-

gation of the death of Humpty Dumpty in *The Big Over Easy*. This time there are curious explo-



sions, suspicious porridge temperatures, and a dead girl named Goldilocks. But Spratt is back, and he’s brought his cohorts, the quite contrary Mary Mary and binary-speaking alien Ashley. Stationed in Reading, England, Spratt and the Nursery Crime Division handle investigations relating to nursery rhymes, cautionary tales, and pretty much anything deemed too bizarre for the regular police to handle. The story is populated with characters drawn from the collective cultural conscience – Prometheus, David Copperfield, and Punch and Judy (“Persons of Dubious Reality”) all make appearances – and the plot contains all the elements required for a hard-boiled detective novel. But it also pokes fun at these expectations. From the moment Goldilocks turns up dead, Spratt knows he has to be thrown off the case before it can be solved.

While Fforde’s “Thursday Next” series (beginning with *The Eyre Affair*) tends to go over better with lit geeks, *The Fourth Bear* is whimsical and fast-paced, and it doesn’t require an English major (or minor, for that matter) to be fully appreciated. You can thank (or blame) British imperialism for making sure that people the world over know who Goldilocks is, but you’ll have to leave it to Jasper Fforde to let you know how she died, and who-dunit.



NYU Law will hold an Advocacy Evening to select the members of the 2006-2007 team that will represent NYU in the 14<sup>th</sup> Annual Willem C. Vis International Commercial Arbitration Moot in Vienna. The Advocacy Evening will take place on *Thursday, 28 September 2006 at 6:30 p.m. in VH 214*. Attendance at the Advocacy Evening is **mandatory** if you wish to be considered for the team.

To prepare for the Advocacy Evening, please review last year’s problem (13th Moot), located at: <http://www.cisg.law.pace.edu/vis.html>.

At the Advocacy Evening you will be expected to argue the contract issues for either the CLAIMANT or RESPONDENT. You are strongly encouraged to think about both sides of the problem because you may be asked to respond to questions for either side. You will not be required to recite a pre-prepared speech – the evening will be a ‘round table’ discussion where you will debate the contract issues, which you should be able to feel your way through if you have familiarized yourself sufficiently with the facts. As with the actual Moot, the team selectors will ask questions and present you with hypotheticals which you must be prepared to answer.

Please don’t be afraid – you will not be judged on whether you get the law right. We are primarily interested in seeing your personality shine through -- how you think on your feet, how you speak, how you react to questions, etc. The law can (and will) be taught!

**Please Note: Prior coursework/experience in Advocacy, International Arbitration, International Law or International Sales Law is NOT a prerequisite for selection.**

If you are interested in being selected for the 2006-2007 NYU team, please contact either Jocelyn L. Burgos ([jocelyn1102@gmail.com](mailto:jocelyn1102@gmail.com)) or Giorgio Mandelli ([gfrn227@nyu.edu](mailto:gfrn227@nyu.edu)) between Thursday, 9.21 and Wednesday 9.27. We will respond and attach:

1. An information sheet relating to the Willem C. Vis International Commercial Arbitration Moot Competition that was previously distributed;
2. A questionnaire for you to fill in and submit to us by 5 p.m. on Wednesday, 9.27. Your questionnaire must be accompanied by your resume; and
3. Arbitrator’s “Cheat Sheet” for last year’s problem which will help you prepare for the Advocacy Evening.

We look forward to seeing you at the Advocacy Evening!



Public Interest Law Center  
Leaders in Public Interest Series

All events are 6:00 – 7:00 P.M.,  
Receptions Immediately Following

September 25

*Building Power: Grassroots Lawyering for Social Change*  
**Oona Chatterjee ‘98**  
**Co-Director, Make the Road by Walking**  
Brooklyn, New York  
D’Agostino Hall, Lipton Hall

October 16

**Jennifer Dalven ‘95**  
**Deputy Director,**  
**ACLU Reproductive Freedom Project**  
New York, New York  
D’Agostino Hall, Lipton Hall

October 23

*Advocacy for Children and Families*  
**Kevin M. Ryan LL.M. ‘00**  
**Commissioner of Children and Families,**  
**New Jersey Department of Human Services**  
Trenton, New Jersey  
D’Agostino Hall, Lipton Hall

Wide Spectrum of CoLR Events

BY ALEXIS HOAG ‘08

The 2006-2007 academic year marks the ten-year anniversary of the founding of CoLR, the Coalition for Legal Recruiting. At its inception, CoLR was a coalition of student leaders from the identity-based groups who took up the struggle to diversify NYU Law’s classrooms. In response, then-Dean John Sexton, pledged to increase the number of faculty of color. Today, CoLR has a broader membership who is just as committed to increasing faculty diversity. In addition, CoLR seeks to engage the entire NYU Law community – students, faculty and administrators – in ongoing dialogue about diversity.

Each semester, members of CoLR host the Critical Reading Group that examines critical perspectives on the law and the legal profession. This year, the Group’s leaders are inviting faculty members who engage in critical analysis in the classroom to share their scholarship, starting with visiting Professor Kenji Yoshino who spoke on Wednesday, September 20th. In an effort to memorialize the insightful conversations in the Reading Group, Mitra Ebadolahi organized and published the Critical Reader, now in its fifth edition.

Last year, CoLR began the Law School Application Assistance Program (LSAAP), which offers admissions advice to law school applicants from traditionally under-represented backgrounds. CoLR members visited CUNY campuses around the city to give advice and share resources, such as sample personal statements and tips on the application process. CoLR also meets regularly with members of the Academic Personnel Committee to discuss the hiring process and how students can be most effective in the process. As a result, CoLR hosted a spring symposium entitled *Diversity: Beyond the Binary*. It invited practitioners and young academics to discuss diversity in the profession and diversity jurisprudence in hopes of encouraging paper topics for publication—a necessary tool for anyone entering the academic hiring market.

CoLR also honors NYU Law faculty of color and faculty who identify as gay, lesbian, bisexual and transgender for contributions to the profession and to the law school community at the annual Faculty of CoLR Appreciation Dinner, scheduled for March 21st, 2007. In the continuing effort to find innovative ways to present a

critical perspective on the traditional law school curriculum, this year’s Political Action Chair Diana Reddy organized the Critical Flyers series. With the assistance of a handful of CoLR members, Reddy created a double-sided sheet for each 1L class that included controversial topics and cases commonly taught and references to law review articles that engage in a critical analysis of the material. CoLR distributed the flyers to 1L classes during the second-week of the fall semester. In another effort to reach out to first year students, Reena Arora and Nick Durham organized a panel discussion entitled *Voices in the Classroom*. Panelists participated in a dialogue with first years covering topics such as developing student skills, finding balance outside of school, speaking out in class, and bringing critical perspectives into the classroom.

Although the administration started responding ten years ago to CoLR’s efforts by hiring more faculty of color, CoLR’s struggle is not over. Our mission is to fundamentally change the make-up of the student body and the substance of the “traditional” law school curriculum, not just at NYU, but across the nation.

Profile: Roderick Hills

BY JULIA FUMA ‘07

Roderick Hills entered law almost by accident.\* He was a doctoral student in philosophy at the University of Chicago. His wife-to-be had been admitted to the Yale history Ph.D. program. Deciding that he didn’t want to spend another year in a long-distance relationship with her, he wanted go to Yale. Unfortunately, the Yale philosophy program wasn’t very good. But the Yale Law school was (and remains) stellar. He decided, therefore, that he would go to law school.

Hill never intended to practice law. “But when I got there I had so much fun that I clerked and then practiced for a couple of years. I thought I might continue to practice, but then I decided to go into academia anyway.” However, even while teaching at the University of Michigan for the past 12 years, Hills practiced law. He worked for Michigan’s ACLU and, in one of his many cases, served as co-counsel for the respondent in *Romer v. Evans*.

His research focuses on the decentralization of public law. This translates most often to the substantive ar-

reas of local law, land use law, and education law. As a youth, Hills was interested in the political theory of Hannah Arendt and participatory democracy. The decentralized American system is conducive to public participation and Hills’s interest in participatory democracy evolved into a broader interest in decentralization. He is currently working on a project describing the history of federalism from the religious wars of the 16<sup>th</sup> and 17<sup>th</sup> centuries through the Peace of Westphalia and the American founding. Ultimately, he plans to provide a historical explanation for the differences between the federal regimes in the United States, Canada, and Germany. He says that he is interested in how federalism has been used a strategy to moderate sharp cultural and religious conflict—for example, the conflict between Anglophone and Quebecois in Canada. Federalism in the United States, where there are fewer divisive religious conflicts, has served a different purpose. Here it stemmed from the theory that government is only democratically accountable in electoral dis-

tricts with relatively small populations—that is, in non-federal jurisdictions.

Like most professors at NYU, he came to the university because of the great faculty. However, the academic vigor of his colleagues was a necessary but not sufficient condition for him to uproot his family and come to NYU: Michigan, after all, also has highly renowned faculty. Instead, being interested in local law, he had a strong desire to live in a big city. It also helped his decision that NYU Law, through the Furman Center, for example, is very engaged with New York City’s land-use policies.

In the Spring, Hill will be teaching Admin and Land Use Law. This semester, he has been given a term of leave from teaching. He is hoping to spend the time helping his daughters make the adjustment from living on a farm in Michigan to living in Brooklyn, preparing for class, and completing some overdue writing projects.

Without classes, Hills has not met any students. In fact, when I interviewed him, I was the second NYU student he had met. But he does have

a vision of what an NYU student is like. “I have this perhaps misguided notion that NYU students will be overflowing with public interest idealism.” He imagines them as students who are not happy merely studying the law, but want to take action.

*\*Editor’s Note: Professor Hill’s entrée into law may have been an accident, but he has a rather illustrious family legacy.*

Profile: Cynthia Estlund

BY BOBBIE ANDELSON

Cynthia Estlund, a leading scholar in labor and employment law, joined the NYU Law faculty this semester as the Catherine A. Rein Professor of Law.

Estlund, 49, was born and raised in a small town in Wisconsin. She received her undergraduate degree from Lawrence University in Wisconsin, graduating summa cum laude in 1978. While in college, Estlund worked in the school cafeteria, as a restaurant hostess, and as an apple picker.

After graduation, she earned a Thomas J. Watson fellowship to study government programs for working parents in Sweden. Estlund lived in an urban commune in Sweden for two years, working in the antinuclear-power movement and studying sociology.

When she returned to the United States, Estlund entered Yale Law School and graduated in 1983. While there she served as a Notes Editor for the *Yale Law Journal*. Yale is also where she met her husband, Samuel Issacharoff, who is the Bonnie and Richard Reiss Professor of Constitutional Law at NYU. They have two children, Jessica (who is now 19 years old) and Lucas (now 18).

After law school, Estlund clerked for Judge Patricia M. Wald in the U.S. Court of Appeals for the D.C. Circuit. According to Estlund, while she and Issacharoff were both clerking, they realized that they had become “alto-

gether too boring.” They were also informed that Estlund was the recipient of a J. Roderick MacArthur Fellowship. As a result, upon completing their clerkships, they moved to Argentina for six months where Estlund reported on the new democratic government’s efforts to prosecute the military for human rights abuses.

After practicing labor law in Philadelphia and then Washington, D.C., Estlund, along with her husband, entered the world of academia, joining the faculty of the University of Texas School of Law in 1989. At the University of Texas, Estlund taught property and labor and employment law, and also served as the associate dean for academic affairs.

In 1999, Estlund and Issacharoff joined the Columbia Law School faculty, where Estlund taught labor law and served as vice dean for research. This semester, Estlund joined Issacharoff, who had already made the move to NYU Law.

Estlund made waves by banning laptop computers from her classroom. Students have responded surprisingly well to the return to old-fashioned paper-and-pen note taking in her classes. “I’ve really enjoyed teaching NYU law students,” Estlund said. “I can’t tell how much of the good classroom atmosphere stems from the absence of laptops and the greater student engagement in discussion that seems to result, but I have found my classes [at NYU Law] to be especially lively.”

