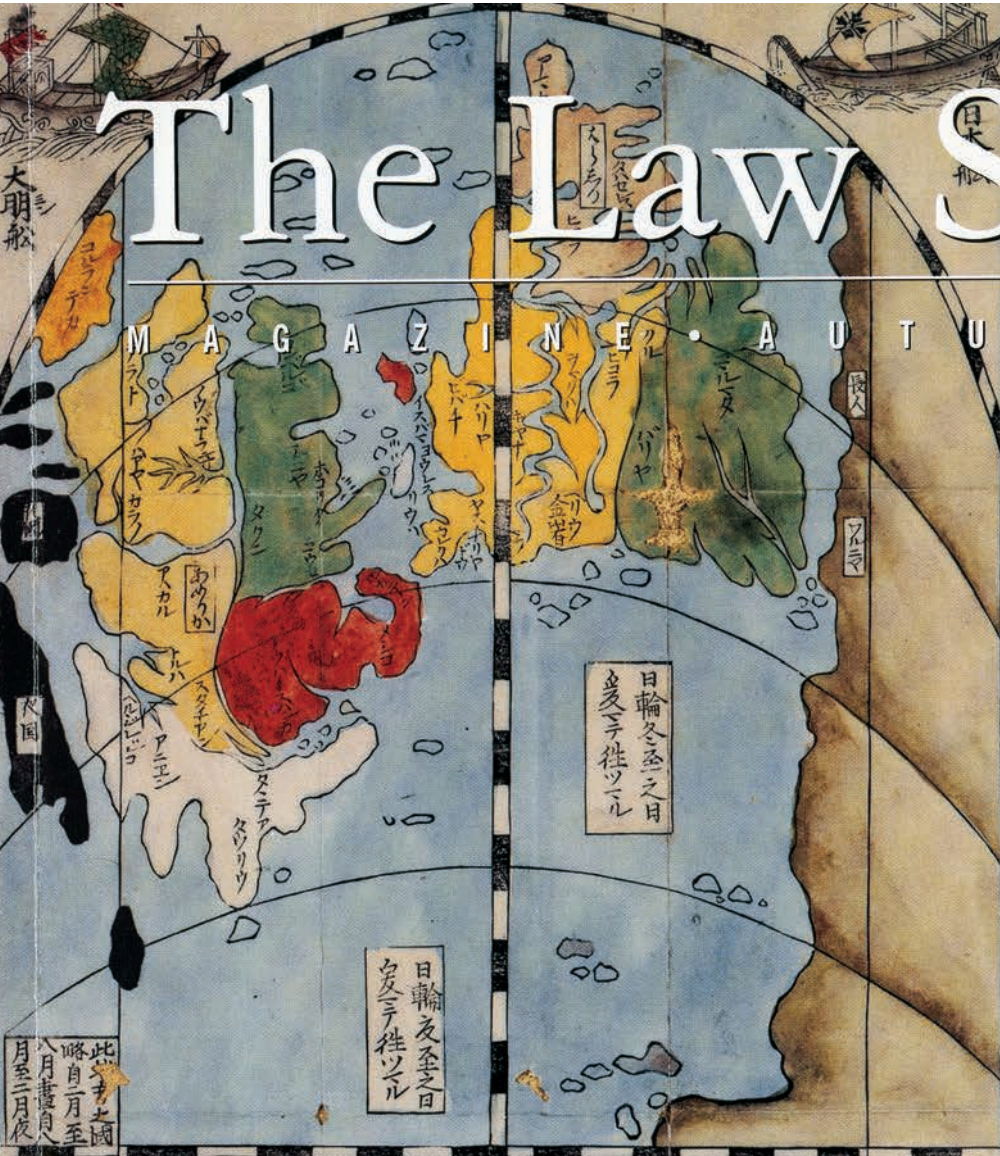


The Law School



Volume 12

Cover: *Bankoku Sekai Igyozu*

This Japanese woodcut from the early Tokugawa period was produced circa 1645, shortly after Japan was closed to all foreigners from outside the China-Korea-Ryukyu region, other than the Dutch. The illustrations of the diverse peoples of the world are influenced by foreign sources—direct observation was limited by restrictions on Japanese travel abroad and on foreign settlement in Japan. The map reflects new European cartological knowledge and map-making techniques, especially from Holland. It is reproduced with the kind permission of Tenri Central Library, Tenri University, Japan.

AS MANY OF YOU KNOW, I RECENTLY BECAME THE 14TH Dean of NYU Law. It has been a year of challenge and change—both for NYU and for the city we call our campus—and it is an honor for me to serve the Law School during these times of transformation.

One year ago this month, the tragic events of September 11 left an indelible mark on the collective soul of our nation. From those first awful moments after the planes hit, the nation has struggled to understand the forces leading to the attack and to find new ways to meet the challenges of a world that is forever changed. Here at NYU Law, faculty and students responded immediately to the crisis by opening dialogues on the complex legal issues arising from the attacks. Throughout the academic year, conversations in the classroom, conferences, colloquia, and symposia designed to shed new light on difficult issues, and new directions in scholarship all played a role in helping us to begin to understand the global forces that enabled September 11 to occur, and to recognize the worldwide repercussions of the tragedy.

In this issue of *NYU: The Law School Magazine*, we look at the many ways our community took action in the aftermath of the attacks—with innovative academic programs and through countless acts of human kindness and compassion. We also remember those who were lost on that fateful day.

In addition, we examine the NYU Law tradition of excellence and leadership in the study of international law. One of NYU Law's major strengths has long been our commitment to providing new perspectives on the legal issues critical to an increasingly global world. Our Hauser Global Law School Program is now widely imitated by law schools around the world, and our faculty and alumni are recognized as prominent players in the international arena. This year, with the creation of the Institute for International Law and Justice and the Center for Human Rights and Global Justice, NYU Law solidifies its standing as the leader in international legal education. The Institute complements a wealth of programs designed to introduce our students and faculty to leading scholars from around the world. Its dedicated faculty pursues research interests that expose students to cutting-edge thinking on complex international legal issues. The Center will bring intellectual rigor to the debate over the problems of our post-September 11 world.

As I embark upon my first year as your Dean, I wish to express my gratitude to those who have created the foundation of excellence upon which we build. It is a privilege to follow in the footsteps of Dean John Sexton—now President of NYU—who I believe was the finest law school dean ever. As a result of his vision, NYU Law is now poised to become the nation's leading law school. With your help, I hope to guide NYU Law through that next step.

A handwritten signature in blue ink, which appears to read "Richard Revesz". The signature is fluid and cursive, written over a white background.

Richard Revesz

Highlights

Transitions at NYU Law

This year saw a number of changes at NYU Law. Among them was NYU President-Designate John Sexton's transition from Dean of the Law School to President of the University, which was celebrated by friends and colleagues alike. Professor Richard "Ricky" Revesz stepped ably into the role of Dean, expressing his desire to lead the Law School to greater heights and accomplishments.

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Faculty Focus

At the heart of any law school is its faculty. In this section, meet some of the men and women who have helped bring NYU Law to the forefront of legal education.

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International Year of the Future

With the addition of the Institute for International Law and Justice this year, NYU Law strengthened its already stellar international law program. The Institute complements the well-established Hauser Global Law School Program, which has long demonstrated NYU's commitment to legal issues of global importance.

Page 52

A Community Transformed

NYU Law remembers September 11, 2001 — a day that changed America forever.

Page 90

Breaking New Ground

Construction of the new building on West Third Street began in September 2001. United States Supreme Court Justice Sandra Day O'Connor attended the groundbreaking ceremony — the first major groundbreaking in New York City following the September 11 attacks.

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Transitions at NYU Law

IT WAS A YEAR OF CHANGE FOR NYU LAW, MARKED BY NYU President-Designate John Sexton's transition from Dean of the Law School to his new post as President of NYU. Although Sexton continued to serve as Dean until June 2002, he also played an increasing role in strategic decision-making for the entire University.

In June 2002, NYU Law Professor Richard Revesz, a member of the Law School faculty since 1985, assumed the deanship of the School. In the pages that follow, we introduce you to Revesz, who shares with us his vision for NYU Law. We also bid farewell to John Sexton—whose boundless energy and love for “the enterprise” took the Law School to unimaginable heights.

Meet Dean Richard Revesz: A New Generation of Leadership for NYU Law

When word went out that Dean John Sexton had been named the next President of New York University, there was plenty of talk about possible candidates to replace him. It was no great surprise when the Law School's own Professor Richard Revesz rose to the top of the pool of potential candidates. Ricky, as he is widely known, is, in Sexton's words, "possessed of the vision and energy to lead NYU Law to the next level."



Dean Richard Revesz with his wife, NYU Law Professor Vicki Been

Richard Revesz, NYU Law's 14th Dean, was born in Argentina and holds a B.S.E. in Civil Engineering and Public Affairs from Princeton University and an M.S. in Environmental Engineering from MIT. He received his J.D. from Yale Law School, where he was editor-in-chief of the *Yale Law Journal*.

After clerking for the Honorable Wilfred Feinberg of the United States Court of Appeals for the Second Circuit, Revesz clerked for the late Honorable Thurgood Marshall of the United States Supreme Court. During his time with the Supreme

Court, he met his future wife, NYU Law alumna (and future professor) Vicki Been ('83). He was appointed to the NYU Law faculty in 1985, promoted to associate professor in 1988, and became a tenured professor in 1990. He has been the Lawrence King Professor of Law since 2001. Revesz has also been a visiting professor at Harvard, Yale, Princeton, and the University of Geneva, and has published more than 50 articles and books.

Revesz, now 43, teaches courses in Environmental Law and Administrative

Law. His activities in those areas are not limited to academic research and instruction. He serves as a member of the Environmental Economics Advisory Committee of the U.S. Environmental Protection Agency's Science Advisory Board; as co-reporter for the Judicial Review section of the Administrative Procedure Act Project of the American Bar Association Section on Administrative Law and Regulatory Practice; and as a member of the Board of Directors of the American Law and Economics Association. Since 1994, he has been the codirector of NYU Law's nationally acclaimed study of innovative financial aid mechanisms, which has led to changes in the financial aid practices of the leading law schools.

NYU Law: *Why did you want to be the dean of the Law School?*

Dean Revesz: I'd been on the faculty for 17 years, so I knew that this is a terrific institution with lots of potential and energy to tap. The students, alumni, and faculty have improved NYU Law in every decade, and have set consistently higher ambitions for the school. The deanship of John Sexton over the last 14 years really made it possible for us to aspire to be *the* leading law school in the nation. We've done extremely well, but we are not self-satisfied. I was fascinated by the challenge of how to get the Law School to the next level, and I thought I could contribute something to that.

I was attracted to the position because NYU Law is not just a high-quality institution, but also one that does a lot of good out in the world.

NYU Law: *What do you mean?*

Dean Revesz: Let me give you two examples. There are, of course, many others. First, we make our education accessible to students regardless of what career paths they want to follow. In the mid-90s NYU Law conducted a ground-breaking study of innovative financial aid mechanisms designed to help students wishing to pursue careers in public service pay for their education. We came up with a principle that said if someone graduated from NYU Law, and then held a job in public service for 10 years following their graduation,

the full cost of their loans would be borne by the Law School. That makes it possible for us to send out into the world—into these enormously important positions—people who have had the benefit of our excellent education.

We also have a Global Public Service Program, that brings to the Law School people who will be leaders for legal reform in developing countries. The best aid we can give to developing countries is to train people to be effective under rule-of-law regimes, because so much depends on a strong rule-of-law foundation. Without that it's hard for developing countries to improve upon their situations.

NYU Law: *As a young law clerk for Thurgood Marshall, you were recruited by NYU Law. Didn't your wife have something to do with that?*

Dean Revesz: Yes, she did. I met Vicki when we were clerking on the Supreme Court. She was clerking for Justice Blackmun. We became friends because of the pattern of physical exercise among the clerks. Most of the male clerks played basketball in the afternoons, but I liked to jog. Meanwhile, the female clerks went to a morning exercise class that was organized by Justice O'Connor, but Vicki couldn't go because Justice Blackmun had breakfast with his clerks every morning. So we ended up jogging together. That's how we got to know each other, though we didn't become an item until later.

Vicki is an alumna of NYU Law and the Root-Tilden-Kern Program, class of '83. Law schools traditionally ask their graduates who are clerking to recommend other clerks for faculty appointments. She recommended me, and encouraged me to consider her alma mater. NYU was enormously insistent. The people who came down from NYU for the interview were John Sexton—this was before he was dean—and Professor Samuel Estreicher. They were very persuasive. NYU was looking for someone at that point to teach environmental law, which was an area I was interested in. They made it sound like if I didn't accept this job then, there would never again be a vacancy for someone with my interests. So it was a bit of a hard sell, but I guess it was effective.



Dean Revesz chats with admitted students

Five years later, Vicki herself became a professor at NYU. That was 12 years ago, and it's been a wonderful professional home for both of us. We've been very happy here.

NYU Law: *So NYU Law is a family affair?*

Dean Revesz: More than you know. I am blessed with two wonderful kids—Joshua is 11 and Sarah is 8—and they often offer advice. They have quite a good sense of what the Law School should do. I recently took a car to a meeting because I needed to return some phone calls, although usually I take the subway. Sarah said, "Why did you take a car? Wouldn't you rather spend that money recruiting more faculty to the Law School?" That was a good point!

This year, Vicki was the co-chair of the appointments committee. We were looking very closely at certain candidates, and competing with a number of peer schools. So during dinner the kids would ask us "How's Katrina doing? How about Rebecca? Do you think Rachel will come?" It was very cute.

I had to do some soul-searching about my family life when I decided to take the deanship. Vicki and I have organized our lives around being with the kids for dinner most nights, and generally work after they go to bed. It's important to me to maintain

as much of that pattern as I can. I don't want to be out every evening. I want to protect dinnertime as much as possible. I think it's important to send the message that one can be an effective professional and work very hard, but still spend time with one's family and have a family-friendly administration. I do believe I can be an effective dean under those constraints. And so far it's worked out nicely.

NYU Law: *What would you say is one of the most distinguishing things about the Law School?*

Dean Revesz: Our faculty and their commitment to our students. My colleagues are leaders in their fields. It makes a big difference to the students to be able to study with people who are not just good expositors of the material, but are creating the material. And if you look across the areas of law, you see that we have enormously distinguished colleagues in many fields.

I tell prospective students all the time that they may not really know coming in to law school what kind of lawyer they want to be. Very few people do. But something is going to click someday, maybe in class, or in a hallway conversation with other students, and when it clicks and they realize what

their niche is, it is likely that we have faculty with enormous strengths in that area.

Even more important, our faculty are very interested in teaching students. These are not people who stay in their offices doing their research and teach little. We don't believe in that. Our stars, including our most senior lateral appointees, are a mainstay of our curriculum, teaching the required first-year courses and the large upper-level courses such as Constitutional Law, Corporations, and Tax. And we also do a lot of teaching in small groups, so students really have access to the faculty. We have a very large clinical program with 15 full-time faculty members, who teach at a student-teacher ratio of 8 to 1. And we invest very heavily in the colloquia—we have almost a dozen of them every year—which typically have 15 to 25 students, who get exposed on a weekly or biweekly basis to the presentation of working papers by the leading academics in the United States and the world.

NYU Law: *Why is it important for NYU to be the “global” law school?*

Dean Revesz: One can't provide a first-rate legal education without paying very close attention to the legal systems of other countries. The best U.S. lawyers come into contact with other legal regimes all the time. For example, it's almost no use to know that the merger between two companies will be

But we are not just training students for their first jobs or simply for successful careers; we are training them to be leaders. The legal leaders of the future ought to worry about how U.S. law interacts with the legal systems of other countries and of the international community, and how it affects and is affected by the presence of a global economy. So we expose our students to these ideas and concepts.

NYU Law: *What can NYU Law alumni expect of you as a dean?*

Dean Revesz: Our alumni are a very important constituency for us and I hope to do all I can to make them feel an integral part of the school. They are critical to our long-term success—not just through their financial support, but through their time and energy and expertise. For example, I have a workgroup on technology right now, studying how we can enhance technology support in our school, and three trustees are on the committee. There's no way we can replicate their expertise internally—we're a law school, not a high-tech company. In our building project, also, the expertise that alumni provided couldn't have been replicated in-house. We could not be the great Law School I aspire for us to be with the efforts only of those who are here full-time. It has to come from a partnership with our alumni. I am now working on a variety of ways to involve our alumni and the New

NYU Law: *To what extent will you stay involved in scholarly work yourself?*

Dean Revesz: This is a big issue I had to face when considering whether to be interested in this job. I certainly will remain involved in the Monday luncheon discussion of our faculty's research. And I hope at least to remain intellectually active in the areas I've been writing about. I've looked at the experiences of deans of peer schools, and some of them have been successful and are staying involved in academic work. My main focus, of course, will be on continuing our remarkable upward trajectory, but I hope to maintain some scholarly presence. I'll also continue to teach a four-credit environmental law course in the Fall. I was advised against doing this in my first year as dean, but decided that I should. It's a way of staying up-to-date in my field. And I look forward to continuing to have ongoing substantive interaction with students.

NYU Law: *Your predecessor, Dean John Sexton, was known among staff and faculty by his first name. Can we call you Ricky?*

Dean Revesz: I encourage my students to call me by my first name, to make them more comfortable. I feel the same way that John Sexton did about this. I don't think anyone in the building ever called him “Dean Sexton.” The informal tone he set is one I admire. It was important to the remarkable feeling of community that binds our students, administrators, faculty, and alumni.

Speaking of names, when I joined the faculty, Sam Estreicher pulled me aside and said that Ricky was an inappropriate name for a law professor, and I should be called something more dignified, like “Richard” or “Dick.” I didn't follow his advice, but after my appointment as dean was announced, I sat in my office waiting for Sam to call me and tell me that if it was an implausible name for a law professor, it's certainly inappropriate for a dean. (He never called.) In fact, a lot of people have weighed in on this, including a number of trustees, who feel that I should be Richard instead of Ricky. As much as I respect them—and they are wonderful people and I'm inclined to follow their advice in every other area—they might have the same uphill struggle that Sam had back in 1985. I am and will remain Ricky. ■

I think it's important to send the message that one can be an effective professional and work very hard, but still spend time with one's family and have a family-friendly administration.

approved in the U.S. by the Federal Trade Commission—if the European Union disapproves of it, the deal will be dead. Or, for example, an environmental regulation that might not be successfully challenged under the takings clause of the U.S. Constitution, might give rise to a successful challenge under a bilateral or multilateral trade agreement, such as NAFTA. We had a terrific conference on this subject in April (see page 69). Most lawyers in this country don't worry about the law beyond our borders.

York bar more generally in the substantive work of the Law School. Being in New York gives us enormous comparative advantage because we can tap the expertise of the leaders of the nation's legal community. We must move beyond the traditional model under which adjunct faculty teaches in the evening but does not interact much with the full-time faculty. Both sides miss out on the chance to enrich each other's thinking. I expect to have more to say about this topic next year.

John Sexton Passes the Baton

During the 14 years since John Sexton became Dean, NYU Law has experienced a remarkable transformation into one of the world's leadership law schools. Key to this change has been a strategy based upon attracting extraordinary faculty, developing a strong sense of community among faculty and students, establishing the Law School's unique Global Law School Program, creating advanced interdisciplinary colloquia for faculty and students, enhancing clinical offerings, and expanding the research and pedagogical use of technology.



Standing before a gathering of his colleagues on the Dean's Search Committee, John Sexton handed Richard Revesz a purple "baton of excellence" he said had been held successively by the law school's past deans.

Throughout the year, we said goodbye and honored this special man with a variety of events designed to make his last year at the Law School a memorable one. And during the Fall 2002 semester there will be even more celebrations to commemorate his installation as NYU's 15th president.

PORTRAIT UNVEILING

It's tradition at NYU Law to adorn the walls of Greenberg Lounge with portraits of the school's Deans as they retire their post. But no amount of preparation could have readied Sexton for the admiration and adoration that filled Tishman Auditorium on the occasion of his portrait unveiling.

The Chairman of the Board of Trustees, Lester Pollack ('57), opened the ceremony, observing that a picture may be worth a 1,000 words, but speakers would "not be held to word limits in reviewing Sexton's achievements." Every part of the Sexton community—NYU Law and beyond—came together to express its appreciation of him, making clear that Sexton does not distinguish among the many hats he wears. Whether as Dean, professor, colleague, clerk, relative, or friend, he exudes enthusiasm, encouragement, and love.

Many who know Sexton have experienced his enthusiasm in the form of his infamous bear hugs. Martha Minow, a professor

at Harvard Law who clerked with Sexton as a young lawyer, said that when John joined Judge David Bazelon's chambers as a clerk, he greeted everyone with hugs, eventually destroying the competitive atmosphere that had dominated the office. He was "larger than life many years ago, and he's only grown," Minow said. Sexton's immense presence was also celebrated by his good friend and counselor-designate, NYU Law Professor Norman Dorsen, who spoke via videotape of Sexton's accomplishments (see page 10 for the full text of Dorsen's speech).

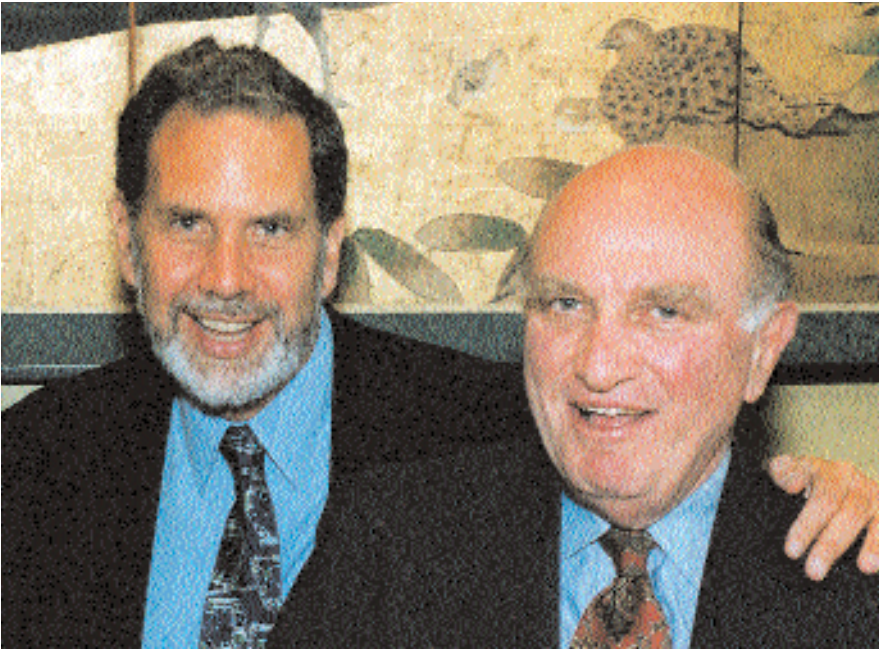
NYU Law professor Oscar Chase reported that the faculty had struggled to think of a gift that would reflect their collective sense of affection and admiration for Sexton. They considered a fine clock or a watch, but dismissed both ideas. "So," Chase said as he brought John onstage, "we are honoring future generations with an endowment for excellent service to the community that Sexton embraced."

Student Bar Association President Rishi Bhandari made reference to the annual Law Revue, in which Sexton's character is always featured prominently, when he remarked that he hoped the portrait would be three-dimensional because "John's not just a Dean, he's a poetic muse." A medley of musical numbers from this year's show were then performed by the cast, including "Don't cry for me NYU Law—the truth is I'll never leave you," which Sexton's character sang to the tune of "Don't Cry for Me Argentina."

The ceremony culminated with Dean-Designate Richard Revesz describing Sexton as "the finest Dean of all time." When Sexton took the microphone, the emotion in the room was palpable. "The portrait is a moment in an institutional history, and one volume is now complete," Sexton said. He was quick to recognize others who had helped shape and contribute to his success as Dean: his family; a high school teacher (who was in attendance); former Law School Dean Arthur Vanderbilt; Martin Lipton; Lester Pollack; Norman Dorsen; and the trustees and alumni with whom he served. Sexton deflected responsibility for the school's success, crediting the outstanding faculty, the hard-working administration, and the excellent student body. "It's all about staying in the race of improvement," he said. "What we've created doesn't depend on one person, thankfully. It wouldn't have been worth creating if it did." ■

Norman Dorsen Pays Tribute to John Sexton

When hospitalization prevented Professor Norman Dorsen from attending John Sexton's portrait unveiling ceremony, he prepared these heartfelt words, which were videotaped and aired during the celebration.



John Sexton and Norman Dorsen

It is a great privilege to speak on this happy occasion as John's portrait takes its place alongside those of prior Deans. Although I was asked to represent the faculty today, and I hope I can do so adequately, in the last analysis I can offer only my own views of John and his remarkable Deanship, because each of my highly independent colleagues surely has a distinctive opinion of John's 14 years as our leader. I need hardly add that I regret the impersonal delivery of these remarks, which as you have heard is necessitated by my recent operation.

It may be helpful to go back to the beginning, or almost to the beginning. Soon after John became Dean in 1988, he acted to revitalize the alumni, and in 1990 he organized a meeting of a new Council on the Future of the Law School. He asked me to

speak to the Council at its first meeting about the history and development of the School. When I finished my remarks, John said to me, "It went very well. Let's publish your paper in the first issue of the new NYU Law magazine that is being planned." I replied that I was speaking only from notes and didn't have a manuscript. He waved this off by saying, "Don't worry, I had your talk taped." I learned something about John from that incident.

In any case, the published article was titled "How NYU Became a Major Law School." After reviewing prior events, I came to the new Dean, and I wrote, "It is too early to assess the current period, but it is evident that John's extraordinary energy is matched by his limitless ambition for the Law School." I then recounted some of

John's early initiatives, and I concluded the paragraph by saying, "There is ample hope that within a few years NYU Law will be firmly established in fact and in the consciousness of the profession and the public as being among the best in the nation."

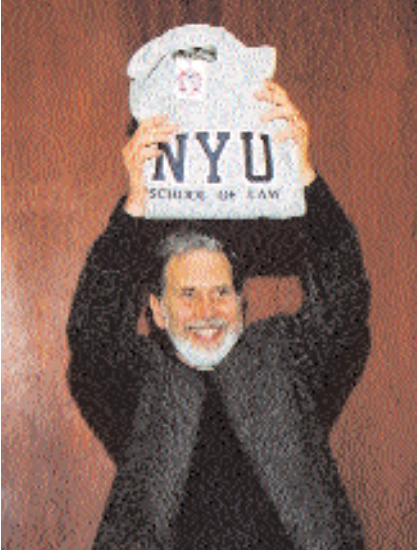
I wish I could recall exactly what I meant by "ample hope," but whatever I meant we now know that those hopes have been spectacularly fulfilled. The achievements of the last decade or so have surely established the NYU School of Law in the front rank.

An incomplete list of successful actions under John's guidance would include high quality faculty development in varied fields and pedagogical approaches; a sharply improved student body and many new outlets—including several new journals—for their talent and enthusiasm; the rationalization and upgrading of the LL.M., M.C.J., and J.S.D. graduate programs; improved administration in many areas, including financial administration, student admissions, financial aid, placement (including judicial clerkships), and the management of our buildings; alumni development and fund-raising; new systems or criteria for adjunct professors, for grading of students, and for the award of distinguished chairs to faculty; and the encouragement and support of new or expanded programs in, among other subjects, criminal law, environmental law, innovation law and policy, international law, labor law, and global law; the introduction of several successful new clinics and an improvement in the Lawyering Program; and the renovation of Vanderbilt Hall and the planning and financing of the new building on West Third Street.

Of course, John has left unfinished business, and not all of his ventures panned out as planned. Ricky need not worry that there will be little for him to do. But taken as a whole, the accomplishments of the Sexton deanship are staggering and thoroughly justify John's reputation as the finest law school Dean of his generation, at the least.

How did this deanship come about? More precisely, what were the qualities John brought to his new post? These qualities seem to me to include:

- High aspirations
- Unshakeable optimism
- Inhuman energy
- A thoroughly apolitical approach to the work of faculty and students



John Sexton shows off a going away present

- A focus on the essentials: quality faculty, quality students, and resources—sometimes known as money
- Deep connections to people at all levels, from trustees to first-year students, including people from his past, so that it seems that everyone John ever met from grade school on has been incorporated into the Law School's life
- The capacity and will to delve deeply, analytically, and creatively into both longstanding and emerging problems

But these admirable traits should not be taken at face value. Most of them, partly because of John's intensity, carry a potential downside. For example, high aspirations can be quixotic and unachievable and therefore result in waste and disillusion; optimism can be Panglossian and lead to self-defeating exaggeration; excessive amounts of energy (combined with little sleep) can lead to burnout; a scrupulously apolitical approach can be barren; and an analytic focus on only the essentials can slight other important problems.

These negatives, you will observe, are rarely alluded to in appraising John's tenure because of the overwhelmingly positive results of his affirmative qualities. Even John's well-known difficulty in getting numbers right is mitigated by the fact that this problem mysteriously disappears when the number reaches one million. Indeed, John's only deep flaw is his unaccountable allegiance to the New York Yankees.

To understand why the positive glows so brightly after 14 years and the negative is hardly a blip on the screen, I think we must peer a bit further. There are, I think, two ways to describe what has happened here. The first is commonly invoked—it is leadership. Like courage and wisdom, leadership has always seemed to me better understood by observing its manifestations in life than through any overarching definition, no matter how thoughtfully composed. The manifestations in this case are obvious—some I have already noted—but even they do not fully tell the tale. An important indicia of leadership consists of the ability to induce others to work enthusiastically on your agenda. By this test John is surely a great leader, as many of us know firsthand. Another way to look at it is to recognize, as Justice Holmes was fond of saying, that people live by symbols. Sometimes these symbols are physical, like a flag or a picture, and sometimes they consist of a phrase or even a word. John intuitively understands this, as evidenced by his frequent references to the “community,” the “NYU family,” or the “enterprise.” I wonder how many faculty members, like me, tired a little of hearing those words and the hydraulic pressure they imposed on us to get with it. But the words nevertheless stand for something, something important, and over the years they have had the desired effect on faculty, administrators, and students of fostering a recognition that the Law School is a joint and cooperative mission, and that personal preference should sometimes yield to the common good. It also does no harm that John has a lively sense of humor, is open to criticism, will change his mind, and is uncommonly generous with praise, publicly and privately. This is leadership—intellectual, emotional, and moral. John's ability to motivate would have impressed even Knute Rockne.

The second way to make sense of John's deanship is less often invoked. It rests on the power of love. “Love” may seem an odd standard for a dean. NYU School of Law has just completed a dean search, and many desirable qualities were mentioned during the process. These include intelligence, scholarly achievement, energy, administrative ability, academic philosophy, and vision. But love? How can it be relevant?

Yet, on reflection, this has been one of the salient features of John Sexton's deanship. It includes his well-known love for the Law School. How often have we heard him speak affectionately, even passionately, about the institution, to the degree that some eyebrows lifted and many eyes rolled.

That is part of the love I mean. But I also mean love of the people who make up NYU Law. Why else would he spend countless hours, in his office and out, conversing with so many, forging relationships, and seeking ways to better each person and, through them, the institution? Why else would he spend an entire weekend, again and again, with a prospective faculty member and his or her family, showing off the School and New York City and possible housing opportunities?

You wouldn't believe me, and you shouldn't, if I said that John harbors similar feelings for everyone; like all of us he has preferences, and sometimes (though rarely) he has dislikes. But I hope you will believe me when I say that it would be impossible to strive harder than he has to overcome these feelings so that everyone could be brought into the fold. I often have heard him express the hope that someone he felt was not committed to the “enterprise” could be persuaded to engage, and I have heard him mention with solicitude colleagues who would be amazed to learn that he was concerned about them and wondered how he could get closer to them.

I consider all this to be love. It goes well beyond the merely rational to a level where we are moved by instincts that come from unknown places. It is, I think, a major element of John's character and personality and ultimately his success.

Now the Law School must look to the future and to its next generation of leaders. In the article I referred to earlier on how NYU became a major law school, I mentioned three ideas that, to me, epitomize a great institution. They are quality, variety, and heart. Of these, quality is the most important but, paradoxically, once a certain level is reached, it is the easiest to maintain. I hope variety and heart, also legacies from the Sexton years, will continue to be avidly pursued, to the enrichment of the Law School, its many constituencies, and the broader public. ■

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Faculty Focus

NYU LAW ATTRACTS—AND KEEPS—LEADING SCHOLARS from around the world year after year. Together with an outstanding student body, the faculty ensures the ongoing success of the Law School. The accomplishments of NYU Law faculty are unparalleled. On the following pages, you'll discover the people who help set the Law School apart and make it a proven leader in legal education. You'll also meet five new members who joined the faculty in the past year, each bringing a high level of expertise to the NYU Law curriculum.

Ever Since *Marbury*: Concluding Observations

BY LARRY KRAMER

*The following excerpt was adapted from the concluding section of "We the Court," NYU Law Professor Larry Kramer's acclaimed Foreword to the Supreme Court issue of the Harvard Law Review (115 Harv. L. Rev. 4, 158-69, 2001). The article describes the emergence of judicial review out of 17th and 18th century understandings that Kramer labels "popular constitutionalism." In this regime of popular constitutionalism, it was "the people" themselves who were directly responsible for interpreting and enforcing the constitution, a task discharged through political practices that ranged from voting to mobbing. Courts might offer their views in the context of litigation, but these were not binding or authoritative in any sense. The article describes how this system evolved until something like the modern understanding of judicial review first emerged in the 1830s. Even then, it coexisted with traditional practices in a way that left a great deal of constitutional law to be settled in and through politics. This mixed system thrived for a century and a half but is currently under assault from the Rehnquist Court, which has pursued a vision of constitutionalism under which only the Court's interpretations of the Constitution matter. This is the real import of decisions like *Lopez v. United States*, *City of Flores v. Boerne*, and even *Bush v. Gore*—all reflecting the present Court's insistence that it alone can decide what the Constitution means. Judicial supremacy under the Constitution is becoming judicial sovereignty over the Constitution.*

Bush v. Gore, it should by now be clear, is not such an exceptional case after all. Quite the opposite, it is from a certain perspective emblematic of the Rehnquist Court and its jurisprudence. The defining characteristic of that Court is not its commitment to political conservatism or a love of states' rights. Such labels may accurately describe the Court's politics and outcomes, but at the base of its jurisprudence, facilitating if not driving decisions, lies the Justices' conviction that they and they alone are responsible for the Constitution. Apart from the narrow political question doctrine and a theoretic possibility of amendment, any notion that what the Constitution does or permits

might best be left for the people to resolve using the ordinary devices available to express their will seems beyond the Rehnquist Court's compass. Politics begins where the Constitution leaves off, and what the Constitution allows the political branches to do is in all events to be decided by the Court. This is judicial sovereignty. We have come a long way since James Madison said that making the judiciary "paramount in fact" to the legislature "was never intended and can never be proper."

It is important in this regard to understand how the Court reached the position it has and why the Justices seem so confident that what they are doing is right. It is too easy, in my view, to ascribe the course of the Rehnquist Court to politics alone, at least to politics in the narrow sense. That the Justices do or do not like certain laws obviously plays a role, and the political conservatism of the five who have controlled the Court's major decisions in recent years is surely part of the story, maybe even a big part. But such an account is one-dimensional. It leaves out the fact that the Justices are also lawyers, who have spent the better part of their lives working in and with law. Their ideology is more than an array of preferences for one or another outcome in particular cases. It includes an ideology of constitutional law itself, a set of beliefs about the nature and meaning of the Constitution that makes them think they are right to intercede in politics as aggressively as they have. These beliefs constitute the intellectual matrix of the Rehnquist Court's conservative majority.

The first of these ideas is that the Constitution is nothing more than a species of ordinary law, hence something whose content and meaning are properly resolved by judges. Politics is where you go to amend the Constitution, courts are where you go to interpret it. The idea of constitutional politics outside the amendment process is, to the Rehnquist Court, a threatening and possibly oxymoronic prospect. A second idea seems to follow from this first one, inasmuch as conceiving the Constitution in



Professor Larry Kramer

ordinary-law terms could lead one to conclude that any limitations it imposes must be of a kind enforceable by courts. Indeed, "constitutional limitations" and "judicially enforceable" have become virtual synonyms for the Rehnquist Court, inseparable if not indistinguishable. The final piece of the puzzle is not so much an idea as an understanding of constitutional history, one that reaffirms the need for court-imposed limits by demonizing popular politics and celebrating the role of the judiciary in controlling the people. The conservative majority on the Rehnquist Court do not see themselves as usurpers. They do not see themselves as activists (because it is not activism to restore the "true" Constitution). Indeed, I have little doubt but that they see themselves as heroic, as close kin of the courageous judges who stood up against segregation in the South. *Bush v. Gore* was not a travesty from their perspective. It was their finest moment, a case of taking the political heat to do the right thing.

One finds these themes—the treatment of the Constitution as ordinary law, the conflating of constitutional limits with judicial enforcement, and a view of constitutional history that vindicates and demands aggressive judicial intervention—interwoven throughout the Court's opinions. While striking down provisions of the Violence Against Women Act in *United States v. Morrison*, Chief Justice Rehnquist dropped a long footnote to elaborate his position that limits on congress-

sional authority vis-à-vis the states cannot be “solely a matter of legislative grace.” Justice Souter’s dissenting claim that the limits of Article I had been left to politics, the Chief Justice said:

is remarkable because it undermines this central principle of our constitutional system. As we have repeatedly noted, the Framers crafted the federal system of government so that the people’s rights would be secured by the division of power. . . . No doubt the political branches have a role in interpreting and applying the Constitution, but ever since Marbury this Court has remained the ultimate expositor of the constitutional text. . . . [Justice Souter’s] assertion that . . . public opinion has been the only restraint on the congressional exercise of the commerce power is true only insofar as it contends that political accountability is and has been the only limit on Congress’ exercise of the commerce power within that power’s outer bounds.¹

Every statement here is wrong. Or, not so much wrong as made without context and grossly oversimplified. This is constitutional history in a funhouse mirror, a warped picture whose features are distorted at precisely those points where it matters most. The Founding generation did not solve the problem of constitutional interpretation and enforcement by delegating it to judges. Their thinking was more complex and, frankly, more imaginative than that. They were too steeped in republicanism to think that the solution to the problem of republican politics was to chop it off at the knees. Their structural solutions were meant to operate in politics: elections, bicameralism, an executive veto, political connections between state and national governments, and, above all, the capacity of politicians with competing interests to appeal for support to the people who made the Constitution. An idea of judicial supremacy did eventually emerge, but it was fenced in by concern for preserving the essence of this popular constitutionalism. The precise terms on which these competing principles were accommodated has varied over time, but they have both been with us all along. And no matter how often the Court repeats that it has been the ultimate expositor of the Constitution since *Marbury*, it still will not have been so. Popular constitutionalism—understood as a domain in which the people are free to settle questions of constitutional law by and for themselves in politics—has been a prominent feature of American constitutional practice from the

beginning. We have never had the purely legal Constitution of the Rehnquist Court, a stripped-down fundamental law whose democratic essence has been abstracted to a distant horizon. Nor has stewardship of our Constitution ever been turned exclusively over to lawyers and judges.

The point is not that the Rehnquist Court’s vision of the Constitution is wrong because the Founding generation would have rejected it, or because popular constitutionalism has been a vital part of our practice all along—though both things are true. I am not interested (here) in getting into a complex debate about how much normative weight history should carry in law. My present objective is more modest: to denaturalize a set of assumptions that are taken as natural by many, including especially the conservative majority on the Rehnquist Court and its supporters off the Court. Insofar as the Justices have chosen their path in the belief that, in doing so, they are vindicating the Constitution, either as it was originally understood or as it was viewed until recently, they are mistaken.

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It does not automatically follow that they are wrong to revise the scope of their authority. But it does follow that they need an explanation and a justification they have yet to provide. Certainly more needs to be done than quoting *Marbury* out of context or offering really bad renditions of the Founding.

Among the central themes of this Foreword is that the modern practice of judicial review originally derived support from a shift in thinking about the nature of

the Constitution, a change from viewing constitutions as a special kind of fundamental law outside the regular legal system, to seeing them as a species of ordinary law subject to conventional rules of legal interpretation and precedent. Obviously, this shift did not itself or alone cause judicial review to change. It was, rather, part of a broader web of circumstances in which a different sort of judicial involvement made sense. These circumstances, in turn, helped to make the change plausible—and did much to make it occur seamlessly—by opening up the possibility of a theoretical account in which a newly robust judicial role seemed natural.

The older practice nevertheless survived and, in some respects, flourished. Like judicial review, popular constitutionalism also changed, evolving as the forms of 18th-century politics gave way to a modern political system in which popular views are expressed through a thick network of mediating institutions (political parties, lobbies, the media, public interest organizations, unions, and the like). As this occurred, pop-

ular constitutionalism became routinized as an aspect of ordinary politics. The potential for more radical movements remained and, indeed, still expresses itself from time to time on profound issues or during national crises. But a broad range of less profound constitutional matters were left for resolution by and within the political branches of government on a running basis. The precise distribution of these more prosaic constitutional questions between courts and politics

long remained uncertain, generating tensions as one side or the other asserted itself. The New Deal crisis was significant because it resolved these boundary disputes and settled the century-old territorial war by assigning particular responsibilities to each.

This resolution was (as such resolutions invariably are) pragmatic and practical, and the problem of justification remained. An immense body of work soon emerged to rationalize and explain the post-New Deal structure of judicial review. But tension remained at a deeper intellectual level, for the practice of popular constitutionalism is not easy to square with a conception of the Constitution as ordinary law. Most lawyers and judges were content with the resulting system and the explanations offered for it, but those who found its political consequences troubling latched onto the seeming disconnect between a Constitution that is law and a practice of leaving questions regarding many of its limits to be settled by political institutions. In recent years, this group has consisted chiefly of conservatives unhappy with

tory. But these arguments—like the banal chant that if judicial review makes sense for individual rights it makes no less sense for federalism—draw much of their strength from this implicit foundational assumption about the nature of the Constitution: the Constitution is law, and this means the whole Constitution; it sets limits, and if judicial review makes sense for any of these limits, it makes the same sense for all of them. Take this hypothesis away and the arguments may not completely dissolve, but they lose their potency.

It is, of course, possible to conceive of the Constitution as ordinary law while still believing that judicial review is or ought to be confined. Most defenders of the old New Deal regime and critics of the Rehnquist Court take this view. There is, moreover, something deeply troubling about letting a characterization of the law run away with it like this. Portraying the Constitution as ordinary law helped to rationalize the emergence of judicial review, but it was never thought entirely to displace popular constitutionalism outside the Court. An idea that

Judicial review emerged in response to specific conditions and for specific reasons, and it has served identifiable purposes over time. But if anything is implicit in the Constitution, it is a general preference for democratic solutions: that, after all, was the whole point.

what they view as an undue expansion of federal authority. Over time, men and women of this persuasion came increasingly to view the problem as legal and constitutional, as well as political, and to seek a solution in the form of more aggressive judicial review of limits on Congress. Five of them are now on the Supreme Court, hence the change.

Political motivations aside, the legal grounds actually advanced in support of their agenda essentially boil down to the claim—or rather the supposition—that, because the Constitution is ordinary law, judicial review is both necessary and appropriate. This axiom pervades the opinions of the Rehnquist Court and is similarly pervasive in the work of the Court's academic defenders. It comes wrapped in other arguments, mainly arguments from text or his-

evolved in particular circumstances and served a particular purpose has taken on a life of its own and seems to be driving events—the worst kind of formalism.

Much simpler, of course, is just to acknowledge that the Constitution is not and never has been ordinary law; that while it has many features we associate with ordinary law, it retains a substantial ingredient of popular constitutionalism. It would be one thing if popular constitutionalism were normatively undesirable or inconsistent with the basic objectives or purposes of the Constitution. But exactly the opposite is true. The central objective of the Constitution is to facilitate democratic politics, to call into being a regime of republican self-government. Popular constitutionalism is, if anything, more consistent than judicial review with the basic

Harvard Law Review Supreme Court Forewords: A Tradition of Excellence in Constitutional Scholarship

Since 1950, the editors of the *Harvard Law Review* have selected a prominent scholar of constitutional law to write a "Foreword" to the *Review's* annual survey of the Supreme Court. The Forewords have acquired enormous prestige and influence over time, so much so that they themselves have become a subject of scholarly writing.¹ In any given year, the Foreword is among the most widely read scholarly publications in law, a signal of the state of the field that defines a vision of constitutional scholarship. Invitations are eagerly sought—an indication that someone has achieved the highest degree of prominence in the field. Two prior Forewords have been authored by scholars associated with NYU. Lawrence Sager's 1980 Foreword on "Constitutional Limitations on Congress' Authority to Regulate the Jurisdiction of the Federal Courts," and Derrick Bell's 1984 Foreword entitled "The Civil Rights Chronicle."

Other famous examples of Forewords include:

Henry Hart, "The Time Chart of the Justices," 73 *Harv. L. Rev.* 84 (1959).

Alexander Bickel, "The Passive Virtues," 75 *Harv. L. Rev.* 40 (1961).

Archibald Cox, "Constitutional Adjudication and the Promotion of Human Rights," 80 *Harv. L. Rev.* 91 (1966).

Gerald Gunther, "In Search of Evolving Doctrine on a Changing Court: A Model for Newer Equal Protection," 86 *Harv. L. Rev.* 1 (1972).

John Hart Ely, "On Discovering Fundamental Values," 92 *Harv. L. Rev.* 5 (1978).

Owen Fiss, "The Forms of Justice," 93 *Harv. L. Rev.* 1 (1979).

Robert Cover, "Nomos and Narrative," 97 *Harv. L. Rev.* 4 (1983).

Frank Michelman, "Traces of Self-Government," 100 *Harv. L. Rev.* 4 (1986).

Cass Sunstein, "Leaving Things Undecided," 110 *Harv. L. Rev.* 4 (1996).

¹ Mark Tushnet & Timothy Lynch, "The Project of the Harvard Forewords: A Social and Intellectual Inquiry," 11 *Const. Comm.* 464 (1995).

concept of the Constitution—which is why it provided our historical starting point, and why constitutional theorists in earlier generations thought they needed to spend all their time struggling to justify judicial review at all.

I am not suggesting that we abolish judicial review, or even judicial supremacy. Surely we need not rehearse here the familiar arguments about the many ways in which courts exercising review can reinforce and enhance democratic politics, arguments our historical experience offers plenty of reasons to accept. These benefits are, however, functional and instrumental, for the history makes equally clear that judicial review is not required by the structure of our Constitution, much less implicit in the very notion of a written constitution. Judicial review emerged in response to specific conditions and for specific reasons, and it has served identifiable

purposes over time. But if anything is implicit in the Constitution, it is a general preference for democratic solutions: that, after all, was the whole point. And the more important the issue, the stronger the preference. We may still conclude that we need or want courts to settle certain problems and to counter certain endemic pathologies of party politics and representative assemblies. But less is more when it comes to limiting self-government, and we should be thinking about a minimal model of judicial review that calls upon judges to intercede only where necessary. It goes without saying that such an approach is also consistent with historical experience. Yet it is virtually the opposite of the approach taken by the present Supreme Court, which presumes that questions respecting the Constitution are, by virtue of that alone, questions to be resolved by them and not us.

* * *

History may not tell us what to do. But it can tell us who we were, and so help us to understand who we have become. Legend has it that, as he left the Constitutional Convention, Benjamin Franklin was approached by a woman who asked him, “What have you given us, Dr. Franklin?” “A republic,” he replied, “if you can keep it.” Have we? For all the disagreement about what we mean by a “republic,” no one has ever doubted that self-government is its essence and a constitution the purest distillate. What kind of republic excludes this most precious thing from the process of self-governing? Certainly not the one our Founders gave us. Is it one we prefer? The choice, after all, is ours. The Supreme Court has made its grab for power. The question is, will we let them get away with it? ■

¹ *United States v. Morrison*, 120 S. Ct. 1740, 1753 & n.7 (2002).

Does Delaware Law Matter?

BY ROBERT DAINES

For the past 30 years, corporate law scholars have debated whether Delaware corporate law is likely to help or harm shareholders. In a recent article that has received widespread attention, NYU Law Professor Robert Daines adds significant new light to the question of how Delaware law affects the market value of public firms. Daines, a pathbreaking scholar in the field of corporate law, has been on the NYU Law faculty since 1997.

For years, legal scholars and policy makers have argued about Delaware. It is alternately decried as a “pygmy among the 50 states [that] denigrates national corporate policy” or praised as the product of “the genius of the American corporate law.”¹ At recent count, more than 20,000 law review articles discussed Delaware law, roughly two pages of law review text for every person in Delaware! (By comparison, this is more than 20 times higher than New York and almost 40 times higher than California.)

What is behind all this scrutiny? First, there is the obvious: law professors are long-winded. They will not stop at a sentence when an entire section will do. As a group, they are repetitious and redundant and repetitious. A second reason for the scrutiny is that Delaware demands attention. Delaware produces less than 0.1 percent of the country’s GDP, but its law governs more than 50 percent of the nation’s public firms, almost 80 percent of recent IPOs, and the takeovers, mergers, and restructur-



Professor Robert Daines

ings on the front pages of the nation’s newspapers. Delaware’s sale of corporate law is so successful that incorporation revenues make up more than 20 percent of the state’s total revenues.

Delaware’s dominance in corporate law has provoked a vigorous debate about whether its laws are good, bad, or indifferent. In a classic article, William Cary (then a Columbia Law professor and later Chairman of the SEC) argued that Delaware attracts

incorporation fees by producing corporate laws that allow managers to profit at shareholders' expense. Managers therefore incorporate the firm in Delaware because its law allows them to line their pockets with shareholders' money or to be otherwise less constrained by shareholder protections. Thus, Cary argues, Delaware's fiduciary duty laws are too lax and its shareholder rights too limited. Moreover, in order to compete with Delaware for incorporation revenues, other states also adopt rules that don't protect shareholders. As a result, Delaware leads other states in a "Race to the Bottom." In Cary's words, "a pygmy among the 50 states prescribes, interprets, and indeed denigrates national corporate policy as an incentive to encourage incorporation within its borders." To prevent this, Cary and others argue that Congress should federalize corporate law, an area of law long considered the domain of the states.

Others are less pessimistic about Delaware law and the results of competition. Ralph Winter argued that market forces (including competition for capital, products, and corporate control) lead states to provide, and incorporators to select, legal rules that benefit shareholders. Managers may seek their own welfare—but competition for investors constrains them to adopt legal rules that protect investors. Winter argued that Delaware law is valuable because it allows the parties to customize management's obligations and because it avoids costly and inefficient prohibitions. Winter's arguments persuaded many, and have since been advanced by Easterbrook and Fischel, Roberta Romano, and others.

A third view popular in recent times is that corporate law doesn't matter (a view many third-year law students have no doubt considered). After all, state corporate law regimes are often similar and many rules are optional. Because entrepreneurs are free to customize the firm's governance arrangements and shareholders' rights, they might eliminate (or arbitrage away) any differences between state regimes. Thus, a firm's choice of domicile might be trivial.

In short, Delaware law has been alternately characterized as either harmful, valuable, and trivial. Which is it? Much of recent corporate law scholarship has been devoted to discovering theoretical reasons to believe one side or the other—and there are good arguments on every side of the debate.

However, the impact of Delaware law is ultimately an empirical question. If Delaware law allows managers to profit at shareholder expense or to consume too many perks, Delaware firms will produce less for their investors. If Delaware law is valuable, Delaware firms will produce more profits for shareholders and so investors would pay more to own shares in Delaware firms. Finally, if corporate law is uniform or trivial, Delaware incorporation will have no effect on firm value. Thus, an important part of this great debate over Delaware law ultimately reduces to an empirical question: Are Delaware firms worth more or less than other firms?

Surprisingly, no prior research has examined this question of the relative value of Delaware public firms. I recently analyzed a sample of 4,481 exchange-traded U.S. corporations between 1981-1996 (representing 47,001 firm years).² This study presented the first large-sample evidence of the association between state law and firm value. The results of the study are summarized below.

WHAT ARE DELAWARE FIRMS WORTH?

If Delaware law matters, we should be able to find evidence of it in the value of Delaware firms and in investors' behavior over long periods of time. Therefore, my first goal was to find out whether investors paid more or less for Delaware firms. As a proxy for investors' valuation of a company, I calculated each firm's Tobin's Q ratio—a ratio named after Nobel Prize-winning economist James Tobin. A firm's Tobin Q is calculated by dividing the firm's market value by the money it would cost to replace the firm's assets. Firms with ratios greater than one are said to be creating value and to have valuable investment opportunities. This measure is sometimes interpreted as a proxy for the firm's growth prospects or its intangible assets. My innovation was to argue that corporate law is such an intangible asset and that it could have a measurable positive or negative value.

I found that, on average, sample firms incorporated in Delaware had significantly higher market valuations than firms subject to other corporate laws. Delaware firms' Tobin's Q were 0.08 higher than firms incorporated elsewhere (1.73 versus 1.65). This difference may sound small, but the economic impact is significant. In 1996, this difference would have translated into roughly a 5 percent greater market value on

Daines Study Garners National Attention in *Wall Street Journal*

The business world took notice of Professor Robert Daines' research into Delaware's incorporation laws. Steven Lipin of *The Wall Street Journal* wrote:

It is the first study to find that Delaware concerns are worth more than companies incorporated elsewhere. The study would be contrary to the commonly held view on Wall Street that state incorporation isn't all that important in determining stock prices. (Companies can choose to incorporate in Delaware, or any other state, regardless of the actual location of the firm's headquarters.)

The research of more than 4,400 publicly traded companies by Robert Daines, a law professor at New York University School of Law, found that, from 1991 to 1996, there was a quantifiable difference in companies incorporated in Delaware compared with other state incorporations. In 1996, for instance, he found that companies incorporated in Delaware were worth 5 percent more than companies incorporated elsewhere.

average (or \$12 million). When I exclude firms whose Tobin's Q values are in the upper or lower 10 percent (on the grounds that corporate law is unlikely to explain extreme valuations in value) the estimated Delaware difference is lower, but economically meaningful (roughly 2 percent).

So, Delaware firms are, on average, more valuable. But a firm's valuation is affected by many things (i.e., size, investment opportunities, degree of diversification) and it might be that Delaware firms are different in these respects and that these differences—and not Delaware law—account for the differences in valuation. To control for other factors, I estimated a least squares regression to predict each firm's Tobin's Q and controlled for a wide variety of factors that influence firm valuation: a firm's return on assets (ROA), its future investment opportunities (using a firm's R&D expenses as a proxy), the number of business segments for which firms report audited data (because diversified firms were

less valuable during this period), firm size, and each firm's specific industry.

Even controlling for all these other factors, Delaware firms are worth significantly more than other firms. Delaware firms had, on average, Tobin's Q values that were 0.073 higher than other firms. This association was statistically highly significant—there is less than one chance in 10,000 that the results were by chance. Delaware firms were worth more in each year of the sample and worth significantly more in 12 of the 16 years. The Delaware difference was the greatest in 1986 and 1993 (0.14) and lowest in 1989 (0.03), but does not appear to change significantly over time. This difference between Delaware and higher valuation held up even controlling for a wide variety of other factors.

In short, Delaware firms appear to have been worth significantly more than similar firms incorporated elsewhere since at least the early 1980s. This evidence leads me to reject the claim that Delaware law is either (a) on balance harmful to shareholder wealth or (b) trivial. Delaware law might not be optimal, but it appears to improve firm value relative to other jurisdictions. The Delaware effect is durable and firms do not appear to replicate its advantages through private contract.

WHY ARE DELAWARE FIRMS WORTH MORE?

Having established that Delaware firms are worth more, we must now ask why. There are two answers to this question, either of which is interesting and worth investigating. First, Delaware firms may be more valuable because Delaware law makes them more valuable. Second, Delaware firms may be more valuable because valuable firms simply incorporate in Delaware—Delaware may simply attract, rather than create, valuable firms. This section reviews the evidence on each possibility and concludes that the best interpretation of the evidence is that Delaware improves the value of public firms, even though valuable firms may also incorporate in Delaware.

1. Does Delaware law facilitate the sale of the firm?

The most plausible way that Delaware law might improve firm value would be to encourage takeover bids and facilitate the sale of public firms. Takeovers produce 30 to 40 percent premia for target shareholders and if Delaware facilitated takeovers, it may increase the value of Delaware firms. There are several reasons to believe that Delaware

law might facilitate takeovers in this way. First, its statutes raise fewer barriers to takeovers than do many states and do not allow managers to resist takeovers on the grounds that a takeover will harm some other constituency (such as the community, creditors, or labor). Second, Delaware case law contains some limits on managers' ability to resist takeovers (at least more than can be found in other states). Third, political economy may have more to do with Delaware's relative pro-merger stance than was previously recognized: firms that incorporate in Delaware do not operate there. Delaware firms have no Delaware operations and no Delaware employees and therefore lack local political clout. When these firms become targets of hostile bids, they are unable to win entrenching legislation. Similarly, Delaware judges who allow a takeover to proceed do not face pressure from claims that a hostile bid would reduce local employment levels. They may thus be less likely to entrench incumbent managers. By contrast, large firms in other states can and often do use their clout to secure tailor-made legislation to defeat hostile bids.

To check whether Delaware law facilitates the sale of public firms in this way, I began with all firms that were public in 1995 and then identified firms that received takeover bids by July 1, 1998 (using merger and acquisition data from Securities Data Corporation). As predicted, Delaware firms were more likely to receive bids: 20 percent of Delaware firms received a takeover bid in this time, while only 14 percent of other firms did. Again, this difference is highly unlikely to have occurred by chance (less than one chance in 100). Delaware firms were also significantly more likely to be acquired.

To control for other factors that can affect takeover bids, I estimated regressions predicting whether each firm received a takeover bid, controlling for factors previously identified as related to takeover probability: firm size, profitability, leverage, and market/book ratio. After controlling for these factors, Delaware firms were still significantly more likely to receive a bid. I also examined bid frequency among recent IPOs, among firms that have been public since 1981, and the cohorts of public firms from 1985 and 1990—in each of these firms I found that Delaware firms were more likely to receive takeover bids.

In short, Delaware firms are more valuable and more likely to be taken over, even controlling for other factors. This is consistent with the theory that Delaware law improves firm value by facilitating the sale of public firms. This might also explain why some firms do not incorporate in Delaware, even though doing so can create value. Managers of public firms, who have a veto power over reincorporation, might not find it in their interest to propose reincorporation to a jurisdiction that makes acquisition easier.

2. Do high-value firms simply incorporate in Delaware?

But suppose takeover law has nothing to do with it. Perhaps Delaware firms are more valuable simply because Delaware attracts valuable firms. Is this possible? I examine the possibility in detail in the paper and space constrains me here. But I will just note that while it is impossible to exclude the possibility, it seems unlikely that this explains all of the results I observe. First, it is not enough for Delaware to simply attract valuable firms—in order to explain this evidence, Delaware would need to attract firms that are both especially valuable and especially likely to be taken over. No theory suggests that Delaware has this dual attraction and it isn't clear how Delaware could even screen to attract such firms. Second, the results I reported are not the by-product of valuable firms simply moving to Delaware. Reincorporating firms make up only 4 percent of all observations in the sample and results don't change when I omit them. Third, there is also some evidence that moving to Delaware may be associated with significantly higher Tobin's Q values, even though they were not especially valuable prior to reincorporation. Finally, I examine a subset of firms that were public in 1995 and that were also public in 1981. These firms are unlikely to exhibit such a selection bias—that is, even if they decided to incorporate in Delaware years ago simply because they were then valuable, it is unlikely that they are still especially valuable now—decades later. In this subset of firms where domicile is relatively independent of firm value, Delaware firms are still worth more. This suggests that the market valuations of Delaware firms aren't simply a by-product of the firms' initial incorporation decision.

PUTTING TWO AND TWO TOGETHER

The effect of Delaware law is an important matter of public policy. Delaware law governs roughly half of the Fortune 500 firms, more than 60 percent of all publicly held assets, and most takeover battles. Moreover, its share of public firms appears to be increasing. To test whether Delaware law appears to help or hurt a firm's value, I examined the market valuation of 4,481 exchange-traded firms between 1981-1996 and I found that Delaware firms are (a) worth significantly more than firms incorporated elsewhere and (b) significantly more likely to receive takeover bids and to be acquired. These results are consistent with the theory that Delaware law facilitates the sale of public firms through its relatively clear and mild takeover law, expert courts and because its political economy makes it relatively unlikely to protect a firm's managers from takeover.

I found no support for the claim that managers harm shareholders by incorporating in Delaware or that federal regulation of firm governance is required because Delaware law is relatively harmful to investors. Note that these results do not establish that Delaware law is optimal for all firms. Nor do these results suggest that all firms will reincorporate to Delaware; agency costs in public firms, and managers' ability to veto any reincorporation, could prevent valuable reincorporations. Nor do these results show that Delaware law is better than a hypothetical federal code or that all of Delaware's laws are optimal. The observed premium, for instance, might be even larger were Delaware law different or less entrenching of incumbent managers. However, the data do suggest that Delaware law is a relatively valuable intangible asset and that shareholders pay more for assets governed by Delaware law.

These results raise further questions, which I am now pursuing in additional research. First, if state law matters, how do firms decide where to incorporate? More specifically, if Delaware law improves value, why do firms incorporate elsewhere? Surprisingly, we also know very little about how firms make this important decision. A separate paper examines this question and investigates the hypothesis that incorporation choices are affected by the lawyer advising the firm going public. Second, does Delaware have any advantages other than facilitating takeovers? A separate paper examines whether Delaware law is valuable to firms that are invulnerable to hostile takeover because they have control shareholders. ■

1 Roberta Romano, *The Genius of American Corporate Law*, AEI Press, 1993.

2 Robert Daines, "Does Delaware Law Improve Firm Value?" *Journal of Financial Economics*, 2001. The sample includes all publicly traded U.S. firms with data available on Compustat, a commercial database. I omitted regulated utilities, banks, and financial firms because of their unique federal regulation and corporate governance concerns.

The Legalist Reformation: Law, Politics, and Ideology in New York

BY WILLIAM E. NELSON

After spending more than a decade mastering over 500 volumes of the New York Supplement and 60 years of case law from the Second Circuit Court of Appeals, NYU Law Professor William E. Nelson published The Legalist Reformation: Law, Politics, and Ideology in New York, 1920-1980 (Chapel Hill, N.C.: University of North Carolina Press, 2001). Nelson's book has two main objectives. The first is to provide a historical synthesis of change in all major areas of American law during the course of the 20th century—a goal no one had attempted to achieve prior to the publication of Nelson's book. The other is to place in historical context many of the major cases read by students in the core law school curriculum—cases such as Palsgraf v. Long Island R.R. and Allegheny College v. National Chautaugua County Bank. Nelson hopes thereby to make sense out of the jumble of material presented to students in

discrete courses by enabling them to see how individual judgments reflected diverse judicial efforts to mold society in differing directions.

The Legalist Reformation begins by focusing on the inequalities of the early 20th century:

Prejudices along religious and ethnic lines often lay beneath the social and economic inequality that was rampant in New York in the early 20th century. These prejudices contrasted "a WASP vision of a tasteless, colorless, odorless, sweatless world" against a portrait of "ethnic minorities [who] cooked with vivid spices—even garlic!—and might neglect...deodorants, and regular bathing" and needed to be shown "how to cleanse themselves." There was virulent anti-Semitism on the part of prominent people such as Henry James, who expressed shock at the "Hebrew conquest of



Professor William E. Nelson

New York" that was transforming the city into a "new Jerusalem," and Henry Ford, who as late as the 1920s issued repeated warnings against the "Jewish menace" and who in 1938 accepted the Grand Cross of the German Eagle from the Nazi regime. Anti-Semitism arguably persisted as late as the 1930s even in the Court of Appeals.

Throughout the first two decades of the century, Republicans generally dominated the politics of New York State and typically controlled the legislative and executive branches of state government. By virtue of their majority on the state's highest court, the Court of Appeals, Republicans also dominated the judicial branch as late as the outset of the 1920s. The political culture of New York changed, however, during the course of the 1920s.

* * *

As Chief Judge Cardozo and his allies assumed control of the New York Court of Appeals, they began to push legal doctrine in the novel directions demanded by their emerging though not yet fully developed conception of social justice. But for three reasons they did not push doctrine either too hard or too far. First, their acceptance of the binding nature of precedent limited their capacity to create new law. The doctrine of precedent tended to freeze things in place, as they classically had been, allocating resources to a particular person as property and ensuring that judges would not alter the allocation.

Second, the conflict between conservatives and reformers that had characterized the early decades of the 20th century continued well into the 1930s. Despite the hopes of optimists like Cardozo, Americans in the 1920s and early 1930s did not constitute a single, cohesive entity progressing collectively toward a shared view of social justice. Reformers and conservatives had sharply competing visions of a just society, and they continued to battle over those visions as they had for decades. Although the year 1922 marked a turning point, in that conservatives generally won the battles before that date and frequently lost them afterward, neither the conservatives before 1922 nor the reformers thereafter enjoyed anything close to complete victory. As a result, Cardozo's conception of judges as progenitors of social justice also enjoyed only partial success, at least in his own lifetime.

The third and probably the principal reason why Cardozo and the other reform-oriented political leaders and judges of his generation did not change the law more fundamentally was their lack of ideological creativity. Of course, they rejected the classic political ideologies available to them during the 1920s and 1930s. Leading

reform figures such as Cardozo, Smith, and the Lehmans were not Marxists. As representatives of Catholics and Jews who occupied a distinctively minority status, they also did not have Nazism and similar fascist ideologies available to them as a possible political alternative. And since the new leaders had an "effective sympathy with . . . underdog[s]" who needed a redistribution of wealth and power in their favor, they could not turn to Populism, with its prescription of inactive, limited government. Only a powerful government could accomplish redistribution. But though reformers

The spreading shadow of the swastika, in short, compelled Americans to articulate their emerging legalist reform ideology, which would focus on equality and human dignity, personal choice and individual initiative, and "liberty of thought and criticism."

of Smith's and Cardozo's generation did not adopt any of the then familiar approaches to law and politics, they also failed to elaborate clearly a new approach that would have enabled them to escape fully from old conceptual limitations.

* * *

By the late 1930s, reformers had been in control of New York's political and legal institutions for more than a decade. But they had not achieved fundamental change. For example, the idea of equality remained inchoate, as did nebulously related ideas about personal liberty and human dignity. More immediate was the reality that, for less favored New Yorkers, inequality still entailed deprivations of rights and liberties which more privileged citizens took for granted. Workers were denied freedom of speech and association; homosexuals, harassed; Catholics, subjected to cross burnings; and Jews, kept or even driven out of town. The 13-year experiment of Prohibition deprived millions of ethnic New Yorkers of beverages of their choice, or at least resulted in them being declared criminals when they purchased those beverages. In the late 1930s, ethnic New Yorkers and others were not yet either free or equal.

For the weak and the poor, inequality and lack of freedom often involved the imposition of indignity as well. For example, take

the stories of a well-dressed African-American man in Harlem who was subjected to a strip search for policy slips, and of a mother of a child terrified by a warrantless police break-in and search of her apartment. Or consider the indignity suffered by those who "cooked with vivid spices—even garlic," when their cuisines, which are among the world's most exquisite, were trashed.

These deprivations of rights, liberty, and dignity did little to engender trust in authority, either public or private. On the contrary, the deprivations created a quandary, in which those who "welcomed (even expected)

assistance from government" in ending exploitation and promoting equality "nonetheless remained skeptical of state power." And this quandary was not fortuitous: it was an inevitable response to the conservative agenda, which called upon the legal system to limit the power of government over property owners seeking to exert dominion over the economic lives of the poor, while at the same time sanctioning the use of government power to control citizens' private, moral lives. (Note how Populism achieves this conservative goal by concentrating power in localities, which are too small to control the property of corporate entities spread over large geographic areas, but quite capable of controlling the personal lives of their residents.) To thwart this agenda and respond to the realities it created in the lives of the less privileged, reformers thus needed an ideology to justify enhancing government's power over the economy while at the same time restricting its power over personal choice.

* * *

Inchoate ideas of economic opportunity, individual liberty, and human dignity thus were in the air in the late 1930s, but they had not yet matured into a consistent, coherent philosophy. In the year 1938, however, as Hitler marched toward what history now knows as the Holocaust, New Yorkers stood

staggering in shock. They insisted that New York must pursue a direction different from Germany's, and as they strove to elaborate why and how New York's direction would differ, they began articulating an ideology of equality, liberty, and dignity that ultimately would result in a legalist reformation—that is, in a complete transformation of New York law and, through law, a complete reconstruction of New York society and culture.

The spreading shadow of the swastika, in short, compelled Americans to articulate their emerging legalist reform ideology, which would focus on equality and human dignity, personal choice and individual initiative, and “liberty of thought and criticism.” Confronting totalitarianism in Europe in the late 1930s and 1940s, Americans increasingly worried about “an all-powerful state that would provide security at the expense of liberty.” “The rise of totalitarianism,” according to the theologian Reinhold Niebuhr, “prompted the democratic world to view all collectivist answers...with increased apprehension” and to recognize that “a too powerful state is dangerous to our liberties.”

New Yorkers played a central role in the articulation of this new legalist reform ideology. As one New York contributor explained in a letter to a fellow New Yorker, he had become “deeply concerned about the increasing racial and religious intolerance which seem[ed] to bedevil the world” and which might “be augmented in this country.” For this reason, Justice Harlan Fiske Stone had thought it necessary to draft what has since become one of American constitutional law's most important texts—footnote four of *United States v. Carolene Products Co.*—in order to further “the program of ‘judicial reform’” on which the majority of the court had embarked in giving greater deference to economic regulatory legislation without diminishing judicial enforcement of “the guarantees of individual liberties.” The footnote itself announced that the court would scrutinize strictly legislation “directed at particular religious,...or national,...or racial minorities,” when “prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities.” On such occasions, a “correspondingly more searching judicial inquiry” was required to guarantee the legality of a majoritarian act.

Justice Stone's concern for protection of minorities was neither as unprecedented nor unique as the received wisdom about the *Carolene Products* case would suggest. Footnote four did not come out of nowhere: in the context of its time, it was an ingenious response not only to Nazi atrocities, but also to the quandary in which legalist reformers were mired, as they strove to make all citizens equal through law while at the same time immunizing them from government control of their personal lives.

Nor was Justice Stone alone in his concern. Even more extraordinary was a speech by Senator Robert F. Wagner, which served as a prophecy of the future course of the legalist reformation. Wagner declared:

As we reflect sorrowfully on the turn in world events..., we pose in our own minds the essential governmental problem of our times. In the 18th and 19th centuries, that problem was how to establish the will of the majority in representative government. In the world of today, the problem is how to

national scene. We cannot, however, be blind to the forms of anti-Semitism prevalent at home. These manifestations have been vigorously challenged by spokesmen of all creeds, and many notorious instances have met with effective protest.

Far less effective in marshaling informed public opinion and suffering from discrimination and prejudice so deep-seated as to be taken for granted by the community at large, are the half million Negroes in the State.

After graphically describing the discrimination that victimized African Americans in New York in the 1930s, Wagner concluded, “In the final analysis the so-called Negro problem, or any other minority problem, is but another aspect of man's eternal struggle for freedom and justice, a problem that solves itself when democracy is extended into every phase of our material life.”

No one as early as 1938 had yet seen the future as clearly as did Wagner in this speech, but others ranging from Thomas E.

New York judges simply did not behave as the received jurisprudential wisdom would suggest. According to this received wisdom, which is grounded in analysis of academic writings and the opinions especially of Justice Felix Frankfurter on the Supreme Court of the United States, the sociological jurisprudence of the 1910s and 1920s was followed in the 1930s by a more radical realism, which, in turn, was followed by the more conservative legal process school. In New York, however, the guarded progressivism of Cardozo remained dominant into the middle of the century, when, without provoking any conservative reaction whatsoever, a more radical realism recognizing that policy choice is implicit in all judicial decision-making became dominant.

protect the integrity and civil liberties of minority races and groups. The humane solution of that problem is now the supreme test of democratic principles, the test indeed, of civilized government.

We in America have long cherished the picture of a great melting pot...That picture, we must all admit, is marred in this State...by certain manifestations of racial intolerance and prejudice...The bestial manifestations of anti-Semitism abroad are happily absent from our

Dewey and Harlan Fiske Stone to Dorothy Thompson and George Meany were beginning to develop a coherent vision. As the 1930s drew to a close, a modern conception of equality, liberty, and dignity as requiring an end to ethnic and cultural persecution was beginning to slowly permeate the societal fabric. In response to the Holocaust, legislative policies protecting the downtrodden, common-law rules providing

opportunity for the upwardly mobile, and Keynesian programs for putting money into everyone's pockets were gradually being transformed, if not into a coherent affirmative program, at least into a demand that New York, unlike Germany, should uphold liberty, human dignity, and legal and social equality for all—not only for Catholic and Jewish children of immigrants but even, perhaps, for African Americans.

This change in the definition of social justice occurring in the midst of World War II transformed the role of judges and, with it, the nature of jurisprudence. For reformers of the 1920s and the early New Deal, social justice had entailed at least some redistribution of wealth. Legislators, especially those from impoverished constituencies, were well suited to the redistribution task, and progressive judges could do little but serve as their helpmates. For conservatives, in contrast, justice had entailed protection of property rights and traditional moral values, and the job of judges, relying on precedent, was to defend this status quo. Clearly, reformers and conservatives did not agree about the judiciary's role.

Once nearly all Americans came to define social justice in terms of protection of minorities from majoritarian power, however, some consensus about the judiciary's role became inevitable. Everyone had to agree that, at least on occasion, judges should step in to protect minority rights. They also had to agree that only judges could decide what occasions were appropriate for their intervention. Finally, they had to agree that the unprecedented task of deciding how to balance majoritarian power against minority rights required judges to determine matters of social policy. As a result, judges supplanted legislators as the main engines of social justice and progressive change. Judges became, as Cardozo had envisioned but never fully realized, progenitors of scientific social reform in the interest of the community as a whole.

Indeed, in their use of common law adjudication as a tool of reform, mid-20th-century judges far exceeded anything Cardozo had imagined. The realist judges of Cardozo's generation, it will be recalled, had regarded themselves as legal craftsmen and not as legislative policymakers; for Cardozo, the duty to abide by precedent narrowly constrained the power of judges and left them with only a limited capacity to

shift legal doctrine in socially just directions. In the aftermath of World War II, however, "legal culture changed," and the early realists, "who were at the cutting edge before the . . . War[,] began to look somewhat old fashioned afterwards." Mid-century judges, unlike earlier realists, began to discuss policy openly when they found existing precedent inadequate to their newly assumed task of protecting minorities and rights.

Thus, a newer legal realism, with its perception that all law requires judges to make policy choices, permeated the thinking of the New York bench after the middle of the century. Almost all judges had come by then to believe that fidelity to the past was outweighed by the prospect of a more free, prosperous, egalitarian, and just future. Most had also become willing to use their power, in an essentially political or policymaking rather than judicial or precedent-oriented fashion, to bring the brighter future to fruition.

For whatever reason, New York judges simply did not behave as the received jurisprudential wisdom would suggest. According to this received wisdom, which is grounded in analysis of academic writings and the opinions especially of Justice Felix Frankfurter on the Supreme Court of the United States, the sociological jurisprudence of the 1910s and 1920s was followed in the 1930s by a more radical realism, which, in turn, was followed by the more conservative legal process school. In New York, however, the guarded progressivism of Cardozo remained dominant into the middle of the century, when, without provoking any conservative reaction whatsoever, a more radical realism recognizing that policy choice is implicit in all judicial decision-making became dominant.

It would be foolhardy to attempt to explain why developments in New York differed from those in the Supreme Court and the legal academy. Without knowing more about trends elsewhere in the United States, we cannot even discern whether it was the judges of New York or Justice Frankfurter and the legal process writers who were aberrational. (It is worth suggesting, however, that the New York paradigm may provide a better model than the received wisdom for explaining changes in the jurisprudential attitudes of liberal Supreme Court justices during the 1930s and 1940s. Justices Hugo L. Black, William O. Douglas, Frank Murphy, and Wiley B. Rutledge, that is,

Words of Praise for *The Legalist Reformation*

"Unlike most contemporary historical writing that attempts to draw conclusions from modest events, Nelson's book is an effort at grand synthesis which, like past syntheses, strives to make a jurisprudential point. Nelson seeks to refine the once novel but now familiar understanding that judge-made law can be a mechanism of profound change; he argues that it can serve such a function only when there is a consensus among politically powerful voices about the direction change should take."

—Hendrik Hartog, Class of 1921 Bicentennial Professor in the History of American Law and Liberty, Princeton University

"In method, scope, and significance, this book is comparable to Nelson's *The Americanization of the Common Law: The Impact of Legal Change upon Massachusetts Society, 1760-1830* (1975). Here, as in his first book, Nelson distills from a mass of legal detail a synthetic account of legal change that links major upheavals in thought and politics with the pattern of development he discerns in the case law. . . . His generalizations are big, bold, and provocative; his analysis of legal doctrine is not only accessible to nonlawyers, but tackles issues that concern every historian of political economy, the family, religion and ethnicity, sexuality, gender, and race."

—Charles W. McCurdy, *American Historical Review*

"The main trends of 20th-century legal reform—the rise of administrative law, the extension of constitutional protections to various minorities, the loosening of moral restrictions, the expansion of notions of property, and the development of legal realism—are familiar to many legal scholars, but Nelson provides an overarching theory to connect these seemingly disparate strands."

—Book Note, *Harvard Law Review*

displayed a quite different realist style than did their predecessors, Louis Brandeis and Benjamin N. Cardozo, and arguably the style of Harlan Fiske Stone changed in the late 1930s.) All that can be said with confidence is that New Yorkers' post-1950

understanding of the nature of the judicial process constituted a complete reformation of the concept of law. Whereas New York law at the outset of the century had been the embodiment of precedents preserving the existing distribution of wealth and established standards of morality, law after mid-century became the process by which judges decided how to balance the majority's vision of social justice against the liberty, dignity, and rights of minorities. This reformation of law would spawn dramatic changes in legal doctrine, which, in turn, would lead to significant social change.

* * *

Armed with their powerful ideology and freed from the fetters of precedent, New York's judges rewrote the state's common law and constitutional law. By empowering religion, they uplifted multitudes of Catholics and Jews. They also revolutionized contract law, tort law, the law of fiduciary duty, and the law regulating sexual expression and family relations. They

reordered the law of obscenity and thereby facilitated the introduction of sex into popular culture. Finally, they elaborated a new paradigm of regulation, which recognized the plenary power of government while simultaneously limiting its capacity to wreak injustice in individual cases.

The legalist reformation also remade New York's economy, society, and culture. As a movement with a primary goal of assimilating the Roman Catholic and Jewish descendants of turn-of-the-century immigrants into the mainstream of New York life, it totally succeeded. In the aftermath of World War II, Catholics and Jews abandoned their urban ghettos and raced into newly developed, integrated suburbs. Government also provided them with educational opportunities of increasingly high quality, and many took advantage. Most significantly, Catholics and Jews began to obtain jobs and gradually assume positions of command at the highest levels of the American economy.

* * *

The legalist reformation did not, however, treat all groups equally well. African Americans remained victimized by segregation, racism, and discrimination, as did other newer immigrant groups from Asia and Latin America. In giving sexual and other freedom to men, the law often oppressed women, who in many ways were treated as second-class citizens from the 1940s into the 1960s. Finally, the legal system tended to repress anyone, especially the young, who either could not or would not assimilate into the existing cultural order and wished instead to create alternative cultures.

By the late 1960s, these various groups perceived that the legalist reformation was not granting them freedom, equality, and dignity, and they burst into protest. With their protest, the unity of social and political vision that had enabled judges to stage a legal revolution in the aftermath of World War II broke apart into fragments in the closing years of the 1960s. ■

The Immigrant Rights Clinic

NYU Law's Immigrant Rights Clinic (IRC), founded by Professors Nancy Morawetz and Michael Wishnie, represents individual immigrants and their organizations. On behalf of noncitizens, students enrolled in the clinic handle immigration, labor, employment, criminal, and civil rights cases in federal, state, and administrative courts. At the same time, students represent grassroots and national immigrant organizations in non-litigation advocacy, from legislative drafting to media initiatives and community education projects.

Benita Jain ('03) came to NYU Law with a background in organizing and a strong desire to become a lawyer for social justice. "I knew that I wanted to use law for social change and that I wanted to remain connected to organizing," Jain says. "The question for me was how the two could fit together responsibly." The Immigrant Rights Clinic at NYU Law is designed to

address precisely that sort of question.

This year, as a student in the IRC, Jain had the chance to work on cutting-edge litigation, as well as grassroots efforts to advance legislative change. Jain and Mina Park ('02), another IRC student, represented two garment workers, brothers who were arrested in an Immigration and Naturalization Service (INS) raid of their

midtown factory and placed in deportation proceedings. Their cases were referred to the IRC by the brothers' labor union, which frequently confronts employer threats to contact INS when workers organize to protect their rights. In November, and then again in April, Jain and Park appeared before an Immigration judge to argue that the proceedings must be terminated because INS had violated an agency rule restricting raids in the midst of a labor dispute. The students also moved to suppress all evidence obtained against their clients on the grounds that INS had engaged in anti-Latino racial profiling during the factory raid, singling out for questioning and arrest Latino workers from a multiethnic workforce.

To build their clients' case, Jain and Park demonstrated that the INS raid was instigated by a sweatshop boss in retaliation for his employees having filed overtime complaints with the state labor department. The students introduced into evidence an IRC statistical analysis of INS racial profiling in worksite raids, prepared by IRC student Jonathan Trutt ('01), and *New York Times* coverage of the IRC study (the study itself was based on data that had been obtained in a Freedom of Information Act lawsuit,



Professors Michael Wishnie and Nancy Morawetz

brought against INS by Diana Kasdan ('01), another IRC student). In November, Jain and Park called as an expert witness a former INS General Counsel, who explained the origin and purpose of the INS restrictions on raids during labor disputes, and examined the state labor official who had prosecuted the brothers' employer. In April, Jain cross-examined the INS agent who had supervised the factory raid.

Two weeks before she cross-examined the INS agent, Jain was in Washington, D.C., working with an organization of families from across the country who are advocating for change to the 1996 deportation laws. These laws dramatically changed the circumstances under which lawful permanent residents of the U.S. can be deported. Although such legal residents have long been subject to deportation as a result of a conviction, they have also had a statutory right to a fairness hearing in front of an immigration judge prior to being deported. When Congress eliminated this right for most legal residents in 1996, families from around the country mobilized to protect their family members from being detained and deported. Those families formed a group called Citizens and Immigrants for Equal Justice (CIEJ) that the clinic has represented for several years on a variety of projects. Jain worked with the group on its yearly conference, where she and her partner, Nyasha Laing ('02), served as trainers

and facilitators. The primary goal of their work was to help families speak most effectively for themselves about the unfairness of the new laws. Through the efforts of Jain and Laing, CIEJ members became experts on the laws affecting their families and on strategies to educate policymakers about the need to change those laws. Jain and Laing accompanied CIEJ members on their visits to members of Congress to assist in explaining technical questions about the 1996 laws and how they were tearing apart CIEJ members' families. Through this work, Jain says, she "saw the real power of people organizing and speaking for themselves."

Jain's projects illustrate the basic premise of the Immigrant Rights Clinic: that a social justice lawyer must be accountable to the communities she intends to serve and capable of deploying a full range of lawyering tools on behalf of her clients. Students in the clinic learn that litigation is only one method of legal advocacy. It sits side by side with others, such as public education, legislative drafting,

media advocacy, and organizational development. Students also learn to work both with individual clients and on behalf of collectives. In their fieldwork and during the classroom seminar, they explore how litigation and other forms of legal advocacy can serve broader organizing efforts. Many of the individual clients the clinic represents are referred by organizations that are seeking systemic change but perceive strategic utility in litigation on behalf of a particular immigrant member.

IRC's cases and its advocacy projects are rooted in two core social justice issues. One centers on the circumstances of tens of thousands of legal immigrants who, since 1996, have faced mandatory deportation and detention, without a basic fairness hearing, for criminal infractions as minor as shoplifting. Since September 11, moreover, the INS has expanded its detention and enforcement policies and applied them in new and arbitrary ways directed at Middle Eastern and South Asian men. A second set of justice concerns revolves around the problems of immigrants in the workplace, and efforts to support collective, worker-led responses to the long hours, dangerous conditions, and illegally low pay that millions of immigrants experience.

These two sets of social justice issues reflect the primary interests of the two professors who founded the clinic. Professor Morawetz turned her attention to deportation and detention issues in 1996 when Congress enacted sweeping changes to the laws governing the rights of legal permanent residents with convictions and then

Wishnie and Morawetz believe that the social justice issues facing immigrants demand that lawyers do far more than develop creative litigation strategies.

applied these laws retroactively. Responding to a sense of the fundamental unfairness of retroactive application of new laws, Morawetz began work on a law review article that explored substantive due process constraints on retroactive laws. She argued that there was a clear line of authority supporting close scrutiny of retroactive laws, and that these principles were fully applicable to rules affecting lawful residents



Students in the Immigration Rights Clinic

of the U.S. At the same time, Morawetz undertook pro bono litigation on the statutory question of whether Congress had specified that the laws should apply retroactively. Over the course of the next five years, she argued cases in numerous courts and provided assistance to lawyers handling these cases around the country. In 2001, when the Supreme Court took on the issue, Morawetz volunteered to draft the portion of the brief addressing retroactivity. In June 2001, the Supreme Court issued a decision striking down retroactive application of the 1996 laws to deprive legal residents of a fairness hearing prior to a deportation order. Morawetz has also worked on a variety of efforts to draw attention to the prospective unfairness of laws that summarily deport people who were raised in the U.S., including an article in the *Harvard Law Review* that explores how the interaction of detention policy, criminal justice policy, and INS enforcement practices has served to greatly magnify the impact of the 1996 laws.

Professor Wishnie's commitment to the workplace rights of immigrants reflects more than a decade of collaboration with unions and grassroots organizations, in litigation and non-litigation advocacy at the local, state, national, and international levels. He has worked with community labor organizations in New York City on the

problems of low-wage immigrant workers, representing individual workers, unions, and organizations of taxicab drivers and garment, construction, restaurant, and domestic workers in their efforts to secure dignity and respect in the workplace. At a national level, in 2001 Wishnie co-authored two amicus briefs in the Supreme Court. The first, on behalf of legal historians, concluded that at common law the scope of habeas corpus review encompassed statutory challenges to noncriminal confinement, a conclusion that was adopted by the majority in *INS v. St. Cyr*. The second, on behalf of employers and employer associations in *Hoffman Plastic Compounds, Inc. v. NLRB*, took the unusual position of supporting the National Labor Relations Board (NLRB) against an employer. The amici argued that business competition policy supported the NLRB's conclusion that an employer who discharges an undocumented employee for engaging in union organizing is not immune from ordinary back pay liability under federal labor law. In other pro bono work, Wishnie has argued cases as a volunteer cooperating attorney for the ACLU Immigrants' Rights Project to challenge the court-stripping provisions of the 1996 immigration amendments, to represent workers held in involuntary servitude and in violation of international law in New York, and to defend the First Amendment

rights of immigrant labor and tenant organizations sued for their peaceful public protests. Wishnie's scholarship has examined a range of civil rights issues affecting immigrants, including welfare rights, domestic and international labor protections, and First Amendment guarantees.

Wishnie and Morawetz believe that the social justice issues facing immigrants demand that lawyers do far more than develop creative litigation strategies. While litigation can help a single client, and can set precedents that help to advance a campaign, litigation victories are always susceptible to losses in the political arena. Effective advocacy in this area—as in many others—requires that advocates think creatively about a range of strategies and that they be directly accountable to the communities and constituents they represent. For that reason, the work of the clinic varies each year and is determined largely by the community organizations it serves.

In the area of labor rights, for example, a number of the clinic's cases have come from domestic worker organizations, whose members are principally Caribbean, South Asian, and Southeast Asian babysitters, nannies, and housekeepers. Domestic workers are excluded from the protections of the National Labor Relations Act, so rather than attempt to form independent unions, several of these groups have seized upon individual litigation on behalf of members to vindicate statutory rights to minimum wage and overtime. In these cases, the women referred to the clinic typically work from early in the morning until late at night, and often through the night, seven days per week, for wages far below the statutory minimum. The community groups ask IRC to take on these individual cases as part of broader community campaigns of public education and protest, in an effort to educate workers about their civil rights and to hold employers accountable for their treatment of their domestic employees.

Ms. Nurani came to the clinic through Andolan, an organization primarily of South Asian domestic workers. In her complaint in federal court, Nurani outlined the conditions of her employment. She worked from 6:00 AM until 11:00 PM, and often later. She took care of the youngest child at night. She cooked. She cleaned. She did laundry. She shopped. She received wages far below those required by federal and

state labor laws. Soon after she fell and tore her rotator cuff in the course of her employment, she was fired.

IRC students Lenor Marquis ('02) and Sandra Park ('02), together with IRC Fellow Ranjana Natarajan, sued the employers for failure to pay minimum wages and overtime under the Fair Labor Standards Act and the New York Labor Law. The clinic also filed a workers compensation claim for lost income and for medical expenses associated with the rotator cuff surgery. Nurani's doctors said she needed, but which she could not afford. The employers initially offered to settle for a nominal sum, then increased their offer but conditioned it on Nurani's agreement to a confidentiality clause. Insisting that she would not be silenced in sharing her story with other women, Nurani resisted pressure from the defendants and the court to accept the confidentiality clause. With the help of the clinic, Nurani began the trial of her workers compensation claim and prepared for a federal jury trial on her wage claim. In Spring 2002, the employers relented and settled the two cases for a combined sum of \$82,000—without any confidentiality agreement.

To tackle the more systemic problems in domestic work arrangement, several domestic worker groups formed Domestic Workers United (DWU). In the Spring of 2001, IRC students Rachel Rosenbloom ('02) and Tony Lu ('02) began representing this coalition in a campaign to obtain greater protections for domestic workers. This effort culminated in the Spring of 2002, when DWU launched an effort to pass legislation in the New York City Council promoting the use of a standard contract for domestic workers and requiring employment agencies to inform employers of their obligations under the law. With the supervision of Acting Assistant Professor Sameer Ashar, a former IRC Fellow, clinic students Kim Seelinger ('02) and Mary Ann Sung ('02) worked closely with DWU's steering committee to refine the group's objectives, resolve legal issues, draft legislation, prepare hearing testimony, and plan for a town meeting in which domestic workers spoke out about conditions. Seelinger commented that "it was tremendously rewarding to have been able to work with such an impressive group of workers and humbling to see the role lawyering plays in the essential work of mobilizing for social justice reform."

On the deportation side, the clinic also

combines group and individual advocacy. Working with CIEJ, the clinic has helped to write op-ed articles, plan press conferences, draft educational materials for affected families and lawmakers, plan for legislative meetings, and prepare amicus briefs for lawsuits so that the voices of families could be heard by the courts. All of this work has contributed to an increased public consciousness

about the unfairness of the laws and has laid the foundation for serious legislative efforts to reform the 1996 laws. The clinic has also fought for several years for the ability to provide know your rights presentations to INS detainees. This past year, students Brian Petruska ('02) and Noelle Wright-Young ('02) made presentations to detainees in Passaic County jail. For these detainees, the majority of whom were swept up in the wake of September 11, the know your rights trainings provide a rare opportunity to find out what rights they should have, and how to navigate the complex web of immigration and federal courts that determine whether those rights are observed in practice.

The clinic has also been at the forefront of litigation on the application of deportation laws. This past year, the clinic has taken on the next litigation frontier after the Supreme Court's ruling in *St. Cyr* that new deportation laws should not apply retroactively. In the Fall of 2001, clinic students Peter Bibring ('02) and Sandeep Solanki ('02) began work on a case to establish that people deported before the *St. Cyr* decision should be allowed to return to the U.S. to have the hearings that were illegally denied to them. Their client, Luis Gutierrez, grew up in New Jersey, has a citizen wife and children, has all of his family here in the U.S., and has a strong record of rehabilitation and employment. Bibring and Solanki drafted a brief demonstrating that under Supreme Court interpretations of the habeas statute courts could exercise jurisdiction to order relief for a person, such as Gutierrez, who

was deported without his statutorily guaranteed right to a hearing.

The clinic took on another case, referred by District Judge Frederic Block, concerning Hollis Boatswain, a veteran facing deportation who had not been allowed to pursue an application for citizenship. Although the law provides that veterans can seek citizenship as a defense to deportation,

A social justice lawyer must be prepared to undertake multiple forms of legal advocacy and collaborate with groups that can help ensure community accountability while sustaining a popular movement for social change.

the INS had refused to allow Boatswain to be fingerprinted and had closed his citizenship case for abandonment. The clinic succeeded in getting the INS to reopen the case and the court to retain jurisdiction to review the INS' subsequent denial of citizenship. Building on arguments developed by their client, clinic students Anjana Malhotra ('02), Lu, Sung, and Isaac Wheeler ('03) demonstrated that wartime veterans are not subject to standard bars to naturalization and are entitled to special preference in naturalization. Their brief traced the history of special statutes for wartime veterans back to the Civil War and showed how application of new bars to citizenship for wartime veterans would violate the government's fundamental compact with those noncitizens who serve in the armed forces during wartime. At argument, the judge noted that a similar argument had been rejected in the Ninth Circuit, but that the Ninth Circuit had not had the benefit of the kind of briefing done by students in the Immigrant Rights Clinic.

No matter what is achieved through litigation or advocacy victories, the core lesson of the clinic is that lawyers cannot rely on any one strategy alone to accomplish their clients' objectives. A social justice lawyer must be prepared to undertake multiple forms of legal advocacy and collaborate with groups that can help ensure community accountability while sustaining a popular movement for social change. Hopefully, IRC graduates carry this lesson with them wherever they might practice. ■

NYU Law's Clinical Program: Lawyering and Learning in the Real World

NYU Law's clinical program has long been renowned for the quality of its faculty, the variety of its offerings, and the innovative structure of its curriculum. In the past five years, the Law School has recruited nationally and internationally influential faculty to enrich the clinical program and has injected fresh ideas and approaches to deepen and broaden the clinical curriculum. With 16 full-time clinical faculty and 19 clinics, the Law School provides students with unparalleled experiences in working with clients and communities to address urgent problems, influence public policy, and improve the quality of legal problem-solving.

For 20 years, NYU Law has coordinated its much heralded first-year Lawyering Program, upper-level simulation courses, and fieldwork clinics in a carefully structured pedagogical construct of sequenced, dynamic learning, developed by Professor Anthony G. Amsterdam, one of the most respected public interest lawyers and law professors in the country. The Lawyering Program introduces students to a sophisticated theory of legal problem-solving that Professor Amsterdam, Professor Peggy Davis, and other members of the NYU Law faculty have been the leaders in creating. Grounded in this model, students in the second- and third-year clinics work with clients and communities on intensely demanding cases, projects, and deals.

Each second- and third-year clinic builds on first-year instruction in its own special way. In order to serve clients and communities as effective practitioners, each clinic

requires students to master particular bodies of law (for example, family, civil rights, or death penalty law), to learn specific skills suited to different practice arenas (for example, litigation, policy analysis, and/or outreach skills), and to learn to work under close supervision of faculty (for example, preparing for trials and hearings, writing appellate and postconviction briefs, and/or planning community education workshops).

NYU Law faculty design each and every second- and third-year clinic with a common aspiration. Clinics advance the instruction to which students already have been exposed, diversify the skill sets available for effective legal problem-solving, and deepen an increasingly coherent sense of how lawyers might best do their work. At the same time, clinics exhort students to appreciate just how much they must grow over the course of their careers. Problems evolve, and so must problem solvers if they are to become and remain expert in the practice of law.

The clinical faculty members who have come to NYU Law in the past five years and made it their home could anchor any legal all-star team:

Gerald P. López: A 1974 Harvard Law School graduate, López came to NYU after teaching at Stanford, where he was the Kenneth & Harle Montgomery Professor of Public Interest Law and founded the Lawyering for Social Change Program, and at UCLA, where he cofounded the Program in Public Interest Law and Policy. He is the author of *Rebellious Lawyering*, perhaps the most influential book ever written about

public interest law practice. Through mobilization, litigation, economic initiatives, policy reforms, public speaking, and writing, he works with low-income, of color, and immigrant communities and clients.



Professors Anthony Thompson and Michael Wishnie

Bryan Stevenson: A 1985 graduate of Harvard, with both a Masters in Public Policy from the Kennedy School of Government and a J.D. from the law school, Stevenson has won national and international acclaim for his work on behalf of condemned prisoners through the Montgomery, Alabama-based Equal Justice Initiative, which he directs. His numerous awards include the prestigious MacArthur Foundation Fellowship Prize, the Olaf Palme Prize for International Human Rights, and the Reebok Human Rights Award.

Kim Taylor-Thompson: A 1980 graduate of Yale Law School, Taylor-Thompson spent a decade working at the District of Columbia Public Defender Service, widely regarded as the premier public defender office in the country, where she rose in the ranks from staff attorney to various supervisory positions and ultimately became the Director. Thereafter, she was an Associate Professor at Stanford Law School, where she cofounded the Lawyering for Social Change Program, and then came to NYU Law. In addition to teaching clinical courses and first-year Criminal Law, Taylor-Thompson is the Academic Director of the Criminal Justice Program at NYU Law's Brennan Center for Justice.

Anthony Thompson: A 1986 graduate of Harvard Law School, Thompson worked for a decade as a public defender in California and then opened his own practice, focusing on criminal defense, sports and entertainment law and contract law. In addition to teaching in the clinical program, Thompson serves as the faculty director of the Law School's Root-Tilden-Kern Scholarship Program. He regularly consults with communities, legislators, courts, and policymakers on the implementation of criminal justice policy.



Professors Gerald López, Bryan Stevenson, and Kim Taylor-Thompson

Michael Wishnie: A 1993 graduate of Yale Law School, Wishnie worked at The Legal Aid Society and ACLU Immigrants' Rights Project, where he concentrated on the representation of grassroots immigrant and labor organizations. Wishnie was also previously a law clerk to Justices Harry A. Blackmun and Stephen G. Breyer. At NYU, he is an Acting Director of the Hays Civil Liberties Program, established and supervises the NYU Immigrant Rights Clinic Fellowship, and serves as Faculty Liaison to the Migration Policy Institute.

What these new faculty members bring to NYU Law is perhaps most evident in the recent evolution of the clinical law curriculum. For more than three decades, the clinical program has provided high-quality representation of indigent clients in the New York City civil and criminal courts. On the civil side, course offerings have long included the Civil Legal Services Clinic (taught by Professors Paula Galowitz and Lynn Martell), the Civil Rights Clinic (taught by Professors Claudia Angelos and Laura Sager), and the Family Defense Clinic (taught by Professor Martin Guggenheim and Acting Assistant Professor Madeleine Kurtz and social worker Paula Fendall). On the criminal side, the clinical program has long offered a Federal Defender Clinic (taught by Professor Chet Mirsky and Inga Parsons of The Legal Aid Society's Federal Defender Division), a Prosecution Clinic (taught by Professor Anthony Thompson), and a Juvenile Rights Clinic (taught by Professor Randy Hertz and Jacqueline Deane of The Legal Aid Society's Juvenile Rights Division).

The clinical professors who have come to the Law School in the past five years have broadened and enriched the school's clinical curriculum. Professors Gerald López, Kim Taylor-Thompson, and Michael Wishnie have led the clinics into a new realm of public interest lawyering in the community. This vision of practice makes central the collaboration between lawyers and client communities, employs diverse strategies as supplements and alternatives to more familiar legal action (litigation, lobbying, policy work), and investigates as a matter of course whether the remedies pursued effectively address the problem faced. Professor López has introduced both a Community Outreach, Education, and Organizing Clinic to work with low-income communities on

developing unconventional strategies to attack pervasive social problems, and a Local Economic Development Clinic to help low-income communities effectively foster and equitably channel economic growth and opportunity. Professor Taylor-Thompson has created a Community Defender Clinic to explore ways in which public defender offices might reinvent themselves and assume a more effective role in the criminal justice community. Professor Wishnie, with Professor Nancy Morawetz, has developed an Immigrant Rights Clinic, which complements its litigation on behalf of immigrants with media work, legislative advocacy, community education, and other legal assistance on behalf of immigrant organizations. The Public Policy Advocacy Clinic, taught by Professor Sarah Burns, works with organizations like the Children's Defense Fund and the Leadership Conference on Civil Rights to explore, evaluate, and implement strategies to improve public decision-making.

Professor Stevenson has led the clinics into the deep South to provide representation to prisoners on death row. His Capital Defender Clinic, co-taught by Professor Anthony G. Amsterdam, takes NYU Law students to Montgomery, Alabama, where they interview death row clients and their family members; review court files; conduct investigative interviews of jurors, trial lawyers, and other critical witnesses; and use the information they collect to prepare appeal petitions for indigent condemned prisoners who lack legal representation. In a second Capital Defender Clinic, taught by Professor Amsterdam with Professor Randy Hertz and Deborah Fins of the NAACP Legal Defense Fund's Capital Punishment Project, students work with the Legal Defense Fund to represent death row inmates in various Southern states and engage in legislative and media advocacy on capital punishment issues.

Professor Anthony Thompson expanded and reshaped the Law School's Prosecution Clinic to address a wide range of systemic issues, including the effects of race, ethnicity, and class on the exercise of police, prosecutorial, and judicial discretion in the criminal justice system. In the 2002-2003 academic year, he will offer a new Offender Reentry Clinic, which will focus on the legal and practical barriers faced by individuals released from state and federal prison, providing ex-prisoners and the communities they reenter with assistance on a wide variety of matters,

including overcoming barriers to housing, employment, education, and credit.

The clinics have also expanded their focus to tackle international issues. Professor Holly Maguigan's Comparative Criminal Justice Clinic offers students the opportunity to compare and contrast different nations' use of criminal prosecution to combat domestic violence; develop a critical analysis of the advantages and limitations of different criminal justice strategies; and assist agencies and non-governmental organizations, in the U.S. and abroad, in working to devise and implement changes in those strategies. The International Human Rights Clinic, taught by Professor Paul Chevigny and Acting Assistant Professor Donna Sullivan, emphasizes approaches to human rights advocacy that extend beyond a limited focus on courts to link legal and non-legal initiatives.

The program melds state-of-the-art training with superb lawyering. Success over the years has been both the product of and the reason for a restless desire to always do a better job. For anyone eager to be immersed in the best available training and to understand their possible roles in a profession ultimately measured by the quality of its problem-solving, NYU Law is the place to be. ■

NYU Law's Clinics

At NYU, students can choose among the following fieldwork clinics:

- Capital Defender Clinic (Alabama)
- Capital Defender Clinic (New York)
- Civil Legal Services Clinic
- Civil Rights Clinic
- Community Defender Clinic
- Community Outreach, Education, and Organizing Clinic
- Comparative Criminal Justice Clinic
- Environmental Law Clinic
- Family Defense Clinic
- Federal Defender Clinic
- Government Civil Litigation Clinic
- Immigrant Rights Clinic
- International Environmental Law Clinic
- International Human Rights Clinic
- Juvenile Rights Clinic
- Local Economic Development Clinic
- Offender Reentry Clinic
- Prosecution Clinic
- Public Policy Advocacy Clinic

New Faculty

Five important legal scholars join NYU Law's full-time faculty this year.

Professor Jennifer Arlen

Jennifer Arlen, who recently joined the NYU Law faculty, teaches corporations, securities fraud litigation, and a seminar on business crime. An economist and a lawyer by training, Professor Arlen uses economic analysis (theoretical, empirical, and experimental) to explore how to best use legal rules to deter corporate wrongdoing. The issues she has explored include securities fraud, corporate crime, and malpractice liability of managed care organizations. Professor Arlen also writes about behavioral law and economics, focusing on how people behave within organizations.

Professor Arlen was the Ivadelle and Theodore Johnson Professor of Law and Business at the University of Southern California Law School (USC), where she taught from 1993 to 2002, and was a founding director of the USC Center in Law, Economics, and Organization. She has been a Visiting Professor

currently the editor of "Experimental and Empirical Studies" series on the Legal Scholarship Network and is on the editorial board of the prestigious *International Review of Law and Economics*.

Professor Arlen began her teaching career at Emory University School of Law as an assistant professor in 1987, after clerking for the Honorable Phyllis Kravitch of the U.S. Court of Appeals for the Eleventh Circuit. Her numerous publications include, most recently, "Designing Mechanisms to Govern Takeover Defenses: Private Contracting, Legal Intervention, and Unforeseen Contingencies," in the *University of Chicago Law Review* (2002); "Endowment Effects Within Corporate Agency Relationships," in the *Journal of Legal Studies* (with Matt Spitzer and Eric Talley, 2002); "Regulating Corporate Criminal Sentencing: Federal Guidelines and the Sentencing of Public Firms," in the *Journal of Law and Economics* (with Cindy Alexander and Mark Cohen, 1999);

An economist and a lawyer by training, Professor Arlen uses economic analysis (theoretical, empirical, and experimental) to explore how best to use legal rules to deter corporate wrongdoing. The issues she has explored include securities fraud, corporate crime, and malpractice liability of managed care organizations. She also writes about behavioral law and economics, focusing on how people behave within organizations.

of Law at Yale Law School and the California Institute of Technology, and has been an Olin Fellow at Boalt Hall School of Law, at the University of California, Berkeley. She has served on the Board of Directors of the American Law and Economics Association, and has chaired the Remedies, Torts, and Law and Economics sections of the Association of American Law Schools. She is

and "Controlling Corporate Misconduct: An Analysis of Corporate Liability Regimes," in the *NYU Law Review* (with Reinier Kraakman, 1997).

Arlen graduated magna cum laude from Harvard University with a B.A. in economics in 1982, and received both her J.D. degree (1986, Order of the Coif) and her Ph.D. in Economics (1992) from NYU.



Professor Jennifer Arlen and Assistant Professor Rachel Barkow

Assistant Professor Rachel Barkow

Rachel Barkow, who has been an associate at the Washington, D.C., firm of Kellogg, Huber, Hansen, Todd & Evans since 1998, will join NYU Law's faculty this Fall. At her law firm, she focused on telecommunications and administrative law issues in proceedings before the Federal Communications Commission, state regulatory agencies, and federal and state courts. She took a leave from the firm during 2001 to serve as the John M. Olin Fellow in Law at Georgetown University Law Center. Her main academic interests are administrative and criminal law, and she is especially interested in how the lessons of administrative law can be applied to the administration of criminal justice.

Barkow's most recent publication is "More Supreme than Court: The Fall of the Political Question Doctrine and the Rise of Judicial Supremacy," which appeared in the *Columbia Law Review* (2002). She is currently working on an article that examines the relationship of the Federal Sentencing Guidelines to the Jury Guarantee. Professor Barkow is also beginning a book that traces the development of separation of powers doctrine at the Supreme Court and the relationship of that doctrine to theories of individual rights and court competency.

When asked why she chose to come to NYU Law, Barkow remarked, "What attracted me to NYU Law, in addition to the fantastic faculty and student body, is the school's dynamism and energy. There are so many speakers and workshops and events, with so many different and engaging perspectives being aired. And it's wonderful to see such a high level of interest from both the students and the faculty. The

enthusiasm is contagious, and I'm thrilled that I will be a part of it."

After graduating from Northwestern University (B.A. 1993), Barkow attended Harvard Law School (J.D. 1996), where she won the Sears Prize, which is awarded annually to two students with the top overall grade averages in the first-year class. Barkow served as a law clerk to Judge Laurence H. Silberman on the District of Columbia Circuit, and Justice Antonin Scalia on the U.S. Supreme Court.

Professor Daryl Levinson

Daryl Levinson comes to NYU Law from the University of Virginia, where he received his law degree in 1995 (along with a graduate degree in Modern Studies), joined the Law School faculty in 1996, and proceeded to become the Harrison Foundation Research Associate Professor of Law. At Virginia, Levinson was awarded the McFarland Prize for faculty scholarship and was also an acclaimed teacher.

Levinson's main areas of research and teaching include constitutional law, remedies, democratic political processes, and, most recently, constitutional design—exploring how the basic institutions of constitutional democracy might be engineered to achieve goals such as stability, equality, and economic growth.

In several major publications, Levinson has challenged broad swaths of the conventional wisdom in constitutional law and theory. "Framing Transactions in Constitutional Law," in the *Yale Law Journal* (2002), questions whether constitutional violations can be usefully modeled in the same way as common law ones by pointing out a deep conceptual incoherence in the basic building-blocks of constitutional discourse: indi-



Professor Daryl Levinson and Assistant Professor Rebecca Tushnet

NYU Law Celebrates the Life of Professor Lawrence P. King (1929-2001)

Colleagues and friends of Professor Larry King held a tribute honoring his life. King, who passed away in April 2001, was remembered as an extraordinary lawyer, teacher, scholar, law reformer, and role model to many. Pictured at the ceremony (from left to right) are David Kaufman, wife Dorothy King, and the Honorable Mary Davies Scott.



vidualized harm, equal treatment, neutrality, and the like. "Making Government Pay: Markets, Politics, and the Allocation of Constitutional Costs," in the *University of Chicago Law Review* (2000), presses the point that governments care about votes, not dollars, and therefore that we should not expect governments to respond to compensation requirements in takings or tort cases in the same way as a private individual firm. "Rights Essentialism and Remedial Equilibration," in the *Columbia Law Review* (1999), deconstructs the central jurisprudential distinction between constitutional rights and remedies. More generally, important themes in Levinson's scholarship include the instrumental purposes and mechanisms of constitutional law and how constitutional adjudication can further sensible policy goals within the boundaries of its institutional structure; the relationship between private and public law, and the applicability, or inapplicability, of private

law insights and methodology to legal regimes regulating the behavior of government; and the distinction between markets and politics as institutions of social ordering. His work draws upon interdisciplinary sources from economics, public choice, political theory, and philosophy.

Although still a relatively junior scholar, Levinson was being recruited by a number of other top law schools when he chose to come to NYU. What made the difference? "NYU shares the genie soul of New York City: it is an incredibly innovative, forward-looking institution with a sense of infinite possibility," Levinson says.



Assistant Professor Rebecca Tushnet

Rebecca Tushnet comes to NYU Law from Debevoise & Plimpton in Washington, D.C., where she specialized in intellectual property. She has clerked for Chief Judge Edward R. Becker of the Third Circuit Court of Appeals in Philadelphia and Associate Justice David H. Souter of the U.S. Supreme Court.

Tushnet graduated from Harvard University in 1995, and from Yale Law School in 1998. Tushnet served as an articles editor for the *Yale Law Journal* and as an editor of the *Yale Journal of Law and Feminism*. During her law school summers, she worked for the Center for Reproductive Law & Policy and for Bredhoff & Kaiser.

Tushnet's publications include "Copyright as a Model for Free Speech Law" (*B.C. L. Rev.* 2000), "Legal Fictions: Copyright, Fan Fiction, and a New Common Law" (*Loy. L.A. Ent. L.J.* 1997), which was awarded the Nathan Burkan Prize for best paper in the field of copyright, and a student note entitled "Rules of Engagement" (*Yale L.J.* 1988), which won the Israel H. Peres Prize for best student note. Her research currently focuses on the relationship between copyright and free speech, in particular why copyright is, after more than two centuries of relative obscurity, now being seen as a restriction on speech subject to First Amendment constraints, and the implications of this new attention to copyright for other areas of free speech law. Tushnet is also interested in the law governing false advertising and the roles of the various actors—consumers, competitors, and government—who bring the law to bear against advertisers.



Assistant Professor
Katrina Wyman

Wyman is an accomplished young scholar who is committed to contributing to the Law School's widely recognized strengths in the areas of property and environmental law. Wyman's various academic interests include environmental and natural resources law and policy, the regulatory process, and the implications of international trade agreements for domestic environmental regulation.

Wyman is currently working on a series of case studies that consider why government regulators turn to property rights and markets to regulate environmental and natural resources. She recently completed an article examining why other countries have been considerably slower than the United States to establish markets to regulate pollution. An ideological predisposition toward property rights and markets in general in the U.S. is often cited as the reason the U.S. has been quicker to embrace markets to regulate pollution—whereas other countries seem less comfortable with these concepts. But Wyman offers an alternative explanation, which emphasizes the importance of the costs of regulation for the choice of instrument. Wyman's next project explores another paradox in the field of environmental and natural resources law: why the U.S. has been considerably slower than other countries to use market mechanisms to regulate commercial fisheries.

A graduate of the University of Toronto and Yale Law School, Wyman is looking forward to participating in NYU Law's dynamic intellectual life. She comes to the Law School after having been a Research Fellow on the University of Toronto Faculty of Law in 2001-2002, where she focused on environmental regulation. ■

Assistant Professor Katrina Wyman

Katrina Wyman is an accomplished young scholar who is committed to contributing to the Law School's widely recognized strengths in the areas of property and environmental law. Wyman's various academic interests include environmental and natural resources law and policy, the regulatory process, and the implications of international trade agreements for domestic environmental regulation.

Six Stars Who Arrived in 2001-2002

Our newest faculty members are part of an extraordinary recent migration of the leaders in legal education to NYU Law, and join six world-class scholars who became part of the full-time faculty during the 2001-2002 academic year.



Professor Philip Alston and Assistant Professor
Noah Feldman

Professor Philip Alston

Philip Alston is an internationally recognized human rights expert and a leading scholar of international law. He was recently named Director of NYU Law's new Center for Human Rights and Global Justice (page 58). Alston joined the Hauser Global Law School Program faculty as a visiting professor in 1996, while retaining positions as both Professor of International Law and head of the Department of Law at the European University Institute (EUI) in Florence, Italy. He relinquished these appointments when he joined our full-time faculty.

Alston is editor-in-chief of the prestigious *European Journal of International Law*. In addition, he chaired the United Nations Committee on Economic, Social, and Cultural Rights for eight years and recently served as senior consultant in preparation of the Human Development Report 2000. He directed a project that led to the launch of a Human Rights Agenda for the European Union for the Year 2000 and published a volume of essays on that theme.

An interview with Professor Alston can be found on page 59.

Assistant Professor Noah Feldman

Noah Feldman is an exceptional young scholar whose academic work focuses on two primary areas: American public law and the relationship between law and religion. These two areas reflect his dual training in law and intellectual history. Feldman received his bachelor's degree from Harvard University *summa cum laude* in Near Eastern Languages and Civilizations, finishing first in the class of 1992. Selected as a Rhodes Scholar, he earned a D.Phil. in Islamic Thought from Oxford University in 1994. He received his J.D. from Yale Law School in 1997.

This year, Feldman was an organizer of "Islam and America in a Global World," a conference cosponsored by the William Jefferson Clinton Foundation, NYU Law, and Georgetown University (see page 97), and also participated in several other important events exploring the legal implications of the events of September 11. In addition, Feldman discussed policy choices available to the U.S. and other Western nations in promoting democracy in the Islamic world post-September 11 at the annual Rudin Lecture (see page 87).

Professor David Golove

David Golove is a member of the Faculty Executive Committee of NYU Law's new Institute for International Law and Justice and Director of the J.D.-LL.M. Program in International Law (see page 60). Considered one of the most original and promising scholars in constitutional law, his recent scholarship addresses core constitutional questions arising from foreign relations law and the exercise of the U.S. treaty-making power. His book-length



Professor David Golove and Professor Richard Pildes

article for the *Michigan Law Review*, "Treaty-Making and the Nation: The Historical Foundations of the Nationalist Conception of the Treaty Power," is a major work of legal historical scholarship and an important legal and constitutional defense of federal power.

Professor Richard Pildes

Richard Pildes is one of the nation's leading theorists of public law and a specialist in legal issues affecting democracy. In the area of democracy, Pildes, along with the co-authors of his acclaimed casebook, *The Law of Democracy: Legal Structure of the Political Process* (now in its second edition), has helped to create a new field of study in law schools that explores issues of democratic theory in the concrete institutional, policy, and doctrinal settings in which they have arisen over the history of American law.

Pildes is considered one of the country's leading scholars on such topics as the Voting Rights Act, alternative voting systems (such as cumulative voting), the history of disfranchisement in the United States, and the general relationship between constitutional law and democratic politics in the design, maintenance, and reform of democratic institutions themselves. During the 2000 presidential election, he appeared as a public commentator in numerous venues and provided regular analysis with Tom Brokaw and others on the NBC network as an election law expert on the *NBC Nightly News*, *The Today Show*, MSNBC, and in similar settings.

Professor Stephen Schulhofer

Stephen Schulhofer is one of the most distinguished scholars of criminal justice. He has written more than 50 scholarly articles and six books, including the leading casebook in the field of criminal justice as well as highly regarded, widely cited work on a wide range of criminal justice topics. His most recent book, *Unwanted Sex: The Culture of Intimidation and the Failure of Law* (Harvard University Press), is a balanced yet controversial examination of our laws against sexual assault and other forms of intimidation and sexual overreaching.



Professor Stephen Schulhofer and Professor Joseph Weiler

Throughout his impressive career, Professor Schulhofer has contributed to the discussion of a wide variety of issues at the forefront of contemporary concerns about crime and due process. His work has been distinguished by his simultaneous engagement with doctrinal analysis of law, examination of criminal justice policy, and his own original empirical work.

Professor Joseph Weiler

A world-renowned expert on international law and the European Union, Joseph Weiler came to NYU Law from Harvard University, where he was the Manley Hudson Professor of Law, and also held the Jean Monnet Chair. Weiler is Professor at the College of Europe, Bruges, and Honorary Professor at University College London, and in the Department of Political Science at the University of Copenhagen. He is also Co-Director of the Academy of International Trade Law in Macao, China.

At NYU Law, Professor Weiler is the Director of the Hauser Global Law School Program and Director of the Jean Monnet Center for International and Regional Economic Law & Justice (see page 55). He also teaches courses in Public International Law; the Law of the European Union, the Law of the WTO, and the Law of the NAFTA; and seminars in his various fields of interest.

Weiler is the author of numerous articles, monographs, and edited volumes covering the Theory and Practice of European Integration, Public International Law, Comparative Constitutional Law, and International Economic Law.

An interview with Professor Weiler can be found on page 79.

Visiting Faculty

Once again, an extraordinary group of visiting faculty will enhance the scholarship and sharpen the academic rigor of the Law School this year. Many of the legal scholars who visit NYU Law ultimately choose to make it their home: more than three dozen of those now on the permanent faculty first spent time here as visitors.

Joseph Bankman Stanford Law School

The Ralph M. Parsons Professor of Law and Business at Stanford Law School, Joseph Bankman will join the visiting faculty this year. At Stanford Law School he was also named the Helen L. Crocker Faculty Scholar in 1993. Professor Bankman was Assistant Professor of Law at the University of Southern California Law School from 1984-1988, and an associate at the law firm of Tuttle & Taylor in Los Angeles from 1980-1984.

Bankman's professional and scholarly interests include income taxation and business associations. His most recent publications include "The Venture Capital Investment Bust: Did Agency Costs Play a Role: Was it Something Lawyers Helped Structure?" in the *Chicago-Kent Law Review* (2002) and *Federal Income Taxation* (with W. Klein & D. Shaviro, 12th edition, Little Brown, 2000). His current research and forthcoming publications include *The Role of Accountants in Tax Evasion and Insider Trading in Stock Substitutes* (with Ian Ayres).

Bankman received his J.D. from Yale Law School in 1980, and his A.B. from the University of California at Berkeley in 1977. He is delighted to return to the Law School. "I'm thrilled to be back at NYU Law, which has become such a center of intellectual life," Bankman says.

Lillian BeVier University of Virginia School of Law



Lillian BeVier

Lillian BeVier is the John S. Shannon Distinguished Professor and the Class of 1963 Research Professor at the University of Virginia School of Law, where she has taught since 1973. BeVier teaches intellectual property (both copyright and trademark), property, and First Amendment. She has published extensively on First Amendment and intellectual property issues.

BeVier graduated from Smith College and Stanford Law School, where she was on the *Law Review* and elected to the Order of the Coif. Before going to Virginia, she was an Associate Professor at Santa Clara University School of Law, having previously practiced law in Palo Alto, California, and worked as Assistant to the General Secretary and Assistant Staff Legal Counsel for Stanford University.

BeVier delivered the David C. Baum Lecture on Civil Rights and Civil Liberties at the University of Illinois College of Law in 1996, and the Coen Memorial Lecture at the University of Colorado in 2000. In 1999, at the invitation of the Supreme Court Historical Society, she spoke to the Society on Free Expression in the Warren and Burger Courts. She has testified before the Senate Rules Committee, the Senate Judiciary Committee, and the House Commerce Committee on the constitutionality of various campaign finance regulation proposals.

Why is BeVier interested in NYU Law? "Everything about the opportunity to spend a semester at NYU Law was attractive. The faculty and students are first-rate, the academic programs innovative, the intellectual life vigorous and stimulating. And the visit will be a refreshing change of pace for me."

David Epstein University of Alabama School of Law

David Epstein, who will teach bankruptcy and secured credit as a visiting professor at NYU Law this Fall, teaches at the University of Alabama School of Law. In Tuscaloosa, he regularly teaches an undergraduate course in effective and ethical problem-solving to students from both the University of Alabama and Stillman College.

In the Summer of 2001, Professor Epstein taught secured credit at the University of Texas School of Law. During the Spring semester of 2002, he taught bankruptcy and secured credit at Harvard Law School as the Bruce W. Nichols Visiting Professor of Law. Epstein will teach courses in bankruptcy and contracts at Georgetown in the Spring of 2003.

Recent publications include a 2002 edition of his basic bankruptcy text, *Bankruptcy and Related Laws in a Nutshell*, 6th ed.; a 2002 contracts casebook, *Making and Doing Deals*; and a 2002 corporations casebook, *Business Structures*. His publications in 2003 will include the bankruptcy casebook he will use at NYU Law, entitled *Bankruptcy: Making, Breaking, and Re-Making Deals*, and the secured credit casebook, *Nine Questions: Secured Debt Deals in the 21st Century*.

Epstein is of counsel to King & Spalding, a firm in Atlanta. He is also the Robert Zinman Resident Scholar at the American Bankruptcy Institute. Each summer, he lectures on contracts for BAR/BRI in New York and most other states.



David Epstein and Barbara Fried





Bernard Harcourt and Victoria Nourse

Epstein is one of the hundreds of people who regarded NYU Law Professor Larry King, who passed away in April 2001, as a close friend. He says, "It is a very special honor to be able to teach the courses that Larry King taught at Larry King's school."

Barbara Fried Stanford Law School

Barbara Fried, presently the Professor of Law and Deane F. Johnson Faculty Scholar at Stanford Law School, is pleased to return to NYU Law. "NYU Law has proved a hard place to stay away from," she says. "I am delighted to be returning for a second tour of duty, and at what is a particularly exciting time for the Law School."

Before joining the faculty of Stanford Law School in 1987, she was an Associate at Paul, Weiss, Rifkind, Wharton & Garrison in New York City for three years. From 1983-1984 she served as a law clerk for the Honorable J. Edward Lumbard on the U.S. Court of Appeals for the Second Circuit. She graduated from Harvard Law School (1983) and also received her B.A. (1977) and M.A. (1980) from Harvard.

At Stanford, Fried is a two-time winner of the John Bingham Hurlbut Award for Excellence in Teaching, which is voted on by the graduating class. Her areas of teaching include contracts, federal income taxation, tax policy, distributive justice, property, and property theory. Her major publications include "Why Proportionate Taxation?" in *Tax Justice Reconsidered: The Moral and Ethical Bases of Taxation* (Urban Institute Press, 2002), and *The Progressive Assault on Laissez Faire: Robert Hale and the First Law and Economics Movement* (Harvard University Press, 1998). Her current research projects include "'If You Don't Like It, Leave It': The Construction of Exit Options in Social

Contractarian Arguments" (Stanford Public Law Working Paper Series No. 31, 2002), and "Left-Libertarianism and Its Critics: A Review Essay."

Bernard Harcourt University of Arizona

Bernard Harcourt's scholarship focuses on issues of crime and punishment from an empirical and social theoretic perspective. His writings intersect the field of criminal law and procedure, police and punishment practices, political and social theory, and criminology. He is the author most recently of *Illusion of Order: The False Promise of Broken Windows Policing* (Harvard University Press, 2001). He is the editor and a contributing author of a collection of essays entitled *Guns, Crime, and Punishment in America* (New York University Press, forth-

coming). He is currently working on a book about youth gun carrying.

A New York City native, Harcourt attended the Lycée Français de New York before earning his undergraduate degree at Princeton University. He received his law degree from Harvard Law School in 1989. After law school, Harcourt clerked for the Honorable Charles S. Haight, Jr., of the U.S. District Court for the Southern District of New York, and then moved to Montgomery, Alabama, to represent death row inmates on direct appeal, in state post-conviction, in federal habeas corpus, and at retrial.

Harcourt practiced at the Equal Justice Initiative from 1990 to 1994. Along with NYU Law Professor Bryan Stevenson, he was co-counsel for Walter McMillian, an innocent man who was wrongly convicted of capital murder and who was released in

Harvey Dale Awarded University Professorship in Philanthropy and the Law



University Professor Harvey Dale

The Atlantic Philanthropies will fund a \$2 million New York University professorship in Philanthropy and the Law within the National Center on Philanthropy and the Law (NCPL) in honor of Professor Harvey Dale. Professor Dale has assumed the new University Professorship in Philanthropy and the Law. Upon his retirement, the professorship will be known as The Harvey P. Dale University Professorship in Philanthropy and the Law.

Professor Dale, a member of the Law School faculty for more than 20 years, is the Founding Director of the NCPL, established at the Law

School in 1988. Under his leadership, the NCPL has explored a broad range of issues affecting the nation's nonprofit sector and provided an integrated examination of the legal doctrines related to the activities of charitable organizations. In addition, Professor Dale, the former president and a director of The Atlantic Foundation, is considered the prime architect of the foundation's approach to charitable giving.

"Professor Dale is the acknowledged leader in his field," said NYU President-Designate John Sexton. "His efforts have significantly increased the Law School's stature and greatly benefited philanthropic and nonprofit communities. This gift from The Atlantic Philanthropies, which Professor Dale led with distinction for decades, further honors and underscores the respect and affection he has earned. It also ensures, on a University-wide level, a permanent Center for teaching and scholarship in the field of philanthropy and the law."

At a dinner honoring Professor Dale, NYU President L. Jay Oliva said, "Harvey Dale is the person who made the crucial connection between the formal study of law and the legal issues affecting nonprofit organizations—to the enormous benefit of the academy and to the nonprofit environment."

1993 after six years on death row. Harcourt returned to Cambridge in 1994 and was appointed Senior Fellow in the Graduate Program at Harvard Law School from 1995-1997. During this time, he also served on human rights missions to South Africa and Guatemala. Harcourt received his Ph.D. in political science from Harvard University in 2000.

Since 1998, Harcourt has been Associate Professor of Law at the University of Arizona. During the 2001-2002 academic year, he was Visiting Professor at Harvard Law School, teaching courses in criminal law, advanced criminal procedure, and criminal law theory. In January 2003, Harcourt will join the faculty at the University of Chicago Law School, where he has been appointed Professor of Law.

"I am really excited about coming home to New York City and especially to New York University," Harcourt says. "NYU Law has an incredibly impressive and wide-ranging criminal law group, as well as terrific social and legal theorists. It will be stimulating to be a part of NYU."

Victoria Nourse The University of Wisconsin Law School, Madison

Victoria Nourse will teach substantive criminal law when she visits NYU Law in the Spring of 2003. She presently teaches criminal law and constitutional law at The University of Wisconsin Law School; she joins us after visiting at Yale Law School. In the past five years, Nourse has published in a variety of journals, including the *Yale*, *Stanford*, *Chicago*, *Duke*, and *NYU Law Reviews*. She is known for her work on issues of gender and criminal law, and, in particular, criminal law defenses. Professor Nourse also writes on issues relating to constitutional law and her current research includes a book-length history of *Skinner v. Oklahoma*, a case famous for its constitutional implications, but one grounded in the 20th century's first war on crime.

Nourse began her legal career clerking for Judge Edward Weinfeld on the Southern District of New York. In 1986, she joined the firm of Paul, Weiss, Rifkind, Wharton & Garrison. At the invitation of Arthur Liman, then chief counsel to the Senate committee investigating the Iran-Contra affair, she left

New York to serve as Assistant Counsel to that committee. In 1988, she moved to the U.S. Department of Justice, where she argued appellate cases on behalf of the government. In 1990, Nourse returned to the Senate as Special Counsel to the Senate Judiciary Committee. From 1991-1993, she was the chief attorney advising the Committee's chairman on criminal law matters. While serving in that capacity, she assisted the committee in drafting the Violence Against Women Act and in managing two omnibus crime bills.

Professor Nourse received her undergraduate degree from Stanford University, and her J.D. from Boalt Hall School of Law, University of California, Berkeley.

David Shapiro Harvard Law School

David Shapiro visited NYU Law in 1995 and 2001, and "each time enjoyed the intellectual stimulation and warmth of both the faculty and the students." Shapiro says, "I'm very much looking forward to the opportunity to return to the school and the city, and to renew the many friendships I made there."

After graduating from Harvard University (B.A. 1954) and Harvard Law School (LL.B. 1957), he worked as an Associate Attorney at the firm Covington & Burling from 1957-1962, and then clerked for Associate Justice John M. Harlan during the 1962 term of the U.S. Supreme Court. Shapiro was an Assistant Professor (1963-1966), then Professor (1966-1984), and, since 1984, has been William Nelson Cromwell Professor of Law at Harvard Law School. From 1988-1991 he served as Deputy Solicitor General in the U.S. Department of Justice.



David Shapiro and Geoffrey Stone

Shapiro has taught administrative law, civil procedure (including advanced civil procedure), contracts, labor law, legal profession, federal jurisdiction, and statutory interpretation. In addition to numerous articles and service as a Reporter and Adviser on several American Law Institute projects, his publications include *Preclusion in Civil Actions* (2001), *Federalism: A Dialogue* (1995), and (with others) the second, third, and fourth editions of Hart & Wechsler's *The Federal Courts and the Federal System*.

Geoffrey Stone University of Chicago Law School

Geoffrey Stone, the Harry Kalven, Jr. Distinguished Service Professor of Law at the University of Chicago Law School, is looking forward to visiting NYU Law this semester. Stone says, "NYU Law has an exciting faculty, wonderful students, and a unique commitment to public service. I have many friends on the faculty, and I very much look forward to a thoroughly rewarding visit. I am especially pleased to be teaching my seminar in constitutional decision-making. It is an unusual course, and it should be great fun both for the students and for me."

After receiving his undergraduate degree from the Wharton School of the University of Pennsylvania (B.S. 1968), and his law degree from the University of Chicago Law School (J.D. 1971), Stone served as law clerk to Judge J. Skelly Wright, United States Court of Appeals for the District of Columbia Circuit from 1971-1972. Professor Stone then clerked for Justice William J. Brennan, Jr., on the Supreme Court of the United States, from 1972-1973. He joined the faculty of the University of Chicago Law School in 1973. From 1987 to 1993 Stone served as Dean of the Law School, and from

Alexander Fellows

Alexander Fellowships, named after Fritz Alexander, the distinguished African-American New York Court of Appeals Judge, are designed to help recent law school graduates who want to pursue teaching careers prepare to enter the teaching market.

Fellowships are generally two-year terms—during that time fellows devote most of their energy to both writing and teaching. In their first year, fellows dedicate essentially all their time to scholarship and prepare a substantial draft of a paper that serves as the basis for a presentation on the teaching job market. During the second year, fellows generally teach one or two courses and also participate in several of NYU Law's scholarly colloquia.

Fellows are selected by a faculty committee. Each fellow is assigned a faculty "mentor," who ensures that the fellow is well-integrated into the Law School's intellectual life.



Carolyn Frantz

As an Alexander Fellow, Carolyn Frantz will teach family law, which is her primary research interest. She is currently completing an article about marital property with Professor Hanoch Dagan of the University of Michigan Law School, and is working on another article about child support.

From 2001-2002 Frantz clerked for the Honorable Sandra Day O'Connor on the U.S. Supreme Court, and from 2000-2001 she clerked for the Honorable David S. Tatel on the U.S. Court of Appeals for the D.C. Circuit. Her publications include "Eliminating Consideration of Wealth in Post-Divorce Child Custody Disputes," *Michigan Law Review* (2000).

Frantz attended the University of Michigan Law School (J.D. 2000), Oxford University (B.A. 1996; M.S. 1997), and Wake Forest University (B.A. 1994).



Youngjae Lee

Youngjae Lee graduated with honors from Swarthmore College in 1995, where he was elected to Phi Beta Kappa and majored in philosophy with a minor in economics. He received a Fulbright

Scholarship to conduct a research project in comparative political theory at Seoul National University in Seoul, Korea in 1995-1996. Lee graduated magna cum laude from Harvard Law School in 1999, where he was an editor of the *Harvard Law Review* and a recipient of Heyman Fellowship. Lee served as a law clerk to Judge Judith W. Rogers of the U.S. Court of Appeals for the D.C. Circuit and has worked as an attorney in the Federal Programs Branch of the Civil Division in the U.S. Department of Justice and at Jenner & Block in Washington, D.C. His research and teaching interests include comparative constitutional law, administrative law, and constitutional law.

1993-2002 he served as Provost of the University of Chicago.

Stone has taught numerous courses in constitutional law, as well as civil procedure, evidence, criminal procedure, contracts, and regulation of the competitive process. His research has focused on such subjects as the freedom of speech, press, and religion; the constitutionality of police use of informants; the privilege against compelled self-incrimination; the Supreme Court; and the FBI. Stone is the editor, with David Strauss and Dennis Hutchinson, of the annual

Supreme Court Review. Professor Stone's books include *Eternally Vigilant: Free Speech in the Modern Era* (with Lee Bollinger, 2001); *Constitutional Law* (with Louis Seidman, Cass Sunstein, and Mark Tushnet, 4th ed., 2001); and *The Bill of Rights in the Modern State* (with Richard Epstein and Cass Sunstein, 1992). Stone's current research focuses on civil liberties in wartime, child pornography, and the Espionage Act of 1917. ■

Faculty Retirements

Thomas Franck

TRIBUTE BY PROFESSOR DAVID GOLOVE



It is impossible to praise Tom Franck too much, as a scholar, an intellectual, a colleague, a teacher, and a friend. Technically speaking, I was never Tom's student, but his remarkable work was my inspiration for pursuing an academic career in international law and the constitutional law of foreign affairs. As a student, I was dazzled by the combination of creativity, erudition, and insight which he displayed in his work on the emerging right to democratic government and on the concept of legitimacy in international law, and quickly discovered that these qualities were characteristic of all of his scholarly work. I vividly recall attending a panel discussion on the Gulf War in the early 1990s when I was a student at Yale Law School. Tom was one of the principal speakers, and I was immediately struck not only by the power and elegance of his argument, but also by his personal grace and charm. He was able to argue forcefully for an unconventional position and yet seem reasonable and grounded in common sense and practical wisdom. We met shortly thereafter, and he has since been a role model and inspiration, and a source of encouragement and practical guidance for me, as he has been for so many others. It has been my great good fortune to have joined the NYU Law faculty with Tom as a colleague and mentor, and I look forward to many more years of collaboration, friendship, and learning. ■

Chester Mirsky

TRIBUTE BY PROFESSOR JAMES JACOBS



Chet Mirsky has been a close friend and valued colleague since I crossed the NYU Law threshold in Fall 1982. Even at that early date, Chet was already a fixture here, the director of the criminal defense clinic and a well-known expert on criminal law and criminal procedure. Chet welcomed and recruited me and has been practically a daily presence in my life ever since. For several years, he and I co-taught his clinical course on criminal procedure. We read and critiqued each other's papers and called each other for advice and support. We dreamed about making NYU Law number one in criminal law and worked to make that happen. We built the criminal law program at NYU together. Together, we delighted in the monthly Fortunoff (now Hoffinger) Criminal Justice Colloquium and in the criminal law group lunches that we've held every Wednesday for the last four years.

When my son Tom was struggling through treatment for a malignant brain tumor, Chet's friendship helped to sustain him. And as Chet himself has struggled with cancer, his friendship with Tom and with me has deepened. Throughout this trying time, Chet's courage has inspired us. All of his criminal law colleagues embrace him (figuratively and emotionally) when he comes through that door to join us on Wednesdays, always ready to contribute substantively and always with a sense of humor.

NYU has a large and multifaceted criminal law faculty. Chet brings to it years of experience and expertise as a criminal defense lawyer. He "knows" how the courts operate, "understands" prosecutorial and defense strategy, and "appreciates" ethical dilemmas. Chet is an "all-around" criminal law guy; he knows and is interested in the full gamut of criminal justice issues: jurisprudence, procedure, criminology, policy. Like me, he leads an exciting life in crime!

His insights and input are invaluable to those of us who come to this most fascinating and important subject area from a more academic base.

Chet's book-length study (with Mike McConville), "Criminal Defense of the Poor in New York City," is a landmark in scholarship and policy analysis on providing indigent criminal defense services. His historical and critical work on plea bargaining is widely cited and debated. His comparative studies of criminal procedure in civil law countries contributes much to our faculty and students.

Chet is retiring from full-time teaching so that he can focus his full energy on getting and staying healthy. His second priority is finishing two major books (19th century origins of plea bargaining; politics of development [Wal-Mart] in the Hudson Valley) that are close to completion. He will continue to be a presence at our criminal justice events, as a participant in our classes, as a collaborator in our research, as a consultant and critic of our articles, and as a dear friend. ■

John Slain

TRIBUTE BY PROFESSOR WILLIAM T. ALLEN



None of our senior faculty has more right to draw satisfaction from our institutional accomplishments than has Professor Jack Slain. For 20 years at NYU and for a decade earlier, too, Professor Slain has represented the highest standards of teaching and counseling that this or any law faculty could claim.

Jack has decided that the time has come for him to put aside some of the burdens that he has carried so well for so long. Now, there is a certain irony in the fact that our beloved colleague has chosen this year to avail himself of the richly earned privilege of laying down a part of the heavy teaching burden that he has so gracefully carried. The irony arises from the fact that at no

moment over his long professional life has the world so needed his insights, his experience, and his wisdom. For years, Professor Slain has been a mainstay of a tradition at NYU Law that is unique among great American law schools. That tradition is one in which expertise in accounting is seen as a fundamentally important skill for those who would be great business lawyers or those who would make or administer coherent public policy respecting the regulation of business transactions or market structures. For some years now, this perspective has not been widely shared. Some academics, influenced by ideas from financial economics, have tended to dismiss accounting as a system of more or less unimportant conventions, thinking that efficient markets could more or less easily see through accounting numbers to set values based on something "more real." Jack and his senior colleagues at the Law School, however, understood that accounting treatment could matter in the determination of market values and, setting their faces against convention, equipped generations of our students with the basic skills that they understood were necessary to function effectively in the world of business.

We could not have wanted them to be proven correct in such a dramatic and painful way. The regulation of our capital markets and of our corporate governance is in something of a crisis caused by collapsing markets and collapsing firms. No issue appears more important to the President or to Congress at this moment than assuring Americans—investors and workers alike—that the financial information disclosed by American corporations is complete and fairly discloses the financial condition of the firm.

A graduate of this school himself, trained in the leading corporate firm of the day, no one could have predicted when he returned to the faculty at his alma mater that the association would grow to be so important, so long-lasting, and so deeply satisfying for generations of students and colleagues. Yet it did. And we now take moment to rejoice at our good luck and to say thank you. You believe, Jack, that it is time to put down a part of this burden lovingly carried and beautifully executed over so many generations of law students. Selfishly, we are saddened at that decision but thankful for all that. ■

Global Law Faculty 2002-2003

The Hauser Global Law School Program brings some of the world's leading law professors and law students to NYU to teach and study side by side with their American counterparts. Global Law Faculty members specialize in diverse fields of law, not just international law, and are renowned scholars in their countries and areas of interest. Their courses provide an extraordinary opportunity for NYU Law students—both J.D. and LL.M.—to interact with these eminent scholars and gain a new perspective on important legal issues.

Mohammed Arkoun

Mohammed Arkoun is Emeritus Professor of the History of Islamic Law at the University of Paris III, Sorbonne, and Scientific Director of the journal *Arabica*. He has been a Visiting Professor at the Institute for Ismaili Studies in London, and at several American and European universities. Arkoun is a holder of the French *Chevalier de la Legion el'honneur* and *Officier des palmes academiques* and a member of the French National Ethics Committee for Life and Health Sciences. A scholar with a broad range of interests, Arkoun is widely regarded as one of the leading interpreters of Islamic law and culture. Several of his books have been translated into English.

John Baker

John Baker has taught at Cambridge University since 1965. A fellow of the British Academy, Baker is the foremost authority on the development of English legal institutions. In addition to being the author of several acclaimed works on legal history, Baker enjoys an unmatched reputation as a bibliographer. One measure of the deference accorded to Baker in the country from which comes so much of our legal heritage is the following note extracted from the proceedings of British Parliament: "In the matter concerning the

attire of judges and barristers, Parliament shall make recommendations subject to the approval of Her Majesty, the Queen, and Dr. John Baker."

Eva Cantarella

Eva Cantarella is Professor of Roman Law at the University of Milan in Italy. Previously, she was dean of the law school at the University of Camerino. She has lectured and taught at several universities in Europe and the United States. A leading classicist, she examines ancient law from a law and society perspective, and relates it to modern legal issues. Cantarella has published numerous articles in Italian and English, and two of her books have been translated from Italian into several languages, including English.

Radhika Coomaraswamy

Radhika Coomaraswamy is concurrently the United Nations Special Rapporteur on Violence Against Women and Director of the International Centre for Ethnic Studies in Colombo, Sri Lanka. She holds degrees from Yale, Columbia, and Harvard, and she has been a lecturer at Colombo University. Coomaraswamy has spoken at numerous conferences and symposia, published several articles and monographs, and edited volumes on issues ranging from the institutional and doctrinal development of

Frederick Schauer in Residence at NYU Law

Frederick Schauer, Academic Dean and Frank Stanton Professor of the First Amendment at the Kennedy School of Government of Harvard University, will be in residence at NYU Law during the Spring 2003 semester.

One of the nation's leading theorists in the First Amendment, Schauer's teaching and writing focus on constitutional law, freedom of speech and press, political philosophy, the philosophy of law, and legal constraints on policymaking.

"I am completing a book on generality and generalizations in legal and non-legal decision-making, and I am delighted to be able to work on it in such a stimulating intellectual environment," Schauer says of his visit to the Law School. "Many members of the NYU Law faculty are both personal and professional friends of mine, and the opportunity to interact with them and others on a regular basis is something I look forward to with great anticipation."

Prior to joining the faculty at the Kennedy School, Schauer served as Professor of Law at the University of Michigan. He received his undergraduate degree from Dartmouth and earned his law degree at Harvard Law School. He has been the recipient of a Guggenheim Fellowship and is a Fellow of the American Academy of Arts and Sciences.

A founding editor of *Legal Theory*, Schauer is the author of several books and more than 125 academic articles on a wide range of topics. His book *Free Speech: A Philosophical Enquiry* was awarded a Certificate of Merit by the American Bar Association in 1983. In 1999, his work became the subject of a book entitled *Rules and Reasoning: Essays in Honour of Fred Schauer*.

Schauer frequently appears before congressional committees on issues relating to free speech and constitutional law. His work on legal and constitutional development has taken him around the globe—to venues as diverse as Mongolia, Estonia, and South Africa.

Schauer has been a visiting professor at numerous schools, including the University of Chicago, Dartmouth College, the University of Toronto, and the University of Virginia.

Mark Green Joins NYU Law as Distinguished Visitor



Mark Green

Mark Green, New York City's first Public Advocate, will spend 2002 as a Distinguished Visitor at New York University's School of Law and its Wagner Graduate School of Public Service. Green's duties include participating in faculty colloquia, counseling students, and hosting student discussions on government and public service issues. He will also participate in student discussions at the Wagner School.

"The Law School, which long has sought to foster the impulse of its graduates to use the law in the public's interest, is committed to a dialogue among its students, faculty, and other members of the community about the uses of the law," said John Sexton, Dean of NYU Law and NYU President-Designate. "Mark's arrival undoubtedly will add to the discussions, and I join our faculty, students, and administrators in welcoming him."

"I'm honored that John Sexton has invited me to join this year one of the best law schools in the country and to be able to return to lecturing, writing, and commenting on legal affairs," Green said. "Thirty years ago, I began

my career as a public interest lawyer and now will be participating in a law school that has probably produced more public interest law graduates than any, in large part because of Dean Sexton's innovative leadership."

Green, a native of Brooklyn who now resides in Manhattan, was educated at Cornell University and Harvard Law School, where he served as editor-in-chief of the *Harvard Civil Rights-Civil Liberties Law Review*. He was recently the Democratic nominee for Mayor of New York City.

During the last three decades, Green has written or edited 16 books—including the best-selling *Who Runs Congress?* (1972, 1975, 1979 and 1984 editions), *Verdicts on Lawyers* (1976), *Reagan's Reign of Error* (1983 and 1987), and *Changing America: Blueprints for the New Administration* (1993), an 800-page anthology for incoming President Bill Clinton. His most recent book is *The Consumer Bible*, published in 1995 by Workman Publishing, and completely revised and rereleased in November 1998.

Green was elected New York City's first Public Advocate in 1993 and served two terms. As Public Advocate, he investigated issues of police conduct and championed campaign finance reform. From 1990 to 1993, Green served as New York City's Commissioner of Consumer Affairs. His initiatives included attacking the tobacco industry's campaign to involve young smokers and publishing *Poor Pay More...For Less*, a series of investigative reports on how minority consumers pay more for groceries, auto insurance, and home improvement contracts. From 1970 to 1980, Green served as a public interest lawyer with Ralph Nader in Washington, D.C., ultimately running the Public Citizen's Congress Watch. Following his stint with Nader, he founded and ran the Democracy Project, a public policy institute in New York, from 1980 to 1990.

Green has also been a popular television commentator, with a reputation as a skillful liberal debater, who has appeared several hundred times on CNN's *Crossfire*, PBS's *Firing Line*, and many other programs.

constitutional norms by the Sri Lankan Supreme Court to the impact of religion and traditional culture on women's rights in the Third World.

Victor Ferreres Comella

Victor Ferreres Comella is a Professor of Constitutional Law at the Pompeu Fabra University in Barcelona, Spain. He graduated from the law school of Barcelona University, and holds a doctorate from Yale Law School. He has been a Visiting Professor at the law school of Puerto Rico University and the European Humanities Institute in Minsk, Belarus. A book based on his doctoral thesis won the Francisco Tomas y Valiente Prize in Constitutional Law, which is awarded by the Spanish Constitutional Court. He has also published several articles, translated well-known law books from English to Spanish, and made major presentations at several conferences in Europe, the U.S., and South America.

Dieter Grimm

Dieter Grimm is a Fellow at the Institute of Advanced Study in Berlin. Prior to this appointment, he served as a Judge of the Federal Constitutional Court of Germany. After receiving his law degree from the University of Frankfurt in 1962, Grimm continued his legal studies at the University of Paris and Harvard Law School, where he obtained an LL.M. in 1965. For many years prior to his judicial appointment, Grimm was Professor of Public Law at the University of Bielefeld, Germany, and director of the University's Center for Interdisciplinary Research. He has published extensively in German and English, and has been a Visiting Professor at Yale Law School and a Distinguished Global Fellow at NYU Law.

Moshe Halbertal

Moshe Halbertal is Professor of Jewish Thought & Philosophy at the Hebrew University, Israel. An ordained rabbi, he teaches Talmud at the Hartmann Institute of Advanced Jewish Studies in Jerusalem. A focal point of Halbertal's scholarship is the hermeneutics of Jewish law. Professor Halbertal was a recipient of the Bruna



(l-r, from top row): Mohammed Arkoun, John Baker, Eva Cantarella, Radhika Coomaraswamy, Victor Ferreres Comella, Dieter Grimm, Janos Kis, Martti Koskenniemi, Joseph Oloka-Onyango, Pasquale Pasquino, Carlos Rosenkrantz, Richard Vann

Award in Israel, and his books have been published to critical acclaim both in Israel and the United States. Halbertal has served as Gruss Professor at Harvard and Pennsylvania law schools.

Janos Kis

Janos Kis is a distinguished political and social theorist who, after many years as a dissident under Hungary's Communist regime, emerged as an important political figure in the transition to democracy. He began as a student and intellectual collaborator of the eminent Marxist Georg Lukacs, but at a fairly early stage of his career was barred from academic employment on political grounds. During this time Professor Kis occupied himself with dissident politics and publications in Samizdat, as well as private scholarship. For example, he produced a Hungarian translation of Kant's *Critique of Pure Reason*.

Martti Koskenniemi

Martti Koskenniemi, recently named as a member of the International Law Commission, has been Counsellor for Legal Affairs at the Ministry for Foreign Affairs of Finland since 1989. In addition, he has represented Finland in the General Assembly and on the Security Council of the United Nations. He also has been an active litigator on the International Court of Justice, serving as co-agent of Finland in the case concerning passage through the Great Belt. Despite a busy career in international diplomacy, Koskenniemi has found time to write extensively and with remarkable theoretical content. He has published three books and more than 50 articles and book reviews. He holds a Doctor of Laws degree from the University of Turku, where he also earned his LL.B. and LL.M. He also received a Diploma in Law from Oxford.

Joseph Oloka-Onyango

Joseph Oloka-Onyango is dean of the law school at Makerere University in Kampala, Uganda. He is a member of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, and he has drafted numerous resolutions for the United Nations Commission for Human Rights. He has published several books, book chapters, articles, and reviews in African, European, and U.S. journals. He holds a doctorate from Harvard Law School and has been a visiting professor there and at other law schools in the U.S. and Africa. He has done work for the Lawyers Committee for Human Rights in New York, and has advised other human rights organizations and United Nations agencies. He has also served as a member of the editorial boards of journals devoted to human rights and related issues.



Pasquale Pasquino

Pasquale Pasquino, who received his basic legal training in Italy, holds several academic positions in France. He is a Senior Research Associate at the CREA-Ecole Polytechnique in Paris, Maitre de Conférences in Comparative Political and Constitutional Theory at the Université de Paris I, and Charge de cours in Political Theory at the Ecoledes Hautes Etudes en Science Sociales. He has co-authored leading books and articles on Hans Kelsen and Carl Schmitt. He is a leading scholar of Italian, French, and German constitutional issues. Since 1995, he has held a visiting appointment in NYU's department of politics.

Carlos Rosenkrantz

Carlos Rosenkrantz is professor at the University of Buenos Aires Law School in Argentina and a visiting professor at Universidad Pompeu Fabra in Barcelona, Spain. Rosenkrantz is also affiliated with the Centro de Estudios Institucionales, a legal and political policy institute. For more than 10 years, Rosenkrantz has been integrally involved in the Argentinean constitutional reform process and the reform of private law and private procedure. In the 1980s, he served on the commission headed by the late Carlos Nino, the chief architect of constitutional reform in Argentina. In 1994 Rosenkrantz served as Chief Advisor to former President Alfonsín at the Argentine Constitutional Convention.

Richard Vann

Richard Vann is the leading legal tax scholar in Australia. He holds degrees from the University of Queensland and Oxford University. For the past 10 years, Vann has been Professor of Law at the University of Sydney. Vann has taken leaves to work for international organizations, including the International Monetary Fund and the Organization for Economic Cooperation and Development, and to help set up taxation systems in developing countries and economies in transition. ■

Daniel Collins ('54): 1930-2002

His demeanor was just, he was even-tempered, and he brought the wisdom of Solomon to the negotiating table. When Dan Collins spoke, everyone listened, for even those polarized by disagreement acknowledged that his was the voice of fairness and equanimity.



Professor Daniel Collins

When he passed away at his home on Sunday, June 16, at the age of 72, Collins had just finished playing a key role in smoothing the way for the New York City contract with its teachers. This last triumph came as he knew he was dying of cancer. Clearing the way for a compromise after a 19-month impasse pleased him greatly, for Collins was a legendary labor arbitrator, and helping embattled parties move forward is what he did best. He possessed a finely honed skill for cutting to the heart of issues, and he was trusted by both labor and management sides throughout his long and illustrious career.

Dean-Designate Richard Revesz said, "We extend our heartfelt sympathy to Dan's family on behalf of the generations of law students he taught with his unique combination of superior pedagogy and gentle humor. He will be greatly missed."

Collins graduated from NYU Law, where he was editor of the *Law Review*, in 1954. He practiced law for several years with Cravath, Swaine & Moore in New York before joining the Law School's faculty in 1961. In 1963, he became special labor

counsel to the city's Board of Education and filled the same role under Mayor John Lindsay. In 1968, he began arbitrating labor management disputes. Thus began a career weighted with responsibility, in which his decisions affected countless lives. Collins was more than up to the task, and his reputation for being evenhanded garnered him one of only three positions as an impartial member of the New York City Office of Collective Bargaining, which is responsible for resolving statutory disputes between the city and its workers. He served in this capacity from 1980 until his death.

His career as a labor arbitrator was far-ranging; he heard an eclectic compendium of cases over the course of his career, cases involving the police, transit, and postal workers, as well as Broadway, breweries, and the NBA. Some of his more famous cases included his ruling that the Shubert Organization had not discriminated against Vanessa Redgrave for her political beliefs; that basketball player Patrick Ewing could not become a free agent; that a contract clause allowed Tommy Tune to escape a Broadway role; and that Lea Salonga could appear in the Broadway musical *Miss Saigon* over the protest of Actors Equity.

Collins is survived by his wife, Anne Weld Collins; his sister, Muriel Collins of Barnegat, New Jersey; and four children from his first marriage to Madeline Lee, Caitlin Ahl of Cave Junction, Oregon, Deirdre of Seattle, Charles of Santa Barbara, and Geoffrey of Brooklyn. He is also survived by five grandchildren.

There will be a tribute to Professor Collins on Wednesday, October 16, at 4:00 PM at New York University School of Law, Vanderbilt Hall, 40 Washington Square South. If you plan to attend, please RSVP to (212) 998-6666 by Wednesday, October 9. Financial contributions can also be made to the Daniel G. Collins Memorial Fund. ■

Anthony Amsterdam Receives University Professorship



Professor Anthony Amsterdam, Judge Edward Weinfeld Professor of Law and Director of the Lawyering Program through 1999, recently accepted a University Professorship at NYU. The highest honor bestowed upon a faculty member, a University Professorship recognizes both outstanding scholarship and teaching.

Amsterdam's work in areas of social value and interest—free speech and press, privacy, the rights of accused persons, and equality of opportunity for racial minorities and poor people—together with his breadth of publication have made him a great asset to the Law School. He has built a career arguing issues of great public interest and serving civil rights, legal aid, and public defender organizations. Amsterdam appeared in the Supreme Court of the United States in various cases; in *Furman v. Georgia* in 1972, he persuaded the Court that the death penalty as it was then practiced throughout the United States was unconstitutional.

Amsterdam's innovations include NYU Law's Lawyering Program, which he designed. The program is now a fixture of the first-year course curriculum. His academic interest in legal pedagogy and the increasingly popular experiential education have led him to not only to chair committees for the ABA Task Force on Law Schools and the Profession, but also to be honored with NYU's Great Teacher Award in 1989. Amsterdam recently received the Kutak Award from the ABA's Section of Legal Education and Admissions to the Bar, an award made annually to a judge, law professor, or lawyer who has made the most significant contribution to bringing together the legal academic community and the practicing bar.

Have You Read?



Peoples' Rights Philip Alston

One of the most controversial issues in the human rights field in the second half of the 20th century was the relationship between the rights of individuals and those of groups or peoples. Woodrow Wilson's proposals at Versailles in 1919 for a right to self-determination ignited a debate that still rages. *Peoples' Rights*, edited by Philip Alston, looks at the state of the art in terms of the right to self-determination and more recent and potentially far-reaching claims for collective rights, such as the rights to development, peace, a clean environment, and humanitarian assistance. Alston brings together some of the leading scholars in the field, including NYU's Benedict Kingsbury and James Crawford of Cambridge, to identify future directions for the debate over these rights. In a controversial concluding chapter, Alston suggests that governments and other actors in the human rights area have been systematically moving away from the discourse of peoples' rights over the last decade and that this trend will continue, except in relation to the rights of indigenous peoples. While the right to development and the right of self-determination will continue to be staple parts of the international discourse of rights, their origins as rights attaching to peoples, in the sense of distinctive groups separate from the state or the territorial

entity in question, will become ever less relevant in practice. But he concludes that this gloomy prognosis will be highly detrimental if it marks the end of efforts to develop a sophisticated understanding of human rights, which is capable, in the appropriate circumstances, of transcending the insistence that there can be no place whatsoever for collective or group rights considerations.

Ethical and Social Perspectives on Situational Crime Prevention David Garland

"Situational crime prevention" refers to crime prevention strategies that aim at reducing criminal opportunities by "hardening" potential targets, improving natural surveillance, controlling access to property, and deflecting offenders from settings in which crimes might occur. City streets, suburban neighborhoods, and shopping malls are nowadays replete with such devices, which have become a regular feature of our security-conscious society.

This book addresses the ethical and political issues that the development of this approach entails. It asks how these techniques impinge upon the liberties of citizens and how we might develop ethical standards for their use. It also asks what this approach suggests about the place that crime now occupies in contemporary society. Has crime

become a normal risk to be managed? Has responsibility for crime control been shifted from the state to civil society? And if so, what implications does this have for criminal justice and political theory?

Edited by Andrew von Hirsch, David Garland, and Alison Wakeland, this book grew out of a series of conferences in Cambridge organized by the editors.

Expanding the Boundaries of Intellectual Property: Innovation Policy for the Knowledge Society

Rochelle Dreyfuss, Diane L. Zimmerman,
and Harry First

As knowledge and information are exchanged with the increasing rapidity made possible by our technological advances, issues in intellectual property become more and more complex. Professors Rochelle Dreyfuss, Diane L. Zimmerman, and Harry First focus on the pressing question of how much control innovators should have over their work. Does giving creators broad and powerful rights allow for the increased exchange of information and allow for more innovation to follow? Or does giving creators this sort of control get in the way of development and stilt intellectual exchange? Issues included in this book are: Implementing Innovation Policy for the Information Age, The Claims of the Public Domain, The Growth of Private Ordering Regimes, and Expanding the Private Domain. The book concludes with views of judges experienced in deciding intellectual property cases.



The EU, the WTO and the NAFTA: Towards a Common Law of International Trade

Joseph Weiler

The EU, the WTO and the NAFTA: Towards a Common Law of International Trade is a thought-provoking collection of essays which can be read with profit by both European and international lawyers. As Weiler writes in his preface, until very recently “specialists in European law would typically profess a great ignorance of the law of the GATT (almost as great as that of the classical public international lawyers).” This is now rapidly changing, although not without some resistance. The law of the WTO is no longer seen as a self-contained regime. Not only is the European Union one of the major participants in the WTO, but parallels between the EU and the WTO qua legal systems are increasingly being drawn. The same applies to the North American Free Trade Agreement. According to Professor Weiler, we are witnessing “the emergence of a nascent Common Law of International

Trade.” This volume reflects that conviction and seeks to show how the various components of this new system interlock.

Besides Weiler’s introduction, the book contains six essays. Two (Marie Cremona, “EC External Commercial Policy after Amsterdam: Authority and Interpretation within Interconnected Legal Orders,” and Jacques Bourgeois, “The European Court of Justice and the WTO: Problems and Challenges”), concentrate on the EU. Joanne Scott’s contribution, “On Kith and Kine (and Crustaceans): Trade and Environment in the EU and WTO,” compares how the EU and the WTO have dealt with trade and environment issues. Of great interest is Robert Howse’s article, “Adjudicative Legitimacy and Treaty Interpretation in International Trade Law: The Early Years of WTO Jurisprudence.” Fredrick Abbott’s contribution, “The North American Integration System and its Implications for the World Trading System,” compares the EU with the NAFTA and describes the relationship between the NAFTA and the WTO. Neither

EU or WTO lawyers have given the NAFTA the attention it deserves—Abbott’s article is an excellent introduction. Weiler provides a characteristically stimulating epilogue.

The Law’s Two Bodies

John H. Baker

This year’s installment of the Clarendon Law Lectures, a joint venture between Oxford University Press and the Oxford Law Faculty, examines historical aspects of common law—separating it from its usual place as a system of case law. John H. Baker, a member of the Hauser Global Law Program faculty, expands upon a theme he has touched upon in past lectures, analyzing this overshadowed part of the law. Common law doesn’t have the same sort of documentation that our formal courts do, and is thus more likely to be overlooked in legal discussions as its own section of the law. Baker delves into the significance of this body of informal law in these lectures. ■

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H. David Rosenbloom Named Director of the International Tax Program

H. David Rosenbloom has been appointed the Director of NYU Law's International Tax Program. Rosenbloom is the Chairman of Caplin & Drysdale, Ltd., a Washington, D.C., firm with which he has practiced law since 1968 and where he will continue as a full-time member. He was International Tax Counsel at the U.S. Treasury from 1978-1981. In addition to his practice, Rosenbloom has consulted with the OECD, the World Bank, the U.S. Agency for International Development, and the Treasury on tax matters relating to Eastern Europe and the nations of the former Soviet Union, South Africa, Indonesia, Malawi, Senegal, and other countries.

Rosenbloom has taught Foreign Tax I at the Law School for the past three years and, before that, taught either International or Comparative Tax Law at Harvard, Stanford, Columbia, and the University of Pennsylvania Law Schools, as well as at the Public Finance Training Institute in Taipei, the Instituto Tecnológico Autónomo de México, the Faculty of Law at the University of Sydney, and the Università Luigi Bocconi in Milan.

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Student Scholarship and Journals

NYU Annual Survey of American Law: Volume 58, No. 2

This issue contains the journal's second "Judges Forum." The Judge's Forum provides an opportunity for leading judges to discuss legal issues of enduring importance to the judiciary. Judge's Forum No. 2 contains articles on a range of topics by distinguished federal judges Harold Baer, Jr., Richard D. Cudahy, Paul L. Friedman, John Walker, Jr., J. Clifford Wallace, and Harlington Wood, Jr.

NYU Environmental Law Journal: Volume 10, No. 2

The latest issues feature an article analyzing theoretical and practical approaches to collaborative bargaining as a way to combat environmental racism in communities suffering from the combined effects of pollution, poverty, and disenfranchisement. The issue also includes an article reconceptualizing various schemes for dealing with interstate transport of air pollution. A third article critiques the WTO's application of

product-based tests to process-based environmental standards in international trade. Additionally, a student article examines the principles emerging from the jurisprudence of NAFTA tribunals dealing with questions of regulatory expropriations, and reevaluates current criticisms and reform proposals for NAFTA's investor-state dispute mechanism.

NYU Journal of International Law and Politics: Volume 34, No. 1

The first issue of Volume 34 includes three articles based on papers presented at our 2000 symposium, "The Effects of Globalization on Small States." They treat



the functionality of international tribunals vis-à-vis small states; the internationalization of crime; and the effects of global markets on national economic sovereignty. The issue also features four additional articles: a discussion of NAFTA's Investment Chapter in light of the experience of the EU; an examination of information warfare in the context of international law on the use of force; an exploration of personal jurisdiction and due process under the Foreign Sovereign Immunities Act; and an analysis of the conceptual structures of claims brought by indigenous peoples under international and corporate law.

NYU Law Review: Volume 77, No. 3

Our current issue contains several articles discussing the political process. One revisits voting technology in the wake of the Florida election controversy. Another investigates the realities of the legislative process through interviews with people who have worked in Congress. In doing so, the article casts doubt on the ways in which courts typically think of the process of legislative drafting. Additionally, a student Note advocates against a current scheme legislatures use in redistricting. The issue also includes an article that looks at restrictions on prisoners' ability to file successive habeas corpus petitions and a student Note that argues antidiscrimination laws should be more attentive to the interests of employees that choose not to be parents.

NYU Review of Law and Social Change: Volume 27, No. 1

"The Miner's Canary" colloquium issue of the *NYU Review of Law and Social Change* builds off the exciting and dynamic energy of the day-long symposium held at NYU Law that centered around Lani Guinier and Gerald Torres' concept of "political race," as well as the role that race can play as an analytical tool for analyzing power structures and democracy, and cross-racial coalition building in social justice movements. The issue begins with a short excerpt from Lani Guinier and Gerald Torres' new book on multicultural social justice organizing—*The Miner's Canary: Enlisting Race, Resisting Power, Transforming Democracy*, and then proceeds with the written or spoken comments of each panelist from the six panels held that day. Included in this issue are the remarks of Gerald Torres, Lani Guinier, Albert Cortez, Mimi Ho, Eric Tang, Mari Matsuda, Saru Jayaraman, Si Kahn, Kendall Thomas, Jennifer Gordon, Urvashi Vaid, and many other academics, organizers, and activists on themes and ideas stemming from *The Miner's Canary* and issues surrounding the building of multiracial social justice movements. Also included are transcripts from the symposium's question and answer sessions and poetry from the Blackout Arts Collective.

NYU Journal of Legislation and Public Policy: Volume 5, No 1

The latest issue includes articles, comments, and speeches from the Fall 2001 symposium entitled "The Regulation of Securities and Securities Exchanges in the Age of the Internet." In addition, the issue contains scholarly articles on such diverse topics as physician participation in the administration of the death penalty, the role of the federal government in preventing sexual abuse of Native American children, and the effects of parent-child stereotyping in the practical application of the internal revenue code. It also features student-written Notes on the Americans with Disabilities Act, the free exercise of religion, and the effect of gun manufacturer litigation on local government law.

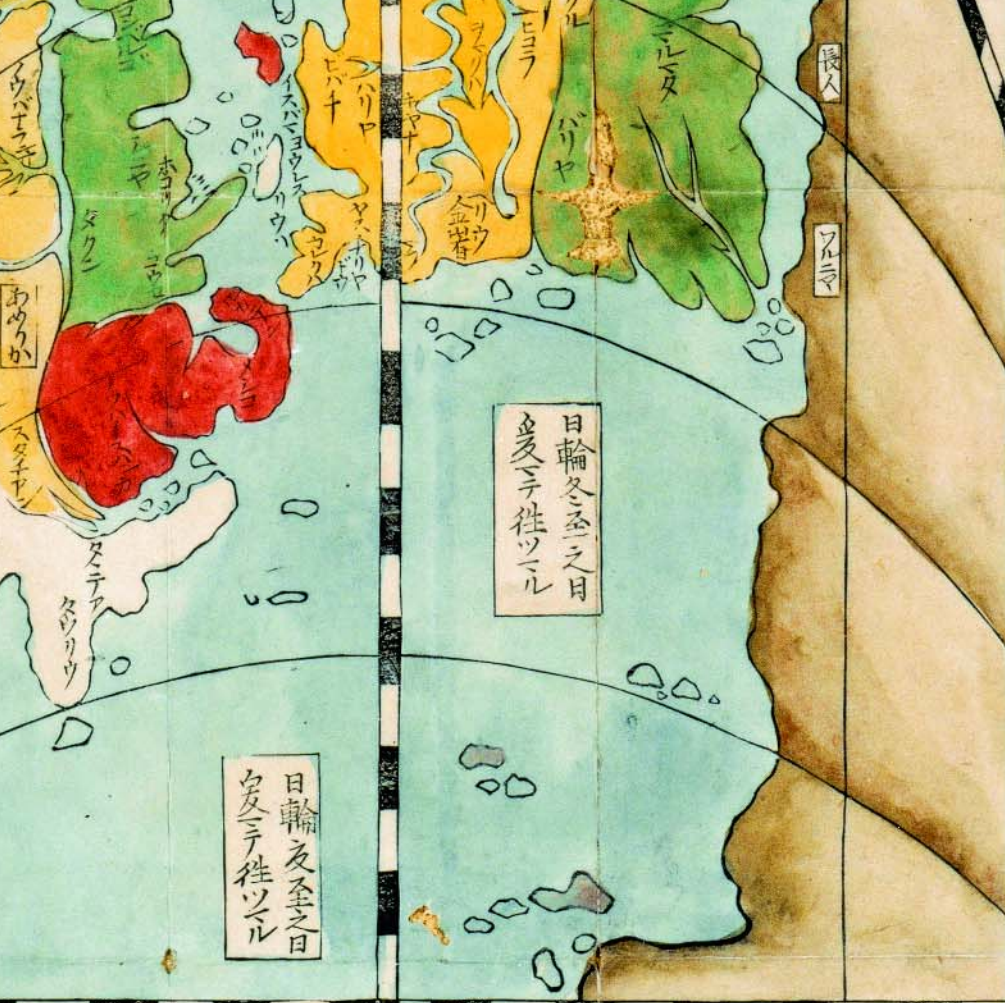
The Moot Court Casebook: Volume 26

The Moot Court Casebook, published annually by the NYU Moot Court Board, is the most widely used set of moot court materials in the country, with more than 110 law schools subscribing. Volume 26 of the casebook will be filled with the complete Moot Court problems written by second year staff members, covering issues ranging from residential searches to media broadcast rights. ■

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NYU LAW'S LEADERSHIP IN INTERNATIONAL LEGAL STUDIES is universally acclaimed. The Law School's first-rate faculty continue to build the intellectual foundations for the international and national legal rules and institutions needed in the 21st century. The new Institute for International Law and Justice, with its extraordinary set of research centers, programs, and innovative degree structures, consolidates the collective enterprise of the permanent and global faculty, an impressive group of specialist J.D. and graduate students, and dynamic visiting researchers. Alongside the highly successful Jean Monnet Center for International and Regional Economic Law & Justice, NYU Law this year launches the Center for Human Rights and Global Justice, the Program in the History and Theory of International Law, and the Research Program on Legitimacy and Democracy in International Governance, administered by the new Institute. These initiatives build on the Hauser Global Law School Program's pioneering transformation of legal education, and further strengthen NYU Law's leading role in research on global legal issues and the training of lawyers for a globalized world.

International Law at NYU

Should United States courts grant redress to Holocaust survivors or their families against German industries for profits made from slave labor under the Nazi regime? NYU Law Professor Burt Neuborne and Law School trustee Melvyn I. Weiss ('59) worked indefatigably on these claims, ultimately negotiating the establishment of a \$5 billion trust fund that is now making payments to thousands of elderly survivors. If even Holocaust-era claims are within the jurisdiction of U.S. courts in general, are there nevertheless foreign governmental entities that, for international legal and policy reasons, should have immunity from U.S. court proceedings, in the same way that the U.S. government would expect to claim sovereign immunity from certain proceedings in foreign courts? International civil litigation experts Professors Andreas Lowenfeld and Linda Silberman have been involved in arguing some of these cases. The more recent atrocities in Yugoslavia are being litigated in the International Court of Justice, where Professor Thomas Franck is arguing that the war-ravaged state of Bosnia is entitled to compensation from the new democratic government of Serbia-Montenegro for genocide committed under the former Serbian government of Slobodan Milosevic. The latest anti-U.S. terrorist attacks have led to Professor David Golove's work on the problem of how much power the U.S. President has to establish Military Commissions to try suspected terrorists. He makes the important claim that the Constitution itself defines the scope of the President's war powers by reference to the international law of war. He argues the President has no constitutional authority to establish tribunals that fail to live up to international law standards.

These are the kinds of problems that will be central to the work of lawyers in the 21st century, drawing together national law, international law, and issues of national and global governance. They require international legal rules, and the design of international legal institutions, that are integrated with national law and policy but have global applicability and legitimacy. NYU Law's international law program tackles these problems. Its superb

faculty combines robust, theoretically driven research with a practical commitment to finding legal and policy solutions.

NYU Law transformed legal education and research agendas through the Hauser Global Law School Program, bringing together a global faculty and a global student body, and introducing transnational and comparative dimensions throughout the curriculum. This year marks the next major step in the Global Law School initiative with the formation of the Institute for International Law and Justice. This new Institute is the focal point for research, innovative policy ideas, and rigorous academic training on specific international law dimensions of the globalization of law. It brings a concentrated focus on the traditional intergovernmental techniques for making and enforcing law between states, and on the problems of adapting or remaking this traditional system to provide an architecture to meet the new demands of global governance. International

law is a special component in the growth of global law and the management of globalization, requiring distinctive expertise among professors that can be passed on in the training of future practitioners, policymakers, and scholars.

The creation of the Institute for International Law and Justice is a further instance of the vision animating the Global Law School initiative: that simply training tomorrow's lawyers and leaders in national and local law is not adequate for a future of global law and global policy problems. The Institute further enriches the remarkable intellectual environment already created through the Hauser Global Law School Program. With faculty and students from all over the world, and extraordinary opportunities to get involved in practical problems through research programs, internships, colloquia, and symposia, NYU Law provides unparalleled education and training for students who will work on the future problems of global governance. ■

**NYU Law provides unparalleled education
and training for students who will work
on the future problems of global governance.**



(l-r): Joseph Weiler, Philip Alston, Benedict Kingsbury, Kirsty Gover, David Golove, and Mattias Kumm of NYU Law's Institute for International Law and Justice

NYU Law Launches Institute for International Law and Justice (IILJ)...

The new Institute for International Law and Justice organizes collective research projects, policy work, and academic and practical training initiatives conducted by the stellar group of faculty working on international law questions at NYU Law.

The Institute oversees:

- A new multi-year research project on legitimacy, democracy, and justice in international governance

- A unique four-year J.D.-LL.M. program for potential international law professors and other specialists
- A postgraduate fellowship linking an LL.M. and doctoral (J.S.D.) dissertation in international law
- The new weekly "Globalization and Its Discontents" colloquium
- Courses on conceptual approaches to international law research and pedagogy

- Post-doctoral fellowships
 - An extraordinary array of Law School-funded internships and clerkships
- Professor Benedict Kingsbury directs the Institute. Its Executive Committee includes Professors Philip Alston, David Golove, Mattias Kumm, and Joseph Weiler. Other faculty actively involved include Professors Vicki Been, Paul Chevigny, Jerome Cohen, Rochelle Dreyfuss, Eleanor Fox, Thomas Franck, Stephen Holmes, Andreas Lowenfeld, Theodor Meron, Liam Murphy, Linda Silberman, Richard Stewart, Frank Upham, and Katrina Wyman, as well as several Global Faculty members. The Institute's first full-time Fellow is Kirsty Gover. ■

...and New Centers and Programs

Along with and as part of the Institute, the Law School has established an IILJ research project, and three thematic centers and programs in international law:

- The Center for Human Rights and Global Justice, directed by Professor Philip Alston
- The Jean Monnet Center for International and Regional Economic Law & Justice, directed by Professor Joseph Weiler
- The Program in the History and Theory of International Law, directed by Professor Benedict Kingsbury

Planning is also underway in the Institute for programmatic initiatives in private international law (directed by Professors Linda Silberman and Andreas Lowenfeld) and the relations between international law and national law (directed by Professors David Golove and Mattias Kumm).

Centers and Research Programs

IILJ Research Program on Legitimacy and Democracy in International Governance

The Institute for International Law and Justice has launched its centerpiece research program on Legitimacy and Democracy in International Governance, which aims to trace and model the emerging structures of international governance to assess their

present and future strengths and problems. This research agenda reflects the overlapping interests and research priorities of the newly hired faculty who are members of the Institute's Executive Committee, and integrates the work of NYU Law Professors Stephen Holmes, Larry Kramer, Richard Pildes, and Richard Revesz, among others.

To launch the Research Program, the Institute will host a two-day workshop in October 2002, entitled "Legitimacy, Democracy, and Justice in International Governance." Bringing together leading figures in international law, international relations, and political philosophy, the aim of the workshop is to collectively rethink concepts of democracy and justice as they relate to international governance.

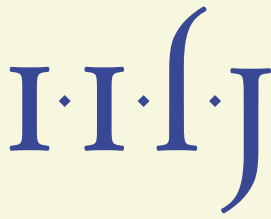
The group of highly original scholars who will participate includes (in addition to the NYU faculty) Eyal Benvenisti (Tel Aviv), Francesca Bignami (Duke), Gráinne de Búrca (European University Institute), David Caron (Berkeley), Andrew Hurrell (Oxford), Robert Keohane (Duke), Martti Koskenniemi (Helsinki), Andrew Moravcsik (Harvard), Philip Pettit (Princeton/ANU), Robert Howse (Michigan), Miguel Maduro (Lisbon), Kalypso Nicolaidis (Oxford), Michael Reisman (Yale), Charles Sabel (Columbia), Bruno Simma (Michigan), Beth Simmons (Berkeley), Anne-Marie Slaughter (Princeton), and Neil Walker (European University Institute).

Working papers and details of the ongoing Research Program will be posted on the Institute for International Law and Justice Web site as they become available.

Jean Monnet Center for International and Regional Economic Law & Justice

The Jean Monnet Center for International and Regional Economic Law & Justice was established at NYU Law during the Summer of 2001 by Professor Joseph Weiler. The principal purpose of the Center is to foster cutting-edge scholarship on issues of international, European, and other regional law and policy with a particular emphasis on issues of regional and global governance and on social and economic justice. The new NYU Center has two foci for its intellectual activities. The first is the European Union, its institutions, policies, and legal system. The Center hopes to be the premier location in North America for a critical exploration of European law conceived in its broadest terms and the future of the European Union. The second is the broader universe of international and regional economic law. The Center wishes to insert itself into the ongoing academic and political debate about globalization by exploring both the virtues and vices of globalization and its attendant legal regimes. Exploring the tensions between the legal disciplines of free trade and competing social and human values, as well as national sovereignty will be at the core of the academic mission of the Center.

The most precious element of the Jean Monnet Center is the annual group of Emile Noël Fellows. Fellows range from Ph.D. candidates to senior academics and public officials. Other elements include public lectures and workshops. Here are some highlights of the research and researchers in 2001-2002:



INSTITUTE FOR INTERNATIONAL LAW AND JUSTICE
NYU LAW

Centers and Programs

Center for Human Rights and Global Justice
Director: Philip Alston

Jean Monnet Center for International
and Regional Economic Law & Justice
Director: Joseph Weiler

Program in the History and Theory
of International Law
Director: Benedict Kingsbury

Research Program on Legitimacy and
Democracy in International Governance
Directors: Philip Alston, Benedict Kingsbury,
Joseph Weiler

Degree Programs

J.D.-LL.M. in International Law
Director: David Golove

LL.M.-J.S.D. in International Law
Director: Mattias Kumm

Institute Special Seminars and Colloquia

Globalization and Its Discontents Colloquium

Advanced Monthly International Law Seminar

Junior and Graduate Fellows Institute Seminar

LL.M. International Law Thesis Course

Pedagogy and Methodology of International
Law Seminar

Jean Monnet Seminar on International Law
and Democracy

History and Theory of International Law
Seminar

Advanced Human Rights Seminar

International Litigation Seminar

Faculty

Director: Benedict Kingsbury

Executive Committee: Philip Alston, David
Golove, Mattias Kumm, Joseph Weiler

NYU Faculty Associates: Vicki Been, Paul
Chevigny, Jerome Cohen, Rochelle Dreyfuss,
Eleanor Fox, Thomas M. Franck, Stephen
Holmes, Andreas Lowenfeld, Theodor Meron,
Liam Murphy, Linda Silberman, Richard
Stewart, Frank Upham, Katrina Wyman

Institute Fellow: Kirsty Gover

Events

Inaugural Institute Conference: Democracy,
Legitimacy, and Justice in International
Governance, October 3 and 4, 2002

Conference in Honor of Thomas M. Franck:
International Law and Justice in the 21st
Century: The Enduring Contributions of
Thomas M. Franck, October 5, 2002

Internships and Clerkships

U.N. International Law Commission Internships

Office of the U.N. High Commissioner for
Refugees Internships

International Criminal Tribunal for Rwanda
Internships

Hague Conference on Private International
Law Internships

International Court of Justice Traineeships
(postgraduate)

Furman Human Rights Fellowships
(postgraduate)

Other summer internships, international
clerkships, and fellowships

Lasia Bloss, Ph.D. candidate at the University of Trier Institute for Legal Policy in Germany and Teaching Fellow in the Jean Monnet Program, explored state-church relationships in certain European Union Member States while putting special focus on the corporate element of freedom of religion. **Philipp Dann**, a post-doc, focused on questions of European parliamentary democracy, more specifically examining the interplay between federal structures and the parliamentary organs of the European Union. A basic idea was to compare the EU with the U.S. Congress, thereby showing parallels between these two legislatures in federal and non-parliamentary systems. **Jürgen Kurtz** is a Lecturer in the Law School of the University of Melbourne. Prior to arriving at NYU, Kurtz undertook a consultancy on behalf of AusAID (the Australian aid agency) in Vietnam to advise on Vietnam's ongoing accession to the World Trade Organization (WTO) and its recently signed bilateral trade agreement with the U.S. As an Emile Noël Fellow, he focused on the failure of the OECD Multilateral Agreement on Investment and prospects for a comprehensive investment agreement in the WTO. **Stefania Ninatti** is Assistant Professor at the University of Milan. During her fellowship, she researched the notion of democracy in the case law of the European Court of Justice. **Joost Pauwelyn**, on sabbatical leave from the Legal Affairs Division of the WTO and recently appointed as Associate Professor of Law at Duke Law School, focused his research on the law of the WTO. He prepared a paper on the nature of WTO obligations and a book chapter on the "Application of Public International Law in WTO Dispute Settlement." He also finalized an article on "Cross-agreement complaints before the Appellate Body: A case study of the EC-Asbestos dispute" (published in the first issue of the *World Trade Review*). **Imola Strehö**, Ph.D. candidate at University of Paris II, conducted her research as an Emile Noël fellow on the notion of services in European Community (EC) law, which while constituting one of the EC fundamental freedoms, is not well explored. The focus of her research has been comparing American and European notions of services. At NYU Law, she was also the Executive Director of the Jean Monnet Center. Strehö gave lectures at the College of Europe in Natolin, Poland.

Renée Haferkamp Emile Noël Distinguished Fellow



Renée Haferkamp

Renée Haferkamp, Emile Noël Distinguished Fellow at the Jean Monnet Center, organized in cooperation with Professors Joseph Weiler and Martin Schain the seminar “The Futures of Europe: Ideas, Ideals, and Those Who Make Them Happen.” The former Director General of the European Commission, Haferkamp has participated in all the important milestones in the development of the European Union, from the period of Paul-Henri Spaak and Jean Monnet to Jacques Delors and Romano Prodi. She has been a lecturer at the Université de Paris-Sorbonne and visiting professor at a number of other European universities; a fellow at the Weatherhead Center for International Affairs at Harvard University in 1994; a Fulbright Scholar at the William Fulbright College of Arts, University of Arkansas, in 1996; and a European Scholar at the University of Massachusetts in 1998, as well as an Emile Noël Fellow at Harvard Law School in 1998 and 1999. In 2000 and 2001, Haferkamp was a Senior Associate at the European Union Center at Harvard University where she organized the lecture series “Visions for European Governance/EU Agenda Seminar,” cosponsored by the Minda de Gunzburg Center for European Studies, the Weatherhead Center for International Affairs, the John F. Kennedy School of Government, Harvard Law School, and Harvard Business School.

Xuejun Xie, Corporate Counsel at Yahoo! China, focused his research on China’s accession to WTO and the issue of compatibility between state ownership and trade liberalization. His study explored ownership issues in WTO laws—state trading, subsidies, and the like. The results of the Fellows’ research may be found in the Working Paper Series section of the Center’s Web site at www.jeanmonnetprogram.org.

During the Spring, the Jean Monnet Center, with the collaboration of the Center for European Studies (CES) at NYU, hosted a seminar series on The Futures of Europe: Ideas, Ideals, and Those Who Make Them Happen. The direct context of the series was the 2002 Convention for the Future of Europe—quickly dubbed by many as the “European Philadelphia,” and widely referred to as the European Constitutional Convention. The principal idea behind the seminar series was to invite key constitutional figures—major leaders, albeit no longer in office (so that they could speak freely without worrying about tomorrow’s election), and yet actively involved both in the past and the future of Europe. One of the themes addressed at length by all invitees has been the current state and future of

U.S.-European Union relations. The guests were asked to arrive without a speech and interviewed, Charlie Rose–style, by the panel of organizers, consisting of Professor Weiler, Professor Martin Schain (Director of the CES), and Renée Haferkamp (Emile Noël Distinguished Fellow at the Jean Monnet Center). The series was opened by former President Bill Clinton, who spoke about his perceptions of and experiences with Europe and the general context of world governance today. Other guests during the semester included former Prime Minister of Portugal António Guterres; Former Prime Minister of Italy and the current Vice President of the Convention on the Future of Europe Giuliano Amato; former Secretary General of the North Atlantic Treaty Organization (NATO), Belgian Foreign Minister Willy Claes; and former President of France and the current President of the Convention on the Future of Europe Valéry Giscard d’Estaing (see related sidebar on page 58). The series will continue in the Fall with guests expected to include former Prime Minister of Denmark Poul Nyrup Rasmussen, former President of Germany Richard von Weizsäcker, former Polish Foreign Minister Bronislaw Geremek, and the President of the Commission of the European Union, Romano

The 2002-2003 Jean Monnet Center Emile Noël Senior Fellows

Professor Francesca Bignami teaches European Union law, comparative public law, and administrative law at Duke Law School. While visiting at the Jean Monnet Center, Bignami will be conducting research on the impact of the European Union on national systems of constitutional and administrative law.

Professor Iulia Motoc, a former judge, teaches at the University of Bucharest and serves as the Scientific Director of the Romanian Diplomatic Academy. She is Special Rapporteur of the U.N. Commission on Human Rights for the Democratic Republic of Congo and a member of the U.N. Sub-Commission on the Promotion and Protection of Human Rights. At the Jean Monnet Center, she will work with Professor Joseph Weiler in the area of democracy and international law.

Dr. Anne Orford is a Senior Lecturer in the Law School at the University of Melbourne. She does research in the areas of human rights, international economic law, postcolonial theory, and feminist legal theory. She is currently completing work on a book about humanitarian intervention and its aftermath to be published by Cambridge University Press in 2002. While visiting the Jean Monnet Center, she will further her research on the relationship between free trade, human rights, and democracy.

Professor Ayelet Shachar teaches at the Faculty of Law at the University of Toronto. She has written extensively on group rights, gender equality, citizenship theory, and immigration law. She is the author of the award-winning book *Multicultural Jurisdictions: Cultural Differences and Women’s Rights* (Cambridge University Press, 2001).

Prodi. A special invitation has been extended to European Commissioners Pascal Lamy and Mario Monti who preside over the two most sensitive legal portfolios in the troubled U.S.-EU relationship—trade and competition (antitrust).

Program in the History and Theory of International Law

This program encourages scholarship and teaching on topics in the history and theory of international law that are vital to deepening an understanding of the field. The premise of the program is that the

future development of international law depends on sustained theoretical work, including careful historical study, and that collective efforts are needed to enhance worldwide research and teaching in these areas. The program holds periodic conferences and workshops, sponsors a refereed

working paper series with print and Internet distribution, hosts visiting fellows (including faculty from other disciplines and post-docs), supports research and publications, provides a center that brings together people interested in these fields, and each year offers a set of courses in these areas at the Law School. The program is directed by Professor Benedict Kingsbury, in cooperation with Hauser Global Law Professor Martti Koskenniemi. Additional courses are taught periodically by Professors Thomas Franck, David Golove, Mattias Kumm, Liam Murphy, and Joseph Weiler, as well as Global and adjunct faculty. Regular participants in program activities include Professors Philip Allott (Cambridge), Nathaniel Berman (Brooklyn Law School), Andrew Hurrell (Oxford), Karen Knop (Toronto), and Masaharu Yanagihara (Kyushu).

Taken as a whole, the program's activities and courses enable J.D. and graduate students specializing in international law, together with visiting fellows, to pursue sustained exploration of historical and theoretical issues with like-minded colleagues and faculty. The unusual strength and range of NYU Law's course offerings in these areas reflect both the depth of scholarly interest in this program and the rarity of such a commitment in international law education, which tends to be dominated by more contemporary policy concerns. Courses offered in 2002-2003 include Professor Benedict Kingsbury's Fall seminar on the history and theory of international law, focusing on modern implications of ideas developed during the period 1500-1870 (Francisco de Vitoria, Alberico Gentili, Hugo Grotius, Thomas Hobbes, Samuel von Pufendorf, Emerich de Vattel, Jean-Jacques Rousseau, Immanuel Kant, etc.); Professor Martti Koskenniemi's follow-up Spring course on the intellectual history and politics of international law from 1870 on; Professor Thomas Franck's seminar on *The Empowered Self: Law and Society in the Age of Individualism*; Professor Joseph Weiler's seminar on *International Law and Democracy*; and Hauser Global Law Professor Radhika Coomaraswamy's seminar on *Gender, Ethnicity, and the Law*. For further information, visit the Program's Web site, reached through the homepage of the Institute for International Law and Justice.

In Conversation With Valéry Giscard d'Estaing

During the Spring semester Valéry Giscard d'Estaing, former President of France and current President of the Convention on the Future of Europe, visited the Jean Monnet Center and spoke on "The Futures of Europe." The following is an excerpt.

NYU Law: *Until now, when Europe deliberated its future, it was done through an Intergovernmental Conference composed of representatives of all governments. Now you not only preside over a convention composed of government representatives, but also members of the European Parliament, national parliaments, and even the candidate member states. It also has a different procedure—more deliberative, more transparent, more consultative. Why the change?*

President Giscard d'Estaing: There was a general belief among the leaders and the governments that a new intergovernmental conference would produce few results because the last IGC in Nice had been very frustrating. This was because the debate was, again, a nationalistic debate. It was not a European debate. If you look at what the heads of governments said when they came back to their capitals, they didn't say, "We improved the European system." Not at all. They said that we gained this and that for our country. The British said, "We opposed the fact that the taxation system could be communized." The French came back saying that the public service would be protected. The Germans said that some of their national interests were defended. So everyone was fighting for nationalistic results.

There are particular features to an intergovernmental conference. First, it's a diplomatic process not a political process. It is conducted by the Ministers of Foreign Affairs. In diplomacy you try to gain at the expense of the others. If you want to stay in history, you say, "I got very good results for my country and we got it at the

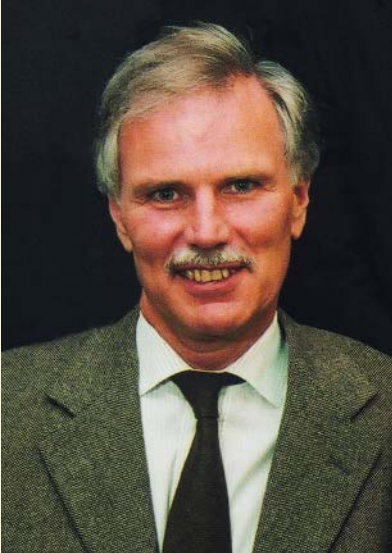
expense of the others." So it is a game in which there are winners and losers. When you have at the same time the unanimity rule, it cannot function because you cannot have many losers in the system with the unanimity rule because the losers will not accept your proposal. We had an example of this problem at the last meeting at the Laeken European Summit. The agenda included the question of the location of some European agencies—one for the protection of our health and food and the other for protection from danger on the sea due to possible accidents. For each agency, there were several candidates. For food and health, you had Italy and Finland. For security on the sea and seashore, you had France and Portugal. It was impossible to find an agreement. They spent hours on this issue and found no agreement because the Finns said, "No, we will not accept the decision." The Italians said, "Parma is a very good location, so it will be in Parma." The French said, "All the accidents are on the French coasts, so it is normal to have the agency in Nantes, in Bretagne." But the Spanish pointed to their own interests. There was no decision and there are no agencies. Now, under the Spanish Presidency of the Union, I spoke with Jose Maria Aznar, the Prime Minister of Spain. He said to me, "I will not even put the question on the agenda. It's useless. We cannot reach a decision."



NYU Law students with Valéry Giscard d'Estaing (far right)

Building a Center for Human Rights and Global Justice

An Interview With Professor Philip Alston



Philip Alston joined NYU Law's faculty this past Spring. Alston is an internationally recognized expert in human rights law and comes to NYU from the prestigious European University Institute in Florence. He will teach a range of courses in human rights, international organizations, and international law. In addition to continuing to act as Editor-in-Chief of the *European Journal of International Law*, he will head up a new NYU Law Center for Human Rights and Global Justice.

NYU Law: *Is this NYU Law's first major foray into human rights?*

Alston: Not at all. In many ways, the new Center represents an effort to capitalize on NYU's extraordinary record in this field. The work done by Norman Dorsen, Burt Neuborne, Sylvia Law, and many others put NYU at the forefront of domestic civil liberties work and the lineup has been equally impressive at the international level. Ted Meron, now a Judge at the International Criminal Tribunal for the former Yugoslavia but still an active member of our faculty, Paul

Chevigny, Tom Franck, Benedict Kingsbury, and Donna Sullivan have all given NYU a very strong profile in the area. And a wide range of Hauser Global professors, including Richard Goldstone, Georges Abi-Saab, Radhika Coomaraswamy, Joe Oloka-Onyango, Ratna Kapur, and Hilary Charlesworth have brought immense insight and experience into the human rights lineup at the Law School.

NYU Law: *So what's new about the Center?*

Alston: Well, three things. The first is the emphasis on global justice and thus on the human rights dimensions of issues around the theme of globalization. The second is an emphasis on an interdisciplinary approach that will involve economists, sociologists, development specialists, anthropologists, and others in the Center's activities. The third, and in some ways the most important, will be the emphasis on research and scholarship.

NYU Law: *Will the Center be an activist one?*

Alston: It will be very active, but "activist" is not the right word. I see the human rights field as being at a crossroads. In its foundational phase it was driven largely by activism and an unwavering commitment to clear principles. Without that activism the field would not have achieved the prominence, relevance, and support that it enjoys today. But the essential next phase—in an era of globalization and post September 11—must be characterized by a greater effort to consolidate and develop the intellectual and institutional foundations of the field. So for us, cutting-edge research and writing will be the key. The Center aims to establish NYU as an intellectual leader in the field and as a particularly valuable resource in support of the national and international communities' efforts to better understand the policy implications of emerging human rights challenges. As a result, NYU

graduates will be better placed to cater more effectively to the needs of governments, international organizations such as the U.N., and NGOs, all of which are actively looking for lawyers who are capable of undertaking sophisticated legal analyses of new and very complex issues.

NYU Law: *How will the Center work?*

Alston: We will identify one or maybe two major themes each year, organize an advanced research seminar around that topic, involve students in writing papers, eventually have a couple of senior research fellows in residence, and we will bring all of this work together in an annual public conference which will lead to working papers on the Internet and a volume of essays. The topics will have a clear policy focus and the emphasis will be on helping to move the human rights agenda forward through first-rate scholarship.

NYU Law: *What are the new issues that the Center will be dealing with?*

Alston: Work has already begun on two issues. A volume of essays on corporate human rights responsibilities is under way, with some of the key scholars in this field involved. And the first annual conference, which will also serve to launch the Center, will take place in Spring 2003 on the topic of the World Bank and Human Rights. The Bank is a key player and it is heavily involved in an array of human rights issues, but it lacks a coherent and manageable policy. We will get the leading scholars and practitioners together to work in probing and creative ways.



Center for Human Rights and Global Justice

The NYU Law Center for Human Rights and Global Justice will be launched in the coming year under the directorship of Professor Philip Alston, who in 2002 joined NYU's faculty from his position as Professor of International Law at the European University Institute (EUI) in Florence, Italy. Building on NYU's excellent existing teaching, clinical, and public interest programs, the Center will initiate a long-term research program, a working paper series, and a number of new seminars. The Center will offer fellowships for advanced research at NYU and will host an annual workshop with invited scholars to advance cutting-edge thinking and research on human rights issues.

Substantive areas of focus for the Center will include the role of international financial institutions in the promotion of human rights; the impact of globalization on human rights; terrorism and human rights; non-state actors and human rights; human rights responsibilities of corporate actors; and human rights in the contexts of trade, labor, and distributive justice.

New Degree Programs

To build on the momentum in international law scholarship established at NYU by distinguished senior faculty, the Law School announces the creation of two special degree programs in international law this year. These programs harness the energies of faculty and student activity in international law at NYU, and are a central part of the constellation of new programmatic initiatives that will be managed by the Institute for International Law and Justice. Admitted students receive special training in international law with particular emphasis on scholarship and research, and are expected to go on to make a significant contribution to the field as international law teachers or advisers. These programs are the first of their kind, signaling a new phase in NYU's long tradition of scholarly distinction in international law.

J.D.-LL.M. Program in International Law

A unique and innovative addition to NYU Law's academic programs is the four-year J.D.-LL.M. for students seeking special academic expertise in international law. This highly selective program unites a J.D. degree with a one-year Master of Laws degree

Seminar in International Litigation

International Litigation, a seminar taught by Professors Andreas Lowenfeld and Linda Silberman, explores in a litigation context current developments in international law (public and private), civil procedure, international arbitration, and comparative law and procedure. The seminar is extremely popular and is known for its innovative format, in which students work together in teams to prepare oral arguments on current cases and deliver these arguments in front of a "court" of their classmates. The seminar attracts both U.S. students and foreign-trained lawyers and much use is made of the variety of international perspectives represented by a diverse student group.

International Litigation: A Student's View From the Bench and the Bar

JORDAN ROSENBAUM ('03)

International litigation is an expansive and intricate field of law that requires an understanding of domestic and foreign procedure, a grasp of foreign affairs and politics, knowledge of languages and cultures, world-class and motivating mentors, and most important, the opportunity to study and practice with a foreign-trained lawyer. The NYU Law seminar in International Litigation, taught by Professors Lowenfeld and Silberman, gave me the unique opportunity to learn what it means to be an international litigator and jurist, and allowed me to interact on an academic level with the foreign-trained LL.M. students who attend NYU Law.

In the course of the seminar I was transformed from a second-semester 2L into an international litigator. An Austrian LL.M. student, Sascha Salomonowitz, and I represented a French watchdog group named LICRA against the multinational corporation Yahoo! in a mock trial based on current litigation going on in the Ninth Circuit. Sascha and I did extensive legal research on the issues that the case presented, and together we drafted a brief that we later argued before a "ninth circuit court" made up of other LL.M. and J.D. students from the class. Working with a foreign-trained lawyer gave me an experience that few law students have had, as we both learned from each other's knowledge of our respective legal systems and gained a deeper appreciation for the law and how it functions in the global arena. During the seminar, I also had the opportunity to step into the shoes of a Second Circuit judge. After my fellow classmates argued an emotional current case involving Holocaust survivors and the national railroad of France, I found myself in the difficult, yet stimulating position of drafting a judicial

opinion based on the legal arguments presented by my classmates.

The seminar gave me the confidence and the knowledge I needed to have a successful experience as a Summer Associate at an international law firm, and allowed me to interact with people from around the world who will not only become my colleagues, but who became my friends.

International Litigation: A Civil Law Trained Student's Perspective

SASCHA SALOMONOWITZ (LL.M. '03)

Motivated by a strong interest in international litigation, I knew that the seminar taught by Professors Lowenfeld and Silberman was a natural choice for my curriculum. The first part of the course was devoted to lively and insightful class discussions of various procedural and substantive aspects of international litigation, which were led by two professors who are outstanding experts in that field. Following that, each foreign-trained student was paired with a J.D. student to prepare briefs and argue a case. All the cases were modeled on actual, pending litigation.

Working with Jordan was a great experience. Our different approaches and backgrounds merged in a highly productive way, and we particularly benefited from the ability to research material from U.S. and European databases. The use of a wide range of sources invariably enhances the quality and the persuasiveness of arguments, especially in novel cases with possibly far-reaching consequences. Moreover, our views regarding freedom of expression, hate speech regulation, and world-wide jurisdiction of national courts provided us with an invaluable opportunity to learn from each other and made the preparation of the brief and the oral argument a true cross-cultural experience.

(LL.M.), combining in-depth scholarship and publication with fellowship activities including academic colloquia and funded internship and clerkship programs at international courts and organizations which may include the International Court of Justice, the U.N. International Law Commission, and the Office of the U.N. High Commissioner for Refugees. Students are made Junior Fellows of NYU's Institute for International Law and Justice, and are mentored by international law faculty throughout the four-year program. Graduates will have strong preparation for future careers as international law scholars, as well as for other specialist international law vocations. The program is directed by Professor David Golove.

LL.M.-J.S.D. Program in International Law

NYU also inaugurates this year a program in international law designed specifically for graduate students who are prospective or current international law teachers. The LL.M.-J.S.D. Program in International Law creates continuity between the LL.M. degree and the J.S.D. program for a small number of graduate students focusing on international legal scholarship. Those admitted will be made Graduate Fellows of NYU's Institute for International Law and Justice, and will be mentored during their LL.M. studies in the research and development of a dissertation proposal to facilitate their (non-guaranteed) entry into the J.S.D. program the following year. The program provides a fully integrated academic experience involving the presentation of research in conferences, working papers series, and workshops, along with funded internships and clerkships in international law. The program is directed by Professor Matthias Kumm.

Institute Special Seminars and Colloquia

The Institute for International Law and Justice sponsors a number of new special seminars and colloquia which complement and expand NYU Law's extensive international law curriculum. These provide for the in-depth exploration of a range of international law issues, and include the Globalization and Its Discontents Colloquium, the Pedagogy and Methodology of International Law Seminar, the Advanced Monthly International Law Seminar, the Advanced Human

Rights Seminar, the History and Theory of International Law Seminar, the Junior and Graduate Fellows Institute Seminar, and the Jean Monnet Seminar on International Law and Democracy. Some of these are described here.

Advanced Monthly International Law Seminar

One of the key activities of the Institute for International Law and Justice is a monthly high-level seminar on advanced international law issues for students and fellows affiliated with the Institute, interested NYU faculty, and international law specialists and academics from the New York area. Participants meet and share an informal dinner followed by a presentation by an invited speaker, based on a paper distributed in advance of the meeting, reflecting their current work in international law. Participants are invited to discuss the work and the aim is to provide critical feedback and to advance thinking in specific areas of controversy in international law. Progress made in these settings feeds back into the broader research agendas sponsored by the Institute, including research programs in the history and theory of international law, democracy and legitimacy in international governance, regional and international economic law, and human rights and global justice.

Junior and Graduate Fellows Institute Seminar

Junior Fellows and Graduate Fellows of the Institute for International Law and Justice attend a series of meetings at which they present full drafts of their research papers for discussion by a group of colleagues, faculty, and outside guests. The Institute Seminar is convened and chaired by faculty members of the Institute's Executive Committee, and discussions are often preceded by an informal dinner. On occasion, annual conferences will be held for wider discussion of Fellows' research.

Globalization and Its Discontents Colloquium

The Globalization and Its Discontents Colloquium provides a weekly forum in which scholars present papers that are discussed by students and faculty in a roundtable format. The colloquium is an initiative of the Institute for International Law and Justice and the Hauser Global Law School Program. In Spring 2002 the

Globalization and Its Discontents: A Student's Perspective

OLAMIDE OYEKUNLE (LL.M. '02)

Olamide Oyekunle graduated from the LL.M. program in International Legal Studies in May 2002. After completing her studies at Oxford University, she worked for three years with a leading law firm in London before coming to NYU Law. She is a qualified lawyer in England and intends to return to England to continue in private practice with an emphasis on international law.

I have to admit, that having enrolled in the course, I really did not know what to expect. I was aware that globalization was something which was happening and that its effects were manifested all around me, but wasn't sure I knew what the word really meant or why people, particularly the increasing numbers of disgruntled protesters outside the world economic summits, got so upset about it. As the semester progressed, the different contexts in which we examined the concept of globalization showed that it is a multifaceted phenomenon that has cultural, political, and economic dimensions and consequences.

On more than one occasion, we attempted to tackle issues of global justice and explored the question of whether an obligation exists to affect the redistribution of wealth between the rich and the poor and if so, what the basis of this obligation is and how it should be put into effect. In one seminar, we engaged in a lively debate with a former Prime Minister of Italy on the responsibilities of the powerful G8 group of countries, and had our often theoretical assumptions about the relationship between the few wealthy countries and the not so well off put to the test by the voice of practical experience.

What I particularly enjoyed was that every week students and professors grappled with how to find solutions to the myriad issues and conflicts thrown up by globalization. It seemed in some cases that even our proposed solutions would throw up problems of their own. It was exciting to be part of a class where we, the students, were given the opportunity to challenge the work of those who are leading intellectuals in their field.

Globalization Colloquium was convened by Professors Eleanor Fox and Benedict Kingsbury; the Spring 2003 organizers are Professors Kingsbury and Richard Stewart.

Over the semester, students, through class discussion and written work, consider in depth core theoretical issues such as: the meanings and usages of concepts of “governance,” “civil society,” “democracy,” and “accountability” in the context of increasing international interdependence; the significance of rising global inequality; relations between international and national law; arguments for and against regulation by formal institutions; the need for and prospects of international administrative law;

and unmet demands for justice and fairness at the global level. In 2002, guest speakers presented papers exploring specific issues such as the complex political and economic relationships involved in the development of a global climate change regime (Richard Stewart), the position of women in internationally governed post-conflict societies (Hilary Charlesworth), the roles and limits of international labor standards (Katherine van Wezel Stone) and of international antitrust regulation (Eleanor Fox), the claims of moral universalism in determining priorities for global justice (Thomas Pogge), the impact on international relations of courts and tribunals (Philippe

Sands), the geology of international governance (Joseph Weiler), the tensions in reconciling national constitutional democracy with general international law (Mattias Kumm) and with international human rights obligations (David Golove), and new strategies for the Global South (Andrew Hurrell) and for the G8 (former Italian Prime Minister Giuliano Amato) in seeking to increase the influence of global decision-making on the interests and needs of the South. Commentators included South African Constitutional Court Justice Albie Sachs, Columbia Law Professors Richard Briffault and Gerald Neuman, Yale Professor Carol Rose, and NYU Law faculty. ■

International Law Faculty

NYU Law has a long and distinguished tradition in international law. Elihu Root, Founding President of the American Society of International Law (1906-1907) and U.S. Secretary of State, was a leading alumnus, and the early faculty included Clyde Eagleton and other prominent scholars. The Law School's appointment of Thomas Franck in 1960, Andreas Lowenfeld in 1967, and Theodor Meron in 1978 charted the course for what has become an outstanding international law program. All three are members of the prestigious Institut de Droit International, all have recently argued different cases before the International Court of Justice, and all have served as prominent judges or arbitrators. They have published more than 50 books between them, and along with distinguished colleagues in special areas (see faculty profiles below), have trained thousands of students in international law. The Center for International Studies, founded by Thomas Franck in 1965, has provided fellowships enabling several hundred students to specialize in international law and has been a landmark institution in the study of the United Nations and problems of international legal order.

Professors Franck, Lowenfeld, and Meron have recently been joined by a new generation of outstanding international law professors at NYU Law. Since 1998, the Law



(l-r): NYU Law Professors Andreas Lowenfeld, Theodor Meron, and Thomas Franck

School has recruited four of the leading figures among established younger scholars—Philip Alston (international human rights), David Golove (constitutional law of foreign relations, and international justice), Benedict Kingsbury (public international law), and Joseph Weiler (European Union and international economic law)—along with exceptionally promising entry-level faculty such as Mattias Kumm (relations between international and national law and institutions) and Katrina Wyman (international environmental law). Building on the work of the senior faculty and other eminent colleagues, these scholars are launching innovative international law research centers and student programs. At the center of this enterprise is the Institute for International Law and Justice, which brings together the work of a wide range of faculty members involved in international law issues. Some of that faculty work is highlighted here.

Full-Time Faculty Working in International Law

Philip Alston

Professor of Law

Philip Alston's scholarship and teaching focus primarily on human rights law and the law of international organizations. He directs the NYU Law Center for Human Rights and Global Justice, and was previously Chairperson of the U.N. Committee on Economic, Social, and Cultural Rights (1991-1998), and an independent expert appointed by the U.N. Secretary-General to advise on the future of human rights treaty monitoring arrangements (1989-1997). Alston is Editor-in-Chief of the *European Journal of International Law* and author of the casebook, *International Human Rights in Context: Law, Politics, Moral* (with Henry J. Steiner, 2nd ed., 2000). An interview with Alston is on page 59.

Vicki Been

Professor of Law

Vicki Been has long been at the cutting edge of legal scholarship in the fields of land use and environmental law. Her recent work examines the Fifth Amendment prohibition against the taking of property in the context of the North American Free Trade Agreement (NAFTA), and a growing number of other bilateral and multilateral investment agreements, which include provisions requiring host states to compensate foreign investors for any “expropriation” of their investments. She is the author of the casebook, *Land Use Controls: Cases and*

Materials (with Robert Ellickson, 2000). In Spring 2002, Been organized the conference “Regulatory Expropriations in International Law” (see page 69).

Paul Chevigny

Joel S. and Anne B. Ehrenkranz Professor of Law

Paul Chevigny is a human rights lawyer, who prior to joining the NYU faculty in 1977, worked for many years in association with the New York Civil Liberties Union, first as Director of the Police Practices Project and later as a staff attorney. Chevigny’s scholarship increasingly focuses on international human rights issues and international comparative work. He has focused in recent years on the problems of police violence in Third World cities, participating frequently in missions for Human Rights Watch, and is the principal author of three reports (Human Rights in Jamaica, Police Abuses in Brazil, and Police Violence in Argentina). Chevigny’s interests also have encompassed the theoretical and practical elements of the First Amendment freedom of expression, which he has analyzed as part of a group of dialogue rights. Professor Chevigny’s Clinic in International Human Rights is a popular selection at the Law School.

Jerome Cohen

Professor of Law

Jerome Cohen is the doyen of senior American experts on East Asian law. First at Harvard, then since 1991 at NYU Law, he has helped pioneer the introduction of East Asian legal systems and perspectives into American legal curricula. He draws on his immense practical experience in Chinese law in courses on international business contracts and economic cooperation with East Asia, Chinese law and society, and comparative international law.

Rochelle Dreyfuss

Pauline Newman Professor of Law

Rochelle Dreyfuss’ research and teaching interests include intellectual property, privacy, the relationship between science and law, and civil procedure. She has authored several articles on these subjects and has co-authored casebooks on civil procedure and intellectual property law. Previously a consultant to the Presidential Commission on Catastrophic Nuclear Accidents, Dreyfuss today leads an American Law Institute project on principles to guide multinational civil litigation in intellectual property disputes.

Professor Thomas M. Franck Joins NYU’s Emeritus Faculty

“I can think of no one who has thought harder, written more, or fought more courageously to promote a more humane, effective, and values-driven system of international law.”

—Professor Harold Koh, Yale Law School

Although Professor Thomas Franck theoretically retired this year, he continues to maintain an almost full-time teaching load. Franck is a revered figure in international law, who for decades has been one of the American international lawyers best known for his capaciousness of vision. In scholarship, teaching, collegiality, professional contribution, and practical impact, he has made signal contributions in his writing about the Constitution and U.S. foreign affairs, the U.N. and the use of force, the “compliance pull” of particular norms in international relations, the human right to democratic governance, and international law as an engine of Rawlsian fairness. In more than 27 books, as well as innumerable articles, addresses, legal arguments, and judgments, he has developed a fundamental set of ideas concerning international law, international organizations, and constitutional law. At the same time, he edited the *American Journal of International Law*, presided over the American Society of International Law, counseled nations before the International Court of Justice, and actively participated in numerous domestic lawsuits, all while producing a generation of committed students and rising scholars. Eloquent testimony to the esteem in which Franck is held is provided by the list of attendees at a celebratory conference, “International Law and Justice in the 21st Century: The Enduring Contributions of Thomas M. Franck,”

to be held at NYU in October 2002. Led by U.N. Secretary-General Kofi Annan, guests will include senior U.N., U.S., and Canadian government officials, judges, ambassadors, academic colleagues, and former students from far afield. Papers presented at the conference’s sessions, reflecting on the themes running through Franck’s work and his achievements, will be published in the *NYU Journal of International Law and Politics*.

International Law and International Organizations in Situations of Civil War

Since its founding in 1965, the Center for International Studies has trained hundreds of students in international law, hosted numerous visiting fellows, and overseen a vast output of influential published research. Following Director Thomas Franck’s retirement from full-time teaching this year, the research and student mentoring aspects of the Center will be carried forward by the newly established Institute for International Law and Justice.

This year, the focus of the Center for International Studies conference was International Law and International Organizations in Situations of Civil War. Former U.S. Ambassador to the U.N. and Undersecretary of State Thomas Pickering delivered the keynote address. Participants included U.N. Undersecretary-General for Legal Affairs Hans Corell, U.N. Undersecretary-General and Special Adviser on Africa Ibrahim Gambari, U.S. State Department Legal Advisor William H. Taft IV, and prominent academics, senior officials, and non-governmental organization leaders from around the world. Papers focused on issues arising from international intervention in civil wars.



(l-r): Center for International Studies Director Professor Thomas M. Franck with Junior Fellows Jake Kreilkamp, Anna Roberts, Owen Lefkon, Margo Kaplan, Christopher Le Mon, Eleanor Lumsden, and Center for International Studies Coordinator Shelley Fenchel

Eleanor Fox

Walter J. Derenberg Professor of Trade Regulation

Eleanor Fox is a globally recognized antitrust and comparative competition law scholar. Her recent work addresses issues at the intersection of international trade and competition, and includes articles that explore the disjuncture between national law and global markets. She recently served as a member of the International Competition Policy Advisory Committee to the U.S. Attorney General.

Thomas Franck

Murry and Ida Becker Professor of Law Emeritus

Thomas Franck is a leader in the field of international law. His scholarly work forms a fundamental set of ideas, well-known to students and practitioners alike, on issues such as legitimacy and fairness in international governance, self-determination and nationalism, the relationship between international law and national constitutions, and international dispute resolution. He has argued a number of cases before the International Court of Justice and served as an ad hoc judge of the Court in a dispute between Indonesia and Malaysia. He is a past President of the American Society of International Law (1998-2000) and served as Editor-in-Chief of the *American Journal of International Law* from 1984-1993. Franck is the author of more than 25 books, including *Nation Against Nation: What Happened to the U.N. Dream and What the U.S. Can Do About It* (1985); *Political Questions/Judicial Answers: Does the Rule of Law Apply to Foreign Affairs?* (1992); *Fairness in International Law and Institutions* (1995); *The Power of Legitimacy Among Nations* (1990); *The Empowered Self: Law and Society in the Age of Individualism* (1999); and *Recourse to Force: State Action Against Threats and Armed Attacks* (2002).

David Golove

Professor of Law; Director, J.D.-LL.M. Program in International Law

David Golove has secured a reputation as one of the most original and promising scholars in constitutional law. His recent scholarship addresses core constitutional questions arising from foreign relations law and the exercise of the U.S. treaty-making power. His book-length article for the *Michigan Law Review*, "Treaty-Making and the Nation: The Historical Foundations of the Nationalist Conception of the Treaty Power," is a major work of

legal historical scholarship and an important constitutional and legal defense of federal power. Golove is a member of the faculty Executive Committee of the Institute for International Law and Justice and Director of the J.D.-LL.M. Program in International Law.

Stephen Holmes

Professor of Law

Stephen Holmes is a specialist on constitutional law and legal reform in Eastern Europe and Russia. His research centers on the history of European liberalism and the challenges posed by economic liberalization and the establishment of democratic governance after the collapse of communism in Eastern Europe, addressing democratic and constitutional theory as it relates to post-socialist legal reform in the region and the origins of the welfare state. His work includes the books *The Anatomy of Anti-liberalism* (1993), *Passions and Constraints: On the Theory of Liberal Democracy* (1995), and *The Cost of Rights* (with Cass Sunstein, 1998). He is formerly director of the Soros Foundation program for promoting legal reform in Russia and Eastern Europe and directs the NYU Law Center for Russian and East European Law. He is Editor-in-Chief of *East European Constitutional Review*, a journal that tracks the constitutional development of the region through quarterly offerings of academic articles, roundtables, and symposia by regional and foreign scholars. His latest work focuses on evaluation and critique of efforts by international institutions such as the World Bank to promote "rule of law" in transitional and developing countries, and on the global implications of anti-terrorism measures.

Benedict Kingsbury

Professor of Law; Director, Institute for International Law and Justice

Benedict Kingsbury is a highly regarded international law scholar, whose theoretically grounded approach to international law closely integrates legal theory, political theory (including international relations theory), and history. Professor Kingsbury is the Director of the Institute for International Law and Justice at NYU Law and also directs the Law School's new Program in the History and Theory of International Law.

His recent publications include: "Legal Positivism as Normative Politics: International Society, Balance of Power and Lassa

Oppenheim's Positive International Law" (*European Journal of International Law*, 2002) and "Reconciling Five Competing Conceptual Structures of Indigenous Peoples' Claims in International and Comparative Law" (*NYU Journal of International Law and Politics*, 2001).

Mattias Kumm

Assistant Professor of Law; Director, LL.M.-J.S.D. Program in International Law

Mattias Kumm is an international and comparative law scholar, who joined the NYU Law full-time faculty in Fall 2000. Drawing on and expanding the scope of liberal democratic constitutional theory, Kumm asks under what conditions national courts should enforce supranational laws, even when they conflict with national law. This involves a thorough reassessment of some core concepts of the liberal constitutional tradition, including state sovereignty, democracy, and the rule of law. Kumm is a member of the faculty Executive Committee of the NYU Law Institute for International Law and Justice.

Andreas Lowenfeld

Herbert and Rose Rubin Professor of International Law

Andreas Lowenfeld's extraordinary body of work traverses public and private international law. His recent writing includes works on transborder kidnapping, North American Free Trade Agreement (NAFTA) disputes, liability of airlines for disasters caused by terrorism, economic sanctions, and the enforcement of foreign judgments. Lowenfeld is frequently an arbitrator in international disputes, public and private, and has argued a number of important Supreme Court cases concerning international law, arbitration, and jurisdiction. Along with Professor Linda Silberman, he is a reporter for the American Law Institute International Jurisdiction and Judgments Project, aimed at the development of federal legislation to govern the recognition and enforcement of foreign judgments in U.S. courts.

Theodor Meron

Charles L. Denison Professor of Law

Theodor Meron, a renowned authority on human rights and humanitarian law, is currently on leave to serve as a Judge on the International Criminal Court for former Yugoslavia in The Hague. Also a prominent

NYU Law Alumni and Faculty Serve on International Courts and Tribunals

Three of the 15 regular judges of the International Court of Justice (ICJ) are NYU Law alumni, continuing a strong tradition of the appointment of NYU Law international law faculty and alumni to high-profile positions as judges and arbitrators on international courts and tribunals, as well as representing states in international litigation.

In October 2001, the General Assembly and the Security Council of the United Nations elected NYU Law alum Nabil Elaraby (LL.M. '69, J.S.D. '71) of Egypt as a judge of the International Court of Justice. Elaraby joins Thomas Buergenthal ('60) of the United States and Gonzalo Parra-Aranguren (MCJ '52) of Venezuela as the third NYU Law graduate among the 15 judges currently serving on the Court. They continue in the path of another NYU alum, the late José María Ruda (LL.M. '55), who was a judge on the ICJ for two nine-year terms and served as President of the Court from 1988 to 1991. Currently, NYU Law Emeritus Professor Thomas Franck is also serving on the ICJ as an ad hoc judge.

The ICJ is the judicial arm of the United Nations. It decides major questions of international law in cases referred to it by governments, and also gives advisory opinions at the request of U.N. bodies. The permanent judges of the International Court are each of a different nationality and together represent the principal legal systems of the world.

Judge Nabil Elaraby has been a leading international lawyer and diplomat, representing Egypt at the U.N. in New York City, as well as serving as a member of the U.N. International Law Commission. He has also been a member of the U.N. Compensation Commission in Geneva determining monetary claims arising from the 1990-1991 Gulf War, and is the author of numerous articles and essays on international law, especially concerning arms control and peacemaking.

Judge Thomas Buergenthal, who joined the Court in 2000, has had an outstanding career since graduating as a Root-Tilden Scholar from NYU Law in 1960. He served as President of the Inter-American Court of Human Rights, as a member of the U.N. Truth Commission for El Salvador (1992-1993), and as member of the U.N. Human Rights Committee (1995-1999). Buergenthal is also a distinguished academic, authoring numerous works including leading texts



Nabil Elaraby

Thomas Buergenthal

on human rights and public international law.

Judge Gonzalo Parra-Aranguren joined the ICJ in 1996 and was reelected in 2000. Parra-Aranguren is a private international law specialist and held a number of important judicial positions in Venezuela prior to joining the ICJ. He acted as an arbitrator, both in Venezuela and abroad, in cases concerning private international commercial matters. Judge Parra-Aranguren represented Venezuela in many international negotiations and treaty-making conferences, including work at The Hague Conference on Private International Law, and has published a large number of books, articles, and essays concerning the law of nationality, private international law, and international civil procedural law.

The late Judge José María Ruda was a much-respected President of the ICJ, serving on the Court from 1973-1991. Judge Ruda took leading roles in cases involving environmental issues, human rights, and labor, and played a noteworthy part in the adjudication of the volatile frontier dispute between Burkina Faso and the Republic of Mali during the 1980s. Before joining the ICJ, Ruda held senior diplomatic posts in the Argentine government and served as a member and president of the U.N. International Law Commission. After completing his term at the ICJ, Ruda was named to preside over the Iran-United States Claims Tribunal at The Hague, established to arbitrate claims by



the U.S. and Iran and their nationals arising from the U.S.-Iran crisis after the 1979 revolution in Iran.

In 2001, NYU Law Professor Thomas Franck was asked by the Republic of Indonesia to be a judge ad hoc in a case concerning two disputed islands claimed by Malaysia and Indonesia. Under article 36(1) of the Statute of the ICJ, states' parties to a dispute that do not already have a judge of their nationality on the Court are entitled to name a judge to sit on condition of complete equality with the permanent judges for the purposes of the proceedings. Franck has also been an advocate before the ICJ in a number of important cases, including on behalf of Chad in the territorial dispute between Chad and Libya in 1990-1994. In a separate case, he is arguing before the ICJ on behalf of Republic of Bosnia-Herzegovina, claiming that Bosnia is entitled to compensation from the new government of Serbia-Montenegro for genocide committed by the former Serbian government.

NYU Law Professor Theodor Meron, a world-renowned scholar of international criminal law, humanitarian law, and human rights law, is currently on leave from NYU Law to serve as a judge on the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. The ICTY was established in 1993 by the U.N. Security Council to investigate and try individuals accused of serious violations of international humanitarian law committed in the territory of the former Yugoslavia. The judges of the Tribunal are selected through secret balloting by the states represented at the U.N. Professor Meron had earlier been involved in cases before the ICJ, representing the U.S. in a recent major case concerning a dispute with Germany about the interpretation of the Vienna Convention on Consular Relations, and he was also closely involved in drafting the Statute of the new International Criminal Court.

Professor Andreas Lowenfeld has served as an arbitrator in more than 50 international commercial arbitrations, involving some 25 countries, and he served as a panelist in one of the leading cases under the General Agreement on Tariffs and Trade (GATT). Professor Lowenfeld has represented the U.S. before the Iran-U.S. Claims Tribunal and in an Air Services Agreement arbitration, as well as before the ICJ in a dispute with Iran.

authority in general international law, he was, until recently, Editor-in-Chief of the *American Journal of International Law*. He has published numerous books, including *Investment Insurance in International Law* and *Bloody Restraint: War and Chivalry in Shakespeare*.

Burt Neuborne

John Norton Pomeroy Professor of Law;
Director, Brennan Center for Justice

For 30 years, Burt Neuborne has been one of the nation's foremost civil liberties lawyers, serving as National Legal Director of the ACLU, Special Counsel to the NOW Legal Defense and Education Fund, and as a member of the New York City Human Rights Commission. At the same time, Neuborne has forged a national reputation as a constitutional scholar and teacher. He has worked on several transnational human rights cases, and is well-known for his central role in a series of recent cases against banks, insurance companies, and industrial corporations related to the Holocaust.

Linda Silberman

Martin Lipton Professor of Law

Linda Silberman's early articles on U.S. federal magistrate judges and special masters are considered the authoritative works in the field. More recently, her writing in the area of international child abduction led to her service as expert consultant to The Hague Conference on Private International Law to review the operation of The Hague Convention on the Civil Aspects of International Child Abduction, and subsequently as a member of the United States delegation. She is Co-Reporter (with Professor Andreas Lowenfeld) of an American Law Institute Project on International Jurisdiction and Judgments, directed to the development of federal legislation to govern the recognition and enforcement of foreign judgments in U.S. courts.

Bryan Stevenson

Associate Professor of Clinical Law

Bryan Stevenson is recognized as one of the nation's top public interest lawyers and has written extensively on criminal justice, capital punishment, and civil rights issues. In recent years Stevenson has become increasingly involved in international human rights issues. He has advised lawyers and provided assistance throughout the Caribbean in death penalty cases and is currently working

with European human rights organizations on the application of international law to the U.S. death penalty and on the intersection between European economic interests and human rights in the U.S.

Richard Stewart

Emily Kempin Professor of Law;

Director, Center on Environmental and Land Use Law

Recognized as one of the world's leading scholars in environmental and administrative law, Richard Stewart has published eight books and more than 70 articles in this area. His writing has been influential in shifts to the recognition of the value of markets in strengthening environmental protection, rather than the command and control regulation that was long the only model. Stewart directs the School's Center on Environmental and Land Use Law, which sponsors research, conferences, and publications on cutting-edge issues of environmental and land use law. He is the author of important works on the use of tradable permits to increase the efficiency of controls on global climate change and codirects a major research project on genetically modified organisms.

Frank Upham

Professor of Law; Faculty Director,
Global Public Service Law Project

Frank Upham oversees, with his own mentor, Jerome Cohen, a growing program in East Asian law. Author of an acclaimed book on law and social change in Japan, Upham's scholarship increasingly focuses on global law and development issues, including the roles of lawyers in social change. He directs NYU's pioneering LL.M. program in Global Public Service Law, which attracts outstanding students from all over the world.

Joseph Weiler

European Union Jean Monnet Professor; Chair and
Faculty Director, Hauser Global Law School Program;
Director, Jean Monnet Center for International
and Regional Economic Law & Justice

Joseph Weiler's influential body of scholarship traverses European Union law, international and regional trade law, and international legal and political theory. He served as a member of the Committee of Jurists of the Institutional Affairs Committee of the European Parliament, co-drafting the European Parliament's Declaration of Human Rights and Freedoms, and was a member of the

Groupe des Sages advising the Commission of the European Union on the Amsterdam Treaty. Recently he was part of a group advising on the European Commission White Paper on Governance. Weiler was also recently appointed the Joseph Straus Professor of Law. His many publications include *The European Court of Justice* (with G. de Búrca, 2001); *The EU, the WTO and the NAFTA* (2000); and *The Constitution of Europe—Do the New Clothes Have an Emperor?* (1998).

Katrina Wyman

Assistant Professor of Law

Katrina Wyman joined the NYU Law faculty in 2002. She is a graduate of the University of Toronto and Yale Law School. Her research focuses on regulatory and market-based approaches to reducing atmospheric pollution and to fisheries management. Her teaching interests include international environmental law and international fisheries law.

Hauser Global Law Faculty Working in International Law

While remaining affiliated with their national universities, Hauser Global Law Faculty are in residence at NYU Law for seven weeks, or a full semester, to teach courses, engage in research, and enrich the Law School with their expertise. Some of the Global Faculty specializing in international law are described below.

Professor Philip Allott is a fellow of Trinity College, Cambridge University, and specializes in legal philosophy, international law, and European Community law. Allott has taught courses on the history of legal philosophy, on legitimacy and justice in the international system, and on global social transformation (often co-teaching with Thomas Franck and David Richards).

Professor Eyal Benvenisti is Professor of Law and Director of The Cegla Center for Interdisciplinary Research of the Law at the Buchmann Faculty of Law, Tel Aviv University. Benvenisti joins the Hauser Global Law Faculty in 2003. He is an expert on international environmental water law issues as well as human rights and legal theory, and his recent work addresses the interplay between international and constitutional law, with a focus on the position of national minorities.

Professor Hilary Charlesworth is Professor and Director of the Center for International

and Public Law at the Australian National University, Canberra. Her scholarly work focuses on feminist approaches to international law, and she has published widely on issues related to the international human rights of women. In Spring 2002 Charlesworth taught a seminar on gender and human rights.

Professor Radhika Coomaraswamy is concurrently the United Nations Special Rapporteur on Violence Against Women and Director of the International Centre for Ethnic Studies in Colombo, Sri Lanka. Her scholarship addresses issues such as human rights, minority rights, and constitutional theory in respect to the developing world. In 2003, Coomaraswamy will teach courses on Gender, Ethnicity and the Law, and on International Human Rights of Women.

Professor Jürgen Habermas, widely recognized as one of the world's most important moral philosophers, teaches philosophy at the University of Frankfurt. Periodically, Habermas co-teaches the Colloquium on Legal, Political, and Social Philosophy with Professors Ronald Dworkin and Thomas Nagel.

Professor Martti Koskenniemi is a highly respected scholar in international law whose work focuses on legal philosophy and on the history and theory of international law. His book *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (2002) is a defining text on the history of international law. Koskenniemi will teach regularly at NYU over the coming decade. He works with Benedict Kingsbury in the Program in Theory and History of International Law.

Professor Ratna Kapur, one of India's leading feminist scholars, is director of the Center for Feminist Legal Research in New Delhi, India. She has co-authored two books, and published numerous articles, reviews and reports addressing feminism in international law from the perspective of women in developing countries. She is expected to teach again at NYU Law in 2003-2004.

Professor Joseph Oloka-Onyango is Dean of the law school at Makerere University in Kampala, Uganda, and a member of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. His scholarship focuses on human rights and justice in international law. In Fall 2002, Oloka-Onyango is teaching two seminars: Globalization and Human Rights, and Human Rights Issues in Africa's Democratic Transition.

Professor Philippe Sands was a founder of the Foundation for International Environmental Law and Development, and holds a chair at University College, London University. An inaugural member of NYU Law's Hauser Global Faculty, he has taught seminars on international environmental law, dispute resolution in international law, and European Union law. He codirects the research program in International Conflict in the Regulation of Genetically Modified

Organisms with NYU Professors Dorothy Nelkin and Richard Stewart.

Professor Michael Trebilcock, a prominent scholar in the law and economics movement, is based at the University of Toronto. At NYU he teaches the relations between economic, social, and regulatory policy, and international trade law. His book, *The Regulation of International Trade* (with Robert Howse, 1999), is a leading text in the field. ■

Faculty Activities and Projects

European Journal of International Law

The *European Journal of International Law* (*EJIL*) is one of the world's most innovative and influential international law journals. The journal emphasizes the conceptual and theoretical dimensions of international law, seeks to promote and critically analyze the European tradition in the field, and seeks to be at the cutting edge of current controversies in the field of international law. It organizes regular European-U.S. symposia and provides systematic coverage of the relationship between international law and the law of the European Union and its Member States. In addition, it provides in-depth coverage of the jurisprudence of major international judicial and quasi-judicial organs including the WTO Appellate Body, the International Court of Justice, and the international criminal tribunals. It also has an extensive and innovative Web site. The journal is published as a collaborative effort between the European University Institute in Florence and the NYU Hauser Global Law Program. *EJIL*'s Editor-in-Chief since 1996 is NYU Law Professor Philip Alston, who joined the faculty in 2002. NYU Law Professor Joseph Weiler was one of the founders of the *EJIL* and is active on its editorial board. Both Alston and Weiler are members of the faculty Executive Committee of the Institute for International Law and Justice. The journal's advisory board includes NYU Law Professor Benedict Kingsbury, and NYU Hauser Global Law Faculty members Martti Koskenniemi (Helsinki) and Philippe Sands (London).

American Law Institute Projects on International Law

Professors Andreas Lowenfeld and Linda Silberman are co-reporters for the American Law Institute (ALI) International Jurisdiction and Judgments Project, the aim of which is to develop a federal statute governing the treatment of foreign judgments in United States courts. The project arises from consideration of the proposed draft Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters, prepared under the auspices of The Hague Conference on Private International Law. At present there is little uniformity among U.S. courts concerning the circumstances under which a determination of a foreign court will be recognized and enforced in the U.S. Internationally, there is considerable uncertainty about the ways in which courts in one country will interpret and apply decisions from another jurisdiction. National U.S. standards on principles of recognition would ensure uniformity among U.S. courts and would be subject to Supreme Court superintendence. The project confronts important questions concerning the role of the federal government (as opposed to states) with respect to matters of private international law.

Professor Rochelle Dreyfuss also leads an ALI project on issues arising from the draft proposed Hague Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters. Dreyfuss' work concerns the impact of the proposed Convention on multinational civil litigation in intellectual property disputes. Dreyfuss is working with two colleagues—Professor Jane Ginsburg (Columbia) and Professor François

Dessementet (Lausanne)—to elaborate a set of principles on procedural issues arising in multinational intellectual property disputes. The principles will address the issues of jurisdiction, recognition and enforcement of foreign judgments, and conflicts of laws. New technologies, especially the Internet and satellite transmissions, make it increasingly likely that intellectual property rights will be infringed simultaneously in several different territories and that courts in their respective jurisdictions will deliver inconsistent or incompatible judgments.

International Work on Death Penalty Issues

Bryan Stevenson, Associate Professor of Clinical Law and Executive Director of the Equal Justice Initiative of Alabama, has become increasingly involved in the international arena in recent years. Earlier in his career he campaigned against a referendum on the death penalty throughout Brazil at the request of the Center for the Study of Violence in São Paulo. He is currently advising the European Roma Rights Center on legal strategies to protect the Roma, who are frequently targeted for unfair and unjust treatment in Eastern Europe.

Stevenson has provided assistance on several Caribbean cases and aided in the development of effective legal strategies in capital cases for the region. He assisted in work leading to the carefully reasoned 2001 judgment of the Eastern Caribbean Court of Appeal that the mandatory imposition of the death penalty violated the constitution as inhumane and degrading punishment. Subsequent to that decision, in March of 2002, in the case of *The Queen v. Hughes*, the Privy Council declared the mandatory imposition of the death penalty in the Eastern Caribbean and Belize unconstitutional.

In 1999, Stevenson was invited by Boris Yeltsin and the Council of Europe to address members of the Russian parliament on the topic of capital punishment in the U.S. Yeltsin that day commuted the death sentences of all condemned prisoners in Russia. Stevenson is now working with European human rights organizations on the application of international law to the U.S. death penalty and on the intersection between European economic interests and human rights in the U.S.

Holocaust Litigation and Settlement

For the past six years, Professor Burt Neuborne has been engaged in international human rights litigation designed to provide relief to Holocaust victims. The first case was designed to force Swiss banks to account for funds deposited on the eve of the Holocaust by victims of Nazi persecution. The tragic reality of the Holocaust is that most of the depositors perished, along with the information needed to trace the accounts. After the war, the Swiss banks, embarrassed at having transferred many of the accounts to the Nazis, declined to cooperate with the families of victims in seeking to trace the Holocaust-related accounts.

After a period of intense litigation, the Swiss bank case was settled for \$1.25 billion. The court appointed Neuborne to serve as lead settlement counsel in the Swiss bank cases. The NYU Law connection also involves Melvyn I. Weiss ('59), a distinguished alumnus and trustee, who was the chief negotiator and one of the driving forces behind the litigation.

Neuborne was also involved in a second set of cases to gain compensation from German companies for persons forced to perform slave labor during World War II. Despite the blatantly unlawful nature of the slavery, German companies had refused to pay compensation to the workers, arguing that it was the responsibility of the German government. The German government declined responsibility, arguing that it was up to the companies to compensate their wartime workforce. After 50 years of neglect, more than 50 lawsuits were filed against German companies. Neuborne argued the principal cases. At the urging of President Bill Clinton and German Chancellor Gerhard Schroeder, the parties engaged in an unprecedented international negotiation, lasting 18 months and involving private lawyers, corporate executives, government officials, and victims' groups. The negotiations culminated in July 2000 in the establishment in Berlin of a 10 billion DM German Foundation—"Remembrance, Responsibility and the Future"—designed to pay compensation to Holocaust victims.

From a legal standpoint, the Swiss and German litigation was designed to close a hole in international law. Since the Nuremberg

Tribunal, it has been understood that persons who engage in genocide, war crimes, or other blatant violation of civilized norms can be brought to justice in a court of law. But almost no progress has been made in providing financial redress to the victims of private exploitation. Neuborne's Holocaust work is an effort to develop effective means of redress, based in unjust enrichment doctrine, that would force a private person who profited from the commission of crimes against humanity to hold the profits in trust for the victims.

Competition Law, Trade, and the Interests of Developing Countries

Professor Eleanor Fox began her career in the area of U.S. antitrust law, in which she continues as a highly respected scholar and policy adviser. She subsequently extended her work to comparative law: the competition law of the European Union, the competition laws of the emerging democracies after the fall of the Berlin wall, and now the competition laws of developing countries and the clashes between industrial policies to protect local cultures and the market forces unleashed by liberalized trade.

A second branch of her current work focuses on issues of globalization, jurisdictional conflicts, and internationalization of law, viewed especially through the window of competition policy. She writes and advises on the intersection of trade and competition in the context of the World Trade Organization and other possible systems for governance and coordination. She applies her work on the constitutional scheme of the European Union to the problems of global markets, national law, and national value preferences. Her writing implicates questions of sovereignty, the apportionment of competencies, and the problems and opportunities of a more porous state in a partially globalized order.

A representative sample of Fox's recent work includes her article, "Antitrust and Regulatory Federalism: Races Up, Down and Sideways," in *NYU Law Review* (2000); her essay, "Global Markets, National Law, and the Regulation of Business," in a volume on *Transnational Legal Process: Globalization and Power Disparities* (2002); and the second edition of the casebook she co-authored, *Cases and Materials on European Union Law* (2002). ■

International Law Events

Each year, NYU Law organizes and hosts events examining current international legal policy questions. These events bring together international legal scholars, advisers, and practitioners working in diverse fields to advance thinking on a wide range of international law topics. A few of the many recent NYU events are described below.

Regulatory Expropriations in International Law

A veritable who's who of academics, practitioners, and policymakers in the areas of environmental, land use, comparative, and international law gathered at NYU Law to debate how far international trade and investment agreements should go in requiring legal protections for foreign investors that claim a host government's environmental or land use regulations diminish the value of their investments. This issue is a focal point in the broader debate over the tensions between liberalizing international trade and investment and maintaining domestic protection for the environment, public health, and labor.

The North American Free Trade Agreement (NAFTA) and a growing number of other bilateral and multilateral

investment agreements include provisions requiring host states to compensate foreign investors for any "expropriation" of their investments. These legal protections were originally developed to protect against outright nationalization of foreign investments, but the past decade has seen a growing number of international claims alleging that environmental or other government regulations violate the provisions. Perhaps the most dramatic example is a current claim by Canadian firm Methanex against the United States for nearly \$1 billion, arguing that California's recent phase-out of the gasoline additive MTBE requires compensation under NAFTA.

The conference was organized by Professor Vicki Been, an expert in land use law and U.S. "takings" jurisprudence, and NYU Hauser Global Law Professor Philippe Sands, an international law scholar and litigator. The event brought together experts on domestic environmental regulation and property, along with comparative and international law luminaries from Mexico, Canada, the U.S., South America, and Europe. Leading academics, government officials, legal advisers, arbitrators, and non-governmental organization representatives took part.

Conference panels considered, among other things, whether and what types of property protections should be included in international investment agreements, how the mechanisms for the resolution of investor-state disputes can be improved, and the ways in which international property

protections are likely to affect domestic environmental and social regulation in the future. The conference papers will be published in a forthcoming issue of the *NYU Environmental Law Journal*. This ongoing research will be of special relevance to the proposed Free Trade Agreement of the Americas (FTAA), as negotiators face the issue of whether and what kind of investor protections against host state regulation should be included, and what the likely effects on environmental and other regulations will be.

Foreign Ministry Legal Advisers Roundtable

Scholars and practitioners met at NYU for a roundtable on the role of the Foreign Ministry Legal Adviser, cosponsored by NYU Law and the British Institute of International and Comparative Law. The event was timed to coincide with the presence in New York City of many senior foreign ministry lawyers and officials and with the election of the 34 members of the U.N. International Law Commission (ILC) for the 2002-2006 quinquennium, which took place at the 56th session of the U.N. General Assembly.

The first of what Professor Benedict Kingsbury, organizer of the event, hopes will be regular meetings, focused on three topics. Sir Franklin Berman, former Legal Adviser to the United Kingdom Foreign and Commonwealth Office, spoke on managing the legal adviser's simultaneous roles as civil servant, with a duty to government ministers; as a member of a legal profession, with ethical obligations; and as a litigator, with duties to the Court. Drawing on their personal experiences, the attendees explained how state practice differs in the use of legal advisers, with several speakers emphasizing the complexities of assuring cooperation between the office of the legal adviser and other government departments.

NYU Hauser Global Law Professor Richard Goldstone, a judge on South Africa's Constitutional Court, spoke about the vital role of personal contact with government legal advisers during his foundational service as the first Prosecutor on the International Criminal Tribunal for former Yugoslavia, during which obtaining rapid governmental support was on several occasions crucial to the Tribunal in obtaining evidence and custody of indictees.



(l-r): Regulatory Expropriations conference participants Hugo Perezcano, General Counsel for International Trade Negotiations, Secretariat of the Economy, Mexico; Lori Wallach, Director, Public Citizen's Global Trade Watch; Darryl Lew, Hunton & Williams; and NYU Law Professor Mattias Kumm

Dr. Campbell McLachlan, of the British Branch of the International Law Association, spoke on "Managing Litigation." He emphasized the legal adviser's strategic role in coordinating the various actors involved in a case as well as in marshaling the evidence in increasingly fact-sensitive international litigation. The discussion included debate on whether a genuine international bar is emerging and whether this is desirable.

The third and final session, titled "Crisis Management," was headed by Pemmaraju Sreenivasa Rao, the Legal Adviser in the Ministry of External Affairs, India. Rao offered practical advice on how to cope with the daily challenges of serving as a government legal adviser, including how to tackle the crisis situations that inevitably emerge. The attendees were sensitive to the need to balance the pressures imposed on legal advisers by political exigencies with the need to evaluate a situation and formulate a sound legal analysis.

Roundtable on U.S. Approaches to Multilateral Treaties

The Bush Administration's abrupt rejection of the Kyoto Protocol on control of fossil fuel emissions causing climate change, without consulting the other negotiating states or offering any alternative policy, is emblematic of a United States reluctance to participate in major multilateral treaties that is causing increasing concern abroad. The U.S. remains outside the Biodiversity Convention, the Basel Convention on export of hazardous wastes, the Landmines Convention, the Geneva Protocols on the laws of war, the Comprehensive Test Ban Treaty, the International Criminal Court, and several significant human rights treaties. On the other hand, the U.S. has been an active proponent of the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA), U.S. leadership has been important in the Whaling Convention and other environmental treaties, the U.S. provides substantial support to the International Criminal Tribunal for former Yugoslavia and other enforcement bodies, and the U.S. follows policies that support the broad thrust of several treaties to which it is not party.



(l-r): Professor Benedict Kingsbury, Sir Franklin Berman, Justice Richard Goldstone, and Dr. Campbell McLachlan at the roundtable on the role of the Foreign Ministry Legal Adviser

Despite their importance, the complex phenomena of U.S. attitudes to multilateral treaties have not been satisfactorily described, explained, or evaluated. As an initial exploration of a project to investigate these issues in greater detail, NYU Professors David Golove, Benedict Kingsbury, and Mattias Kumm, together with Nico Krisch, a Visiting Fellow at the Law School's Center for International Studies, convened a day-long roundtable with members of NYU's permanent and global faculty as well as colleagues from several New York law schools, the European University Institute, the Universities of Bonn and Munich, Duke University, the U.S. Justice Department, and other institutions.

One session of the roundtable sought to explore the causes for U.S. reluctance to such treaties. In a discussion chaired by Professor Kingsbury and introduced by Jonathan Wiener from Duke Law School, the group considered five factors that might help explain U.S. attitudes. First, the U.S. as a single superpower can afford to stay outside some agreements that might constrain its freedom of action—but doubts arise about this as a decisive explanation because the U.S. has been reluctant to enter constraining agreements at times in its history when it was not the leading power. Second, the U.S. domestic ideology of popular sovereignty may be so strong as to raise major concerns about any transfer of significant powers to an extra-national body. If this is so, current international concerns about U.S.

attitudes may reflect not a change in U.S. behavior but a change in the international system, with more agreements with important governance implications than existed hitherto. Third, U.S. constitutional structure and political understandings, including the minority veto rule under which the approval of two thirds of the Senate is thought to be required for certain treaties, provide a large number of opportunities for special interest groups to intervene to derail a proposed treaty. Fourth, U.S. governmental processes and public culture may be more legalistic than in some other countries—treaties are scrutinized with great intensity by phalanxes of lawyers from numerous government agencies whose concerns on a small detail or a conceivable but improbable interpretation may cause the government not to move forward. European governments in the EU may be more willing to trust to good sense and flexibility to work out such issues once a treaty is in force. But egregious U.S. non-compliance, with regard to consular access notifications to foreign defendants in U.S. capital cases, makes some skeptical about the avowed legalism of the Washington bureaucracy. Fifth, the U.S. on some issues holds fundamentally different positions to those embraced by international institutions, as with U.S. insistence on the death penalty, or U.S. insistence on full use of market mechanisms and tradable emissions permits in the Kyoto Protocol negotiations.

Student-Organized Symposia and Conferences

Taking advantage of NYU's reputation and New York City location, and the exceptional interest in international law topics within the School, different student groups organize a multitude of conferences and presentations at the Law School on topics related to international law, in addition to public service events and student trips.

Prostitution, Trafficking, and the Global Sex Trade in Women

Two student groups, Law Women and the International Law Society, held a symposium called Prostitution, Trafficking, and the Global Sex Trade in Women. Four panels addressed the nature, definition, criminalization, and effects of the global sex trade. Participants included Hauser Global Law faculty member Radhika Coomaraswamy, United Nations Special Rapporteur on Violence Against Women; Janice Raymond, co-executive director of the Coalition Against Trafficking in Women (CATW); Pamela Shifman, executive director of Equality Now; Ann Jordan, director of the Initiative Against Trafficking in Persons at the International Human Rights Law Group; Laura Lederer, director of The Protection Project at Johns Hopkins University; Dorchen Leidholdt, co-executive director of CATW; Vednita Carter, executive director of Breaking Free; and Ruchira Gupta, project officer at the United Nations Children's Fund (UNICEF).

JILP Symposia

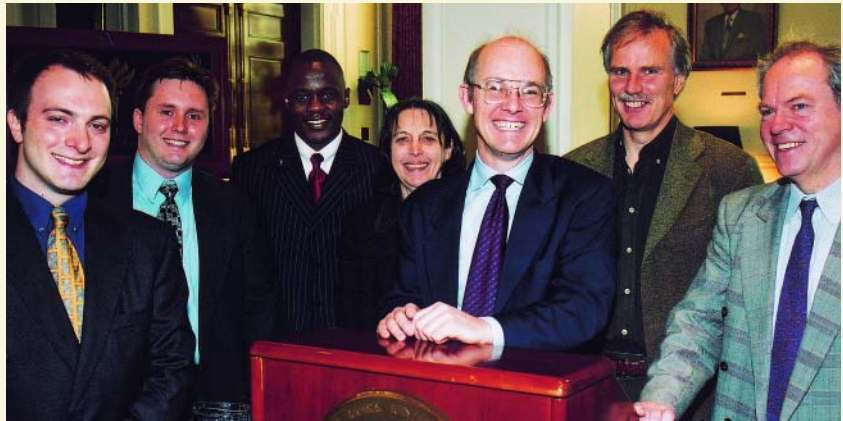
Founded in 1968 by a group of students including Carol Bellamy, the current head of the United Nations Children's Fund (UNICEF), the student-edited *Journal of International Law and Politics* (JILP) features articles on diverse topics in both public and private international law by leading scholars and practitioners, as well as student notes, case comments, and book annotations. Since 1996, students of JILP have been working on the major project of developing and publishing the *International Citation Manual* (ICM). The ICM will serve as the international version of the *Bluebook*, detailing the citation styles of international organizations and countries throughout the world. Students each year work with faculty

The Prospective Role of Economic and Social Human Rights in the Law of International Trade Liberalization and Economic Integration

In 2002, the *Journal of International Law and Politics* (JILP) hosted a panel discussion on "The Prospective Role of Economic and Social Human Rights in the Law of International Trade Liberalization and Economic Integration." Professor Benedict Kingsbury moderated the panel, which included NYU Law Professors Philip Alston, Eleanor Fox, Global Visiting Professor András Sajo, and University of Nairobi Law Professor J.M. Migai Akech.

Professor Fox focused on the improvements in social and economic equity that would result from a fairer global trading system, in particular by rich countries lifting the very costly barriers they have set against imports of textiles, apparel, agricultural products, and other developing country exports. Professor Akech, who is from Kenya, argued for more democratic structures of global governance that would reduce the dominance of international institutions, such as the WTO, by rich countries. He urged an approach to international trade law that focuses on the goal

of promoting development, rather than neo-liberal efficiency maximization. Professor Alston sought to counter the skepticism Professor Fox had expressed about the juridical value of proclaiming economic and social rights, arguing that using human rights mechanisms is more likely to achieve results for the worst off people than are negotiations at the WTO. Professor Sajo, a prominent Hungarian human rights lawyer, explained why he believed that the involvement of Hungarian courts in seeking to uphold economic and social rights through judicial decision had unjustifiably derailed and distorted genuine welfare reform that was needed in Hungary. However he endorsed the careful approach of the South African Constitutional Court in the Grootboom case (2000), holding that the right to housing required government agencies to design adequate programs for housing construction and for emergency accommodation, but that the right did not and could not generally entitle people to receive housing immediately.



JILP editors Blair Greber-Raines ('02) and Ryan Candee ('02) with Professors Akech, Fox, Kingsbury, Alston, and Sajo

in designing and organizing a symposium on a topic chosen by the JILP Board. Recent JILP symposia include The Prospective Role of Economic and Social Human Rights in the Law of International Trade Liberalization and Economic Integration (2002); The Effects of Globalization on Small States (2000); Celebrating 20 Years: The Past and Promise of the 1980 Hague Convention on the Civil Aspects of International Child

Abduction (2000); and The Proliferation of International Tribunals: Piecing Together the Puzzle (1999). The 2003 JILP Symposium will deal with "Oil and International Law: The Geopolitical Implications of Petroleum Corporations," including issues of corporate responsibility, human rights, environmental management, territorial and maritime boundaries, and relations between international law and geopolitics.

Celebrating 20 Years: The Past and Promise of the 1980 Hague Convention on Civil Aspects of International Child Abduction

In 2001, *JILP* published an excellent symposium on the international aspects of family law and the use of national organizations and multinational agreements to solve problems regarding the determination of the proper forum for child custody adjudication. Contributors included Karin Wolfe, *JILP* Senior Symposium Editor; Adair Dyer, Former Deputy-Secretary at The Hague Conference on Private International Law; William Duncan, First Secretary of The Hague Conference on Private International Law and Professor of Law and Jurisprudence at Trinity College; Jeffrey Kovar, Assistant Legal Adviser for Private International Law, and Peter Pfund, Special Adviser for Private International law, both of the U.S. Department of State.

The Proliferation of International Tribunals: Piecing Together the Puzzle

JILP earlier published a very influential symposium on The Proliferation of International Tribunals: Piecing Together the Puzzle. This symposium addressed important questions about the implications of the proliferation in recent decades of international courts and tribunals, examining resulting synergies and indeterminacy in the international legal system and changes in relationships between international actors, and discussing normative responses to these altered dynamics. Contributors to the volume included Georges Abi-Saab (Graduate School of International Studies, Geneva and NYU Hauser Global Law School faculty member), "Fragmentation or Unification: Some Concluding Remarks;" Eyal Benvenisti (Tel Aviv), "Margin of Appreciation, Consensus, and Universal Standards;" Bartram S. Brown (Chicago-Kent), "U.S. Objections to the Statute of the International Criminal Court: A Brief Response;" Jonathan I. Charney (Vanderbilt), "The Impact on the International Legal System of the Growth of International Courts and Tribunals;" the late Gennady M. Danilenko (Wayne State), "The Economic Court of the Commonwealth of Independent States;" Pierre-Marie Dupuy (Paris), "The Danger of Fragmentation or Unification of the International Legal System and the International Court of Justice;" John H. Jackson (Georgetown), "Fragmentation or

Unification Among International Institutions: The World Trade Organization;" Professor Benedict Kingsbury (NYU), "The Proliferation of International Courts and Tribunals: Is it a Systemic Problem?;" Ernst-Ulrich Petersmann (European University Institute), "Constitutionalism and International Adjudication: How to Constitutionalize the U.N. Dispute Settlement System?;" Monica Pinto (Buenos Aires), "Fragmentation or Unification Among International Institutions: Human Rights Tribunals;" Cesare P.R. Romano, "The Proliferation of International

Judicial Bodies: The Pieces of the Puzzle;" and Judge Tullio Treves (Milan), "Conflicts Between the International Tribunal for the Law of the Sea and the International Court of Justice." This symposium was part of an ongoing research collaboration between the Law School and the NYU-London Project on International Courts and Tribunals. This collaboration resulted recently in a major conference on the independence of the international judiciary, held at NYU's Villa La Pietra in Florence, Italy, in June 2002. ■

Internships, Clerkships, and Fieldwork

Public Interest Internships in 2003

The Public Interest Law Center continues to send record numbers of students overseas each year through the Public Interest Committee (PIC) program, which funds students to do work of their choosing at a public interest organization abroad. In addition to this flexible funding program, NYU Law continues to develop more specialized programs in which ongoing relationships with premier organizations are established. These include a new relationship with the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, as well as Professor Benedict Kingsbury's seven-year-old program with the U.N. International Law Commission in Geneva. NYU Law works also with other organizations such as the Office of the U.N. High Commissioner for Refugees in Geneva; the International Federation of Women Lawyers in Nairobi, Kenya; and the Center for Justice and International Law, which has numerous offices in Latin America.

Arusha Rwanda Tribunal

In the Summer of 2002, four NYU Law students interned with the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania. The interns were: Alexsa Alonzo ('03), David Gray ('03), Rasmus Kieffer-Kristensen (LL.M. '02), and Roy Schondorf (J.S.D. '04).

This is the second summer that NYU Law students have worked at the Tribunal,

but the first time that they have worked directly for the ICTR in the Office of the Prosecutor and in Chambers. In Summer 2001, Claudia Flores ('02) and Muriel Iseli (LL.M. '01) worked at the ICTR offices at the International Process and Justice Project (IPJP). The IPJP, led by Trinity Professor Rosemary Byrne, seeks to practically assist in the application of the hybrid evidentiary and procedural rules developed specifically for the international criminal tribunals. The IPJP collects and analyzes data from the ICTR and ICTY (International Criminal Tribunal for the former Yugoslavia) courtrooms and periodically updates the Justices on their findings, suggesting ways to improve the integration of common law and civil law approaches. In Summer 2002, NYU Law sent another intern, Amelie Trahant ('04), to work with Professor Byrne in Dublin.

International Law Commission Internships

One of NYU Law's longstanding international internship programs funds several internships each summer with the United Nations International Law Commission (ILC). The ILC is the legal codification arm of the U.N., and meets every summer in Geneva to consider proposals for treaties, declarations of principle, and other codifications of norms previously only the subject of customary international law. Members of the Commission are prominent experts in public international law and are elected in their individual capacities.

Internship recipients are selected by a Committee composed of former ILC interns

and chaired by Professor Benedict Kingsbury. Students work with individual Commissioners, not as U.N. interns. NYU ILC Scholarship recipients in Summer 2002, and the ILC Members with whom they worked, were: Robert Dufresne, J.S.D. candidate (Alain Pellet, France); Ben Grimes '03 (Robert Rosenstock, U.S.); Gita Kothari, LL.M. '02 (Martti Koskenniemi, Finland); Elina Kreditor '04 (John Dugard, South Africa); Hiroko Nakayama, LL.M. '02 (Chusei Yamada, Japan); Jared Wessel '04 (Bruno Simma, Germany); Demian West '04 (Enrique Candioti, Argentina); and Inha Yoon, LL.M. '02 (Hanqin Xue, PRC).

A Student Perspective

Margaret Katri Lewis ('03)

When I was selecting a law school, NYU's staunch commitment to the Hauser Global Law School Program was a key consideration. Simply put, my purpose for going to law school was not to be a cloistered law student, rather to become an international lawyer. International issues have been a focus of my academic and professional career, with a particular emphasis on China.

Despite my past focus on Asia, I have found myself increasingly interested in broader international issues and, as part of this trend, I spent last summer at the U.N. International Law Commission (ILC) where I worked as an intern for Bruno Simma. The experience gave me a unique look into the formulation of international law. In particular, I had the opportunity to observe the daily meetings and watch as the commissioners enthusiastically

debated various topics. I remember vividly the moment that the commissioners completed the complicated process of adopting the articles on state responsibility after a half-century of work.

My work at the ILC led me to write my Note on the international law aspects of the April 1, 2001, collision between a Chinese and an American airplane over the South China Sea. The incident, which had occurred only a month before I went to Geneva, presents a fascinating example of the law of state responsibility. The Note is scheduled to be published in the November 2002 issue of the *NYU Law Review*.

Office of the U.N. High Commissioner for Refugees Internships

An internship with the Office of the U.N. High Commissioner for Refugees (UNHCR) is offered to NYU Law students for summer work. The UNHCR's mission is to protect and assist refugees in all parts of the world. It handles matters related to international protection and repatriation, often amidst civil strife, natural catastrophes, or economic collapse. The efforts of UNHCR have become an integral part of U.N. humanitarian and peace-building operations in the former Yugoslavia, Sierra Leone, East Timor, and Afghanistan, for example.

Applicants are selected by a Committee composed mainly of former UNHCR and ILC interns and chaired by Professor Benedict Kingsbury. Since NYU's UNHCR internship program began in 1998, the participants have been: Alice Palmer (Australia,

LL.M. '98), now an international environmental lawyer with the Foundation for International Environmental Law and Development in London; Nina Schou (U.S., '00), now a lawyer in the U.S. State Department; Ardita Abdiu (Albania, LL.M. '99), who has gone on to work in human rights and war crimes investigations in the Balkans; Kate Aschenbrenner (U.S., '02) currently doing a judicial clerkship, intending to specialize in immigration and refugee law; Maya Steinitz (Israel, LL.M. '00), currently a J.S.D. student at NYU Law; and Anna Roberts (U.K., '03), who in 2001-2002 held a Center for International Studies Fellowship and is a member of the *NYU Journal of International Law and Politics*.

The intern in 2002 was Nicholas Arons (U.S., '04). During his undergraduate studies in Latin American Studies and International Studies at Yale (he graduated in 1998), Arons wrote a thesis based on extensive interviews with Guatemalan families returning from refuge abroad after the Peace Agreements. Subsequently he held a Fulbright Fellowship to work on the politics of drought in northeast Brazil. Fluent in Spanish and Portuguese, before Law School he worked as a volunteer in a non-governmental organization assisting Guatemalan asylum-seekers in the U.S. At the UNHCR he interned in the Department of International Protection, liaising for UNHCR with other U.N. bodies on issues of human rights violations and human rights lawmaking.

A Student Perspective

Kate Aschenbrenner ('02)

Working at the Office of the U.N. High Commissioner for Refugees the summer after my first year of law school was an ideal way to develop my interest in and knowledge about the situation of refugees. I worked under the supervision of Carol Batchelor, the Senior Legal Officer on Statelessness. UNHCR's active involvement with the issue of statelessness dates only from 1995-1996, when UNHCR's Executive Committee and the General Assembly, in recognition of the part that statelessness could play in population displacements and potential refugee situations, officially expanded UNHCR's responsibilities in this area. At UNHCR, I researched questions of statelessness and a woman's right to a nationality. Nationality laws frequently



(l-r): NYU Law student Muriel Iseli (LL.M. '01) interned at the International Criminal Tribunal for Rwanda; Simon Ollerson (LL.M. '01) interned at the U.N. International Law Commission; and Devika Hovell (LL.M. '01) served as a clerk at the International Court of Justice. They represented NYU in the Rousseau Moot Court Competition (in French).

discriminate against women on their face and in practice, and this discrimination can and often does result in statelessness and numerous violations of the human rights of women. I was able to construct a legal framework, based on the Statelessness Conventions and the provisions of various human rights treaties for the protection of women from the denial of their right to a nationality. I also illustrated the problems that women continue to face as a result of discrimination in nationality laws, using court cases at the international, regional, and national levels. The resulting paper is being used in training sessions on statelessness conducted for government officials and UNHCR staff.

My NYU "A paper" analyzed the use of customary international law in U.S. court cases involving the indefinite detention of foreigners in the United States. I was able to expand on this topic by researching the international legal framework governing the detention of asylum seekers while working as a Furman intern at the Lawyers Committee for Human Rights after my second year of law school. This research took place in conjunction with a project examining comparative detention practices around the world in order to provide a basis for critiquing the detention of asylum seekers.

In 2003 I am clerking for Judge Weinstein on the District Court for the Eastern District of New York. Following my clerkship, I plan to continue working for immigrants and asylum seekers in a setting that both addresses the problems facing individuals and searches for solutions to those problems in law and policy at international, national, and local levels.

Hague Conference on Private International Law Internships

Each year, NYU funds one or two students to work over the summer as interns with The Hague Conference on Private International Law. The internship program began as a student initiative, building on the work of Professors Linda Silberman and Andreas Lowenfeld with The Hague Conference. In the summer of 2000, Kim Seelinger ('02) and Anna-Lisa Corrales ('02) interned at The Hague Conference. Seelinger returned as an intern in Summer 2001 along with Debra Cole ('03). The Summer of 2002 interns were George Karamanos ('04) and Marguerite Walter ('04).



(l-r): Anna-Lisa Corrales ('02) and Kim Seelinger ('02)

A Student Perspective

Kim Seelinger ('02) and Anna-Lisa Corrales ('02)

We must admit—we lucked out with our first summer job. The opportunity came through a mix of our own efforts and resources of the Law School. Our Civil Procedure Professor, Linda Silberman, had encouraged our class to attend a Law School symposium featuring experts on The Hague Convention on the Civil Aspects of International Child Abduction. We realized through the symposium that there was important work being done and the Convention and the Permanent Bureau of The Hague Conference on Private International Law needed additional funding and staff to support the treaty's maintenance. Afterward, we approached panelist William Duncan, First Secretary at the Permanent Bureau. Armed with our Public Interest Committee summer internship grants, we arranged to send him our résumés with recommendations from Professor Silberman. Three weeks later, we booked our tickets to the Netherlands. We were headed to the Permanent Bureau in The Hague to work in the area of the Child Abduction Convention, under the supervision of the First Secretary himself.

With the guidance of our immediate supervisor, the First Secretary's legal assistant, we helped develop the new International Parental Child Abduction on-line database, Incadat (www.incadat.com). This database serves as a tool for judges, lawyers, parents, and scholars seeking information about cases adjudicated around the world under the Child Abduction Convention.

We took on a variety of other projects, including research on the enforcement of foreign family law judgments in specific countries. By the summer's end, we had helped Professor Duncan draft ad hoc Convention Status Reports, edited more than 300 case summaries for the database, attended special meetings at the Peace Palace, and authored a judges' newsletter in French and English that was sent to

involved judges worldwide and distributed at the U.S. State Department. Professor Duncan became a phenomenal mentor and friend in the world of high-profile international law we had entered.

International Court of Justice Clerkships

The International Court of Justice (ICJ) and NYU Law established the pioneering clerkship program together in 1999. Funded by gifts to the Law School, the clerkships are available to graduating students and recent graduates who perform research and other tasks to assist the ICJ.

In 2002 an NYU committee once again screened the applications and forwarded six to the ICJ. Not all of those selected by the Court were able to accept the offer. Those who will serve at the World Court in 2002-2003 are Judith Levine (LL.M. '00) and Anne Rubesame ('01).

For more information on ICJ clerkships, see page 109.

Other International Clerkships

In addition to the ICJ clerkship program, the Hauser Global Law School Program has sponsored students for clerkships at several other international courts and national constitutional courts. For more information, see page 109.

A Student Perspective

Margaret Satterthwaite ('99)

I decided to study law while serving as a human rights investigator for the Haitian National Truth and Justice Commission in 1995. A new understanding that emerged from my work for the Truth Commission was the realization that the human rights movement was not only about risk and commitment. To translate commitment and risk into concrete law and policy, I knew I would have to transform myself into a lawyer who was as capable and precise as my international colleagues.

At NYU, I was able to effect this transformation without sacrificing my sense of purpose. The school funded a large part of my studies through the Root-Tilden-Kern Program and enabled me to work closely with Professor Thomas Franck as a Junior Fellow at the Center for International Studies, and

with Professor Theodor Meron as a Boudin Fellow in human rights. These able teachers, as well as Professors Benedict Kingsbury and Donna Sullivan, taught me the mechanics, context, and substance of public international law and demonstrated the importance of insisting on the union of ethics and the law.

In May 2002, I completed my term as an NYU-sponsored law clerk at the International Court of Justice (ICJ). As one of five law clerks to the 15 judges of the ICJ, I worked with judges and members of the Registry staff, providing research on subjects relevant to cases before the Court. During my clerkship, the Court handed down a judgment in the case of the Arrest Warrant of April 11, 2000, in which the Democratic Republic of Congo sought—and achieved—the cancellation of an arrest warrant for crimes against humanity issued against its then-sitting Foreign Minister by a judge in Belgium. This case, ultimately decided on the issue of immunity, also involved universal jurisdiction and international criminal law. Working for the principal judicial organ of the United Nations has given me immense insight into the ways in which public international law is interpreted and applied.

Seven years after my Truth Commission-inspired realization, I am looking forward to uniting my scholarly pursuits with my human rights endeavors. Thanks to NYU, I will undertake this task with new skills, insight, and knowledge.

The Indigenous Legal Studies Group

The Hauser Global Law School funded a group of six students from the Indigenous Legal Studies Group (ILSG), to travel to Peru to explore the many issues confronted by indigenous populations. The academically diverse ILSG group included a first-year student, three second-year students, an LL.M. student, and a J.S.D. student from Brazil. With the help of Luis Delgado, President of the Peruvian non-governmental organization Yachay Wasi, the group spoke to Quechua-speaking leaders of small towns, met with agrarian reform experts, and interacted with directors of organizations engaged in cutting-edge efforts to bring justice and civil rights to their communities through the integration of international legal norms, Peruvian law, and inter-American partnerships.



Students in the Indigenous Legal Studies Group traveled to Peru to explore the many issues confronted by indigenous populations. They are pictured here with Luis Delgado, President of the Peruvian non-governmental organization Yachay Wasi.

Through its continuing relationship with Yachay Wasi, and cooperation with other non-governmental organizations, ILSG plans to set up a system of information exchange and provide information to communities in the Cusco Region of Peru on the political, economic, and social opportunities available.

On its return to NYU, ILSG helped organize a panel discussion entitled Cultural Heritage and Sacred Sites: World Heritage from an Indigenous Perspective. The event was cosponsored by NYU Law and the United Nations NGO Committee on the International Decade of the World's Indigenous Peoples and complemented the inaugural meeting of the U.N. Permanent Forum on Indigenous Issues in New York. Sarah Titchen of the World Heritage Centre explained UNESCO's role in implementing conventions designed to protect world heritage sites and emphasized the role of indigenous experts in identifying and protecting sacred sites through the creation of WHIPCOE, a panel of indigenous experts assisting the World Heritage Commission

in site identification. Several indigenous experts spoke in a lively discussion facilitated by NYU Law Adjunct Professor Russel Barsh.

J.S.D. Candidates in International Law

NYU's J.S.D. program attracts outstanding candidates from around the world. Many choose to focus their doctorates on elements of international law. Current J.S.D. candidates and their topics include Marcia Bernardes (Brazil), Habermasian democracy and North-South justice; Robert Dufresne (Canada), distributive justice in international law; Piibe Joge (Estonia), restitution for the wrongs of past regimes; Vivek Kanwar (U.S.), liberalism and its critiques in international law; Eun-Yong Park (South Korea), the international law of corruption; Roy Schondorf (Israel), defenses in international criminal law; and Maya Steinitz (Israel), the philosophy of international law. ■



Hauser Global Law School Program

THANKS TO GENEROUS GIFTS FROM TWO NYU LAW ALUMNI, Rita ('59) and Gustave (LL.M. '57) Hauser, the Hauser Global Law School Program has blossomed into a major component of the Law School, widening the scope of legal education for all NYU Law students. The Program's international focus gives it a distinct edge over other law schools, with full-time faculty members and their Global Law Faculty counterparts bringing their expertise to bear on issues of global importance. NYU Law students benefit greatly from this exchange of ideas which gives rise to important insights into legal issues of significance around the globe. This year, Professor Joseph Weiler became Director of the Program.

NYU Names Global Law Program for Rita and Gustave Hauser

NYU Law hosted a celebration to rename the Global Law School Program as the Hauser Global Law School Program in honor of Rita ('59) and Gustave (LL.M. '57) Hauser, who recently gave \$5 million to the program—beyond \$6 million they previously gave.



From left to right: Gustave Hauser, Professor Norman Dorsen, Professor Anne-Marie Slaughter, Professor Ronald Dworkin, Dr. Rita Hauser, Dean Anthony Kronman, and Professor Ratna Kapur

Rita and Gustave Hausers' connection with the Program began in 1993, when Rita and then-Dean John Sexton originally discussed the idea that eventually emerged as the global program. The Hausers' initial generous gift launched the Hauser Scholars Program, which brings some of the finest graduate students from around the world to the Law School.

Gustave Hauser, chairman and CEO of Hauser Communications, Inc., is a pioneer of the modern cable television industry, responsible for developing such innovations as the MTV and Nickelodeon television networks, pay-per-view, and other advanced interactive services.

Rita Hauser, whose career has been distinguished by a commitment to public service, served as U.S. representative to the United Nations Commission for Human Rights in the 1970s. She practiced law as a senior partner of a large New York firm,

specializing in international legal matters, and is now counsel to the firm. She is also president of the Hauser Foundation, the couple's philanthropic organization, and the chair of the International Peace Academy, which promotes multinational peacekeeping functions. Hauser was recently appointed to the President's Foreign Intelligence Advisory Board.

RENAMING CEREMONY PANEL

Two events marked the renaming of the program. The first was a panel discussion, "Globalization in Legal Education in the 21st Century." The participants included NYU Law Professor Ronald Dworkin; Rita Hauser; Global Visiting Professor Ratna Kapur; Yale Law School Dean Anthony Kronman; and Harvard Law Professor Anne-Marie Slaughter. Professor Norman Dorsen, chair of the Hauser Global Law School Program, served as moderator.

Dorsen opened the discussion by recalling that when he and Sexton first talked about the idea of a global program, they were not sure what it might become. In the end, Dorsen said, "It's become something much more important than we could have imagined." Dorsen also acknowledged Justice Sandra Day O'Connor for her support of the Program in its early years. Her participation in one of the first panel discussions hosted by the Global Law School Program, and her subsequent citing of decisions by foreign tribunals, helped to solidify the premises of the Program.

Professor Slaughter stressed that "in the wake of September 11, global education is even more important than ever." Slaughter emphasized that "foreign students and U.S. students must be studying side by side on an equal footing in genuinely mixed classes...they must share every aspect of student life." She spoke about preparing lawyers for practice in a global legal environment as a very important aspect of bringing lawyers back into the role of statesmen and stateswomen.

Dean Kronman thanked Sexton, Dorsen, and the Hausers for creating the Global Law School Program. "No other school has such a program," he said. Kronman also told the audience that the global marketplace that has developed since World War II calls for cooperation. "Now we are all linked and there are repercussions to everything,—including the spread of democracy."

Professor Kapur claimed that a paradigm shift had occurred in law, which requires law graduates to be conversant with the international landscape. "We need lawyers who can service multinational corporations," she said. She also spoke about the "dark side" of globalization—the denigration of human rights and the limited role for women.

Professor Dworkin said that a successful integration of a global law perspective would involve a "change in the way we reason." For example, which methods should lawyers use when faced with a novel cross-border issue—who is legally responsible and which law should govern? "The challenge is to adopt an appropriate interpretative stance toward the old law," he said.

Hauser said she feels one of the best things about education is the discovery that there is more than one way to do something. Her inspiration is that "someone else will have a better idea." Hauser continued,

“You can’t teach students how to have an open mind, but you can show them the multitude of approaches and hope the lesson sticks.”

Dorsen closed the discussion by analogizing the future of global law to the place of American federal law at the end of the 19th century, when state law governed the overwhelming majority of disputes. But just as federal law came into its own, “so too will the law of the globe, although in different and unpredictable ways.”

RENAMING CEREMONY DINNER

Professor Derek Bok, former president of Harvard University, spoke at the ceremony dinner on the subject “The University in the Global Economy.” He said that as the world becomes more connected, universities will play an increasingly important role in developing the global community—especially American universities, because they are wealthier, more flexible, and attract the largest population of leading international students. The international legal community, in the U.S. and elsewhere,

is a great resource through which we can try to understand and solve some of the political, economic, and social issues facing the world. “More programs like this one will be important to achieving this goal,” Bok said.

Rita Hauser closed the day’s events, saying that every school or university has a responsibility to contribute to the global world. She singled out NYU Law’s Hauser Global Scholars for special praise: “They are our investment in a new generation of great global thinkers.” ■

The Turn to Scholarship: Joseph Weiler to Lead Hauser Global Law School

On June 1, 2002, Professor Joseph Weiler took over the direction of the Hauser Global Law School Program. Weiler, a world-renowned expert on international law and the European Union, sat down recently with NYU: The Law School Magazine to talk about his vision for the Program.

NYU Law: *You must have many plans for the Hauser Global Law School. Can you give us a glimpse of the most important?*

Weiler: “Plans” is too concrete a word at this stage. I have only recently stepped into the job, having just moved to NYU. So I can enjoy to the full the bliss of ignorance. Part of that bliss is the freedom to have dreams unencumbered yet by details such as funding, faculty governance, and other trivia we call reality.

NYU Law: *An agenda, perhaps?*

Weiler: That I have, and it is part of my dream. If I were to search for labels concerning my agenda for the Global Law School as it moves into its next phase, I would come up with two: in terms of emphasis, commitment of resources, and

overall orientation of the program I would say “The Turn to Scholarship.” In terms of its substantive intellectual content I would say “Global Law and Justice.”

NYU Law: *Nice slogans, but what do they mean in terms of the concrete policies of the Global Law School?*

Weiler: Fair enough. The two principal activities of the Global Law School in its first decade were the creation of the Global Faculty and the Hauser Scholar Program. Both have been a magnificent success.

First, then, the global faculty. Through the global faculty we have integrated into curriculum non-American teachers and courses covering a huge variety of subjects to a degree unparalleled by any of our peer schools. The success of this part of our pro-



Professor Joseph Weiler

gram has given us, justly, enhanced visibility and prestige both domestically and, yes, globally. I want to build on this success in several ways. The reputation of the Global Law School is sufficiently solid to allow us to seek to identify as potential members of the global faculty, not the stars of today, but those of tomorrow. Brilliant young academics whose initial work is very promising and suggests the potential of developing into major scholarship in future years. My thinking is that it would be hugely beneficial both to these younger scholars—and to us—to bring them into the program early in their careers when their scholarly sensibilities and approaches are still being formed and where their ability to profit from the NYU environment is greater than established scholars already set in their ways. I am also sure that their willingness and ability truly to identify

with us and to think of NYU Law as an integral part of the intellectual and institutional home would be greater.

In the same vein I would try so far as possible to cut down on the seven week visits by our global faculty members and keep that as an option only in exceptional circumstances, pushing for the semester-long visit as our default. Even more ambitiously, I would try to make arrangements to enable our global faculty to stay in residence for two semesters—one of which would be dedicated entirely to research. I want to try and change the perception that being a “global” is mostly about short teaching visits. It is, too, about longer term intellectual engagement and about one’s very scholarly agenda being impacted.

The Global Law School is not only, or even mostly, about “International” or “Globalization” with a capital I or G, but is a reflection of the internationalization and globalization of all dimensions of law, be they corporate or environmental.

NYU Law: *Is such engagement consistent with the structure of the program? As presently constructed, the Global Law School Program envisions some faculty coming for up to three visits and others, more uniquely, becoming “long-term globals” with a further four years. How does this fit with your agenda?*

Weiler: I am only beginning to form a view on this aspect of the program. My initial thoughts are simple enough: I hope to persuade the faculty to allow us to take more “risks” at the initial invitation stage—in a way that would broaden the intellectual breadth of the global faculty. This would reduce the huge investment in precious faculty time in screening candidates who might end up as global visitors for one or possibly two semesters. My inclination would be to shift the really heavy screening to the point at which a global visitor is recommended for the position of a long term global faculty member. More importantly, I would want to introduce the research agenda of the would-be long term global faculty as a crucial element in our selection. My thought is that a necessary (though not sufficient) condition

for any such long term appointment should be a scholarly project which, ideally, would be conducted with members of our permanent faculty so that the global faculty members would be understood not only as contributing to our educational mission, but also to our vocation and identity as a community of scholars.

NYU Law: *What, then, of the Hauser Scholar Program?*

Weiler: It is, of course, a magnificent program; Hausers are rightly considered as the Rhodes Scholars of legal education. We will soon be celebrating the 10th anniversary of the program and there will be a lot of young legal leaders on display. But the 10th anniversary is also a good

time for rethinking. I am toying, in particular, with one idea. To date, compared to our peer law schools in the U.S., there are fewer NYU alumni in teaching positions in overseas law faculties. This is an anomaly that requires our urgent attention. I think the Hauser Scholar Program can contribute substantially to efforts to redress this. Right now almost all Hauser Scholars are LL.M. candidates. Most will go on to successful and distinguished careers in the profession. A few will pursue academic careers. In the future, I would like to reserve half the Hauser resources for LL.M.s. But the other half, I would like to allocate to young scholars—S.J.D.s and even “post-docs.” One practical but hugely important difference would be the ability almost to double the annual number of Hausers. Since the non-LL.M. component would not need to pay tuition, we would be getting almost two-for-one, so to speak. The selection of these Hausers would be every bit as rigorous as is our practice for the LL.M.s. But, in addition to impeccable credentials, they would have a convincing research project and very concrete plans for an academic

career. The short-term goal of these new Hauser Scholars would not be an LL.M. degree but a first-class piece of scholarship. The long term prospect? Imagine if, after the second decade of the Hauser Scholar program, we could take pride in 50 to 100 law professors world-wide whose careers began as Hauser Scholars?

NYU Law: *You have spoken so far of the existing principal components of the Global Program. There must be more.*

Weiler: There is one other existing component of which the potential to date has not been fully valorized. I am thinking of our visiting researcher and visiting scholar programs. They are potentially a huge pool of scholarly talent. I do not think that we have successfully integrated this component into the Global Program, and more broadly, the NYU Law community. I am thinking of a major revamp in this field. Here are some examples (and don’t forget, the operative word is “dreams”): At the heart of NYU’s intellectual life are the Colloquia—unique fora bringing together faculty and students in the pursuit of core legal themes. I want to make available to each Colloquium the possibility of selecting each year two “Global Colloquia Fellows” from jurisdictions outside the U.S. whose research interests and expertise coincide with that of the Colloquium. They would become active participants in the Colloquium, interacting with students and faculty, presenting their own papers. Ideally, they would spend the semester before or after the Colloquium in residence, pursuing their own research under the guidance of the Colloquium faculty leader. The idea of Global Colloquia Fellows represents to me a perfect expression of the “Turn to Scholarship.” It also underscores the notion that the Global Law School is not only, or even mostly, about “International” or “Globalization” with a capital I or G, but is a reflection of the internationalization and globalization of all dimensions of law, be they corporate or environmental. It would also underscore a different model of selecting and interacting with our visiting researchers and visiting scholars—selected and invited with an eye on our own intellectual agenda and then integrated fully and harmoniously into the school’s academic life.

NYU Law: *Would that replace our current visiting researcher program?*

Weiler: No, no. I would not want to tie all visiting researchers and scholars to the Colloquia. After all, there are important themes that go beyond our Colloquia. I am thinking of creating an Annual Global Forum, selecting each year a theme of broad interest in the legal world—terrorism, money laundering, selection of judges to supreme courts in different countries, asylum—to name a few. The Global Law School would announce these themes at least two years ahead of time, with a view to encouraging applications from visiting researchers and scholars whose research interests coincide with these themes. One obvious objective of the forum would be to facilitate research and scholarship on themes we consider important. But an important ancillary objective would be to create a group of people with a common research interest, enhancing intellectual synergies, fostering long term friendships and, not least, producing critical mass of research—possibly resulting in a book and/or a series of articles where the whole is greater than the sum of the parts. I also have long term institutional hopes from both initiatives—that the fellows in these programs will not only network among themselves but for years to come will continue to see us, NYU Law, as an important milestone in their intellectual life and will become lifetime “honorary” alumni and part of the NYU family.

NYU Law: *In addition to “The Turn to Scholarship,” you also mentioned “Global Law and Justice.”*

Weiler: It would be odd, would it not, if the Global Law School did not have as one of its central pillars a commitment to the issue of Globalization? It would be equally odd if, during my tenure as Chair and Director of the Hauser Global Law School Program, it did not reflect, in one of its central pillars, my own intellectual agenda. I take globalization as a given and I believe that it has had, and will continue to have, many beneficial effects on rich societies and poor. But it is also afflicted with many problems which produce at times gross injustices. Indeed, if I had my way, I would rename what we are doing the Global Law and Justice Program. The internal implica-

tions of this commitment are obvious enough. Each year I will be leading a seminar which will pick up a theme which would fit under the Global Law and Justice umbrella. Next year, for example, the theme will be Global Governance and Democracy. Like a colloquium, I hope to involve students, visiting faculty, and fellows in the seminar. But the external “global” implications are even more exciting. The idea is to join with three Global Partners—academic institutions located in strategic regions in the world—initially I am thinking of Santiago, Chile for South America; Capetown or Johannesburg for Africa; and Macao, China for Asia. I envision two principal activities for each of our global partners. One activity would be a summer teaching program which would have at its core the new global legal disciplines—trade, international property, investment, etc.

NYU Law: *Another summer school to add to the zillions already out there?*

Weiler: No, because it would have some very unique features. Sure, one objective would be to provide legal proficiency in these “global” disciplines at the highest professional level. And sure, there are programs a plenty which aim to do just that. But, very often these courses not only teach proficiency but also, purposefully or inadvertently, indoctrinate their participants into a non-critical “global” and “free trade” mindset. In our commitment to Global Law and Justice we will craft our courses to provide, too, a critical outlook; to examine the dark side of the global moon as well as its bright side; to provide participants with the intellectual tools which would be empowering in both negotiation and applicative contexts. We would also look for a very special type of participant. We would want to have on the one hand, a group of mostly younger public officials—the people who, in their respective countries, both help set the policy and apply the legal disciplines. Alongside them we would hope to have young lawyers from the private sector with the profile that we would normally admit to our Public Interest Law program. In a way, we would be bringing together lawyers who would often find themselves on the opposite side of legal disputes. I think the interaction could be as informative as anything we would do in the

formal part of the program. There would be one further distinction from your normal summer school. We are hoping to experiment with a component of distance learning—create our groups early in the year and have the summer program be the culmination of an educational program that began months before on the Internet.

NYU Law: *You mentioned two principal activities for each global partner?*

Weiler: Yes, that was the teaching part. I also envision holding each year one major scholarly conference or workshop on topics to be developed with our partners around the theme of Global Law and Justice. In content these conferences or workshops would have a strong regional and local flavor. The global is often regional. It could be affordable medicine, it could be trade in textiles, it could be problems related to investment regimes—there is no shortage of topics.

NYU Law: *Dare I ask about cost?*

Weiler: Good ideas always find funding. That has been my experience with everything I have done so far.

NYU Law: *Anything a little less ambitious? Any “small” ideas?*

Weiler: Plenty—start writing.

Item: How is it that at the Global Law School, our first year students are unable to take an elective in international or any other “global” subject? (If you asked members of the incoming class each year, they would probably expect this.)

Item: If we are serious about the global imperative in legal education, should we not lead the way and have some global component as a requirement for graduation? (If you ask most of the incoming class, they would probably expect this too.)

Item: Should we think of a foreign language offering as part of our program? (Yes, it is true that English is the global language, but...)

NYU Law: *Professor Weiler, thank you.*

Weiler: Mille grazie. ■

Justice Ginsburg Joins Panel on Constitutional Adjudication

The Hauser Global Law School Program hosted a one-day conference in September titled “Decision-making Mechanisms of Constitutional Adjudication.” The panelists included United States Supreme Court Justice Ruth Bader Ginsburg, Justice Valerio Onida of the Italian Constitutional Court, and South African Constitutional Court Justice Sandile Ngcobo. Standing in for former German Constitutional Court Justice Dieter Grimm and former member of the French Conseil Constitutionnel Noelle Lenoir—who were unable to attend because of the terrorist attacks the week before—were Global Visiting Professors Matthias Herdegen and Pasquale Pasquino. Pasquino was also instrumental in organizing the event.

Following a warm welcome by NYU President-Designate John Sexton, Professor Norman Dorsen, who moderated the panel, introduced Justice Ruth Bader Ginsburg, recalling her early days at the American Civil Liberties Union where she did pioneering work on sex discrimination. Ginsburg then embarked on “Supreme Court 101.”

Ginsburg described in detail how cases are chosen, heard, and decided. When selecting cases, the justices look for “deep splits among the circuits that won’t correct themselves without intervention.” Explaining that the Court was not in the business of correcting errors by appellate courts, she joked that if this were the case, “we’d never get the work done.”

Before the start of the term, Ginsburg said the Court meets to review petitions for certiorari. While not all are discussed, she said, all are read. Justices sometimes dissent from decisions to deny cert, but these votes are ordinarily confidential. The record of Ginsburg’s dissents will be available when her papers are submitted to the Library of Congress.

Regarding legal briefs, Ginsburg advised lawyers, “If you want it to be read, write it short.” She observed that some lawyers

don’t like the constant interruptions that characterize oral argument before the Court: “They want to lecture.” But she told practitioners to invite the questions and to look at them as opportunities. “A judge can cue counsel as to loser arguments right off the bat,” she said. “And sometimes the judges are talking through the lawyer to judges with opposing views.”

At the decision-making and opinion-writing stage, Justice Ginsburg said the discussions are spirited but not protracted because Chief Justice William Rehnquist “likes to keep us moving.” Drafts are generated, circulated, and then result in “dear Ruth letters” from Justices who want to modify some portion of the draft. Ginsburg said that she usually tries to write by Justice Stephen Breyer’s credo: “Get it right and keep it tight.”

Ginsburg closed by reemphasizing the remarkable congeniality, friendship, and respect among the Court’s members—“given how sharp the differences are.”

Justice Valerio Onida of the Italian Constitutional Court spoke after a midday break, focusing on the opportunity for dissent in the American system, and the clarity those opinions often bring to de-



U.S. Supreme Court Justice Ruth Bader Ginsburg

velopments in the law. In the Italian system, the justice who has been selected to be the reporter on a case generally writes the decision. Onida said that Italians worry that judges simply rubber-stamp the draft opinions.

Global Visiting Professor Pasquale Pasquino commented on the French counterpart to a high court, the French Conseil Constitutionnel, which he described as a work in progress. The Conseil may hear only constitutional questions, and the reporter’s (opinion-writer’s) name is unknown. Pasquino said it sometimes was “very hard to understand the decisions of the Conseil” due to their depersonalized nature.

The audience next heard from Sandile Ngcobo, a South African Constitutional Court Justice. He recounted the history of the Court, which is a relatively new institution, and focused on the influence of dissents, whereby “the voice of the minority can become the voice of the majority.”

The conference’s final speaker was Global Visiting Professor Matthias Herdegen. He discussed the German Constitutional Court, where he said “rarely does a complaint make it from a panel to the full Court.” For this reason, justices jockey for the best cases over which to preside and there are no dissenting opinions. Professor Herdegen also remarked that the Court’s “modest” compensation has weakened its ability to attract the best judges. ■

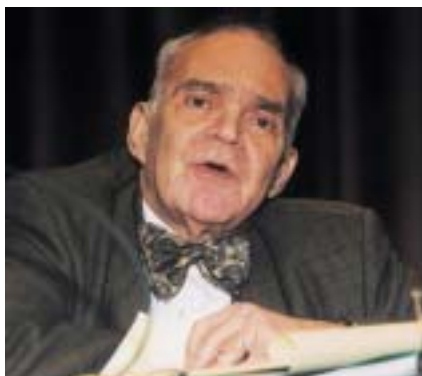
Recent Developments in International Litigation

The New York State Bar Association together with NYU Law's Office of Career Counseling and Placement presented a panel discussion, "Recent Developments in International Litigation." The event was sponsored by Weil Gotshal & Manges LLP and Curtis, Mallet-Prevost, Colt & Mosle LLP.

Thomas Pieper (LL.M. '00), an associate at Thacher Proffitt & Wood and chair of the New York State Bar Association's International Litigation Committee, began the program by defining international litigation as a catch-all phrase for any case in a foreign forum, with a foreign plaintiff, defendant, or witness, with discovery in a foreign country, where foreign law applies, or for which there will be foreign enforcement.

Panelists included NYU Law Professor Andreas Lowenfeld, delegate to the Hague Conference on Jurisdiction and Foreign Judgments. Lowenfeld filled in the audience on how badly the global judgments convention is going, pointing to three reasons: First, Europe votes as a bloc, complicating negotiation, and Europeans already have the Brussels and Lugano Convention to ensure something like "full faith and credit" given to judgments. Second, the proposed global convention does not have a final arbiter. Finally, the U.S. will not give up bases of jurisdiction the Europeans do not like, such as doing business general jurisdiction.

James Carter, a partner at Sullivan & Cromwell, spoke on international arbitration and identified trends toward increasing judicial review of arbitral tribunals.



NYU Law Professor Andreas Lowenfeld

Nina Nagler, an associate at Weil, Gotshal & Manges, illustrated the recent rediscovery and use of the U.S. Alien Tort Claims Act (1789), which provides a unique forum for aliens in human rights litigations. In 1980 the Second Circuit Court of Appeals recognized its original jurisdiction over a suit by the family of a Paraguayan torture victim against a Paraguayan police inspector. Requirements for jurisdiction under the Act are that the plaintiff be an alien and

that the allegation be in tort and concern a violation of a U.S. treaty or the law of nations, as in this case.

Joseph Pizzurro, a partner at Curtis, Mallet-Prevost, Colt & Mosle LLP, addressed the potential post-September 11 application of the Foreign Sovereign Immunities Act, another federal statute. The FSIA can provide jurisdiction over foreign states and entities separate from but majority-owned by the state, such as a state-owned oil company. If the foreign state is on the State Department's list of terrorist states, it can be subject to jurisdiction for acts of terrorism against U.S. citizens or for providing "substantial aid" for terrorist activity against U.S. citizens. ■

Former U.N. Assistant Secretary Discusses U.S. Foreign Policy in the Middle East

In an event cosponsored by the International Law Society and the Middle Eastern Students Alliance, Hans von Sponeck, the former United Nations Assistant Secretary General and U.N. Humanitarian Coordinator for Iraq, spoke on U.S. foreign policy toward Iraq.

A 36-year veteran of the U.N., von Sponeck worked in Ghana, Turkey, Botswana, Pakistan, and India before becoming Director of European Affairs. He became the U.N. Humanitarian Coordinator for Iraq in October 1998, with responsibility for directing all U.N. operations in the country, including managing the distribution of goods under the Oil-for-Food program and verifying Iraqi compliance with the program.

Frustration with the economic sanctions against Iraq led von Sponeck to resign from the U.N. in 2000. Describing the sanctions as "malicious and punitive," he said they simply punish Iraq, rather than address the needs of the Iraqi people. In addition, they fail to achieve their purported goal—to topple the regime of Saddam Hussein.

Explaining the current system, von Sponeck said that although there is a theoretical free flow of civilian goods, the U.N. bars foreign direct investment in

Iraq, and Iraq is prevented from managing its finances or controlling the proceeds from its sale of oil. Oil proceeds go to the U.N. Compensation Commission to pay outside claims against Iraq, and then back to Iraq—leaving about \$14 billion per year (\$113 per capita) for the people of Iraq. With no control over its resources, Iraq's economy can never evolve to a functional level. Von Sponeck acknowledged that Saddam Hussein may waste part of the proceeds, yet "a minimal civil infrastructure" will never develop under the current policy, which prolongs the Iraqi people's suffering.

Von Sponeck was critical of the American government's disdain for international law and its application to the U.N. sanctions. He also complained about the sloppily worded resolutions that the U.N. has adopted in reference to Iraq.

Looking to the future, von Sponeck sketched the three levels of dialogue necessary to ensure a lasting end to the humanitarian crisis gripping Iraq: between the U.N. and the international community; an intra-Arab dialogue without Western interference; and an intra-Iraqi dialogue among Shiites, Sunnis, Kurds, and others. ■

Constituting Social Justice on the Ground



(l-r): Conference participants Allen Hunter, Huri Islamoglu, Wolf Heydebrand, Christine Harrington, Paul Chevigny, Julie Graham, and Jan Nederveen Pieterse

As a protest movement grows in response to increasingly aggressive neo-liberal practices by transnational corporate structures and state institutions, scholarly questions concerning the nature and impact of globalization have become more urgent. An international group of distinguished thinkers gathered at NYU Law to discuss practices of and possibilities for social justice work within the growing totality of globalizing neo-liberal economics and politics.

The conference, entitled “Constituting Social Justice on the Ground,” was presented by the NYU Geographies of Injustice faculty seminar, in conjunction with NYU’s Institute for Law and Society and International Center for Advanced Studies, with cosponsorship from NYU’s Kevorkian Center. The event was an attempt to draw on what is known about the political, economic, and legal forces of globalization in order to clarify research agendas and to

consider globalization’s impact on human rights, social movement networks, and market regulation. Indeed, one of the most exciting aspects of the conference was the inclusion of leaders working in multiple and interdisciplinary fields that engage in the complicated issues addressed.

Conference presenters included Julie Graham, Department of Geosciences, University of Massachusetts-Amherst; Huri Islamoglu, Bogazici University, Istanbul and Central European University, Budapest; Jan Nederveen Pieterse, Department of Sociology, University of Illinois, Urbana-Champaign; Darini Rajasingham, International Center for Advanced Studies, NYU; and NYU Law Professor Frank Upham and Acting Assistant Professor of Clinical Law Donna Sullivan. Professor Paul Chevigny of NYU Law and Tim Mitchell of NYU’s Kevorkian Center for Near Eastern Studies provided important perspectives on each panel that stimulated engaging conversations among those in attendance.

The dynamic conference began with a reception in which informal conversation and lively debate regarding the event’s themes took place. The next day, participants convened in Lipton Hall to attend an all-day series of panel discussions and paper presentations. The conference was divided into three sessions, respectively chaired by Christine Harrington, Institute for Law and Society, NYU; Allen Hunter, International Center for Advanced Studies, NYU; and Wolf Heydebrand, Department of Sociology, NYU. ■

Stephen Shay Delivers Tillinghast Lecture

The sixth annual David R. Tillinghast Lecture on International Taxation was presented by Stephen Shay, a partner in the Boston law firm Ropes and Gray. Shay’s lecture, titled “The Limits of Sovereignty: Implications for United States International Taxation,” considered the challenges facing the U.S. in collecting taxes outside of its boundaries, with a particular focus on the provisions of subpart F of the Internal Revenue Code.

“We think of the right to impose tax as a sovereign right,” Shay said. “However, the power to tax is limited in the international sphere.” The U.S. taxes two kinds of cross-border income: the worldwide income of U.S. residents and domestic income of non-residents. The collection of these taxes, especially the latter, is limited by enforcement.

The solution, Shay suggested, is to work with other countries because “to administer an income tax, one country needs



Stephen Shay, a partner in the Boston law firm Ropes and Gray

to help another country.” This is particularly important given the problems that arise from what Shay called “overlapping jurisdictions”—that is, situations in which the income is subject to taxes by two or more countries.

To bolster enforcement of its international tax regimes, Shay said, the United States needs access to accurate information about income derived from cross-border investments and transactions. However this information is frequently held by institutions outside of U.S. jurisdiction. The government is in the process of exploring several avenues to overcome this difficulty and obtain the information it needs. One route is by using tax treaties, bilateral or

multilateral agreements between countries regarding the levying and collecting of taxes from their respective nationals.

An alternative route that the U.S. is pursuing is to extend its tax collection through “qualified intermediaries,” Shay explained, whereby the government signs agreements with international financial institutions to provide financial information in exchange for customer anonymity. The qualified institution then serves as a private withholding agent in a contract with the U.S. Internal Revenue Service.

Whatever the strategy, Shay concluded, “we should be more aggressive in doing what we have to do to achieve international assistance to enforce our goals.” He said

that as globalization increases and sources of income become less and less defined by international boundaries, so should our ability to collect the taxes. Certainly, as businesses morph and merge into large, complex webs of international operations, these international sources of income become a bigger and more important source of tax revenue for the U.S.

The Tillinghast Lecture is cosponsored by the International Tax Program and the firm Baker & McKenzie. David Tillinghast, long a leading tax lawyer, writer, and teacher, is a partner in that firm and the firm supports the lecture series in honor of Tillinghast’s many contributions to the international tax field. ■

Islamic Law in Nigeria

Since the beginning of 2000, eleven states in northern Nigeria have reintroduced Islamic criminal law, known as *shari’a*, into their jurisdictions. Ruud Peters, Professor of Islamic Law at the University of Amsterdam, delivered a lecture tracking the development of this phenomenon.

Shari’a is based on the Koran and consists of a body of legal doctrine encompassing a broader spectrum of behavior than American criminal law. Shari’a is not state-enacted. It is legal doctrine that has been formulated by jurists through an academic discourse. Thus, shari’a does not present clear and unambiguous rules, but rather allows a great deal of development and change.

Nigeria, Peters explained, is a colonial creation, a fusion of two areas with very separate identities. The northern part of the country is mostly Islamic while the south is heavily Christian and animist. The British applied indirect colonial rule in Nigeria. In the north, this resulted in Islamic law’s continual application throughout the British occupation. Just as colonialism was dying during the 1960s, the British imposed penal codes. These codes remained in place until recently, when shari’a was reintroduced.

Nigeria currently has a federal system under which the states retain a large degree of autonomy. In this system, the criminal law is one area over which the states retain control. In the beginning of 2000, a movement began, perhaps initially motivated

by political considerations, to reintroduce Islamic criminal law. Professor Peters noted that shari’a was not introduced by fiat, but by popular pressure.

Peters noted three practical problems with shari’a’s reintroduction. First, the legislation mandating shari’a was drafted hastily and under intense political pressure. This led to a lack of clarity in the law’s application due to incorrect and defective wordings, definitions, and contractions. The second major problem was an ignorance of shari’a among the judiciary and legal practitioners. In early 2000, no Nigerian law school taught courses on Islamic criminal law. As a result, Islamic vigilante groups destroyed beer shops and prostitution areas. Third, Peters said that shari’a conflicts with certain articles of the Nigerian constitution.

Shari’a’s reintroduction was a statement with high symbolic value. Because of Nigeria’s vestigial colonial structure, the north is afraid of being dominated by the south. Shari’a presented the north with an opportunity to display its own cultural identity.

Peters wrapped up by explaining the title of his lecture, “The Sleeping Fetus Saves Lives,” which was, in his view, a way to prevent shari’a’s more serious punishments from being applied. The “sleeping fetus” is a scholarly solution that mitigates the severity of shari’a’s punishments. The punishment for unlawful sex is either flogging



Professor Ruud Peters

or stoning. There is a doctrine in place, however, that recognizes pregnancies of four to seven years. A woman who is pregnant and accused of having unlawful sex can claim that her pregnancy is the product of her ex-husband. During the pregnancy, the accused can say the fetus slept and then woke up. Thus, the baby is the product of the ex-husband. Peters explained that this is a well recognized canon of Islamic law, which is accepted in other countries as well. He suggested that change from within using interpretations that derive from Islamic history would be the best way to temper shari’a’s impact.

One solution, according to Peters, might be to argue that Koranic punishments may not be enforced until a just Islamic society has been established. Only then is there justice for everyone. The next solution would be to make use of the arguments of the scholars—in history, the Koranic punishments were hardly applied. ■

Israeli Ambassador to the United Nations Visits NYU Law



(l-r): Yehuda Lancry and Professor Sam Estreicher

Dr. Yehuda Lancry, the Israeli Ambassador to the United Nations, was the Law School's guest for a dinner attended by students and faculty members. The event was organized by Professor Samuel Estreicher and LL.M. candidate Oded Har-Even.

Previously the Israeli ambassador to France, the mayor of the northern Israeli town of Shlomi, and a Parliament member between 1996 and 1999, Ambassador Lancry was appointed to his current position by then-Prime Minister Ehud Barak. He was

asked by incoming Prime Minister Ariel Sharon and Foreign Minister Shimon Peres to remain in office and continue in his mission.

Lancry reviewed the history of the often tumultuous relationship between the U.N. and Israel. "The beginning seemed promising," the Ambassador said, when in 1947 the U.N. General Assembly adopted the Partition Plan Resolution. However, over time the U.N. increasingly viewed Israel's position through the prism of the Cold War and was heavily influenced by the voting power of the Arab bloc. The Ambassador discussed the U.N. structure and different regional groups, saying that until recently Israel was the only member state of the U.N. not permitted to participate in any regional group. The Asian group, which normally Israel should be part of, has not been willing to admit Israel due to the Arab countries' resistance. The isolation of Israel, however, has recently changed due to Israel's admission to the Western European and Others (WEOG) regional group.

"Why was Israel not trying to get the U.N. Security Council to adopt the Clinton Camp David proposals as a binding resolu-

tion?" a student asked Lancry. He replied that Israel was reluctant to initiate such discussion, for the resolutions adopted by the U.N. are invariably adverse to Israel. Another student asked about the "current hostility" of France to Israel. France and Israel have a long history of friendship and cooperation, the Ambassador replied. "We should not forget that they were one of our closest allies when Israel was a newly born country." Regarding the current conflict between Israel and the Palestinians, the Ambassador reminded the listeners that while former Prime Minister Ehud Barak offered the Palestinians what no prime minister before him had dared to offer—a Palestinian state on almost all of the West Bank and Gaza and a workable solution for Jerusalem—the Palestinian response has been the current wave of terror. Then NYU Law Professor Andreas Lowenfeld wondered what kind of a right to return can be alleged by the Palestinians. "Does my grandchild have a right to return to Germany just because I had to leave more than 50 years ago?" he asked. The conflict is solvable and there are "creative solutions to all of the problems," Lancry said. Prime Minister Sharon himself said that he will be willing to accept "painful compromises" once the terror stops and the Palestinians are prepared to peacefully negotiate a settlement with Israel. ■

Gelatt Dialogue on Law and Development in Asia Examines Criminal Justice in China

The seventh annual Timothy A. Gelatt Dialogue on Law and Development in Asia was entitled "Criminal Justice in China: An Oxymoron?" More than 200 people attended the event, most of them legal scholars, researchers, or law students interested in the criminal law system in mainland China. Among the panelists were people who had been involved in criminal proceedings in China or detained by the Chinese government on criminal charges, as well as scholars and practitioners.

NYU Law Professor Jerome Cohen began the discussion by suggesting that although reform of China's criminal law has been a remarkable achievement over the past few years, there remain certain problems that need addressing. These include vague definitions in the substance of criminal law, such as "espionage" or "espionage organization;" too much flexibility in sentencing criminal offenders; ineffective channels of communication between criminal suspects and the central government; and



possibly inappropriate political influence on the judicial system. Cohen felt these issues deserved continuing research by American and Chinese legal scholars.

Poet, editor, and social critic Bei Ling then told the audience about the 14 days he spent in a local detention house on the

outskirts of Beijing city. He vividly described his experience, detailing the sparse and unsanitary living conditions and the infighting among prisoners.

The China State Security Bureau in Beijing charged and arrested the next panelist, Song Yongyi, from Dickinson College in Carlisle, Pennsylvania, for allegedly purchasing and collecting classified documents about the cultural revolution in China. He was held in State Security Detention for 175 days before he was set free. Song criticized China's unreasonably prolonged investigation period, the possibly self-incriminating investigation process, and the lack of supervisory bodies overseeing the activities of ground level security agencies.

Gao Zhan was the only speaker who had been sentenced by a Chinese court—to 10 years in jail. Her charge was “espionage” based on alleged activities of collecting and transferring classified information from Mainland China to Taiwan. Gao focused on the criminal proceeding she experienced. She said lack of due process and presumption of guilt are two of the major problems facing the Chinese criminal judicial system.

The second segment focused on the legal analysis of China's criminal justice system. Zhang Jianzhong, a criminal defense attorney in China, spoke about the role of the defense lawyer. He emphasized the institutional and procedural issues that he encountered in his practice.

Professor Jonathan Hecht from Yale Law School spoke about the continuing debate in China over criminal justice reform, which centers on whether to adopt a “presumption of innocence” as opposed to the traditional “presumption of guilt;” the relief of procedural obstacles for defense lawyers in criminal cases; the mandate requiring the presence of key witnesses in court; and establishing the independence of the Chinese criminal court.

NYU Law Professor James Jacobs then compared the problems facing the Chinese criminal system with those in the American criminal system. He stressed the importance of reform measures to any nation's procedural and substantive criminal law system, including that of the U.S., and encouraged further discussion along the lines of this dialogue. ■

Noah Feldman Delivers Rudin Lecture

Are Islam and democracy compatible? That was the question that Professor Noah Feldman sought to answer in the annual Rudin Lecture. Professor Feldman discussed the policy choices that are available to the United States and other Western nations in promoting democracy in the Islamic world post-September 11.

Professor Feldman described democracy and Islam as “mobile ideas” that have widespread appeal to people throughout the world. He suggested that the U.S., along with other Western nations, work to create a new idea called “Islamic Democracy.” Beginnings of this exist in Iran, he explained, where twice there has been a democratically elected president, despite opposition from hardliners; a democratically elected assembly, including many followers of the moderate Iranian president; and the growth of democratic institu-



tions. While Iran still suffers from some of the oppression that is typical of other Islamic countries, Feldman said, “there is, in fact, now a set of homegrown ideas of how Islam and democracy fit together.”

Publication of *Democracy and the Rule of Law*



In July, CQ Press published *Democracy and the Rule of Law*, consisting of the papers from a March 2000 international conference cosponsored by NYU Law and the Library of Congress to celebrate the Library's Bicentennial. The book was edited by conference organizers Professor Norman Dorsen, former chair of NYU Law's Hauser Global Law School Program, and Prosser Gifford, director of scholarly programs at the Library.

The book addresses the recent movement to transform and globalize law, including American law, by focusing on nine major topics: transnational justice and national sovereignty; roles of women: norms and culture; multiethnic and multiracial states; the relationship among democracy, legitimacy, and the rule of law; holding the past to account through law; natural resources and the environment; religion, culture, and governance; corporate power and national sovereignty in the global economy; and the state and human rights.

Chief Justice Rehnquist and Justices O'Connor, Ginsburg, and Breyer contributed to the book, whose authors come from 21 countries. These include 12 members of NYU Law's global law faculty and four members of the full-time faculty.

When the conference opened, John Sexton, then dean of NYU Law, said, “We seek rigor and creativity, not rhetoric. We want an analytic discussion that will contribute more than casually to finding solutions.” An early review by Michelle D. Deardorff in *The Law and Politics Book Review* suggests this goal was met: “*Democracy and the Rule of Law* demonstrates much of our common ground—our understanding of our global problems, our faith in democratic processes, and our questions as to the potential limits of the rule of law.”

Feldman explained how some basic tenets of Islam bolster democratic ideas. First, Muslims believe that everyone is equal before God. Second, Muslims believe in consensus within the community. "The Muslim community when acting as a body is justified in making collective decisions for itself," Feldman said. "That is a powerful idea to build upon in the context of democracy, because it gives you the basis for saying that the most important decisions should be made by the people."

Feldman recognized the possibility that so-called democratic elections in Islamic countries may not yield truly democratic governments. Instead, the new regimes could conceivably consist of fundamentalists who want to abolish democracy soon after they have been elected. He suggested the creation of "tremendous positive incentives" for those Islamic governments that come to power

through democratic elections. "We have to be willing to say that if you come into power through democratic elections and then abolish elections and become undemocratic, you will essentially be our enemy," he said. "If you come to power democratically and you preserve democratic rights, then the sky is the limit in what we are willing to do for you." As examples of such incentives, Feldman cited economic and trade aid and meaningful inclusion in the community of nations. "The road to getting there is not going to be easy at all," he said. "But I think that it is a road worth pursuing, and more important a road that we have no choice but to pursue."

Feldman advocated for a consistent policy in promoting democracy in the Islamic world because up to now Western policy toward the Middle East has sometimes been thought of as "pretty hypocritical," supporting autocratic regimes when it has been convenient. ■

The Global Public Service Law Project: Bridging the Gap Between Activist Lawyers Around the World

2002-2003 marks the fourth year in the evolution of the Law School's unique Global Public Service Law Project. The Project, headed by Japanese law expert Professor Frank Upham, is best known for bringing activist lawyers from the developing and transitional world to NYU Law for a one year LL.M. in Public Service Law. What is lesser known is the extent to which the Project's work extends outside the walls of NYU Law—from the Ukraine to South Africa to the Philippines and beyond.

The Project aims not only to provide a first-rate theoretical education to the 10-15 Global Public Service Scholars who visit NYU each year, but also to practically assist them in their difficult and often groundbreaking work making changes in the legal structure and wider culture of

their societies. This practical approach is woven into the Project in two ways: 1) by structuring the curricular and extra-curricular work to allow the student-lawyers to learn from each other and to trade practical strategies across borders, and 2) by sponsoring the Global Public Service

NYU Law-Oxford University Institute

In the Spring of 1998, NYU Law and Oxford University adopted a historic proposal to establish the NYU Law-Oxford University Institute. The Institute's goal is to deepen the understanding of law as a global phenomenon in the two institutions and in the legal community at large. Programs managed by the Institute include several initiatives to facilitate individual and collaborative research, teaching, student exchanges, and related intellectual activity on issues that transcend jurisdictional boundaries. The Institute began work in Fall 1999 under the directorship of Oxford University Professor Dan Prentice. It is governed by a small board that includes faculty members from NYU Law and Oxford. In September 2001, Professor Noah Feldman of NYU Law assumed the directorship.

In February 2000, the Institute sponsored its first Oxford-NYU Faculty conference at NYU Law on emerging issues in a global information society. In Fall 2002, Professors Mattias Kumm (NYU) and Steven Weatherill (Oxford) organized a roundtable discussion at NYU entitled "Regulating Transnational Markets: Transnational Communities, Integrated Markets and State Sovereignty." The roundtable assembled several cutting-edge thinkers drawn from the Oxford and NYU faculty as well other European and U.S. universities, providing an informal setting for an in depth discussion of the relationship between economic integration and other public policy choices (e.g. concerning labor and the environment).

Fellowship Program, which supports graduates working for up to one year at a law-related public interest organization of their choosing upon graduation.

With these two key components, the Project seeks to do more than simply teach the history and practice of American public interest lawyering. The point is to help the Scholars more effectively make the changes that they think are necessary in their countries and regions. Through the Global Public Service Law Project, NYU



2001-2002 Global Public Service Scholars with Faculty Director Frank Upham, Director Diana Hortsch, and Holly Maguigan, Acting Faculty Director for 2003

Law hopes that it can, in a small but powerful way, help local activist lawyers in their work while also feeding the emerging phenomenon of cross-border public interest lawyering.

A look at the Global Public Service Fellowships awarded in the past two years provides the clearest picture of the kind of work the Project seeks to support. The fellowship program seeks to leverage the Scholars' one-year experience here in New York to allow them to return home ready to create even more substantial change. In 2001-2002, Fellows undertook a wide variety of projects ranging from working for the rights of gays and lesbians in the Russian-speaking world to developing a family and juvenile court manual in Nairobi.

Here is a look at the Global Public Service Fellows for 2002-2003:

Carolina Fairstein is working with the Center for Budget Policies and Policy Priorities and the World Bank in Washington,

D.C., followed by a stint at FUNDAR, a Mexican NGO expert in budget advocacy techniques. Fairstein will then return to CELS in Argentina to outline a plan to create a new program in budget analysis to augment their pre-existing social and economic rights work.

Genee Mislang is spending the year opening a branch office of her home NGO, Tangol Kalikasan, which has been at the forefront of environmental public interest work in the Philippines since 1987, and heavily emphasizes the role of local partner-communities in effective environmental resource management.

Muhammad Rafiquzzaman is working for four months at the Legal and Judicial Capacity Building Project of Bangladesh, where he will explore the link between litigation advocacy and wider policy and reform work in Bangladesh.

Ofer Shinar is working for four months with the International Center for Transitional

East Timor Founding Father to Study at NYU Law

This year, among the numerous LL.M. students who come to NYU Law on a break from impressive careers, will be Aderito de Jesus Soares, one of the drafters of East Timor's new constitution. Aderito was born in East Timor and received his law degree, *summa cum laude*, in Indonesia in 1996. Instead of returning to East Timor after graduation, he went to Jakarta to work as Advocacy Coordinator for ELSAM (The Institute for Policy Research and Advocacy), a leading Indonesian human rights NGO. In 1999, he returned home to join in preparations for East Timor's U.N.-sponsored independence referendum, and to fill the country's need for qualified lawyers. In September 2001, Aderito joined East Timor's elected Constituent Assembly. In spring 2002, he finished his work with the Assembly when he, along with 87 other members of the Constituent Assembly, completed drafting the first Constitution of The Republic Democratic of East Timor. Aderito is one of thirteen Global Public Service Scholars who will be in residence at NYU Law in 2002-2003.

Justice in New York on an independent project to study the feasibility of various reconciliation measures for Israel and Palestine.

Shuping Wang is completing a year-long research fellowship to study strategies for seeking compensation for Chinese victims of Japanese slave labor during World War II. She will work with the Women's International War Crimes Tribunal, and consult with the China Foundation of Human Rights and Development and the International Human Rights Clinic at New York University School of Law.

In summary, the Global Public Service Fellowship Program represents the goals of the entire Global Public Service Law Project. The objective is to give promising lawyers who have a vision of where public interest law needs to develop in their home countries the educational and practical opportunities and the tools to make more effective change. ■





A Community Transformed

WHAT BEGAN AS A PICTURE-PERFECT EARLY FALL DAY, Tuesday, September 11, 2001, changed abruptly at 8:45 AM when a hijacked airliner slammed into the north tower of the World Trade Center in New York City. Eighteen minutes later, a second hijacked plane crashed into the south tower at the Trade Center. With the subsequent attack by a similarly hijacked airplane on the Pentagon in Washington, D.C., and the crash of a fourth hijacked plane in Pennsylvania, America was changed forever.

There was an almost immediate intellectual response at NYU Law, with faculty experts opening a dialogue on the complex legal issues arising from the attacks. A variety of special events and numerous conversations in the classroom shed new light on difficult issues and explored the aftermath and implications of that fateful day. On the pages that follow we have chronicled some of the ways the Law School community took action—with innovative academic programs, in addition to countless acts of kindness and compassion from faculty, students, and alumni.

NYU Grieves With City and Nation, Responds Quickly to Assist With Relief Efforts

While the short distance between the World Trade Center and New York University's campus protected us from direct damage, the faculty, staff, and students of NYU, like all New Yorkers, felt the impact of this great tragedy and responded in extraordinary ways.

Within minutes of the attack, NYU initiated emergency contingency plans that placed its several medical facilities on full disaster alert and relocated all students from seven downtown residence halls. Classes were cancelled and information bulletins were promptly displayed and updated on the NYU Web site homepage and the individual Web pages of the University's schools and colleges. All schools and colleges, as well as key administrative units, responded by quickly arranging ongoing counseling sessions and volunteer efforts.

Students, faculty, staff, and other members of the NYU community undertook a number of volunteer efforts of their own volition. These included staffing emergency triage centers, working extended hours at University hospitals, providing on-site counseling for rescue workers, donating blood, collecting and distributing clothing and other relief supplies for emergency workers, making thousands of sandwiches to feed those involved in the rescue effort, and raising funds to help the American Red Cross disaster relief.

Many NYU community members also staffed phone banks at rescue and other agencies, as well as the University itself, helped establish memorials at various sites around the city and held candlelight vigils and similar services to honor those who perished in the tragedy.

"We know we speak for the entire University community when we express our deep sorrow and horror over the outrageous terrorist attack on this city," said NYU President L. Jay Oliva and President-Designate John Sexton in a joint message on September 11. "We have no reports of injuries or deaths to any full-time NYU students, faculty, or staff, but we already know of loved ones—members of our extended family—who were victims. Our hearts go out to those families."

STUDENTS RELOCATE, RETURN

NYU's Office of Student Affairs and the Office of Protection and Transportation Services initiated the immediate relocation of students from each of NYU's downtown residence halls. Students were assisted in locating temporary housing with friends in other residence halls, the Coles Sports and Recreation Center, which was commandeered as an emergency center for students, or one of several midtown hotels. A message board was established in Coles for offers of additional housing for students who had been displaced by the disaster.

A number of University facilities offered 24-hour food services for students. Emergency telephone numbers were also provided for information updates, both for students and for parents and friends calling in.

By Tuesday, September 25, all students living in downtown residence halls were permitted to return to their dorm rooms.

COUNSELING AND COMMUNICATION

To deal with potential shock in the aftermath of the tragedy, schools and colleges established open counseling sessions, as did NYU's Human Resources Division, Faculty and Staff Assistance Program, and Counseling Services. Faculty members throughout the University led discussions on post-traumatic stress interventions and referral services for students. NYU Law, among others, set up email message boards so that alumni and friends who might have been affected by the attacks could check in and let the University know of their safety. ■

Mayor of the World



After the attacks, Mayor Rudy Giuliani said: "I want the people of New York to be an example to the rest of the country, and the rest of the world, that terrorism can't stop us."

The NYU Law community extends its most heartfelt thanks and highest possible praise to our alumnus, former Mayor Rudolph Giuliani ('68), who rallied his city after the September 11 terrorist attacks and helped nurture its recovery. Giuliani's unwavering strength, outstanding leadership, obvious compassion, and

remarkable calm provided precisely the message the city needed during an extraordinarily difficult time—a message of unity and renewal. Giuliani was selected *Time* magazine's Person of the Year for 2001 and received an honorary knighthood from Queen Elizabeth II in October 2001 for his effort.



Words of Support From Family and Friends

Throughout the World Trade Center crisis, NYU Law maintained up-to-the-minute information on its Web site (www.law.nyu.edu) regarding student safety, housing, and other measures the University was enacting to deal with the situation and to ensure the well-being of its students. Alumni and friends were encouraged to check in through the site and an outpouring of support was received. Following is a letter to John Sexton, then Dean of the Law School, from 1L Johnisha Matthews on September 11, 2001.

Dean Sexton,

I just wanted to tell you about how I experienced this day. I thought that I was managing to keep things in perspective pretty well these past couple of weeks, but today, of course, was life-altering. I was on the corner in front of the Law School shortly after the first plane hit the World Trade Center, and then saw the flames after the second plane hit. My roommate and I were horrified. We felt helpless as we hugged each other, trembling. Right before you came down the stairs, we had been sitting in Vanderbilt's courtyard, on the bench dedicated to JFK, Jr., and I had said, "This is the time for a Dean Sexton hug." And then there you were! So thank you for that.

Things were a fog as I tried to get in contact with my family in D.C. I couldn't believe that both my new and old home had been attacked, and that I was blessed enough to still be alive. And

for this, I am immensely thankful. It reminds me of a conversation that I had just last weekend. My friend and I were coming back from the West Indian festival and we began talking to this former magician in the subway.

He gave us a lot of wisdom for free, but there was one thing he said that echoed in my head as I looked at the World Trade Center today: "Every night, there is someone who dies that may be nicer, more talented, or smarter than you. So when you wake up in the morning, you give thanks for seeing another day. You appreciate the second chance that you've been given and you live life instead of allowing it to live you." And perhaps I will never see this person again, but he has given me a small bit of himself. And for this I am thankful.

And today, despite the devastation and the ugliness, I saw something beautiful. I found the flip side in a group of my classmates who decided to go to St. Vincent's and give blood.

Around 11:00 or so a member of my lawyering group had the idea that instead of sitting around crying, we should donate blood. So seven of us went together and another classmate generously supplied us with turkey, chicken, bread, and juice so that we would not faint. But what was even more amazing was the turnout at St. Vincent's. The line wrapped around the block. And everyone was feeding one another, passing out bagels and water, Gatorade, and bananas. How beautiful it was! Strangers talked and helped one another instead of shoving and shouting.

It gives me hope to see how selflessly some of my classmates acted today. I have great respect for them as human beings, whereas last week, I merely had great respect for their intellect. When things calm down a bit, I'd like to come in and talk.

Take care,
Johnisha

Sustaining the Moral Surge

JOHN SEXTON

Time has passed, commemorations have been held at Ground Zero, and Congress has discussed declaring September 11 a yearly National Day of Remembrance. Surely it will be another date that will live in infamy; no law is needed to ordain that and no law could change it. But September 11 was, and should be, something more.

And after the devastation is cleared, new buildings raised up, and commerce and finance return—all critical to the prosperity of New York and the nation, the other great test will be whether we sustain the moral power surge which moved across the city and this country in response to the terrorist attack

On one of the worst of days, we found the best in each other. Instead of being defined by the terrorists, as they had planned, we defined ourselves. I saw this moral surge manifest itself as our students and neighbors gathered for a vigil in

founding past enmities even as he confirmed the strength of his leadership, Mayor Giuliani became a unifier and healer. We all reached out; we comforted; in the face of so much death, we gave a new and unforgettable life to the idea of community.

But the moral surge could recede, just as the good feeling during the blackouts of the past faded after the lights came back on. If so, the commemorations of September 11 would become just rituals of remembrance, the rebuilding just business as usual. So in the end, rebuilding structures is not enough; we have to build a renewed spirit

Rebuilding structures is not enough; we have to build a renewed spirit of New York based on our values of freedom and tolerance, our vision of a diverse, open society—the true targets the terrorists were trying to destroy.

Washington Square Park. One first-year law student from rural Georgia told how terrified he was that Tuesday morning, asking himself: “Why am I here?” Now he said, as he stood in front of the great arch that marks the Square: “I have seen New York, my classmates, my community. How could I be anywhere else?”

Amid the outpouring of spirit in the days that followed, we were all rescue workers, saving and affirming our humanity. Tens of thousands contributed their food, their money, their sweat, and their blood. Volunteers in record numbers were frustrated by their inability to do more. We all saw clearly the commitment of our police and firefighters, and we came to view them differently than we ever had before. Con-

of New York based on our values of freedom and tolerance, our vision of a diverse, open society—the true targets the terrorists were trying to destroy.

Each of us has a part to play. Universities like ours can and will provide scholarships for the children of the victims. We can and will create chronicles of this singular moment, to capture not just the horror, but also the affirmation that rose from the ashes. We can and will send witnesses, teams of students and faculty, into schools and communities across the country, sharing what they saw and felt here, and striving to convert the spirit of the moment into the spirit of an era.

But I also believe that whatever any of us does separately, all of us have to ask



John Sexton

what we can do together in this transformative time. We are at a moral crossroads, and universities have a singular responsibility to shape the ideas that matter and to advance the creation of the future. As a first step, we at New York University will ask other universities and institutions to join with us this Fall in convening a summit of cultural, financial, political, religious, and educational leaders. The purpose will be to begin an ongoing process, not just to rebuild physically, but to sustain and strengthen the moral surge. It is easy to celebrate the extraordinary response to this crisis. The real challenge is to make the unforgettable sense of community after September 11 more than a memory or a moment in time, but the new ground of our common being. Just as we may have a worldwide architectural competition to rebuild Ground Zero, so we must build on the moral underpinnings which the people of New York City have shown the world since the attack.

We are the world's first city, not just America's. And the entire world is ready to hear from us, to respond, to join us in our renewal. As a French newspaper proclaims: “We are all New Yorkers.” The Mayor of Rome offers to withdraw that city's bid for the 2012 Olympics in favor of New York City, so that the Games can open in the sight of the Statue of Liberty as a global expression of solidarity.

Societies live by stories. On September 11, the page turned and now we have to write a new chapter. We must make it the story of a continuing moral surge—and of a New York that truly will be the world's “shining city on a hill.” ■

Those We Lost

What follows are portraits of the six members of the NYU Law community lost during the tragic events of September 11, 2001.



Daniel Brandhorst (LL.M. '93)

The events of September 11 claimed the lives of Daniel Brandhorst and his young family. A partner in the Los Angeles office of PriceWaterhouseCoopers, Brandhorst was traveling home from Cape Cod on United Airlines Flight 175 with his partner, Ronald Gamboa, and their three-year-old adopted son, David, when the plane crashed into the World Trade Center.

"He loved being a lawyer, he loved his son," said his brother David Benjamin Brandhorst. "Those were probably the two most important things in his life."

After visiting some friends in Rhode Island for about a week, Brandhorst had driven to Boston either on business or to see friends—his family isn't certain. The father and son were booked initially on a Continental flight leaving Boston that Monday. They didn't take the flight, and when Brandhorst's family, friends, and coworkers couldn't reach him by cell phone Tuesday, they began to worry.

United Airlines officials confirmed their fears about seven hours after news of the terrorist attacks broke.

"My heart just dropped. I couldn't believe it," said his sister, Denise Kelly. "All I can picture is him hugging his little boy for all he was worth."

Brandhorst loved to ski, and took his son and nanny, as well as Kelly and her daughter, Magen, five, to Aspen, Colorado, last winter.

"I'm just flooded with memories," his sister said. "He would call me four times a week from the West Coast to make sure I was OK. He was the family's rock."

Brandhorst is survived by brother David, mother Alberta, and sisters Denise Kelly and Dawn Rodgers.

Mark Brisman ('92)

Serious-minded, responsible, conscientious, proper—such adjectives applied to Mark Brisman. He had known since the age of five that he wanted to become a lawyer and proceeded, straight as an arrow, toward his goal.

He found his perfect complement in wife Juliette Steuer, an actress with a taste for adventure. He kept her grounded, she loosened him up. It was a perfect match.

A family man with old-fashioned values, Brisman possessed a gentlemanly deportment which bordered on knightly gallantry. He put in long hours at the firm Harris Beach for his family's benefit, and was respected by his colleagues as confident and smart, with a careful eye for detail. He was posthumously awarded the partnership he was working so hard to earn.

His formal bearing changed in the presence of children—particularly his own. He joined in their revels with great gusto, as evidenced by a family photo of him "piloting" a kiddie airplane at Adventureland on the previous Labor Day Weekend.

Carol Keyes Demitz ('77)

Carol Demitz was a study of a life in balance. As Senior Vice President, Chief Corporate Counsel, and Secretary of Fiduciary Trust Company International, she found great fulfillment in her work—but the source of her greatest joy was her family.

The light of Demitz's life was her four-year-old daughter, Annie. Her husband, Dr. Fred Brewer, recalls, "I could tell what room the girls were in by the squealing and laughter...Carol would be playing hide-and-seek. Carol was rather thin and could squeeze herself into the most amazing little cubbyholes. You could hear Annie squealing when she found her."

The family had recently returned from a hiking vacation in Switzerland. Demitz was



Carol Keyes Demitz

delighted because Annie was able to do a bit of hiking with her mother and father. She and Brewer were renovating a new house on Peconic Bay on eastern Long Island where Annie could play on the beachfront.

Howard G. Gelling, Jr.

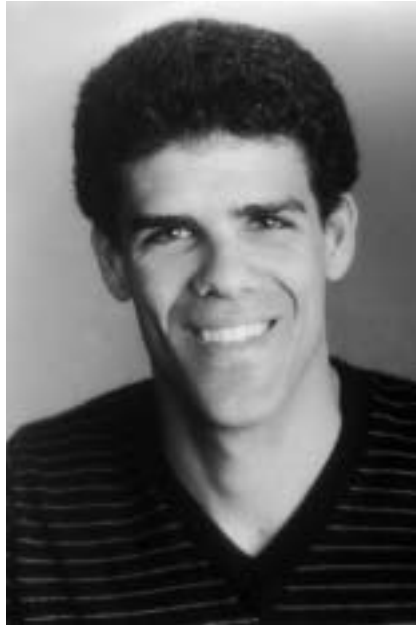
Howard G. Gelling Jr. was the husband of Christine O'Reilly ('02). He was a managing director of Sandler O'Neill & Partners, working alongside Law School Trustee Chris Quackenbush ('82). The couple, who wed in May 2000, had met at Sandler O'Neill. O'Reilly worked there until leaving in 1999 to begin law school. The equity department in which she and Gelling had both worked was an extremely tight-knit group, O'Reilly said, and many coworkers were close friends of theirs. "I try to find solace in the fact that Howard spent his last moments with people who loved him," she said. "I know that they all would have been taking care of one another up to the very end." No one from the equity department who showed up for work that day survived.

John Perry ('89)

When the first plane hit Tower One, New York City Police Officer John Perry was at One Police Plaza filing his retirement papers after having spent eight years on the force. He had just handed in his badge. When the news broke, Perry took back his badge without any hesitation, and despite the protests of others, ran to the World Trade Center to perform his last great act of heroism.

That he would do so surprised none who knew him. His mother, Patricia, summed it up: "John marched to a different drummer. He was headed for that building and nothing would stop him."

Perry was one of a kind, a true free spirit. Fluent in four languages—French, Spanish, Russian, and Swedish, he was also conversant in German, Portuguese, and Italian. He wanted to live in Manhattan on a police officer's salary, so he lived in a low-income housing project near Lincoln Center. He looked out for everyone he came into contact with. Friends and friends of friends occupied his second bedroom—even a homeless man Perry had befriended. He



John Perry

collected bulletproof vests from retiring police officers to donate abroad and did pro bono legal work.

NYU President-Designate John Sexton said of Perry, "He was a student and a friend and a great talent. I was privileged not only to know him in the classroom but also to work with him on research projects." Perry played in a weekly basketball game with Sexton and NYU Law students. "In everything, from the intellectual to the athletic, he was a person of grace and quality," Sexton added.

Perry perished as he tried to rescue a woman who was unable to breathe. He died as he lived: in service to others, respected, and much-loved.

Christopher Quackenbush ('82)

Christopher Quackenbush was known to all as a gentleman, husband, father, leader, philanthropist, and Law School Trustee. Quackenbush combined his many gifts and talents with a strong sense of social responsibility and selfless generosity. In this way, he did more good during his brief lifetime than many who are blessed with length of years.

Quackenbush was a founding partner of the boutique financial services firm Sandler O'Neill & Partners, where he headed the



Christopher Quackenbush

firm's investment banking division. He advised many financial institutions nationwide on capital raising, strategic planning, and merger and acquisition strategies. Quackenbush began his distinguished career on Wall Street in 1982 as an attorney at the firm of Skadden, Arps, Slate, Meagher & Flom, later joining Merrill Lynch Capital Markets as a Vice President in the financial institutions mergers and acquisitions group.

Quackenbush's generous and kind nature led him to participate in a number of philanthropic ventures, including a stint as the president of the board of directors for Adventures in Learning, a cultural enrichment and after-school program for children. He also served on the boards of the University of North Carolina Educational Foundation, and Mercy Haven, a nonprofit housing corporation for individuals with mental illnesses.

Perhaps his crowning philanthropic achievement was the establishment of the Jacob Marley Foundation. Like the character in the classic Charles Dickens tale for whom the foundation is named, Chris Quackenbush offered people an opportunity to change their lives for the better. The Foundation established educational programs for disadvantaged children as well as scholarships, including a full tuition scholarship at the Law School. ■

NYU Law Cohosts Islam Conference With Bill Clinton



(l-r): Abdulaziz H. Al-Fahad; Senator Joseph Biden, Jr.; William J. Clinton; Maleeha Lodhi; Edward P. Djerejian; and Shibley Telhami

The William Jefferson Clinton Presidential Foundation, NYU School of Law, and Georgetown University cosponsored a conference entitled “Islam and America in the Global World.” The idea for an all-day conference examining the troubled relationship between the United States and the Islamic world had come from Clinton.

Former President Clinton chaired the first panel, “What Does the Islamic World Think of America?” Panelists were sharply critical of United States policy toward the Middle East. “Americans must want to learn about their foreign policy,” said Raghida Dergham, Senior Diplomatic Correspondent at *Al-Hayat*, an Arabic daily newspaper.

Muqtedar Khan, the Director of International Studies at Adrian College in Michigan, criticized the U.S. for supporting undemocratic monarchies, such as the one that came to power in Iran in 1953, while holding itself out as a democratic nation.

Clinton defended U.S. policy in the region and addressed what he said was the misconception that Israel gets a disproportionate amount of monetary aid. Israel and Egypt receive the same amount from the U.S. every year as part of the 1979 Camp David Accord, he said.

The second panel, “Islam in a Modern World,” was moderated by NYU Law Professor Noah Feldman, an organizer of the conference. The participants, Osman bin Bakar, Georgetown Professor of Islam

in Southeast Asia; Houchang Chehabi, Professor of International Relations at Boston University; Tariq Ramadan, Professor at the College of Geneva and University of Fribourg; and James Zogby of the Arab American Institute discussed a range of issues, all calling for greater education, a key to progress.

Perhaps the most striking aspect of the third panel, “The Changing Roles of Women in Islam,” was the shared sentiment of Muslim women scholars that there weren’t many similarities among them. Although all considered themselves followers of Islam, each speaker’s experience with the faith and the culture was shaped largely by her country’s particular practice of Islam and her country’s economic and political struggles. The panelists included Leila Ahmed, Professor of Women’s Studies in Religion, Harvard Divinity School; Sylviane Diouf, Adjunct Professor, New York University; Ziba Mir-Hosseini, Global Visiting Professor, New York University School of Law; Amina Wadud, Professor of Religious Studies, Virginia Commonwealth University; and Amira Sonbol, Associate Professor, Center for Muslim-Christian Understanding, Georgetown University (moderator).

The daylong conference concluded with a panel discussion entitled “The U.S. and the Islamic World: Where Do We Go From Here?” Edward Djerejian, the former U.S. ambassador to Syria and Israel, provided

his firsthand historical perspective on U.S.-Islamic foreign relations.

The Pakistani ambassador to the U.S. Maleeha Lodhi cautioned against accepting the media-generated “CNN effect” that the Western and the Islamic worlds are monoliths. Lodhi noted the importance of the two unresolved disputes within the Islamic world—the Indo-Pakistani conflict over the Kashmir region and the ongoing Israeli-Palestinian clashes. Among other things, she focused on the need to address both the symptoms and the root causes of extremism—economic deprivation, social injustice, and unresolved disputes in the region.

Abdulaziz Al Fahad, a Saudi attorney affiliated with the firm Akin, Gump, addressed the disconnect between rhetoric and policy that is both internal to Middle Eastern states and projected by the United States. He and Shibley Telhami of the University of Maryland noted that economic inequality and poverty are factors contributing to the “demand side” of terrorism, but he argued that more important than these factors were humiliation and hopelessness among Islamic peoples, which can only be addressed with political and economic efforts capable of empowering moderate voices in these states to fight extremism from within.

Senator Joseph Biden, chair of the Senate Foreign Relations Committee, noted that, while the Western world has spent hundreds of years in transition, starting around the time of Martin Luther, from a religion-centered state to an industrialized state, many of these same forces have only recently visited the Islamic world at an accelerated pace.

While showing respect to those who died in the September 11 attacks, Biden said it “may be the day that marked the beginning of a change in the hopes of a different century. It so crossed the bounds of what was acceptable behavior that it had a catalytic effect on the world.”

Former President Clinton offered some closing thoughts. Although he now saw America as the “dominant political and economic force in the world” after the fall of communism, that dominance cannot last forever—eventually, the unified European and Chinese economies will catch up and likely surpass that of the U.S. “We need to decide what to do with our brief moment in history. We will be judged by what we tried to do.” ■

NYU Law Programs Address September 11 Attacks

Throughout the academic year, NYU Law struggled to understand the global forces that enabled the attacks and the worldwide repercussions that continue to flow from them. Student groups, professors, centers, and the Hauser Global Law School Program organized a series of lectures and panels. The Global Law faculty played a prominent role in these discussions, bringing a much-valued international perspective to events that cannot be understood simply as an attack on the United States.

Greenberg Lounge was packed on Friday, September 14, 2001, for a discussion that featured NYU School of Law Vice-Dean Stephen Gillers, Professors Stephen Schulhofer and Theodor Meron, and Hauser Global Law faculty members Nicola Lacey, Ratna Kapur, and Philippe Sands. Their discussion focused on the complex international legal issues that might arise as a result of the events of September 11. Most of the speakers expressed the hope that the United States would show restraint and follow its obligations under international law in its response to the terrorist attack.

In October, as part of an international law lecture series, Hauser Global Law faculty member Philippe Sands spoke to several first-year students about the Bush Administration's initial attempts to respond to the attacks within a multilateral framework and in compliance with international law. He discussed the Administration's successful attempt to receive support from the United Nations Security Council in the form of two binding resolutions, and he described NATO's invocation of Article V, which recognized the attack as an attack on all member states. Sands ended his remarks by reminding first-year students, whose legal education began in difficult times, that "the commitment you will be trained to have to the rule of law extends to things that happen outside the U.S."

The Future of Afghanistan and the War on Terrorism

Barnett Rubin, one of the world's foremost experts on Afghanistan and Director of Studies at NYU's Center on International Cooperation, spoke in November at an event hosted by NYU Law Professor Stephen Holmes. Rubin gave a detailed description of the relationship between Al Qaeda and Afghanistan, and between the Taliban and the international community. He shed light on Afghanistan's complex role in the events. Stating that Afghanistan was not the source of the attacks, and that, in fact, "no Afghan has ever been attributed with an act of international terrorism," Rubin said that nevertheless they "import terror, process it, and then export it."

Law and Religion After 9/11

The next day, the Law School hosted a symposium called "Law and Religion after 9/11: Perspectives on Islam and Islamism." Bernard Haykel of NYU's Departments of Middle Eastern Studies and History began the program with a brief history of radical Islamic thought, noting doctrinal differences among sects. Haykel said the most important difference involves groups' willingness to declare other Muslims infidels, thereby implying that their blood may be shed in

the name of religion, and their willingness to rebel against Muslim leaders they see as unfaithful. These doctrinal splits, Haykel said, drive today's violence. "The battle we witness today is, at heart, a battle within Islam—the United States is not, and cannot be, a primary actor."

NYU Law Professor Noah Feldman, an expert on Islamic law, saw a more active American role—to encourage democratization in Middle Eastern nations. Feldman explained that people living under undemocratic regimes in the Middle East are frustrated with their lack of self-governance. Because Islam is less effectively repressed than political dissent (governments cannot close mosques as easily as they can shut down newspapers), it is "the only oppositional game in town." Feldman said that the U.S. should support democratization in Middle Eastern countries in order to calm dissent. "Permitting self-governance will deflate, defuse, and deflect the frustration that leads to acts of violence." The democracy promoted should be "thin," including only those rights necessary for elections and self-governance, not a full-on protection of individual rights. A further expansion may be untenable in Muslim countries at the present time, he explained.

Mohammed Fadel, an attorney at the firm Sullivan and Cromwell, who holds a doctorate in Islamic Studies, explained that the modern understanding of citizenship, which is based essentially on geography, is alien to Islamic law. Radical Muslims often refuse to take part in their societies; the traditional manner of expressing dissent, he noted, is by exit, not voice.

Global Visiting Professor Ratna Kapur noted the failings of mainstream discussions. Her hope, she said, was to "dislodge our focus on a religious and cultural explanation" of current violence, pointing instead to politics and the end of the Cold War. Kapur said religion has joined the combatants in the United States–led war against terrorism. Commentators such as Reverend Jerry Falwell, Italian Prime Minister Silvio Berlusconi, and President George W. Bush had claimed the divine as a member of their coalition, while Muslim leaders have worked to dissociate themselves from the attack on the World Trade Center and the Taliban. Commentators have also relied on a vision of culture (particularly Islamic culture) as fixed and

static, thus closing off any consideration of change or dissent. Moving religion so strongly to the foreground obscures other essential aspects and “makes the situation an outcome of culture, not of the contemporary situation.” Kapur pointed out the recent pedigree of radical Muslim groups, which have mostly been founded within the course of the last few decades, not in some timeless Islamic past.

Iran, Democracy, and Human Rights



Reza Pahlavi

In December, Reza Pahlavi, son of the late Shah of Iran, addressed attendees at an event sponsored by the Middle Eastern Law Students Association. Since the unexpected and sudden removal of his father in 1978, the crown prince has lived with his family in exile. Having completed his education at the University of South Carolina, the former fighter pilot now resides in the suburbs of Washington, D.C., where he has recently emerged as the leading exile voice for democratic reform in Iran. Following the events of September 11, his message was clear and simple: to bring a democratic referendum of self-determination to the nation of Iran. Pahlavi was confident that if given the opportunity to select their own form of government, the Iranian people will choose democracy.

International Conference on the Jurisprudence of War

February saw another large event that explored the legal aftermath of the September 11 attacks. A two-day conference, which brought together a distinguished group of U.S. and foreign scholars, explored issues surrounding President Bush's executive order of November 13, 2001, concerning military tribunals. Called “The Jurisprudence of War,” the event was co-hosted by NYU and Columbia law schools. The organizers were NYU Law Professor Stephen Holmes and Columbia Professor George Fletcher.

Six panels examined the complexities of bringing the perpetrators of the September attacks to justice. The first panel debated the principles and practicalities of setting up international or domestic tribunals. The framework for the subsequent discussion was sketched out by Harvard Professor Anne-Marie Slaughter and Yale Professor Harold Koh. Slaughter emphasized that it is important for justice to be done internationally due to issues of uniformity of law, legitimacy, progressive development of international criminal law, and symbolic force. Koh expressed confidence that U.S. national courts can handle cases of international terrorism and was skeptical that an international tribunal would be a viable option due to the politics of the U.N. Security Council, the lack of international acceptance, and logistical problems. He also pointed out that in light of the International Criminal Court (ICC) coming into force, there is a need to get national courts into shape for hearing international cases under the doctrine of complementarity established by the ICC.

The second panel continued the debate by examining the use of specially created military tribunals with presentations by Aryeh Neier of the Open Society Institute; NYU Law Professor Rick Pildes; Michael Dorf of Columbia University; and David Cohen of Berkeley. The presentations and subsequent discussion ranged from an analysis of Geneva Convention requirements for POW status to the grounds used to justify holding Taliban and suspected Al Qaeda members. Participants were uniformly critical of military tribunals, although their rationales varied—covering reasons of law, principle, policy, and pragmatism.

Wachtell, Lipton, Rosen & Katz Establishes \$5 Million Fund at NYU for Children of Emergency Workers Killed in the WTC Tragedy

Martin Lipton, the Chairman of New York University's Board of Trustees and a founder and partner at the law firm Wachtell, Lipton, Rosen & Katz, announced that the firm will establish a \$5 million scholarship fund at NYU to help provide for the dependents of the firefighters, police officers, and emergency medical services personnel who lost their lives responding to the World Trade Center tragedy.

The fund, to be called the Wachtell, Lipton, Rosen & Katz Scholarship Fund at New York University, will be used to provide full tuition, room, and board at NYU for the sons and daughters of these brave men and women. Recognizing that firefighters, police officers, and EMS personnel from New Jersey, Connecticut, and other areas beyond the city were among those who lost their lives in the attack, the University will make the scholarships available not only to New York City residents but to all those who meet the eligibility requirements. Eligibility will be determined by NYU in consultation with the New York City Police Department, the Fire Department of New York, and the Port Authority of New York and New Jersey.

Lipton said, “Courage has a face, and it can be seen in the valorous and selfless men and women in our city's emergency services—fire, police, and EMS—who daily run in when the natural instinct is to run out. At no time in our city's history has that courage and dedication been on greater display than it was on September 11, and at no time has their commitment to duty come with a higher cost for them or this city. The sacrifice these heroes made on behalf of New York has moved us and humbled us beyond all words. I am gratified that Wachtell, Lipton, Rosen & Katz and New York University can do something that will, perhaps, in some small measure make their families' sacrifice a little bit lighter.”

Richard Posner of the University of Chicago Law School wound up the first day with a presentation on "Balancing Civil Liberties Against Security." Stating that the "terrorist threat is big enough to make us question all of our assumptions from the ground up," he pointed out that jurists in the 1800s could not have conceived of the possibility of a suitcase atomic bomb and stated that lawyers are little qualified to adjudge national security issues. Posner argued that the scope of the Fourth Amendment should be adjusted according to how great the danger is and pointed out that freedom of speech may be restricted where there is danger.

Day two of the conference began with panels that analyzed separation of powers and emergency powers issues relating to the possible use of military tribunals. Both topics evoked lively discussion. The final two panels looked at "Detentions: Patriot Act and Guantanamo" and "The International Critique of American Policy." Participants picked up on themes that had been developed throughout the conference, including the value of precedent and the European experience with terrorism, and the thorny problem of what kind of adjudicatory forum is ultimately appropriate. NYU Law Professor Mattias Kumm cautioned, "It is too simple to say that Europe has learned its

lesson and the U.S. has not because the situation here is very different from ordinary terrorism." Kumm contrasted the terrorist threats faced by European nations in which the actors had political goals that included future relationships with the governments involved with the U.S. situation in which "the terrorists are trying to kill the enemy civilization because it is the devil." He also stated that nuclear and biological weapons make this situation unprecedented. Kumm argued that ordinary jury trials may not be appropriate and that the U.S. must move outside the framework of federal courts, but should use independent judges in new institutions and not military tribunals. Ruth Wedgwood of Yale Law noted that the Geneva Convention can be interpreted to prefer military tribunals and discussed the problems that arise as a result of non-state actor adversaries. Wedgwood also touched on the issues of protecting intelligence and court security as reasons to take these trials out of the civilian court context.

The distinguished and diverse group of participants also included Jose Alvarez, Columbia; Andrew Arato, The New School University; Mirjan Damaska, Yale; Lori Damrosch, Columbia; Mireille Delmas-Marty, Paris I; Albin Eser, Max Planck Institute, Freiburg; David Golove, NYU Law; Neal Katyal, Georgetown, Yale; Jaime Malamud, Buenos Aires; Gerald Neuman, Columbia; Catherine Powell, Columbia; Jeff Rosen, George Washington University; Michel Rosenfeld, Cardozo; Stefan Trechsel, Zurich; Michel Troper, Paris X; and Michael Walzer, Princeton.

Students Respond to Crisis With Legal Theory

ERIN HOLT ('03)

With classes cancelled and downtown Manhattan closed below 14th Street, NYU Law students were not thinking about legal theory in the days following September 11. Our first instincts were to make sure that all friends and classmates were accounted for, and beyond that to think about how life, let alone law school, could possibly return to normal after such a close encounter with immense tragedy. But as the days progressed, classes resumed, and the current state of world affairs began to take shape, our thoughts turned inevitably to how we as students would be able to channel our emotions and concerns through our legal education, and more important, how the law itself would change as a result of the changed world. Professor Clayton Gillette's seminar on Legal Response in Times of Crisis was a unique and focused way for upper-class students to take these conversations out of the courtyard and hallways, and into the classroom. The overwhelming response to the seminar was itself a manifestation of student interest in the legal implications of the current situation for civil rights, constitutional interpretation, administrative law, and the federal system.

Beginning with a brief historical survey of governmental mechanisms for handling crises from the Roman Empire through the modern democratic state, we started the semester by developing a set of institutional behavioral "norms" in times of crisis. Using these norms in combination with a roster of public and private actors and interest groups, each weekly meeting of the seminar focused on a discreet and distinct crisis analysis. Topics included Lincoln's suspension of habeas corpus, local government

handling of the Spanish Influenza epidemic of 1918, Japanese internment by executive order during World War II, and the judicial response to the Arab Oil Embargo. Discussions were organized around a set of readings and short reaction papers written by students. Responses were always varied, with arguments stemming from economics, constitutional and social contract theory, as well as differing positions on government action and branch interaction. In addition to these weekly conversations, several students, including myself, chose to use the seminar to fulfill their major writing requirement. We were allowed to choose our topics, as long as they involved some form of "crisis" under the elusive and evolving definition given by the class. I chose to write about what I found to be the most compelling legal response to September 11 to date, the establishment of an administrative compensation fund for victims of the World Trade Tower and Pentagon attacks. Other topics covered by students included judicial response to the AIDS in schools crisis in the mid-1980s, the current economic and political crisis in Argentina, and the implications of the recent PATRIOT Act for educational privacy. Although many of the class topics were greatly separated in time, subject matter, and degree of impact from recent events, the majority of our discussions ended up in strong parallels and analogies to current events. As the semester moved on, we found ourselves provoked to think about the legal world and our own worlds in new and different ways, some hesitant, some hopeful, but all evolved from our initial responses to the tragic events of last September.

Workplace Discrimination, Privacy, and Security After 9/11

In May, The Center for Labor and Employment Law held the 55th Annual Conference on Labor, "Workplace Discrimination, Privacy, and Security After 9/11." The program assembled the nation's leading practitioners of labor and employment law, human resources, labor economics, industrial relations, and related fields, to examine the ways in which September 11 has changed the lives of Americans in the workplace. Numerous ground-breaking papers were presented on the tragedy's



NYU Law Professor Stephen Holmes, one of the organizers of the International Conference on the Jurisprudence of War

implications for workplace discrimination, privacy, and security.

The first part of the conference focused on whether there were legitimate reasons for government and employers to make selection decisions on the basis of the ethnic origin or ethnic appearance of individuals. There was a very lively debate among prominent constitutional scholars, including Sherry Colb of Rutgers University; Peter Schuck of Yale Law; and Deborah Malamud, University of Michigan Law School, on the issues of ethnic profiling, anti-Arab/Muslim charges in the EEOC, English-only rules in the workplace, and the scope of constitutional protection of employees who engage in hate speech.

Professor Alfred W. Blumrosen of Rutgers University School of Law gave a presentation entitled "Intentional Job Discrimination in Metropolitan Areas." Blumrosen's talk focused on the use of EEO-1 data to identify employee discrimination. He challenged the EEOC to create a vision for enforcing employment discrimination claims, and said he hoped that the EEOC would consider using EEO-1 data in the future to identify employee discrimination claims.

The conference then turned to questions of immigration law and practice. Immigration experts, including Frederick Braid, David Rosoff, and Jo Anne Adlerstein, looked at the rights of resident aliens, anti-discrimination provisions of the Immigration Reform and Control Act, and the practical impact of September 11 on the processing of naturalization and H1-B "guest worker" petitions.

Conference participants also examined the role of background checks and the permissible extent of electronic and computer use surveillance, in light of concerns with workplace security and the enhanced technological competence to monitor workplace conduct. The panelists were comprised of top practitioners in the field, including

former National Labor Relations Board (NLRB) Member Marshall Babson.

The conference looked at the contributions collective bargaining can make to mitigate the impact of layoffs and other responses to September 11-induced economic downturns, and the special issues raised by the need to preserve positions for employees who undertake military service obligations.

NLRB Chair Peter Hurtgen and NLRB Member Wilma Liebman gave a luncheon talk about recent developments in cases

Jonathan Bing ('95) Coordinates FEMA/ABA Hotline

In the days following the World Trade Center tragedy, people from all over New York City and the nation were eager to lend their expertise to those in need. Volunteering was a way to channel energy and emotions as well as to lend practical assistance to victims and their families. The legal community responded with an outpouring of offers of pro bono assistance, which necessitated a massive coordination effort.

Jonathan Bing ('95), coordinated the hotline set up by The Young Lawyers Division of the American Bar Association and the Federal Emergency Management Agency to facilitate the work of volunteer lawyers.

As time passed, it became more and more apparent that many of the individuals who had been through this tragedy had complex legal issues to resolve. Among the concerns were landlord-tenant disputes and employment issues. Families of the victims also needed estate advice, tax assistance, and help adopting orphaned children. Small businesses had issues concerning tax,

before the NLRB since September 11. Their presentation was followed by a lively question-and-answer session from conference participants.

The conference concluded with an examination of the question of physical and emotional security. In addition to presentations from security experts at prominent New York companies, leading practitioners in the field discussed issues of union duties, employee assistance plans, and workplace stress claims.

The conference was cosponsored by the American Bar Association's Section on Labor and Employment Law, the Industrial Relations Research Association-New York Chapter, the Labor and Employment Law Committee of the American Corporate Counsel Association, the Labor Policy Association, the National Labor Relations Board, National Employment Lawyers Association, the Labor and Employment Section of the New York State Bar Association, and the Society for Human Resource Management. ■

insurance, contracts, and real estate. Bing's mission was to see to it that each qualifying case was matched with an attorney who could help (disaster legal services are reserved for people who can't afford a lawyer and none of the cases can be fee generating; lawyers cannot sue airlines, for example).

In addition, many current law students were able to lend assistance by doing legal research. "What's nice about this program is that the first lawyer that people are going to hear from is a lawyer who practices in that area, so if they have a landlord-tenant question, they'll get a call from a landlord-tenant lawyer, a lot of whom are sole practitioners," Bing said. "This is where the law students have come in particularly handy, because a sole practitioner might not have access to the legal research services that a big firm might have."

The panel was made up of more than 250 lawyers. Ultimately, the hotline helped more than 750 people with questions relating to the September 11 attacks. ■



Around Vanderbilt Hall

THE NYU LAW INTELLECTUAL COMMUNITY CONTINUES TO grow with each passing year. Distinguished guest speakers and visitors engage faculty, students, and alumni in a wide range of formats—both formal and informal—to discuss the most important legal issues of the day. The Law School is a lively and vibrant place for the sharing of ideas, where intellectual curiosity and academic pursuits are duly rewarded.

Justice Breyer Delivers Madison Lecture

Supreme Court Justice Stephen Breyer visited NYU Law to give the annual James Madison Lecture. The event brought students, faculty, alumni, and judges together to hear Breyer's views on interpreting the United States Constitution.



Justice Stephen Breyer (center) with his wife, Joanna Breyer, and Professor Norman Dorsen

After a welcome by NYU President-Designate John Sexton, who characterized the Madison Lecture as “the premium lecture each year at the Law School,” Professor Norman Dorsen, director of the James Madison Lecture Series, introduced Breyer.

Breyer told the audience he had recently toured Ground Zero, the site of the destruction of the World Trade Center. He said it is important that lawyers and judges continue on despite the tragedy, because law, reason, and civilization are the opposite of the forces that destroyed the towers.

With that, the Justice began his lecture titled, “Our Democratic Constitution.” His hour-long speech focused on an anti-literal,

anti-textual approach to interpreting the Constitution. “I cannot find an easy answer to many constitutional questions in language, history, or tradition,” he explained. Instead, Justice Breyer told the audience, he seeks a consequentialist approach to interpretation.

The Constitution, Breyer explained, is a statement of purposes—like the preservation of individual liberty, the rule of law, and the dispersion of power. These purposes are important and the Court should focus on the likely impact a case’s resolution may have on them. The Court should apply the purposes of the Constitution in adjudicating the dispute.

One of the Justice’s examples focused on the conflict within campaign finance reform between free speech and balance of power. While the language of the Constitution seems to indicate unrestricted freedom of speech, Breyer explained that the purpose of the First Amendment is to ensure democratic government. “Seen in this way, campaign finance laws, despite the limits they impose, help to further the kind of open public political discussion that the First Amendment also seeks to encourage, not simply as an end, but also as a means to achieve a workable democracy,” he said.

In conclusion, Breyer suggested that a consequentialist approach to the Constitution can reemphasize the importance of democratic self-government and public trust and participation in government. “We judges cannot insist that Americans participate in that government, but we can make clear that our Constitution depends on it,” he said.

Prior to the lecture, Justice Breyer met with students in Greenberg Lounge, taking their questions and trying to demystify the role of the robed in our highest court. Most of the questions focused on the politics behind the bench and on Breyer’s role among the other Justices.

Breyer is the latest in a long line of Supreme Court and federal appellate Justices who have given these lectures since 1959. His speech was based on a text that will be published in the *NYU Law Review*. Professor Dorsen has edited and published one book of James Madison Lectures, *The Evolving Constitution*, and is preparing to publish a book of the latest lectures entitled, *The Unpredictable Constitution*.

Funding for the Madison Lectures is provided by the Schweitzer Endowment, the Philip Morris Companies, the estate of Howard Cosell (’40), and other donors. ■

Annual Survey Dedicated to Laurence Tribe

The *NYU Annual Survey of American Law* dedicated its 2002 volume to Laurence Tribe in a ceremony attended by some of the legal profession's most prominent members. The *Annual Survey*, in its 60th year of publication, is dedicated to an individual who has made an outstanding contribution to American law. Past recipients have included Arthur T. Vanderbilt, William J. Brennan, Jr., Norman Dorsen, and Bishop Desmond M. Tutu.

Laurence Tribe is the Ralph S. Tyler, Jr. Professor of Constitutional Law at Harvard Law School and the author of the seminal and still authoritative treatise on constitutional law, *American Constitutional Law*. He has also distinguished himself as a prominent Supreme Court lawyer, arguing seven cases in the last five years, including the case that led to *Bush v. Gore*. The dedication included honorary remarks by a number of Tribe's colleagues and friends, providing the many distinguished attendees a glimpse of the great man that Tribe is.

NYU President-Designate John Sexton opened the ceremony with a tribute to the *Annual Survey*, noting its distinguished history and continued prominence. Sexton then recounted how Tribe, his friend for more than 40 years, was the key to his entering law school and has influenced much of his subsequent career. Sexton recounted his time with Tribe when he was writing *American Constitutional Law*, describing it as an intense intellectual endeavor like none other he had ever witnessed.

NYU Law's Norman Dorsen, who has known Tribe for 30 years, spoke of Tribe's expansive talents, describing him as a leader in scholarship, teaching, current debate, and appellate argument for both public and private interests.

Judge John G. Koeltl of the Southern District of New York, a former student of Tribe's, spoke of the eloquence and insight of Tribe's work, taking an enormous body of law and clearly explaining where it came from, where it is, and where it might be in the future.



Harvard Law Professor Laurence Tribe

Dean Kathleen Sullivan of Stanford Law School, the first female dean of any school at Stanford and also a former student of Tribe's, attributed her success to the

computer that assigned her to Tribe's Constitutional Law class. Sullivan not only argued *Bowers v. Hardwick* with Tribe to the Supreme Court, but is also a close friend, turning to Tribe at moments of professional and personal crisis.

Bob Shrum, Chairman of Shrum Devine and Donilon, a political and media consulting firm, told the audience that Tribe's ideals were the basis of his politics and praised Tribe for caring more about fighting for justice than becoming a Justice.

Stephen Breyer, an Associate Justice of the Supreme Court of the United States, echoed many of Shrum's words. Justice Breyer used the occasion to encourage all people, especially law students, to follow Tribe's model and put the great minds that we all possess to work for the public interest.

Tribe humbly acknowledged the dedication to a standing ovation. In closing, he spoke of the need to maintain ideals, despite the formidable challenges that we face. ■

“Poison Pill” Inventor Martin Lipton Honored by Wall Street Barristers and the NYU Center for Law and Business

Martin Lipton, the President of the NYU Board of Trustees and a partner in the law firm of Wachtell, Lipton, Rosen & Katz was the guest at a luncheon sponsored by the Wall Street Barristers and the NYU Center for Law and Business. Lipton, known as an expert in mergers and acquisitions, is credited with inventing the so-called “poison pill defense” during the 1980s to foil hostile takeovers.

At the event, Lipton spoke of the events that led to the creation of the “poison pill” and said that although some claim that this private law creation eliminated most hostile takeovers, hostile takeovers also declined because stock prices rose during the 1990s. Lipton also discussed why many mergers do not add to shareholder value, and suggested that this was because the shareholders of the target company get a large premium. ■



Mergers and acquisitions guru Martin Lipton

Chief Justice Thomas R. Phillips Delivers Brennan Lecture

The Honorable Thomas R. Phillips, Chief Justice of the Supreme Court of Texas, delivered the eighth annual Justice William J. Brennan, Jr. Lecture on State Courts and Social Justice, "The Right to a Remedy." This lecture series, sponsored by the Institute for Judicial Administration (IJA) and the Brennan Center for Justice, provokes reflection upon and celebration of the state judiciary. Previous lecturers in 2001 and 2000 were Justice Christine M. Durham of the Supreme Court of Utah and Chief Justice Shirley S. Abrahamson of the Supreme Court of Wisconsin.

Chief Justice Phillips has distinguished himself both inside and outside the courtroom. After graduating from Harvard Law School, he worked as a briefing attorney for the Supreme Court of Texas and as a trial attorney for Baker Botts in Houston. Phillips served as a judge in the 280th District Court in Harris County, Texas, before he was appointed to the Supreme Court of Texas in 1988. He has since maintained his seat in three judicial elections and his current term ends this year.

Outside the courtroom Phillips has served as president of the National Conference of Chief Justices, chair of the Board of Directors of the National Center for State Courts, an adviser to the American Law Institute's Federal Code Revision Project, and as a director of the American Judicature Society. He currently sits on the American Bar Association Judicial Initiatives Committee and is chair of the Texas Judicial Districts Board and the Texas Judicial Council.

Phillips examined the historical background and development of "the right to a remedy" and the difficulties faced by state courts in interpreting and applying such a right. Although absent in the U.S. Constitution, 39 state constitutions contain a right to a remedy provision, or what is alternatively called an "open courts clause." These



The Honorable Thomas R. Phillips, Chief Justice of the Supreme Court of Texas

provisions have become weapons in the hands of those seeking to restrain state legislatures' ability to erase or limit common-law remedies and causes of action, particularly tort remedies.

Phillips pointed out that one of the major problems faced by state courts in trying to define a right to a remedy is the

lack of historical evidence about what the drafters of state constitutions had in mind when they inserted remedies clauses. State Constitutional Convention records contain very little discussion of the various remedy provisions, and to compound the problem many states that were admitted to the union after the Revolution simply adopted other states' provisions whole cloth and without discussion. Chief Justice Phillips also said that a lack of scholarly research on the topic makes it all the more difficult to form a consensus among scholars and practitioners about how remedy provisions should be interpreted. Not surprisingly, there are almost as many interpretations of the right to a remedy as there are remedy provisions.

Phillips argued that this lack of consensus among state courts presents a significant obstacle to the efficient and consistent administration of justice. "State courts have an urgent responsibility to develop a coherent articulation of what is meant by a right to a remedy," he said. The Chief Justice argued that far from being dead, the remedy provision's best days are ahead. He said that the right to a remedy has great potential to expand "access to justice for the poor" and that "the remedies clause may have much to teach us about the judicial responsibility to ensure equal justice under the law."

IJA was one of the first organizations committed to improving the administration of justice in the federal and state courts. Because of its reputation in the legal community and its relationships with federal and state judges throughout the country, the Institute, now in its 50th anniversary year, has offered an unrivaled opportunity for ongoing dialogue between judges, policy-makers, and academics.

The Brennan Center for Justice unites thinkers and advocates in pursuit of a vision of inclusive and effective democracy. Its mission is to develop and implement an innovative, nonpartisan agenda of scholarship, public education, and legal action that promotes equality and human dignity, while safeguarding fundamental freedoms. The Brennan Center uses scholarship, public education, and legal action to find innovative and practical solutions to intractable problems in the areas of democracy, poverty, and criminal justice. ■

Senator Joseph Lieberman Looks at Business Ethics in the Post-Enron Era

Speaking at the invitation of NYU's Center for Law and Business, U.S. Senator Joseph Lieberman urged a packed Vanderbilt Hall audience to "make integrity a top priority," in a forward-looking address on corporate responsibility and ethics after the collapse of energy giant Enron. Lieberman, who chairs a Senate committee investigating Enron, suggested the company's failure might be a canary in a coal mine for the business world—the warning of a "broad, troubling trend."

"We've seen too many companies bending rules, pushing through loopholes, defining ethical deviancy down, and replacing honesty with hokum and hype," Senator Lieberman said. "In the process, they don't just distort our values. They distort the markets, they taint the system, and they threaten the free flow of capital to other, deserving industries."

Lieberman called for a "new corporate social contract" including more regulation and voluntary reform to improve a corporate culture that is too devoted to profit maximization. "Such single-minded pursuit is often disastrous," he said. "Market values do not inherently incorporate moral values." On the other hand, he said, "better ethics lead to better economics."

More aggressive prosecution was one method Lieberman suggested to prevent future scandals like Enron. White collar crimes should not be treated with kid gloves, he insisted. Suggesting that corporate board members should lose their seats for failure to live up to their fiduciary duties, Lieberman emphasized that "sitting on a board is a responsibility, not a reward."

Many of the measures Lieberman proposed were aimed at protecting smaller investors and lower-level workers, including the creation of an "Investor's Bill of Rights and Responsibilities" to clarify what risks the average stockholder should expect to shoulder. Lieberman said information on corporations' market activities should be more immediately and openly available, including "real-time" disclosure of executives' stock sales. He also stressed the need for laws to safeguard workers' 401(k) retirement plans, especially those that give employees more opportunity to buy and sell stock.

The Senator also advocated limitations on financial analysts, who have become more like stock salespeople than impartial observers. In addition, he said, "we have to curtail the non-auditing work accounting firms can do for the companies they audit."

Senator Lieberman warned of the twin dangers of over- or under-regulating business. He cautioned against idealizing government's role and excessively legislating in a way that would stifle enterprise. He also cautioned against idealizing the self-regulatory powers of the market, noting the size of both the temptation to behave wrongly and the resulting damage.

Lieberman further acknowledged that regulation and legislation have their limits. Government reform can only go so far. "We cannot ever put business ethics police on every corner," he said. "Government will never be able to regulate or legislate in every corner of our markets, much less our lives."

Lieberman called for voluntary changes in corporate behavior to augment government action. Ultimately, he said, "whatever we do in business or in life, there will always be a place and time where human conscience alone guides us." Lieberman told students that the whistleblowers at Enron were role models in this regard, and expressed hopefulness about their ability to create change. "Your generation can repair the damage done and turn this churning scandal into a net gain for our economy." ■



Senator Joseph Lieberman

Supreme Court Clerkships for Four of NYU Law's Own

Three graduates of NYU Law and one current third-year student have been chosen for Supreme Court clerkships. Troy McKenzie ('00) is currently clerking for Justice John Paul Stevens during the 2002-2003 term. In 2003-2004, Janet Carter ('01) will clerk for Justice Sandra Day O'Connor. During that same term, Maggie Lemos ('01) will clerk for Justice Stevens. And third-year Larry Thompson has already accepted a clerkship on the Court for the 2004-2005 term, where he will work with Justice Clarence Thomas.

"Supreme Court clerkships are incredibly difficult to get," says Professor Michael Wishnie, Chair of the Clerkship Committee. "This record of success is testament to the high caliber of NYU Law students."

Of his experience as a Supreme Court clerk, Troy McKenzie says, "My clerkship with Justice Stevens has been a true delight so far. The opportunity to interact with him on a daily basis has been everything I had hoped it would be. I'm grateful for the many helping hands at NYU who made this possible." Prior to joining Justice Stevens' chambers, McKenzie clerked for Judge Pierre N. Leval in the United States Court of Appeals for the Second Circuit in New York City and was a summer associate at the firm Debevoise & Plimpton. While at NYU Law, McKenzie was the Executive Editor of *NYU Law Review*, a member of the Order of the Coif, and the recipient of the Paul D. Kaufman Memorial Award for a graduating student who has written the most outstanding note for the *Law Review*.

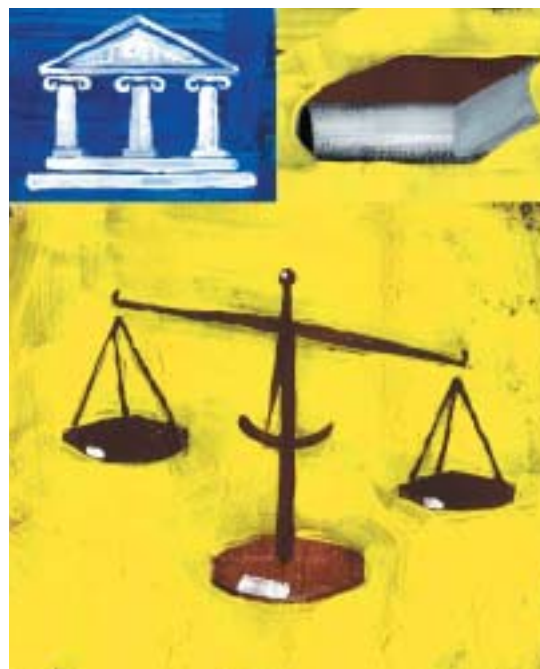
Janet Carter, who is presently clerking for Judge Richard Posner of the Seventh Circuit in Chicago, heads to Washington, D.C., in 2003 to serve Justice O'Connor. "I honestly don't believe that I could have achieved what I have had I chosen a law school other than NYU," says

Carter. "Coming from New Zealand, I faced foreigner-unique problems that were addressed enthusiastically by everyone I asked for help—I doubt that a school without NYU's global focus would have had the capability or the inclination to do the same." As an NYU Law student, Carter served as Managing Editor of the *Law Review* and was a member of the Order of the Coif. She received the Law Review Alumni Association Award for the second highest academic average after five semesters,

and the Benjamin F. Butler Memorial Award for unusual distinction in scholarship, character, and professional activities. Carter credits the Clerkship Committee for steering her to two incredible opportunities—her current clerkship with Judge Posner and her upcoming assignment with Justice O'Connor.

Maggie Lemos has most recently served in the chambers of Judge Kermit V. Lipez in the United States Court of Appeals for the First Circuit in Portland, Maine. She was Senior Notes Editor of the *Law Review* and a recipient of the Edward Weinfeld Prize for distinguished scholarship in the area of federal courts, civil procedure and practice, evidence, and/or trial practice while at NYU Law. Lemos clerked in the Office of the Solicitor General in Washington, D.C., in Summer 2001, and returned in August 2002 as a Bristow Fellow, where she will work until beginning her clerkship with Justice Stevens. According to Lemos, she's "still in a complete state of shock," about being chosen to clerk for Justice Stevens. "I'm really grateful to Mike Wishnie for his help during the application process. Once I got the interview, he put me in touch with NYU grads who had clerked for Justice Stevens, so I had a sense of what to expect in the interview," she says.

Larry Thompson, who recently completed his second year at NYU Law, will clerk for Justice Clarence Thomas during the 2004-2005 term. Before heading to the Supreme Court, Thompson will clerk for Judge J. Michael Luttig of the Fourth Circuit. "It is a great honor to be able to clerk for a Supreme Court Justice," says Thompson. "I am particularly excited to have the chance to learn from and develop a mentoring relationship with Justice Thomas, someone I have always admired." Thompson spent this past summer clerking at the New York firm of Kirkland & Ellis. During his time at NYU, he has been the recipient of a Dean's Scholarship for his academic achievement. Thompson has also served as a teaching assistant for President-Designate John Sexton's freshman honors seminar on The Supreme Court and the Religion Clauses, and as Deputy Commissioner of the Student Lawyers Athletic Program. ■



Two More NYU Law Graduates Head to World Court as Clerks

In Fall of 2002, two more NYU Law graduates will head to The Hague to work at the International Court of Justice (ICJ). Established in 1999, and funded by gifts to the Law School, the program provides graduating students and recent graduates with a firsthand look at the work of the Court. To date, the program has sent 12 graduates to the Court to perform research and assist the judges. Almost all were fluent in French and English, the working languages of the Court.

The first five clerks served at the World Court from September 2000 to May 2001. They were Robert Dufresne of Canada (LL.M. '98), Edda Kristjansdottir of Iceland ('98), Wiebke Ruckert of Germany (LL.M. '98), Ludvine Tamioti of France (LL.M. '00), and Jeremy Zucker of the U.S. ('00).

In Fall 2000, more than 40 applications were received for the 2001-2002 clerkships. A committee consisting of NYU Law Professors Norman Dorsen, Iqbal Ishar, and Michael Wishnie; Philippe Sands of the Global Law faculty; and Karen Johnson, Hauser Global Law School Program (HGLSP) Program Associate recommended 12 candidates to the ICJ. The Court selected Nicholas Burniat of Belgium (LL.M. '01), Devika Hovell of Australia (LL.M. '01), Margaret Satterthwaite of the U.S. ('99), Pablo Javier Valverde of Costa Rica (LL.M. '98), and Felix Weinacht of Germany (LL.M. '01). The clerks began work in The Hague in September 2001.

In Fall 2001, encouraged by the success of NYU Law's initiative, the United Nations approved a budget for the ICJ to hire five permanent law clerks as civil servants of the U.N. In recognition of NYU's contributions, the ICJ decided to continue the NYU Law program with some modifications. For 2002-2003, the ICJ selected two NYU Law graduates who will be assigned to work with individual judges. They will be designated as trainees/assistants to judges to distinguish this group from the permanent clerks. This year's participants, selected from a very strong group of candidates, are Judith Levine of Australia (LL.M. '00) and Anne Rubesame of Germany ('01).

OTHER INTERNATIONAL CLERKSHIPS

In addition to the ICJ clerkship program, the HGLSP has sponsored students for clerkships with the Court of Justice of the European Communities in Luxembourg. In Fall 2000, Michele Ameri ('00) received financial support from the HGLSP to clerk at the European Court.

Two other Law School graduates, Eric Christiansen ('01) and Carol Pollack ('01), received financial support for clerkships in different parts of the world. Christiansen

clerked for the president of the Constitutional Court of South Africa from September 2001 to February 2002. Pollack clerked with the Inter-American Court of Human Rights from September to December 2001.

In 2001-2002, NYU Law Professor David Golove was given responsibility for the international clerkships program, excluding the World Court clerkships. Two graduating students, Priti Patel ('02) and Frederick Rawski ('02), have been selected for financial support for clerkships abroad. Patel will clerk for one year at the Constitutional Court of South Africa, starting in August 2002, and Rawski is expected to clerk at the International Criminal Tribunal for Rwanda from August to December 2002. ■

Anita Allen Delivers Bell Lecture



Anita Allen and Derrick Bell

The Sixth Annual Derrick Bell Lecture on Race in American Society, "Accountability for Private Life," was delivered by Anita Allen, Professor of Law at the University of Pennsylvania Law School. Allen, whose research and writing focuses primarily on sexual privacy, has written numerous articles and is the author of *Privacy for Women in a Free Society*, co-author of *Privacy Law: Cases and Materials*, and co-editor of *Debating Democracy's Discontent: Essays on American Politics, Law, and Public Philosophy*.

In her lecture, which explored the various ways Americans hold each other publicly accountable for private behavior, Allen

argued that society must balance the individual autonomy we need and deserve with the accountability necessary to sustain the social and familial ties that bind citizens together. She said that while people need a certain level of privacy for psychic and emotional well-being, public accountability for private behavior is essential to maintaining social order. Allen believes that we cannot escape this reality because as Americans we imagine ourselves as autonomous and free individuals, but as human beings we are part of a network of relationships that require accountability.

Allen further emphasized the role that racism and sexism play in the decision to hold people publicly accountable and she noted that people of color and women are often subjected to a higher scrutiny. However, Allen encouraged people to hold individuals of their same race and gender publicly accountable for their private behavior, arguing that actions such as Jesse Jackson's marital infidelity have negative repercussions on all blacks.

Established in 1995 to celebrate Professor Derrick Bell's 65th birthday, the Derrick Bell Lecture on Race in American Society is made possible by the generous support of friends of Derrick Bell and the Geneva Crenshaw Society. ■

More Postgraduate Fellowships in Public Interest Law for NYU Law Students

NYU Law students have enjoyed phenomenal success in competitions for postgraduate fellowships in public interest law. This year, 22 Law School graduates have been selected for one- and two-year positions with renowned public interest organizations across the country. Increasingly, a fellowship is the most prestigious first postgraduate (or post-clerkship) job for students interested in careers in public interest law.

The fellowship application process is rigorous. For most fellowships, applicants are asked to partner with a public interest law organization and create a project that will

meet a pressing legal services need. The process begins during the Summer, when students research potential sponsoring organizations and meet with public interest attorneys who help them design projects that build on work that students have already done in their courses, clinics, and summer internships. Application essays are polished in the early Fall, and students work closely with their professors and the Public Interest Law Center to craft compelling applications. The next stage is interviews, where applicants are asked to demonstrate their legal acumen, commitment to public interest, and

knowledge of the issue their project seeks to address. Although the process is arduous, successful applicants often refer to their fellowship as a “dream job,” where they have the opportunity to work on issues about which they care deeply.

Michelle Benedetto ('01), received a NAPIL/Equal Justice Works fellowship to work with the Legal Aid Society of San Diego on their Juvenile Outreach Project. “NYU served an integral role in the preparation of my fellowship application,” Benedetto said. “My NYU experiences, particularly in the Juvenile Rights Clinic, motivated me and shaped the development of my project. Professor Tony Thompson, Professor Randy Hertz, and PILC Director Vicki Eastus provided valuable feedback and support. Because I was clerking in the Southern District of California, I especially appreciated the willingness of NYU to coordinate time differences and distance in order to assist me.” ■

Public Service Fellowships Received in 2002 by NYU Law Students and Alumni

ACLU Fellowship

Gail Gove '02, ACLU Litigation Project
Seattle, Washington

Dalia Hashad '00, ACLU Foundation
New York, New York

Berkeley Law Foundation Fellowship

Melissa Froehle '02, NYU PILF Grant
Central Minnesota Legal Services and the FATHER Project (Fostering Actions to Help Earnings and Responsibility)
Minneapolis, Minnesota

Crowley Fellowship in International Human Rights

Maria McFarland '01, Fordham Law School
New York, New York

Equal Justice Initiative Fellowship

Gerald “Bo” King '01, Equal Justice Initiative
Montgomery, Alabama

Fried Frank Fellowship

Olga Akselrod '02, NAACP LDF
New York, New York

Furman Fellowship

Laurie Berg, LL.M. '02, Lawyers Committee for Human Rights, New York, New York

Barbara Bolton, LL.M. '99, Human Rights Watch
New York, New York

Gibbons, Del Deo, Griffinger & Vecchione Fellowship

Jennifer Ching '00, Newark, New Jersey

Kirkland & Ellis Fellowship

Kim Seelinger '02, Lutheran Family & Community Services, New York, New York

NAPIL / Equal Justice Works Fellowship

Michele Benedetto '01, Juvenile Outreach Project, Legal Aid Society, San Diego, California

Rachel Meeropol '02, Center for Constitutional Rights, New York, New York

Christian Mendoza '02, NYU Law Center for the Study and Practice of Community Justice
New York, New York

Jennifer Werdell '01, New York Legal Assistance Group, New York, New York

NYU Center for Environmental Law and Land Use Fellowship

Joel Beauvais '02, New York, New York

Skadden Fellowship

Mallory Curran '02, Legal Aid Society of Cleveland/MetroHealth Medical Center
Cleveland, Ohio

Omar Jadwat '01, ACLU Immigrants Rights Project
New York, New York

Shina Majeed '00, Urban Justice Center
New York, New York

Andrew Williams '02, Bronx Defenders
Bronx, New York

Soros Justice Fellowship

Sarah Xochitl Bervera '02, Grassroots Leadership
Atlanta, Georgia

Marlee Ford '02, Bronx Defenders
Bronx, New York

Peter Markowitz '01, Bronx Defenders
Bronx, New York

Zubrow Fellowship

Suzanne Meiners '01, Juvenile Law Center
Philadelphia, Pennsylvania

Listening and Lawyering: Anna Deavere Smith Teaches Law Students New Ways to Hear

The Lawyering Theory Colloquium invited Anna Deavere Smith to create a workshop introducing NYU Law students and faculty to her unique method of interviewing and representation.

Anna Deavere Smith's signature one-woman performances arise from careful study of the exact speech and gestures of people she has interviewed—for example, those affected by civil unrest and racial conflict in Crown Heights, Brooklyn (*Fires in the Mirror*) and Los Angeles (*Twilight: Los Angeles, 1992*). A playwright, MacArthur Foundation “genius” award winner, and actress (with a recurring role on the NBC series *The West Wing*), Smith recently took on the role of University Professor at NYU, a title reserved for a small number of top faculty members. In addition to teaching performance studies at Tisch School of the Arts, Smith is sharing her distinctive take on interpersonal communications at the Law School.

In the workshop Smith demonstrated her exceptional ability to elicit and hear a

subject's authentic voice and invited the law-trained audience to take a fresh perspective on what it means to interview, and to represent, another person. In keeping with a program that seeks to teach through experience, Smith presented her work as a series of opportunities for participants to listen, speak, and learn by reflecting on the “space between” speaker and listener.

Smith began by showing videotaped simulated client interviews conducted by first-year students in the Lawyering Program. These interviews generally are new students' first opportunity to step into the role of lawyer. After several weeks of introduction to factual and legal interpretation, student pairs meet with a client (played by a teaching assistant) to learn the client's story. The meeting prepares students for framing the

client's legal problem, researching the law, and ultimately recommending a course of action. As the exercise unfolds, students come to understand how their interaction with the client shapes, and is shaped by, both parties' assumptions and expectations.

Smith worked with a group of Lawyering students for part of this exercise, viewing several tapes and joining the students when they met to discuss their work. Smith observed that the students' interviews on the tape, like many of her own—and like the workshop itself—were conversations around the “space” of a table. She encouraged participants to consider how and when the conversational “space” filled with the voices of those around the table, and the implications for conversations between lawyer and client, teacher and student.

To “think like a lawyer,” many feel obliged to filter out the information conveyed in a client's voice and gestures. Yet the voice is rich in data, Smith demonstrated. Through video clips and live performance, she introduced participants to the voices of people she has interviewed, narratives of injustice and conflict that would not be out of place in a law office or on a law school exam. Smith challenged her audience to hear what disappears from transcripts, summaries, and memoranda, and to appreciate how the voice itself can help the listener understand the speaker. ■



Anna Deavere Smith (far right): “Listening is not just hearing what someone tells you word for word.”

Senator Jim Jeffords Delivers Abrams Lecture

A standing-room-only crowd of NYU Law students welcomed Vermont Senator Jim Jeffords to Greenberg Lounge for the Fifth Annual Robert Abrams Public Interest Lecture. Attorney General Robert Abrams ('63) introduced Senator Jeffords, whose departure from the Republican party in June of 2001 tipped the balance of power in the Senate.

Jeffords elaborated on the theme of the importance of an individual voice, candidly discussing his decision to declare himself an Independent and the turmoil the decision caused in his political and personal life. He credited his maverick tendencies to the politics and culture of Vermont, his home state, which pronounced its own independence from the fledgling republic for 10 years, declared war on Nazi Germany before the United States, and was the first state to abolish slavery and to recognize same-sex civil unions. An occupant of the Senate's longest continuously held Republican seat, Jeffords also located himself in a long tradition of moderate and independent-minded Vermont Republicans. In an evenly divided Senate, he had hoped and expected that moderates would be a strong voice, and was encouraged by their success in adding \$450 billion in health and education programs to the 2002 federal budget bills, the first meaningful education spending increase in a decade. But in the critical conference committee process, all of this funding was zeroed out, and moderates were shut out of key deliberations and decisions. Educational programs Jeffords had long championed, including early education and special education, lost out on what he considered a unique opportunity to reach meaningful funding levels, given the budget surplus. More broadly, he saw many of the issues important to him swept aside by rigid partisanship. Realizing that he had an historic opportunity to affect the legislative agenda, Jeffords put aside a lifetime affiliation with the Republican party and announced his independence.

The decision was not without personal cost. Receiving a barrage of threats, Jeffords was obliged to accept 24-hour police protection for a time, and faced the wrath of his colleagues, even losing his membership in the Singing Senators, a barbershop quartet led by now ex-majority leader Trent Lott. Many of Jeffords' close advisers were opposed to the move, and even his family



Vermont Senator Jim Jeffords delivering the Abrams Public Interest Lecture

weighed in—his son threatened to name his first child “Reagan Nixon Jeffords.”

But the senator remains convinced that he is now better able to represent his state, his principles, and his conscience. He counseled those in the audience to examine their own conscience and to do as it dictates. “You’ll live through it, and people will accept and respect you,” Jeffords said. ■

Burt Neuborne Delivers Weiss Public Interest Lecture



Professor Burt Neuborne

At this year's Weiss Public Interest Lecture, Professor Burt Neuborne encouraged a sea of first-year students to work for the public interest, and urged those who wouldn't make a career of it to be sure to “volunteer your time.” One such example of private practice attorneys working with the public sector to great effect is the litigation over monies absconded from scores of Jewish families during the Holocaust. Neuborne played an integral role in securing reparations from the German government on behalf of families and descendants of families whose wealth was misappropriated during the War. He said that since this class of plaintiffs was unable to command attention on the world political stage, their cause fell to the legal community. The suit was brought in the Eastern District of New York, with the settlement of the case for \$1.25 billion pending. Neuborne told the

students that the successful outcome of the cases shows the importance of lawyering in the American system and proves that any student at NYU Law with “courage, stamina, and imagination” can effect change like this in the future.

Neuborne described the suit on behalf of the Jewish population as falling into four types of cases. The first type is the case against the Swiss banks, who, in 1934, established secrecy in banking, enticing German Jewish families to pour their life savings into Swiss banks. Later, when the descendants of those families came to withdraw the money, the banks refused to release information about the account without the holder’s permission or a death certificate. Since no concentration camp issued death certificates, the families were unable to access their money. And then 10 years after an account was opened, all the records were destroyed in accordance with Swiss law, at which time the families had no hope of ever recovering their money from the bank. Neuborne characterized this behavior by the Swiss banks as “the greatest fraud and double crossing imaginable.” He said, “It violated the basic morality of being a human being and of being a banker.”

Neuborne then outlined the three other related causes of action: against insurance companies who never paid out on policies owned by Jewish Germans; against the German government and corporations for the slave labor of German Jews; and against German banks for forcing sales of Jewish assets at artificially low prices.

Neuborne also spoke of the importance of an apology, like the one issued by Germany and read by its President on behalf of the country to the surviving members of the Holocaust. “It was a very emotional moment and it can’t be calibrated in dollars,” he said.

In closing, Neuborne compared the case for Holocaust reparations to a potentially similar claim for reparations by African Americans in this country. “The distinction is the timing,” he said. “In the German case, the victims were alive and those who’d benefited unjustly were identifiable.” In the case for slave reparations, it is harder to identify the victims and beneficiaries. Although people disregard the slave case on these grounds, Neuborne said a court might approximate the class of victims under an established equitable doctrine. ■

Public Service Auction Raises More Than \$102,000

This year’s Public Service Auction featured the last pie ever to be hurled in NYU President-Designate John Sexton’s face in the name of public interest law, and raised more than \$102,000 to support summer public interest scholarships for NYU Law students.

The events of September 11 posed a special challenge to the auction organizers, headed by Auction Chair Kelly Burns (’03). When student volunteers began canvassing the community in October, small businesses were less willing to donate than they had been in previous years. Businesses in the community had donated to September 11-related charities and were reluctant to give to NYU, which they perceived as a wealthy institution, explained Gabrielle Prisco (’03), Community Canvassing Chair. But in the end, the auction ultimately received more local donations than last year. “Students really rallied at the last minute,” said Prisco, adding that local businesses realized that their donations would fund the type of legal work that would help the homeless, the unemployed, and those who had lost family members. “We also had an excellent response from faculty, alumni, and new law firm donors,” says Burns. This support enabled the Auction, despite a rough start and the worst economy in its eight-year history, to reach its six-figure goal for the first time.

The silent auction, which raised \$30,000, included items such as dinners at local restaurants, tickets to movies and sporting events, and various goods and services donated by local businesses, faculty, and students. Items available ranged from private voice lessons to tarot card readings. Auction participants nibbled on sushi, dumplings, and hot wings donated by local restaurants as they placed their bids.

The live auction raised a total of \$37,000 and featured several big-ticket items, from a champagne brunch for 20 at the home of Professor Vicki Been and Dean-Designate Richard Revesz to vacations in Utah, Italy, and Jamaica. Former New York City Public Advocate Mark Green was one of the evening’s five auctioneers. Green, the democratic candidate in the 2001 race for New York City mayor, garnered \$550 for a helicopter ride around Manhattan, joking that the helicopter would hover over Mayor Michael Bloomberg’s townhouse while he was in Bermuda.



John Sexton takes a final pie in the face

Alumna Beverly Farrell (’01), who was a student auctioneer last year, made a repeat appearance. “This is not about discounts,” she urged, leading the audience in a rousing NYU cheer. Farrell started a bidding war over a weekend in Professor Sylvia Law’s country house in Woodstock, New York. The weekend went for \$1500 and an additional weekend at Professor Law’s country house sold for \$1400.

Despite Farrell’s urging, there were still bargains to be had for ardent auction supporters. Professor Law, who bid on two round-trip tickets to London on Virgin Atlantic Airlines “just to encourage bidding,” considered her \$1000 tickets a “bargain.” A vacation package for two at The Ritz-Carlton Rose Hall in Jamaica had a total value of \$2520, but went for just \$1800.

Farrell then made a plea for a “community gift” for a \$3250 scholarship in Sexton’s name. Auction volunteers collected small donations of \$5, \$10, and \$20 from the audience. Farrell explained that the gift honored Sexton in his last year as Dean. “This guy is so important—it should be a community gift,” she said.

The evening culminated in the long-standing tradition of throwing a pie in Sexton’s face. Enthusiastic auction supporters bid on not one pie, but two. Anastasia Crosswhite (’02) threw the first pie at Dean Sexton for \$2000. Last year’s auction chair Laura Gitelson (’02) threw the second pie, bought by a group of students and faculty led by Vicki Eastus, Director of the Public Interest Law Center, for \$1000. In response to cries from the audience to “Take it off! Take it off!” and an additional bid of \$500, Dean Sexton pulled off his Brooklyn Prep sweatshirt and tee shirt and stood onstage bare-chested and covered in whipped cream.

Ideas and Action: Fighting for Campaign Reform at the Brennan Center for Justice

The passage of the Bipartisan Campaign Reform Act—more commonly known as McCain-Feingold—was a great victory for the reform movement, and, more important, for our democracy. This new law is an important first step toward the goal of protecting the integrity of our elections and making elected officials responsive to everyday voters rather than to monied interests.

The Brennan Center at NYU Law is proud to have played a role in this seven-year battle, along with numerous other advocates, and now is thrilled to be part of the legal team defending the new law on behalf of the sponsors against a barrage of lawsuits.

The McCain-Feingold litigation and victory is a validation of the Brennan Center's founding premise: to create a new breed of public interest organization that lives comfortably in the world of ideas and in the real world, just as Justice Brennan himself combined an uncanny ability to rethink entire areas of the law with a pragmatist's insistence that law should be an engine for social change. Skeptics thought it couldn't be done, predicting the Center would ultimately have to choose to be either a think tank or an activist organization. But the Brennan

Center's role in McCain-Feingold proved them wrong, for the Center's involvement has spanned the full arc from ideas to action.

From the start, the Brennan Center injected important new legal and policy ideas into the campaign finance debate in the form of numerous books, monographs, and articles in legal and political science journals. Also, with the guidance of Professor Burt Neuborne, the Center coordinated the distribution of letters signed by former American Civil Liberties Union (ACLU) leaders and top First Amendment scholars, arguing in favor of the constitutionality of the McCain-Feingold legislation. Another significant intellectual contribution to the debate came with the Center's unprecedented empirical work. In partnership with Professor Kenneth Goldstein of the

University of Wisconsin, the Center amassed the single largest database of political advertising ever developed.

Armed with this data, the Brennan Center then played a role in crafting a key legislative proposal that became one of the law's cornerstones, the "Snowe-Jeffords" provision, aimed at closing the loophole that allows electioneering ads to masquerade as issue advocacy. The Center also defended the bill in numerous committee hearings and helped staff the "war room" on the Hill each time the legislation was debated in the House or Senate. The *Congressional Record* was rife with references to the Center's data and analyses at every step of the way. So was the popular press. From the *New York Times* to the *Los Angeles Times*, journalists and editorial boards consistently turned to the Center, both for legal comment and empirical support.

Now the Center finds itself living the ultimate dream of any activist organization: the sponsors of the bill have asked the Brennan Center to join an all-star legal team defending the new law against a barrage of legal challenges. The defenders of the reform law are up against some of the most powerful and well-financed forces in politics—the National Rifle Association, the U.S. Chamber of Commerce, the ACLU, the AFL-CIO, and the National Right to Life Committee, to name just a few. And the stakes are about as high as they could be. After all, the case, which is headed for the Supreme Court in a matter of months, is sure to be the single most important campaign finance case in a generation. Not since the Court's 1976 landmark decision in *Buckley v. Valeo* (which, incidentally, was written by Justice Brennan) has there been a case that will have as profound an impact on the future of campaign finance reform at all levels of government. In this ultimate forum, the legal analysis the Center has been conducting for years and its groundbreaking empirical studies will once more play a critical role.

Combining advocacy with research and scholarship—and doing it all under one roof—is a model put to work by the Brennan Center whenever the opportunity presents itself. Advocacy on behalf of local "living wage" initiatives, which insist that businesses create family-supporting jobs when they benefit from government subsidies, is being supported by the research and analysis of the Brennan Center's Dr.



(r-l): Senator Russell Feingold and his counsel Bob Schiff, with Brennan Center President Joshua Rosenkranz

Annette Bernhardt, a leading expert on low-wage labor markets.

The Center's arguments about the urgent need to better protect the independence of state court judges who stand for election gains power from empirical research on political television advertising done by the Center's Dr. Craig Holman. The Center's Criminal Justice Program is conducting a survey of public housing tenants subject to a "zero tolerance" eviction policy for crimes committed by a household member—even when the tenant had no inkling of the crime. Another survey examining the effect of federal restrictions on civil legal services for low-income Americans will hopefully provide a strong complement to the Center's ongoing litigation on behalf of vulnerable clients in need of a lawyer.

What new injustices will the Brennan Center decide to attack with this signature mix of ideas and action? That's not yet clear. What is clear is that the Brennan Center model can be a powerful engine for creating a more equal and just society. ■

Brennan Legacy Awards Dinner

Thursday, October 3, 2002, 6:00 PM
Regent Wall Street Hotel, New York City

At a gala event in New York City, the Brennan Center for Justice will celebrate the major accomplishments from 2002—including the recent passage of federal campaign finance reform—a law we are currently defending against a forceful challenge in the courts; our felon disenfranchisement suit in Florida is fighting to restore the fundamental right to vote to hundreds of thousands; a significant new suit, *Dobbins v. Legal Services Corporation*, that builds on our 2001 Supreme Court victory, seeks to protect the right of the poor to civil legal counsel; and an expanding living wage movement.

The event will honor actor and activist Martin Sheen and UBS PaineWebber Inc. with



the Brennan Legacy Award, given to individuals who have made significant strides in the pursuit of equality and human dignity. The Awards Dinner is Chaired by actor and director Alec Baldwin, joined by a host committee comprised of law firm partners, corporate executives, and philanthropists. The actor and director Charles Dutton returns as this year's Master of Ceremonies.

For information about tickets and sponsorships, contact Jason P. Drucker at (212) 992-8646 or jason.drucker@nyu.edu.

Furman Center for Real Estate and Urban Policy Now a Joint Research Center in NYU Law and Wagner Schools

The Furman Center for Real Estate and Urban Policy at NYU Law, one of the nation's most innovative teaching and research programs on real estate and urban policy issues, is now a joint research center with NYU's Robert F. Wagner School of Public Service. Professor Michael Schill, who will continue to serve as the Center's director and a faculty member with joint appointments at the Law School and Wagner, founded the Center in 1995.

The Furman Center, the first joint research center between the Law School and Wagner, is named in honor of NYU Law alumnus Jay Furman ('71), who is on the Law School Board of Trustees and the NYU Board of Trustees. Furman, an international real estate investor and developer, provided generous financial support to

endow the Center. "Issues of housing, land use, and the built environment are more important in New York than anywhere else in the nation," Furman said. "The joint center will create huge synergies among the faculties, students, and alumni of the two schools and generate solutions to many of the pressing housing and land-use issues of our generation."

"This designation formalizes an already existing, but informal, working relationship between the schools," said Professor Schill. "Greater cooperation will allow more opportunities for joint academic programming for students, increased research opportunities for the faculty and Wagner's other research centers, and greater ability to serve the needs of our schools' alumni in the real estate and housing fields."

Professor Schill also expressed the desire that the Center would enable the schools to increase the prominence of their joint J.D./M.P.A. program. The Law School and the Wagner School already cross list several classes—in Land Use; Housing, and the Law; and Economics and Politics of Urban Affairs, which are taught by members of each faculty and are open to students from both schools. Wagner professors who are expert in issues of housing and public finance, such as Ingrid Ellen, Amy Schwartz, and Dick Netzer, have also been conducting major research projects with the Furman Center. For example, Professors Netzer and Schill recently completed a study for the City of New York on the effect of water metering on affordable housing, which was just published in the *Journal of the American Planning Association*.

"The aim is to make housing and real estate policy an even more visible part of Wagner's already premier urban planning program," said Schill. To that end, the Furman Center has joined Wagner's Taub Center for Urban Policy Research in cosponsoring a monthly breakfast series on housing, as well as a research effort on preserving federally assisted housing in New York. ■

NYU Law Hosts Two-Day Workshop on Employment Law for Federal Judges

Federal judges from around the nation participated in a "Workshop on Employment Law for Federal Judges," cosponsored by NYU's Institute for Judicial Administration (IJA) and the Center for Labor and Employment Law, in cooperation with the Federal Judicial Center (FJC). The two-day event provided the judges with an opportunity to discuss some of the most important issues they face during the course of their work.

The workshop began with a welcome from co-chairs Samuel Estreicher, who serves as the Director of the Center for Labor and Employment Law and is co-director of the IJA with Professor Oscar Chase, and John Cooke, Director of the FJC Judicial Education Division.

Michael Curley of O'Melveny & Myers; Wayne N. Outten of Outten and Golden; and Judge Laura Taylor Swain (United States District Court for the Southern District of New York) led the judges in a discussion of sexual harassment law and theory. Participants explored issues relating to sex stereotyping, adequacy of anti-harassment policies, "disparate impact" challenges to subjective promotion decisions, family and medical leave, and personal liability of corporate officers.

The second session concerned the law and theory of disability discrimination and featured Judge Denise Cote (United States District Court for the Southern District of New York); Fordham University Professor Matthew Diller; and Theodore O. Rogers Jr. of Sullivan & Cromwell. Though focusing on "qualified" individuals with disabilities, "reasonable accommodation," and insurance discrimination, there was also a discussion of the relationship between disability discrimination and workers' discrimination.

The first day of the program concluded with a session on evidence issues and the use of experts, led by Judge Denny Chin

(Southern District of New York); Michael Delikat of Orrick, Herrington, Sutcliffe; and Darnley Stewart of Bernstein Litowitz Berger & Grossmann. Topics included stray remarks, statistics, direct evidence, prior bad acts, Rule 412, mental health experts, economists and CPAs on damages, "social framework" testimony, and statistical proof of discrimination.

The second day began with a look at the law and theory of employee benefits, led by Judge Carlos F. Lucero (United States Court of Appeals for the Tenth Circuit); Howard Pianko of Epstein, Becker & Green, PC; and St. John's University Professor Susan J. Stabile. Topics included basic claims, ERISA remedies, preemption, ERISA liability in HMO's, claims by independent contractors and "contingent" workers, downsizing and benefit cutbacks, and retiree health benefits.

Judge Rosemary Barkett (Eleventh Circuit); Philip Berkowitz of Salans Hertzfeld Heilbronn Christy & Viener; and Paul H. Tobias of the National Employee Rights Institute examined the relationship of "wrongful discharge" to state law. Participants also discussed age discrimination, disparate impact challenges, the role of statistics, ADEA class actions and downsizing, and age bias claims.

A panel on case management issues was led by Judge Patti B. Saris (District of Massachusetts); Kathleen McKenna of Proskauer Rose, LLP; Judge Loretta Preska (Southern

Institute of Judicial Administration Celebrates 50th Anniversary

The Institute of Judicial Administration (IJA) is proud to have contributed 50 years of leadership in continuing judicial education; empirical research into our justice system; and nonpartisan, nonideological exchanges among academics, lawyers, and judges.

2002 IJA Events

June 24-25

Research Conference on Judicial Independence in International Courts and Tribunals (La Pietra, Florence, Italy)

July 7-12

Appellate Judges Seminar—
New Judges Series

August 12

"Review of the Supreme Court's Term 2001-2002" at the IJA and NYU Law alumni and members meeting (Washington, D.C.)

September 19

IJA 50th Anniversary Celebration

September 19-20

Research Conference on Domestic and International Arbitration

November 7-8

Workshop on the Internet and the Law for Federal Judges

For membership or program information, contact Alison Kinney at (212) 998-6149 or alison.kinney@nyu.edu.

District of New York); and Pearl Zuchlewski of Goodman & Zuchlewski. Pro se cases, mediation, summary judgment, and class actions were discussed.

The program concluded with a session devoted to jury instructions, directed by Judge Frederic Block (Eastern District of New York); Fred Braid of Holland & Knight LLP; Mindy Farber of Jacobs, Jacobs & Farber; and Jeffrey Kohn of O'Melveny & Myers. ■

Panel Discussion on Cooperation With the Government in Federal Criminal Cases

Together with the Federal Bar Council, NYU Law hosted a discussion entitled, "Cooperation With the Government in Federal Criminal Cases: Practical, Legal, and Ethical Issues." The Honorable John Gleeson, United States District Judge, Eastern District of New York, who is a member of the adjunct faculty, moderated the event.



Participants in "Cooperation With the Government in Federal Criminal Cases: Practical, Legal, and Ethical Issues"

The distinguished panel included the Honorable Nina Gershon, United States District Judge, Eastern District of New York; Fred Hafetz, of Hafetz and Necheles; James Orenstein, Baker & Hostetler; attorney Anthony Ricco; NYU Law Professor Harry Subin; Alan Vinegrad, United States Attorney, Eastern District of New York; and Mary Jo White, then-United States Attorney, Southern District of New York.

Judge Gleeson introduced a hypothetical illustrating some of the difficult timing and strategic issues surrounding the decision

of an individual or corporation to cooperate with the government, the influence the government exerts over corporations who wish to cooperate, and the issues that arise out of the "proffer agreements" typically entered into by individuals and prosecutors in connection with the negotiation of cooperation.

In the hypothetical, the manipulative stock market practices of a broker-dealer are under investigation by the SEC. The investigation has revealed as suspects the company's outside accountant and his

accounting firm because of their work for the investment company's clients in connection with fraudulent initial public offerings. The accountant and his firm receive separate grand jury subpoenas.

The corporation faces a dilemma in deciding whether to cooperate because the terms of the cooperation are so onerous. Judge Gleeson noted that the corporation cannot know yet whether it has a defense to the potential charges before it conducts its own investigation, but it is frequently expected, as part of its cooperation, to cease its own investigation immediately, turn over all relevant documents, waive attorney-client privileges, and refuse to cover its employees' legal fees.

The defense attorneys on the panel criticized such policies as the exercise of unbridled prosecutorial power, while the government lawyers said it was a fair exchange for the chance of not being prosecuted. The defense lawyers also suggested that the waiver of the attorney-client privilege could work against the corporation in future lawsuits. One defense attorney said employees should never talk to corporate counsel because the corporation will have a powerful incentive to sacrifice the employee (by disclosing the employee's statements to the prosecutor) to secure a favorable deal for the corporation.

As for individual cooperation, the defense attorneys on the panel and in the audience attacked the use of proffer agreements that, in effect, prevent defendants from subsequently going to trial without the fear that incriminating statements made during plea discussions would be used against them. Indeed, Judge Gershon had recently issued a decision, *United States v. Duffy*, refusing to enforce the government's right under the proffer agreement to use the defendant's statements at trial. The United States Attorneys vigorously defended their use of such agreements as a proper exercise of prosecutorial discretion and bargaining power. This discussion evolved into a big-picture debate over the discretion of the prosecutors, their enhanced powers under the federal sentencing guidelines, and the extent to which courts are authorized and institutionally equipped to monitor the exercise of such discretion. The participants agreed that there was a great deal to disagree about in this important and changing area of the law. ■

Harold Koh Delivers Korematsu Lecture

Professor Harold Koh of Yale Law School delivered the third annual Korematsu Lecture on Asian Americans and the Law on the topic of “Human Rights in the Age of Terror.”

Professor Koh stated that his lecture would focus on two questions: “Who are we as Asian-American lawyers?” and “How do we approach human rights challenges in the wake of the events of September 11?”

Koh spoke of how his father attempted to discourage him from going into law, and encouraged him to study physics instead, even though his father served the South Korean government as a diplomat and lawyer for many years. Koh argued that his father’s fears about practicing law stemmed from four unspoken and erroneous assumptions. The first assumption was that law is a verbal profession in which non-native English speaking Asian Americans may have difficulty expressing themselves. The second assumption was that law is a confrontational profession, and that Asian Americans are ill-suited to confrontational work. The third assumption was that law is a profession closed to all except a chosen few—a chosen few that does not include Asian Americans. The final assumption was that law is a profession that provides no exact answers and no clear delineation of right and wrong. Koh stated that while some of these assumptions have truth at their core, they are fundamentally invalid.

Koh then turned to the question of how lawyers should respond to the legal effects of the events of September 11 in the context of human rights. Koh argued that as a result of terrorism, a new global order is forming and the positive effects of globalization are being threatened.

In the end, Koh urged that human rights be used as the backbone for determining when and whether the “war on terrorism” remains morally right. First, he suggested that war cannot remain morally right unless we are respectful of human



Professor Harold Koh

rights, even among those whom we imprison as a result of the war. He pointed to the treatment of detainees held at Guantanamo Bay as a potentially troubling

sign of our failure to fully respect human rights. Second, he suggested that bringing human rights and law to the world should be seen as the goal of the “war on terror” rather than the wiping out of Al Qaeda or “terrorism” more generally.

Professor Koh closed by saying that we are at a crossroads in determining to what extent we will respect human rights. He stressed the importance of the establishment and acceptance of the International Criminal Court, and the troubling new conception articulated in the “Bush Doctrine” that the United States may act preemptively to prevent the need to defend itself. In particular, Koh stressed that those who know and are involved in the law have the right and responsibility to make changes to it, and that one person can, in fact, make a dramatic difference in how the world operates. “Power and principle united,” he said, “make a potent force for positive change.” ■

The Controversy Behind Public Funding of the Arts

The Law Alumni Association’s Fall Lecture examined issues associated with public funding of the arts in a lively presentation entitled “Paying the Piper, Calling the Tune? The Controversy Behind Public Funding of the Arts.” NYU Law Professor Amy Adler led the distinguished panel, which included the lead counsels from both sides of the Brooklyn Museum of Art’s (BMA) Sensation exhibit controversy and Pulitzer Prize–winning cultural critic of *The New York Times*.

Adler opened the discussion with a slide presentation of some of the pieces behind the culture wars of the 1990s, including Chris Ofili’s “Holy Virgin Mary,” the dung-adorned portrait of the Catholic saint, responsible in part for Mayor Giuliani’s attempt in 1999 to evict the BMA from its long-time home. Adler outlined the state of public funding of the arts, lamenting the unchallenging work now being funded by a “neutered” National Endowment for the Arts. She went on to discuss some of the legal issues involved, including how, if at all, the



Panelist Margo Jefferson, cultural critic for *The New York Times*, and Moderator, NYU Law Professor Amy Adler

First Amendment protects government-funded speech.

The first panelist to speak was Floyd Abrams, the William J. Brennan, Jr., Visiting Professor of First Amendment Law at the Columbia Graduate School of Journalism and partner at Cahill Gordon & Reindel. Abrams was the lead counsel for the BMA in the suits revolving around the Sensation exhibit. Abrams described how Mayor Giuliani was incensed at news of the exhibit,

without actually seeing it himself, and demanded that the show be cancelled. With no response from the BMA, the Mayor threatened to oust the museum's board and evict the museum from its site in a city-owned building. Litigation ensued, instigated by both the BMA and the city. The court eventually found that there was no basis for the Mayor's claim and that he was acting simply in retaliation to the museum's exhibition. The city appealed, but before there was a decision, the Mayor decided to drop it.

Abrams spoke about the continued relevance of these issues: The BMA gets 27 percent of its funding from the city so any loss would have direct impact on its operations. Giving the Mayor the authority to decide, on artistic grounds, what cultural institutions are to be funded would, Abrams said, "change the nature of our city, or at least our law, and put the city in control of our music, books, and art." Explaining the law, he pointed out that though the government is under no obligation to fund the arts, when it chooses to fund private speech it must abide by the First Amendment.

Michael Hess, then-Counsel to the City of New York, stressed the importance of looking at "purposes" behind the law and actions of people. He argued that the purpose behind the Sensation exhibit was not speech or education, but rather controversy and financial gain, and that the city should be under no obligation to fund activity motivated in that way. Hess said the Mayor has as obligation to review all City subsidies and a right to cease funding anything not consistent with the purpose for which the subsidy was granted.

The final panelist of the evening was 1995 Pulitzer Prize-winner and cultural critic for *The New York Times* Margo Jefferson. Jefferson provided an interesting digression away from the law to some of the larger cultural issues at stake. She noted that it was important to separate the personal from the legal principles when art works arouse revulsion. "The Mayor is welcome to his personal outrage, but can't cloak that in judicious righteousness," she said. The people opposed to Sensation were not responding to the content of the exhibition, but to their reactions to it, Jefferson argued. Those reactions, while legitimate, must be recognized as such for a productive dialogue and a solution to be reached. ■

Office of the Appellate Defender's First Monday Simulated Supreme Court Argument

Supporters of the Office of the Appellate Defender gathered at NYU Law this past Fall for their annual First Monday fund-raiser. The centerpiece of the event was an argument based on the issue of whether the Eighth Amendment forbids execution of mentally retarded individuals, which the Supreme Court recently decided.

Arguing for Petitioner Ernest McCarver, a mentally retarded death row inmate in North Carolina, was NYU Law Professor Bryan Stevenson. Playing the role of the Attorney General of North Carolina was Paul Curran, Special Counsel to Kaye Scholer. The pair argued before a bench of legal luminaries, including John Feerick, Dean of Fordham Law School; Loretta Lynch, the former United States Attorney for the Eastern District of New York; and Theodore Shaw of the NAACP Legal Defense Fund.

Stevenson emphasized that mental retardation is an objectively definable condition, and that McCarver is clearly mentally retarded. He also noted that over the past 10 years, a large number of states have adopted statutes that prohibit execution of the mentally retarded. Stevenson also explained that international law norms forbid the execution of the mentally retarded, and noted that many human rights and diplomatic groups have condemned the United States for continuing to execute the mentally retarded.

Curran began his argument by emphasizing the heinous facts of McCarver's crime, stating that individual decisions about culpability made by juries are more reliable and appropriate than the creation of a blanket rule against executing persons with mental retardation. He also claimed that although many states have abolished the death penalty for mentally retarded individuals, that does not represent a consensus, especially given that the different

states use various standards for determining if a person is mentally retarded.

In his brief rebuttal, Stevenson emphasized that those states which do not allow the death penalty under any circumstances should be considered in determining whether a national consensus on executing people with mental retardation exists.

At the end of the argument, each of the eight justices on the bench had the opportunity to discuss how they would vote and the reasons for their vote. Several made clear that they believed Stevenson's argument that a national consensus on execution of the mentally retarded has evolved since the Supreme Court last examined this issue. Others stated that they found the international consensus against execution of the mentally retarded a persuasive reason for announcing a rule against their execution. Even though the majority of the panel seemed to agree with the petitioner's arguments, some members expressed concerns about the implications of announcing a rule of this sort. Several of the justices were unsure about how "mental retardation" should be defined and whether an overly open definition of that term could lead to further litigation in this arena. Finally, many members of the panel had concerns about announcing this rule because of the federalism issues it raises.

The evening concluded with the panel of judges initially voting 7-1 in favor of announcing the rule against executing the retarded. However, Feerick changed his vote, making the decision unanimous. ■

NYU Law Symposia

THE LAW SCHOOL HOSTS A WIDE ARRAY of symposia each semester: special one- or two-day conferences devoted to a single topic. Faculty and students organize each symposium by inviting leading scholars and experts to join a panel discussion on the issue at hand. The ensuing debates often involve the panel, as well as the faculty and students in attendance. Read on for a rundown of the past year's events.

Legislatures, Courts, and the Contestability of Rights

The student-run *NYU Journal of Legislation and Public Policy* conducted a symposium entitled, "Legislatures, Courts, and the Contestability of Rights." The event, a gathering of some of the world's experts on the theory and practice of a constitutional representative democracy, featured Christopher L. Eisgruber of Princeton; John A. Ferejohn of Stanford and NYU Law;

Lawrence D. Sager of NYU Law; Jeremy J. Waldron of Columbia University; and Keith E. Whittington of Princeton.

The topic of the symposium was the role of courts and legislatures in a democratic political system founded on constitutional rights. Participant Jeremy Waldron's book, *Law and Disagreement*, was used as the starting point and framework for the discussion.

Waldron argues that in a constitutional democracy dedicated to protecting individual rights, disagreements about the content of those rights should be resolved by the rights-bearers themselves, members of the community (or at least their chosen representatives), and not by a small council of judges such as the Supreme Court. Waldron's preference for legislatures when it comes to deciding citizenship rights is not uncontroversial and the symposium's guests spent the day debating the topic.

The panelists argued about who should decide public disagreements about the content of citizenship rights. Waldron defended his belief that since we are rational rights-demanding beings, we can and should govern ourselves and that this self-government includes deciding what rights citizens should and should not have. This belief leads Waldron to prefer a representative legislature or a direct plebiscite when it comes to public decisions about rights.

On a variety of fronts, Waldron's colleagues on the panel critiqued his trust of legislatures and defended judicial review as a necessary institutional safeguard in a constitutional democracy. The panel members debated the fundamental tension between individual rights and popular government, and they offered various visions of the proper role of both legislative and judicial decision-making in managing that tension.

The ideas and arguments presented by the panel participants will be published by the *NYU Journal of Legislation and Public Policy* in Fall 2002. ■



Participants in the *Journal of Legislation and Public Policy* symposium, "Legislatures, Courts, and the Contestability of Rights"



(l-r): Aundre Herron, Russell Neufeld, Tanya Greene, and Brian Powers, participants in “The Future of the Anti-Death Penalty Movement”

The Future of the Anti-Death Penalty Movement

Students, activists, and lawyers convened for a Law Students Against the Death Penalty symposium entitled, “The Future of the Anti-Death Penalty Movement.” Participants in the symposium discussed DNA testing, institutional competence, international law challenges to the death penalty, and moratorium projects. A theme that ran through all of the discussions was how to build an effective campaign to permanently abolish capital punishment throughout the century.

Aundre Herron of the California Appellate Project; Tanya Greene of New York’s Capital Defender Office; Russell Neufeld of the Legal Aid Society’s Capital Defender Unit; and Brian Powers of O’Donoghue & O’Donoghue described how the institutions where they worked affected their ability to represent clients. The attorneys agreed that a well-funded governmental

office had more permanence, stability, and resources than a private organization. But, as public agencies, they could not espouse an abolitionist stance. This constriction on a legal organization’s ability to take a position on capital punishment exacerbated an already tense relationship between capital defense attorneys and anti-death penalty activists.

David Kaczynski, Executive Director of New Yorkers Against the Death Penalty; Ron Tabak, Chair of the ABA’s death penalty committee; and Bill Ryan of the Illinois Death Penalty Moratorium Project described their organizations’ efforts to achieve a moratorium on the death penalty in their respective jurisdictions. Audience members expressed concern that moratorium campaigns were a risky use of resources, because subsequent legislative efforts to reform the death penalty could result in only a brief pause in executions with modest improvements. All three panelists asserted that a moratorium could be a first step towards abolition as procedures could never be designed to make capital punishment fair. Furthermore, Kaczynski argued that moratorium efforts focused attention on the systemic problems in the death penalty’s application and neutralized the usually emotionally charged debate over whether the crime of murder merited capital punishment.

Of central concern to panelists in the afternoon was the effect of the September 11 attacks on the anti-death penalty movement. Although no legislative response has occurred as it did after the Oklahoma City bombings, panelists Joe Margulies of Cornell University School of Law and Frederick Cohn of the Judicial Conference of the U.S. Courts agreed that the dynamics of death penalty trials had changed. Margulies questioned whether increased sympathy for law enforcement officers would not prejudice juries against defendants.

The last panel addressed the use of actual innocence cases, including prisoners exonerated through DNA testing, as a means of proving the failings of the criminal justice system generally. Peter Neufeld of the Innocence Project argued his organization’s position that increased attention on innocence would not lead courts to devalue non-culpability related claims, but rather would raise enough questions about the criminal justice system to defeat the death penalty permanently.

Finally, Edwin Matthews of Coudert Brothers discussed his work as an attorney on former death row prisoner Don Paradis’s case. Paradis closed the symposium by speaking about the everyday humiliations of life on death row and the difficulty of adapting to a free world that had changed so drastically during his imprisonment. ■

Copyright Wars in Cyberspace

NYU Law Professor Yochai Benkler and attorney Charles Sims of Proskauer Rose debated the merits and constitutionality of the Digital Millennium Copyright Act's (DMCA) ban on code-cracking at the Gottlieb, Rackman & Reisman Seminar in Intellectual Property, entitled "Copyright Wars in Cyberspace."

The event, sponsored by the Engleberg Center on Innovation Law and Policy, was moderated by Carl Kaplan, who writes a column on cyberlaw for the online version of *The New York Times*. Kaplan laid the foundation for the conversation by explaining the DMCA's provisions and their application in a case involving the decryption program "deCSS." The DMCA both bans the act of cracking codes protecting copyrighted material, and prohibits the creation or distribution of technologies that are designed to circumvent encryption on copyrighted material.

Benkler, Director of the Engelberg Center, noted how the DMCA was used as a threat to discourage a computer-science professor's publication of a paper outlining techniques used to crack the Secure Digital Music Initiative (SDMI) music encryption scheme—after the SDMI Foundation issued the following challenge last September: "Attack the proposed technologies. Crack them... If you can remove the watermark or defeat the other technology on our proposed copyright protection system, you may earn up to \$10,000."

The DMCA acts to undermine traditional copyright law's permissive "fair use" of copyrighted material, Benkler said. DMCA "allows the owners of copyrighted materials to close the materials off, over and above what copyright law would let you do." For example, the Adobe E-Book format prohibits cutting-and-pasting quotes from or printing materials in that format, although such actions are perfectly legal.

Finally, Benkler argued that the DMCA struck against the spirit of the First Amendment. "Linking is how we speak on the Web," he said. "It is a mode of teaching." In essence, new technologies created the opportunity to change "how we access



(l-r): Attorney Charles Sims of Proskauer Rose and NYU Law Professor Yochai Benkler

culture, to move away from the industrial model of cultural production" controlled by large companies.

Charles Sims, who argued for the recording industry in the Reimerdes case, said that advances in broadband and compression reducing the cost-per-copy of reproducing copyrighted materials necessitated legal change. Sims said that it was clear that Congress had the power to ban hardware technologies like pirate cable boxes and telephone "black boxes" that permitted individuals to get free cable or phone service, and that the DMCA merely represents an extension of that power to software solutions.

Sims noted that prior to the DMCA, some content publishers were afraid of putting their materials into a digital format due to the ease of duplication. As such, fair

use still exists, but people are not permitted to make "perfect digital copies" of the material, although one can legally make VHS copies of movies or videotape a DVD presentation for later use. Sims mused whether the degradation of quality was "a trade-off that Congress was entitled to make to prevent the Napsterization of the content industry?"

He argued that copyright laws do not dictate that copyright holders must release their materials in a non-encrypted format, drawing analogies to restrictions on videotaping Broadway shows and the movie industry before the VCR. "Fifty years ago, your fair use rights weren't violated when Disney only released *Snow White* every five years," he said. "And your fair use rights aren't violated when a studio releases something in encrypted DVD." ■

Reforming the Tax Provision for the Deduction of Charitable Contributions

Experts on charitable organizations gathered at NYU Law for a conference on reforming the tax provision that allows for the deduction of charitable contributions. The event, part of an annual series sponsored by the National Center on Philanthropy and the Law (NCPL), brought together legal scholars, Treasury and Internal Revenue Service officials, and practitioners in the field. Organized and moder-

ated by NYU Law Professor Harvey Dale and Jill Manny, Executive Director of NCPL, the discussion consisted of the presentation of papers, followed by formal commentary and informal questions. Topics included the basic justification for the charitable contribution deduction, the need for reform, and proposals for reform in specific areas. In addition, experts from several foreign countries gave accounts of the tax

treatment of charitable contributions in their countries.

The presentations by foreign experts were among the highlights of the conference. Michael Katz, head of a commission in South Africa to rewrite the laws governing charitable organizations, spoke of the central role of these organizations in the overthrow of the apartheid system. He detailed his commission's efforts to recast the tax laws in the new political system so as to avoid some of the problems associated with charitable contribution deductions in other

countries, notably the United States. Speakers from Australia, Canada, and the United Kingdom also discussed similarities and differences between their countries' treatment of charitable contributions and the provisions of U.S. tax law.

Preceding these presentations on the first day of the conference, NYU Law Professor Paul McDaniel examined the policy justifications underlying the charitable contribution deduction, challenging in particular the classification of the deduction as a tax expenditure. On the second day,

scholars and practitioners considered particular areas for reform, including charitable remainder trusts, and discussed the regulation of contributions to foreign charities after the events of September 11.

While no definitive conclusion was reached, the conference's participants did agree on the need to reform the charitable deduction and the general areas that should be addressed. Lively debate continued to the very end, and Manny concluded that the conference was one of the most successful the NCPL has sponsored. ■

Changing Neighborhood Dynamics and Gentrification of New York City Communities

Students, activists, and academics gathered for a symposium exploring different definitions of gentrification, its desirability, and efforts to resist displacement. The event focused on the neighborhoods of Harlem, the Lower East Side, Chinatown in Manhattan, and Fort Greene in Brooklyn.

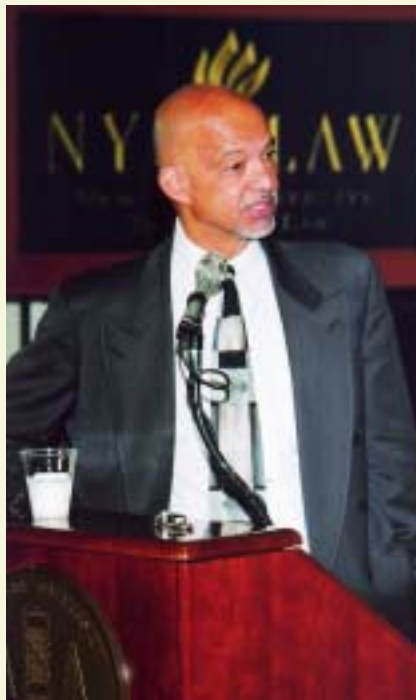
The morning panel was moderated by NYU Law Professor Gerald López and included Nellie Hester Bailey, cofounder of Harlem Tenants Council; Dr. Frank Braconi, Executive Director of the Citizens Housing and Planning Council of New York; Wasim Lone, Housing Director of Good Old Lower East Side, Inc.; Tony Lu, member of the Committee Against Anti-Asian Violence: Organizing Asian Communities; Professor Peter Marcuse, Professor of Urban Planning at Columbia University; Sue Rheem, Housing Attorney at Asian Americans for Equality; and Jacqui D. Woods, Community Affairs Manager of Brooklyn Academy of Music Local Development Corporation.

Describing the panel as a “real conversation,” Professor López engaged the speakers by presenting a hypothetical, describing a grandmother in East Harlem witnessing changes in her neighborhood. Imagining a conversation they would have with the grandmother, the speakers then debated what gentrification actually meant, from neighborhood revitalization to displacement

of residents. They also explored existing resources that neighborhood residents may access to learn more or get help, and concrete ways in which law and policy could be changed to address the needs of existing tenants.

In the afternoon workshops, activists led conversations on specific issues and strategies employed in the communities in which they work. Trayce Gardner, a member of Fort Greene Together, and Tony Lu shared with participants the historical background of gentrification in Fort Greene and Chinatown. They also suggested ways to use art and media in community organizing and ways in which different communities could combine their efforts to resist displacement. Two representatives from Asian Americans for Equality, John Gorman (Director of Housing Law) and Belinda Yee (Housing Paralegal), joined Nellie Hester Bailey and Wasim Lone in contrasting and comparing their work in resisting displacement in Chinatown and Harlem.

The symposium was sponsored by the Asian Pacific Law Students Association (APALSA), the Black Allied Law Students Association (BALSA), the Latino Law Students Association (LaLSA), the Middle Eastern Law Students Association (MELSA), and the South Asian Law Students Association (SALSA). ■



Professor Gerald López moderated a symposium exploring gentrification in New York City neighborhoods

Symposium Looks at the “Deferred Dream” of African-American Reparations



BALSA symposium participants

Attorneys, law professors, students, and activists gathered at NYU Law to discuss the increasingly debated issue of reparations to African Americans for slavery and its continuing vestiges in a symposium called, “A Dream Deferred: Comparative and Practical Considerations for the Black Reparations Movement.” Hosted by the

Black Allied Law Students Association (BALSA), the event was fittingly held the same morning that a class action suit was filed in U.S. district court in Brooklyn for reparations against corporations that profited from slavery.

Participants discussed the historical and comparative aspects of the case for African-American reparations. Morris Ratner, a partner at Leiff, Cabreser, Heimann & Berstein LLP, asserted that potential obstacles for African-American reparations, as compared to his work as a lead attorney in Holocaust-era litigation matters, include the statute of limitations, lack of support from the U.S. government, and a relative inability to calculate adequate damages. Alfred Brophy, Professor at the University of Alabama School of Law and author of *Reconstructing the Dreamland: The Tulsa Riot of 1921—Race, Reparations, Reconciliation*, added that such obstacles prevented African-American victims

of the 1921 Tulsa Race Riots from recovering reparations for the complete destruction of their community at the hands of Oklahoma state officials.

Adjoa Aiyetoro, Professor at Washington College of Law at American University and chief legal consultant to the National Coalition of Blacks for Reparations in America (N’COBRA), stressed that the key to overcoming historical obstacles to the reparations movement is conceiving of the harms as including the vestiges of slavery that persist today.

The symposium provided a valuable opportunity for the participants to not only critically analyze the merits of African-American reparations, but to also look beyond the legal issues to the moral claim at the base. Ajumu Sankofa, N’COBRA activist and Director of the New York City Police Watch, asserted that regardless of the limitations of various legal doctrines, there is an underlying claim for human rights. This point not only helped inspire and motivate symposium participants, but will also prove essential to the growing movement for African-American reparations.

The Fall 2002 issue of NYU’s *Annual Survey of American Law* will feature articles by symposium panelists. ■

Current Issues in Taxation

The NYU Law Graduate Tax Program and the Tax Practice of KPMG hosted the second annual “Current Issues in Taxation Lecture.” The event featured Lewis Steinberg (’84, LL.M. ’92), partner at Cravath, Swain, & Moore, and an NYU Adjunct Professor, who discussed the tax legislative developments of 2001. NYU Professor Daniel Shaviro and Hank Gutman, a KPMG partner in that firm’s Washington, D.C., office, were the commentators for the lecture.

Steinberg described the myriad and complex 2001 additions to the Internal Revenue Code: childcare provisions, the marriage penalty “fix,” new changes in retirement provisions, repeal of the estate tax, and various tax credits. He drew attention



(l-r): Paul McDaniel, Director, NYU Law Graduate Tax Program; Hank Gutman, KPMG; and Lewis Steinberg, Cravath, Swain & Moore

to the presence, in virtually every new provision, of a sunrise/sunset feature and the layering of new legislation on top of existing similar legislation. Steinberg stated the net effect dilutes the impact of many of the new

rules or reduces existing provisions to irrelevancy or inefficiency. Some taxpayers will be required to calculate their taxes three different ways to discover which provisions to use for the optimal tax result. Steinberg

concluded that many Americans would never know or understand or have the time or money to engage in optimal tax planning and, as a result, might not benefit from many of the new provisions.

Gutman focused on the political process of developing the legislation. "The act is patently bizarre because political acceptability is key," he said. Gutman explained that the revenue stream was designed to yield a revenue loss equal or less than the projected budget surplus. "But now that

the economy is slowing, the act is a fiscal stimulus rather than a return [of tax revenues] because of good times." Shaviro focused on efficiency and equity aspects of the 2001 legislation and found that there were pluses and minuses on both counts.

The event was hosted by Professor Paul McDaniel, Director of the Graduate Tax Program, and Larry Pollack, tax partner in the KPMG New York City office. McDaniel expressed great appreciation to Pollack and his partners for their support

of the lecture series. "It is the intellectual kick-off to the year for students and faculty alike," McDaniel said. The event also provides CLE credit for Graduate Tax Program alums.

KPMG partners present at the lecture were also honored for their great loyalty to and support of the Graduate Tax Program in making a \$225,000 contribution to the Wallace Fund for student scholarships. A student recipient of a scholarship is named the "KPMG Scholar" for the year. ■

Building a Multiracial Social Justice Movement

Prominent scholars and activists gathered in Greenberg Lounge to engage in a dialogue about effectively refocusing social justice movements around race. The colloquium, "Building a Multiracial Social Justice Movement," was hosted by NYU Law's *Review of Law and Social Change*.

The discussion centered around "political race," a concept introduced in the book *The Miner's Canary*, authored by Harvard Law School Professor Lani Guinier and University of Texas Law School Professor Gerald Torres. Political race, as described by Guinier and Torres, is an "attempt to dislodge race from simple identity politics." The colloquium consisted of six sessions, each focusing on different areas where political race could be a useful organizing tool.

"Assessing Higher Education in a Multiracial Movement," focused on the fluid and functional understanding of race in successful educational justice movements. Professor Torres highlighted how political race was critical to the success of the Ten Percent Plan, Texas' response to the *Hopwood* decision, which prohibited its state universities from considering race in admissions decisions.

In "Divide and Conquer: the Challenges of Multiracial Politics," participants emphasized the centrality of race to social justice work and suggested ways to more effec-



Review of Law and Social Change colloquium participants

tively build a movement. Harvard University Professor Marshall Ganz introduced the panel, noting, "politics is about power, and race defines who can participate in politics." He posed the question: "Can there be a just politics without reference to race?"

Professor Tricia Rose of NYU's Faculty of Arts and Science moderated "Books Not Bars: Confronting Criminal Justice Issues Through Multiracial Action." Participants drew upon their experience as academics, parents, and activists to explore the intersection between race, the criminal justice system, and the educational system.

"Political Race, Faith, and the Democratic Process," was moderated by Professor Guinier. For one panelist, Columbia Law

Professor Kendall Thomas, "political race" called for progressive racial politics that moved beyond identity politics. In discussing *The Miner's Canary*, Thomas asked the audience to "break with a politics of interest, and to embrace a politics of solidarity." Saru Jayaraman, an adjunct professor at Brooklyn College and a former attorney/organizer at the Workplace Project, a Latino immigrant workers right project, addressed the need for participatory democracy if political race is to be truly realized.

The final panels emphasized audience involvement, with an interactive poetry performance by the Blackout Arts Collective and a more informal roundtable with activists, nonprofit leaders, and Guinier. ■

The Role of States in U.S. Immigration Policy

On a day when President Bush signed a bill concerning the detainment of immigrants suspected of terrorism, the Annual Survey of American Law held a symposium on immigration policy entitled "Migration Regulation Goes Local: The Role of States in U.S. Immigration Policy." The event brought together 13 academics and practitioners for discussion on the devolution of immigration enforcement authority.

The first panel focused on the constitutionality of the 1996 Welfare Reform Act, which gave individual states authority to make distinctions based on alienage. NYU Law Professor Michael Wishnie emphasized that allowing such devolution might lead to a state-by-state race to the bottom, whereby each state tried to reduce their benefits so that immigrants would go somewhere else. Wishnie emphasized that such state action is discrimination and the government "should not rush to empower 50 new actors to discriminate." Hofstra Law Professor Peter Spiro

argued that the additional power given to states was actually a benefit for immigrants or there would have likely been federal blanket restrictions on aliens instead of the more generous packages most states adopted. The panel was rounded out by Ellen Yacknin of the Greater Upstate Law Project. Yacknin argued and won *Aliessa v. Novello*, an important immigrant rights case, in the New York Court of Appeals earlier this year.

The second panel, "The Devolution of Immigration Enforcement Authority," featured Charles Kamasaki, the Senior Vice

President of the National Council of La Raza; Nadia Marin-Molina, the executive director of The Workplace Project; and John Williams, the Deputy Chief of Development of Edison Schools. Kamasaki and Marin-Molina both argued against devolution of any authority. Kamasaki focused on racial profiling, arguing that "as bad as the INS might be, such profiling is exacerbated when devolved to state and local levels." Williams argued in response that the federal government cannot handle the job of finding, prosecuting, and removing all criminal aliens and allowing state and local officials to help the INS with this task would be beneficial.

The final panel of the day, "Critical Perspectives on Increasing the Role of States," included Howard Chang, a Visiting Professor at NYU Law; Muzaffar Chishti, the Director of UNITE!; Victor Romero of Penn State-Dickinson College School of Law; and Professor Peter Schuck of Yale Law School. Schuck argued that there is a "serious systemic mismatch" between revenue generated by immigrants and the costs incurred because of them. This leads to unjust results in states where there is a large immigrant population. ■

NYU Law Students Win World University Debating Championships

NYU Law students Rob Weekes (LL.M. '02) and Alan Merson (LL.M. '02) claimed an exceptional victory for themselves and NYU. These accomplished debaters bested all others at the World University Debating Championships in Toronto, accepting, as representatives of NYU Law, the title of 2002 world debating champions. This year's topic focused on whether prisoners should be allowed to publish accounts of their crimes. Teams only had 15 minutes to prepare their positions after receiving the topic and being assigned their stance. Merson and Weekes turned the pressure into inspiration as they not only won the competition, but exhibited a mental agility that bodes well for their respective law careers.



Participants in the Annual Survey of American Law Symposium

Moot Court Final Arguments

After two sets of competitions spanning the 2001-2002 academic year, William Delgado ('02), Lane McFadden ('02), David Gray ('03), and John Thompson ('03) advanced to the finals of the Orison S. Marden Moot Court Competition, where they argued two issues from the case of *United States of America v. Phoebe Buffet*: the



Lane McFadden ('02) was named best oralist in this year's Moot Court competition.

constitutionality of a search under the Fourth Amendment, and the meaning of "use" in a statute imposing a five-year minimum sentence for "use of a firearm" in connection with a drug deal. The argument took place in Greenberg Lounge before the Honorable Jed Rakoff of the Southern District of New York, and the Honorables Kenneth Ripple and Diane Wood of the U.S. Court of Appeals for the Seventh Circuit.

Delgado argued that Buffet's purse was unconstitutionally searched when she placed it on the living room floor of her friend's apartment, which was at the time being searched pursuant to a validly executed search warrant. He said Buffet had a reasonable expectation of privacy in her purse even though she had put it on the ground. Gray, Counsel for the U.S., countered that a balance "must be struck between reasonable expectations of privacy and legitimate law enforcement needs," which in this case permitted the purse to be searched because there were more than 15 purses in the apartment and the police are not required to confirm ownership when conducting a premises search warrant. Judge Wood, the one female panelist, suggested to Gray that since he probably didn't carry a purse, he could not imagine that a rule requiring people to hold their purse to avoid its being searched could be onerous because "purses can be heavy!" To which

Gray, out of time, could only reply, "thank you, your Honor."

The second issue on appeal was the applicability of a statute imposing a five-year sentence enhancement for using a firearm in a drug deal. Buffet had received a gun in exchange for drugs and the question was whether that constituted "use" under the statute. Appellant's counsel, McFadden, eloquently argued that a finding of use required a more active relationship to the gun above simple receipt as consideration for drugs. The panel focused on language in the statute that said bartering drugs for guns constituted use. Thompson, arguing for the U.S., said Congress wanted to target guns in drug transactions because such transactions frequently involved violence. Congressional intent was to capture use short of discharging or otherwise employing the gun.

After a round of applause and a recess, the panel was back to rule. Dean and President-Designate John Sexton announced the winner: Appellant's team of Delgado and McFadden, with McFadden grabbing the honor of best oralist.

Sexton then turned it over to the judges. Judge Rakoff complimented the students for addressing tough questions because "hostile questioning does not signify a hostile judge." Judge Ripple congratulated the writers of the problem for "reaching the highest level of excellence," adding that oral arguments should reflect profundity and preparation. "Moot court work can devolve to cosmetology, but not here tonight," he said. ■

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Nanny's Love Repaid in Halls of Justice: Woman Wins Adoption Battle With Help of One of Her Charges

They would sit together in a Manhattan kitchen over cups of milky tea, the impossible little boy and his ever-patient nanny, Louise Brown. Her calming presence amid his tantrums was one of the boy's earliest memories. Often, his parents recall, she held him until he quieted, talking in rhythms passed down through the generations from African slaves in the rural North Carolina of her birth.

The boy, Barak Bassman, was too emotionally disturbed and his learning too disabled for mainstream schools, yet he was so bright that he lashed out against the world in sheer frustration. Eventually, mental health professionals helped him succeed as a student. But it was Louise Brown's undaunted daily love that saved Barak, his parents say, and that in turn, beyond all expectation, allowed Barak to help Brown save her own family.

Years had passed. Brown cared for other troubled children, none dearer than her own great-nephews, Joshua and Anthony, who were drug-exposed babies when she

first became their kinship foster mother. She planned to adopt them, but in 1997, court records show, child welfare caseworkers abruptly removed the boys, placing them with strangers deemed more suitable.

"What you all doing is wrong," Brown said she cried when caseworkers, accompanied by the police, wrested Joshua, who was then five, from her arms, as he screamed that he wanted to stay with his "mommy."

Battling to reclaim the boys, Brown reached a New York state court hearing in 1998 with no right to a lawyer and no money to hire one. Against her were caseworkers who considered her accent a speech defect, and lawyers who had argued that she had no right to speak in court at all.

Yet in the kind of twist rarely seen outside fiction, a champion she had not seen for years was waiting in the courtroom: Barak Bassman. Unable to read until he was eight, Bassman was by then a 20-year-old first-year law student. And when he saw the lopsided legal power against his former nanny, he grew angry.

"She wasn't going to get a fair hearing," he recalled recently. "She was going to get steamrolled."

That Brown did not get steamrolled, everyone agrees, is above all a tribute to her own determination. But it also took three more years of litigation, and all the legal ingenuity that Bassman could muster. He recruited his law professors and fellow students at New York University School of Law, devoted his nights and weekends to the case, and discovered a crucial legal precedent.

At a time when kinship foster parents nationwide have no right to counsel, and legal representation for poor parents is widely in disarray, Brown's case underscores the overwhelming odds that confront such families, often across a racial divide. But it also illustrates how bonds of love can endure and overcome.

Brown's adoption of her great-nephews was completed last spring. Now the state itself is financing her training as an advocate for other families. Bassman, 24, is a corporate litigator in Philadelphia. On the side, he represents children in foster care at no cost.

His proud father, Myron Bassman, credits Brown, 59. "Her tenacity and basic goodness not only resulted in her winning a four-year battle," he said, "but allowed Barak to return the love and caring that was given to him."

The outcome looked very different on a January day in 1998, when four lawyers stood up in State Supreme Court in Manhattan against Brown—one for the city, one for the state, and two for St. Joseph Services for Children and Families, a foster care agency based in Brooklyn that had custody of Joshua and Anthony.

At that stage, petitions like Brown's were typically dismissed. A Family Court judge and administrative hearing officers had already approved the decision to move the boys from Brown's small apartment in Harlem to a two-parent family in Queens.

But at Brown's request, Myron Bassman, her former employer, had come to vouch for her. As Exhibit A, he had taken along Barak, the problem child she nurtured from birth to age 12. The presence of father and son seemed to pique the judge's curiosity.

Barak Bassman remembers "being vividly struck by the fact that everyone in the court, down to the bailiff, the social workers, and the judge, were all white except Louise, her daughter and her pastor."



Barak Bassman with Louise Brown and her great-nephews

"The judge asked, 'Who are you people?' She said, 'It's unusual to see such community support in these cases,'" he recalled.

The lawyers insisted that the Bassmans had no legal standing, but the judge invited everyone into her chambers. "It's really important to find out the whole story," the judge, Alice Schlesinger, said recently.

The story that unfolded that day was eventually detailed in affidavits and bolstered by an extraordinary battery of expertise—provided by a psychiatrist, a psychologist, a linguist, and scholars of constitutional and family law.

But at heart, it was a story about parallels between Barak and Joshua that pitted the Bassmans' description of Louise Brown as an exemplary nanny against the judgment of professionals who barely knew her.

In the worst periods of Barak's childhood, wrote his mother, Sheila Bassman, a corporate lawyer, and his father, an accountant, he threatened to kill teachers, bit his parents' friends, and punched a baby. At the end of first grade, he was not permitted to return to the private Bank Street School, one of Manhattan's most progressive.

Doctors said Barak was emotionally disturbed, dyslexic, and dysgraphic (unable to write), and he was admitted to a school for children with learning disabilities. After intense effort, he transferred to a mainstream school and excelled.

"We could never have done what we did on our own," the Bassmans wrote. "Without the supports we received—from the special schools, from mental health professionals, and from Louise Brown—we would never have been able to handle and raise our son." Her approach "combined patience and tolerance with protectiveness and limit-setting," they said, adding, "In our eyes, her way worked wonders."

Brown had also pleased the foster care agency in Harlem that originally supervised Joshua, almost two when she took him in 1994. It approved of her adopting him and Anthony, who came to her a newborn in 1995, after Brown's drug-addicted niece agreed she was unable to care for them.

But from the day St. Joseph took over the case in 1996, its workers questioned Brown's capabilities, records show. When a rise in her blood pressure required a brief hospital stay, doubts hardened. They complained she had "speech pathology, possibly other

cognitive deficits" that affected the boys, and did not understand the seriousness of Joshua's misbehavior. For example, she was unperturbed when Joshua, then four, said during a tantrum that he wanted to kill her with a knife. They put him in a psychiatric ward for a month.

When Joshua's behavior worsened, agency psychiatrists saw confirmation that he needed a different family. Since siblings had to be kept together, Anthony was moved, too.

Justice Schlesinger's options were few. Though federal and state laws encourage placing foster children with kin rather than strangers, no clear distinction is made when it comes to removal. The government has much greater discretion to remove children from foster families than to take them from their parents.

The judge could not overturn the administrative decision unless it was "capricious and arbitrary," or legally wrong. Instead, she referred the case to the appellate division.

Barak sought help at NYU. Though some professors rebuffed him, Peggy Cooper Davis, a retired Family Court judge, saw Brown as the modern embodiment of a historic African-American struggle for family autonomy denied by slavery and discrimination—the subject of her book, *Neglected Stories: The Constitution and Family Values*.

A linguist hired by the Law School's Family Defense Clinic later determined that Brown's speech was not deficient, but simply "Gullah-like," common to parts of the South where freed slaves had kept alive the language of their forebears.

Brown's sense of family runs deep. She was five when her own mother died in childbirth, and she and four younger siblings were raised by aunts and uncles. Other relatives helped her find work and raise her only daughter when she left the hardscrabble Wayne County tobacco fields for New York City at 18. Thirty-five of Anthony's and Joshua's cousins, from Brooklyn to Farmville, North Carolina, petitioned the court on her behalf.

"She is the kind of person the child welfare system most often wrongs and misunderstands," Professor Davis said. "Child welfare workers had seen her as a woman who was inadequately compliant and difficult to understand."

Madeleine Kurtz, a director of the defense clinic, agreed. "There's no question

race, class, and poverty influence the evaluations that are made about people's capabilities," she said.

But overturning professional judgment was daunting, the professors knew. Brown would probably lose at the appellate level. They needed a way to put the constitutional issues back before Justice Schlesinger. Barak found one: an obscure ruling that until case files were physically moved, jurisdiction did not transfer to another court.

The team also sent legal briefs to Aaron and Pearl Mae Edwards, the boys' new pre-adoptive parents, who, as case records indicated, lived in a 12-room house, had cared for hundreds of troubled foster children, and had adopted three. The crucial constitutional question was whether Brown and the boys were a family, one the state had no right to disrupt just because it judged another better.

In a sense, that question was not decided in a court of law, but in the food court of a Queens mall, where Brown traveled to see the children after visits were reinstated.

"These children are coming home, do you hear me?" Edwards recalled Brown saying. "My heart just turned," Edwards added. "The children always wanted to go back home. There was too much love on the other side, and too much family; I felt I should bow out."

When she did, the agency proposed moving the boys to strangers again. This time, Family Court said no.

Joshua and Anthony were returned to Brown in October 1999. Eventually, St. Joseph, which closed last year, concurred that they should stay. Now, under a state grant from People United for Children, an advocacy group, Brown is taking a college course on family empowerment to help others.

On a recent afternoon, Joshua, 10, took out a Harry Potter book and sat on her lap. Anthony, seven, snuggled near. A man they did not recognize sat on the couch, too.

Did they know who had helped Louise Brown win them back from foster care?

"The son who she raised," Joshua replied, meaning Barak.

"That's him!" Louise Brown exclaimed.

Beside her, Barak Bassman beamed. ■

Students Network With Prominent Alumni at Dean's Roundtable Luncheons

One of John Sexton's signature events as dean was the popular "Dean's Roundtable Luncheons." Although as NYU President-Designate, Sexton was busier than ever in the 2001-2002 academic year, he managed to bring a number of NYU Law alumni to the school for a three-course lunch and a discussion with students about choosing law careers off the beaten path. Sexton instituted the lunches to expose students to the nontraditional careers it is possible to pursue with a law degree.

Arthur I. Meyer ('38), a real estate investor involved in acquiring apartments, hotels, and shopping centers, began his career in real estate as an attorney, ultimately presiding over various manufacturing corporations and distributing companies. Meyer told students about an unusual venture in which he converted a samurai sword factory in Japan into the first stainless steel cutlery factory in the country. He later began working in venture capital and commercial financing, acquiring an interest in a Holiday Inn, which mushroomed into interests in 18 Holiday Inns. Meyer merged six of the hotels into Servico, Inc., which is now traded on NASDAQ. Meyer expanded Servico into a 58-hotel business, with franchises including Hilton, Sheraton, Holiday Inn, and its own brand name, Royce.

Michael Fuchs ('71) has spent his career in the entertainment industry, where he served as chairman of Warner Music Group and helped revolutionize cable television. Fuchs called his "career accomplishment" the transformation of HBO from a disorganized, directionless cable company into a leading provider of critically acclaimed original programming. "We were trying to break through established media, which had a tremendous choke hold on the industry," Fuchs explained. He attributed his success to the mental training he received in law school. Although Fuchs lamented the current state of the entertainment business, he holds out hope for a future filled with

diverse career paths for anyone with the intellectual training provided by a legal education.

Rick Mandler ('87), now Vice President of the Walt Disney Internet Group, discussed his two-year clerkship on the Third Circuit, and his stint at the firm Patterson, Belknap, Webb & Tyler, which he said led him to Disney. At Patterson, Mandler creatively settled a series of big cases that grabbed Disney's attention. He has progressed through Disney's News and New Media divisions since joining ABC in 1992 as a general attorney.

Charles Sommer ('94), Vice President of Operations of USA Networks, Inc., began his career at the firm of Cahill Gordon, where he soon grew restless. Sommer networked with friends from law school to land a job in a fledgling division at USA Networks, producing local programming in Miami for USA Broadcasting. "I was in a place I'd never been, doing things I'd never done, making a third as much money, with no security," he said. His efforts paid off quickly, though, with a promotion to General Counsel and Senior Vice President for Business Affairs at USA Broadcasting.

Brian L. Schorr ('82) started his career in corporate law at the firm Paul, Weiss, Rifkind, Wharton & Garrison, where he helped draft New York State's Limited Liability Company Statute (signed into law by the governor in 1994). He became partner in 1990 and left in 1994 to join NYSE-listed

Triarc Companies (a holding company and franchisor of the Arby's Restaurant chain) as the Executive Vice President and General Counsel. Under Schorr's watch, Triarc acquired the then-struggling Snapple for \$300 million—a bargain compared to the \$1.76 billion Quaker Oats paid for it in 1990. Triarc quickly addressed Snapple's shortcomings—lack of product variety, inferior distribution system, and problems with advertising—and succeeded in turning the company around. In fact, Triarc's revamping of Snapple has become a case study at Harvard Business School. Schorr advised students not to "separate legal issues from corporate issues," in order to succeed as a General Counsel. Lawyers must understand business risks to effectively draft and negotiate a company's transactions, he said.

Charles Mele ('81) discussed his experiences as Vice President and General Counsel of WebMD. He stressed the importance of firm experience for its unique hands-on training, and specifically urged students not to be intimidated by a lot of work because it's the way for young lawyers to develop skills. After discussing the positive aspects of firm life, Mele addressed the advantages of working for a corporation. He said in-house work was the best place to become a generalist in a world where law firms emphasize specialization. Mele has had the opportunity to work in almost every area of the law since joining MedCo in 1985, a sharp contrast "to the experience that most partners at major law firms have."

Caroline H. Little ('86), now Chief Operating Officer at Washingtonpost Newsweek Interactive (WPNI), the new media subsidiary of The Washington Post Company, began her career as an assistant U.S. Attorney. From there, she moved on to a post at Arnold & Porter, a Washington firm. After working there for less than a year, she started a family and began to feel the difficulties of balancing the responsibilities of parenting and career. "The tradeoff for interesting work was long hours, but I wanted more time for my daughters." When Little heard that *US News* was looking for a Deputy General Counsel, she jumped at the chance. "The workload was just as demanding, but I had more flexibility and control over scheduling," she said. She later moved to her current employer, WPNI, as General Counsel and was soon

promoted to Chief Operating Officer. In this role she oversees business, accounting, advertising, and human resources issues. Little cautioned female students that today's business environment is still "very much a male-dominated world" and it is important "to stick up for yourself."

Bruce Gould (LL.M. '93) presides over a family business, Gould Publications Inc., which specializes in law books and treatises for the legal and law enforcement communities. Started in 1953 as a publisher of law review books for the New York State Bar, the business has grown to become one of the leading statutory law book publishers in the country. As a way of giving back to his alma mater, Touro Jacob D. Fuchsberg Law Center, Gould established an award for an outstanding publication related to law or legal systems. Recipients of the award have included former Senator Daniel Patrick Moynihan and Alan Dershowitz. Gould also stressed the importance of being involved in public service.

Raymond W. Kelly ('74), who had just been appointed the next Police Commissioner of the City of New York, spoke to the luncheon participants about his past and the city's future. Kelly's eclectic and impressive career in public service began in the New York City Police Department, where he served for more than 30 years in 25 different commands. From 1992-1994, he served as commissioner of the 32,000-member force, the largest in the nation. During his tenure as commissioner, he directed the emergency response and successful investigation, in conjunction with federal agencies, of the 1993 World Trade Center bombing. He was asked in 1994 to serve as the director of the International Police Monitors in the Republic of Haiti, a force under contract with the U.S. Department of State charged with restoring democracy in the republic. For that year's service, Kelly was awarded two of the nation's most prestigious awards—one by President Clinton for exceptionally meritorious service and the Commanders' Medal for Public Service awarded by the chairman of the Joint Chiefs of Staff. He then became president of Investigative Group International, a 100-person litigation support company specializing in complex investigations for major domestic and international law firms. From 1996-1998, Kelly was undersecretary for enforcement at the U.S. Treasury Department,

where he supervised numerous enforcement bureaus, including the U.S. Customs Service and the U.S. Secret Service.

David Tanner's ('84) education and career have been characterized by the pursuit of knowledge, innovation, and the management and acquisition of large sums of money. Tanner spent one year at a law firm after graduation, leaving to pursue his private equity dreams. About two years ago, he and a few colleagues left Lazard Freres & Co. to form Quadrangle Group Corp. LLC, a media and communications private equity shop. "With the blessings and financial backing of his former employer, a high-powered advisory board, and the network and savvy of four veterans of the finance

industry," Quadrangle quickly found success. Tanner said his education and career have been guided by his passion—regardless of success or failure—and he encouraged students to act on their passions.

Suresh Sani ('88) is a Vice President of First Pioneer Properties, Inc., a family-owned real estate company managing more than three million square feet of commercial space and 2,500 acres. After graduating from NYU Law, he worked in the real estate department of Shea & Gould, learning the nuts and bolts of real estate practice and preparing for his career in the family business. Sani recommended that students get firm experience even if only to receive training to excel in other professional pursuits. ■

Law Revue 2002

In John Sexton's final year as dean, ax-wielding Vikings from the American Bar Association invade NYU Law to conduct an accreditation review. No, this is not the harbinger of the demise of one of the nation's leading law schools, but the premise for "ABA Gone Wild," the 2002 Law Revue.

Sexton's last year as dean provided ample content for the annual show, a collaboration of student writers, actors, dancers, musicians, and artists. Dan Ball ('02), a writer for Law Revue, saw the show for the first time last year and decided to write for it. "I thought wow, this is really cool," he said. "I enjoyed getting together with talented and funny writers to create a high quality production."

Kendra Kresse ('02), also commented on the quality of the show. "The lyrics are so clever and I'm always amazed by how much work goes into the dancing," she said. Kresse was also impressed with the caliber of the vocalists. "You don't expect that from lawyers."





Breaking New Ground

CONSTRUCTION BEGAN IN SEPTEMBER 2001 ON NYU LAW'S new building. Sandra Day O'Connor, Associate Justice of the U.S. Supreme Court, attended a moving groundbreaking ceremony—the first major construction groundbreaking in New York City following the September 11 attacks on the World Trade Center.

Located on West Third Street between Sullivan and Thompson Streets, the new building will include classrooms, seminar rooms, student lounges, the Hauser Global Law School's offices, faculty and administrative offices, the schools' clinical programs, faculty housing, and more.

Supreme Court Justice O'Connor Presides at Groundbreaking

Sandra Day O'Connor, Associate Justice of the U.S. Supreme Court, joined leaders of New York University and the School of Law to break ground for a new, nine-story academic building for the Law School. The ceremony took place at the site of the new building on West Third Street between Thompson and Sullivan Streets.



(l-r): Digging in at the groundbreaking are Student Bar Association President Rishi Bhandari; NYU President L. Jay Oliva; NYU Board of Trustees Chair Martin Lipton; Supreme Court Justice Sandra Day O'Connor; and NYU President-Designate John Sexton

"The need for lawyers does not diminish in times of crisis," Justice O'Connor told the gathering. "It only increases. New York University School of Law has played, and will continue to play, an important role in training lawyers who understand the need to convince a sometimes hostile world that our dream of a society that conforms to the rule of law is a dream we all should share."

"This project reaffirms our commitment to prepare students to seek justice through law," said John Sexton, NYU President-Designate. "With it, we also reaffirm our University's resolute commitment to a

great city. We build for our Law School's future, as our city must rebuild for its future, on a foundation of justice, the bedrock of our republic."

Mayor Rudolph W. Giuliani, a 1968 graduate of NYU Law, was scheduled to give a speech at the groundbreaking ceremony but was unable to attend because of his other responsibilities in the aftermath of the September 11 attacks. "New York City cannot be defeated," Mayor Giuliani said in a heartfelt statement about the Law School groundbreaking. "This event was planned long before September 11, and we commend



Supreme Court Justice Sandra Day O'Connor

NYU for going full speed ahead with the groundbreaking and the construction of this great new building, which will add to the unmatched architectural and cultural vitality of the capital of the world. This sends a strong statement that New York City is open for business. As the mayor of New York, and as a graduate of New York University School of Law, I could not be prouder of this city and this University. This building represents NYU's unshakable commitment to the future of New York City."

Sexton noted that NYU Law's Hauser Global Law School Program, which focuses on such complex issues as international human rights and the rule of law in the global economy, will be housed in the new building. "From this building, our Law School will continue to reinforce the value of the rule of law throughout the world," he said. "We are particularly honored to welcome Justice Sandra Day O'Connor to this groundbreaking," Sexton continued. "She has played an especially important role in the evolution of NYU as the world's first truly global law school. Her presence here demonstrates her faith that this city will, in the future, be an even more powerful symbol of the best in humankind."

Other speakers at the groundbreaking included L. Jay Oliva, President of New York University; Lester Pollack, Chair of the School of Law Board of Trustees; Jay Furman, Chair of the NYU Law Foundation Building Committee; Martin Lipton, Chair of the New York University Board of Trustees; and Rishi Bhandari, President of the Student Bar Association at the Law School.

The new academic building is expected to open for use in January 2004. It will total 170,000 gross square feet. ■

Trustees Name Student Forum in New Building After John Sexton

The Law School Board of Trustees surprised NYU President-Designate John Sexton at a dinner by announcing that the Student Forum in the new building would be named the John Sexton Student Forum.

“For the first time in anyone’s memory, I literally was reduced to silence,” Sexton said. “For nearly two minutes, to the delight of many, I was unable to speak.”

Members of the Board of Trustees personally donated more than \$1 million in new money to name the Student Forum for Sexton, who was presented with a fake

check and a mock issue of the *Commentator* by Law School Trustees Lester Pollack ('57), Tom Brome ('67), and Bonnie Reiss ('69). After thanking Sexton for his achievements in fund-raising, academic vision, and building community spirit at NYU Law, Pollack told Sexton that the trustees picked the student forum as his namesake “since the space is for students, for whom you have dedicated much of your life, and who ultimately will benefit from the strides made under your leadership.”

Sexton said he was “honored, moved, humbled beyond belief, and elated” and went on to say that “for those of us for whom education is a vocation, students are the lifeblood of our professional lives. I could not imagine a selection which would have made me as happy.”

Pollack said that a plaque will hang in the John Sexton Student Forum and will read, “Dean John Sexton, through tireless efforts, forged NYU Law into one of the leading educational centers in the world. In doing so, he created a true community of faculty, students, administrators, and alumni. In recognition of his love for students, the members of the Board of Trustees are proud to name this the John Sexton Student Forum. His legacy will long resonate in academia, in the profession, and in the lives of countless individuals.” ■

The Building

Classrooms, seminar rooms, moot court-rooms, student meeting areas, and group study rooms will occupy the lower floors of the new building. A café and student lounge will face Third Street at street level. The building will be connected by a below-street-level walkway to Vanderbilt Hall, which it will face across Sullivan Street. The Hauser Global Law School Program will be located on the third floor. Upper floors will house administrative and faculty offices, clinics, and faculty housing.

NYU Law worked with the Greenwich Village community and citywide preservation groups to achieve a design that integrates the new academic building with the surrounding community.

Specifically, the profile of the new building is maintained at a low-enough height—128 feet from street level to the last occupied floor—so that the sky will continue to be visible behind the campanile of the historic Judson Hall, which is owned by NYU and houses the King Juan Carlos I of Spain Center. At Thompson Street, the building will rise only 38 feet from street level and then be set back 20 feet, in order to harmonize with the street wall.



The reconstructed elements of two historic buildings that previously occupied the building site also will be incorporated into the new building’s facade: the front of the Judson House, renovated by the renowned architectural firm of McKim Mead and White in 1899; and the facade of a typical row house from the 1830s that is located on West Third Street and noted for being

occupied by the writer Edgar Allan Poe during approximately six months in 1845-1846. Some Poe artifacts will be incorporated into the new building, and NYU Law will permit public access to this commemorative space on a regularly scheduled basis. The architects for the building are Kohn Pederson Fox Associates PC, a firm with offices in New York and London. ■

Kresge Foundation Awards \$1.5 Million Challenge Grant for New Building

The West Third Street Building Campaign received a significant boost when the prestigious Kresge Foundation awarded NYU Law a \$1.5 million Challenge Grant that will help leverage other gifts to the Building Campaign. In order to meet the Challenge and receive the grant from Kresge, the Law School must raise a significant portion of the total project amount by

August 2003. The Foundation is interested in the School's plan to involve all members of its fantastically diverse community in raising its portion of the Challenge Grant.

The Kresge Foundation is an independent, private foundation created by the personal gifts of Sebastian S. Kresge and is not affiliated with any corporation or organization. Projects supported by the founda-

tion involve the construction or renovation of facilities and the purchase of major capital equipment or real estate. The grant for the West Third Street Building is the second such award that the School of Law has received from the Kresge Foundation; in 1988 its generosity made possible the expansion of the Law School library.

Alumni and friends who wish to support the building project at the \$2,500 (for recent graduates 1 to 10 years out, only) or minimum level of \$10,000 will be automatically enrolled in the 21st Century Club, the Law School's newest donor recognition group (see below). These commitments can be made over five years or all at once. ■



Supporting the West Third Street Building Campaign

NYU Law created the 21st Century Club as a way to broaden involvement and ownership in its new building project. The 21st Century Club will continue the tradition of community participation and is expected to attract Law School alumni and friends at inclusive levels.

The 21st Century Club aims to generate \$18,125,000 in revenue by the close of the

fiscal year 2003-2004. We hope a broad range of community members will take part in this initiative by joining at one of the available levels. If you join the 21st Century Club, your generosity will be recognized and your name will be listed on a plaque prominently displayed in the new building and you will be our guest at a gala dinner celebrating the completion of this project.

Additionally, you will be specially invited to social and intellectual events at NYU Law.

If you would like to join the 21st Century Club, or for more information, please call (212) 998-6389. You can make a gift in support of the new building in the form of cash, appreciated securities, or through various planned gifts.

Leadership Gifts

Special thanks to the following alumni and friends who made major gifts to the Building Campaign:

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 Ehrenkranz Family Foundation
 Alfred B. Engelberg ('65)
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 Honorable Frank J. Guarini, Jr. ('50, LL.M. '55)
 The Kresge Foundation
 Martin R. Lewis ('51)
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 Herbert ('42) and Rose Luttan Rubin ('42)
 The Starr Foundation
 Kenneth I. Starr (LL.M. '72)
 Vincent S. Tese (LL.M. '73)
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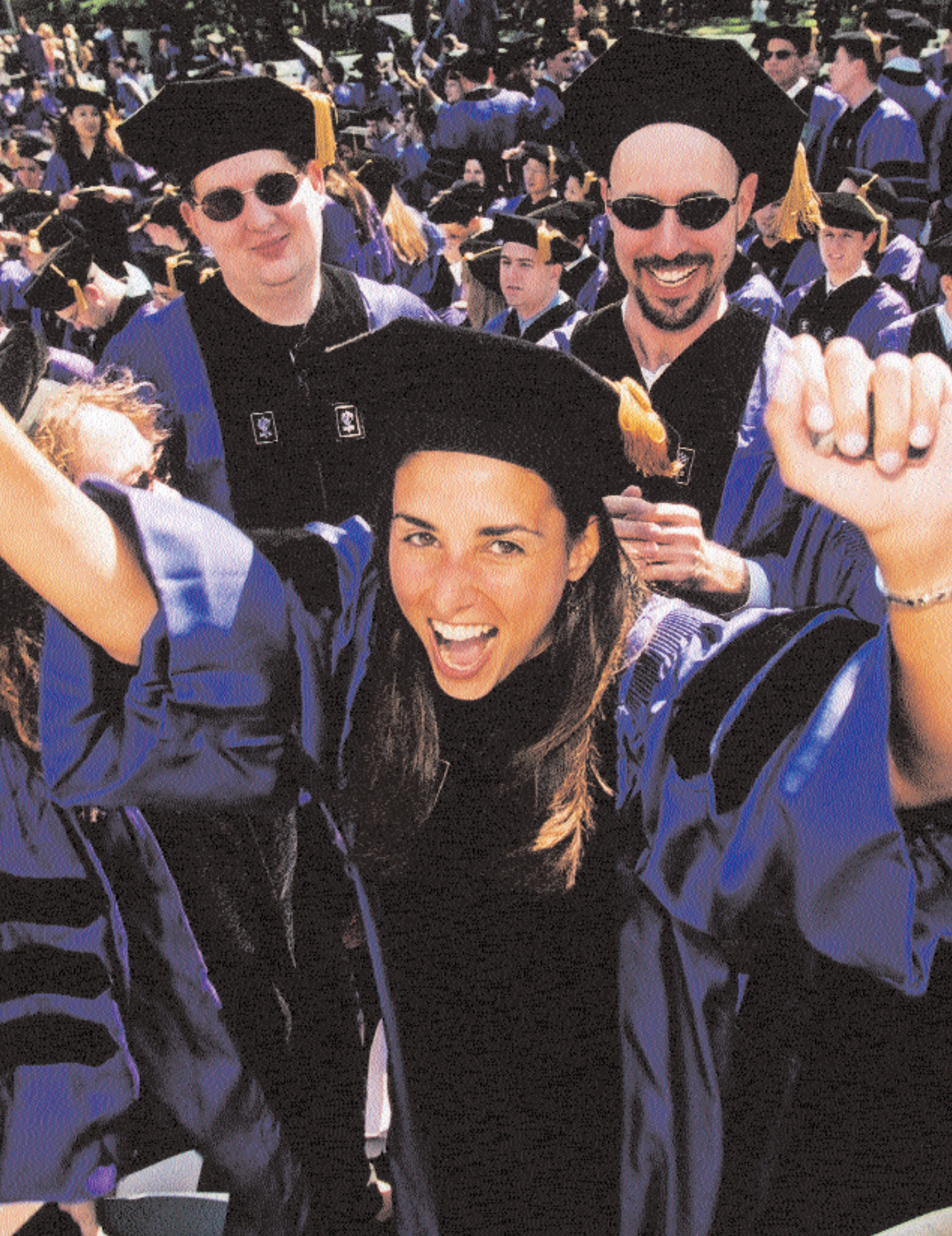
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 Lawrence B. Pedowitz ('72)
 Bernard Petrie
 Dr. James Patrick Philbin, III ('92)
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 Jonathan Pickhardt ('98)
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 Ellen Schall ('72)
 Allison Rachel Schneirov ('91)
 Amy Horowitz Schorr ('84)
 Brian L. Schorr ('82)
 David K. Schulhof ('96)
 Andrew John Segal ('92)
 Susan P. Serota ('71)
 Kathleen H. Shea ('57)
 Jill Renee Sheiman (LL.M. '01)
 O. Peter ('71) and Ruby Sherwood ('73)
 Warren J. Sinsheimer (LL.M. '57)
 James E. Sizemore (LL.M. '66)
 Carey D. Slaten ('82)
 Lisa S. Smith ('92)
 Gavin D. Solotar ('92)
 Yue Song (LL.M. '94)
 Lewis Robert Steinberg ('84, LL.M. '92)
 Robert Steinman ('97)
 William C. Sterling, Jr. ('59)
 Daniel E. Straus ('81)
 Robert A. Swift ('73)
 Emily A. Tabin ('82)
 Stewart E. Tabin ('82)
 Louis B. Thalheimer ('69)
 Jeffrey P. Travers ('95)
 Paul D. Tropp ('96)
 Adam Michael Turteltaub ('98)
 Honorable Harold R. Tyler, Jr.
 Ryunosuke Ushijima (MCJ '96)
 Raj R. Vaswani ('97)
 Valerie Uy Velasco (MCJ '96)
 Tami S. Wardle ('94)
 Howard I. Weiss
 Melvyn I. Weiss ('59)
 Anthony Welters ('77)
 Jennifer L. Wendy ('97)
 William J. Williams, Jr. ('61)
 William J. Yoo ('95)
 David A. Zonana ('94)
 Anonymous (2)
 (As of July 22, 2002)



Graduation 2002

TRUMPETS SOUNDED FROM HIGH ATOP THE WASHINGTON Square Arch, heralding the start of the 170th Commencement for students of NYU's various colleges and schools. Thousands of graduates in purple gowns filled Washington Square Park, as the University community celebrated the achievements of the Class of 2002. Sandra Rodriguez proudly led the procession of NYU Law's graduating class, carrying the school's banner through the park and onto the stage.

NYU Law Grads Honored at 2002 Commencement and Convocation

It was the last Commencement for NYU President L. Jay Oliva, who characterized it as a “day of reflection,” saying he felt like he was graduating, too.

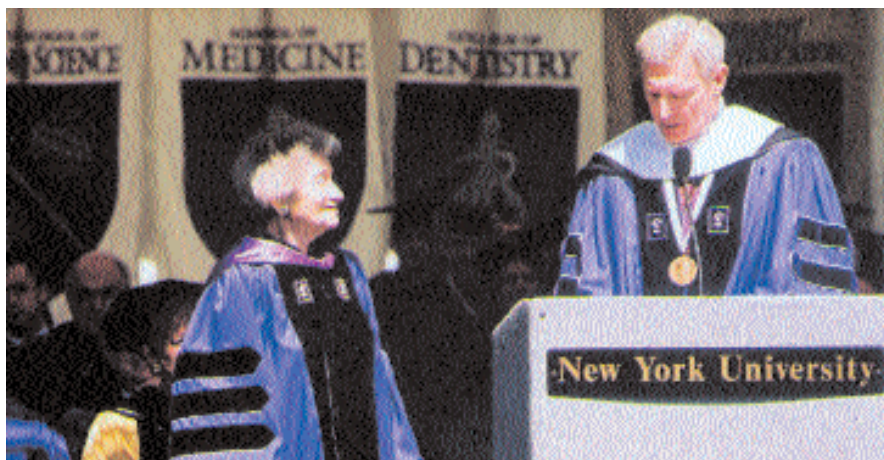
The University conferred five honorary doctoral degrees, including the degrees of Doctor of Humane Letters to CNN International Correspondent Christiane Amanpour; Doctor of Fine Arts to Broadway producer and director Harold Prince; Doctor of Laws to NYU Law alumnus New York City Police Commissioner Raymond Kelly (LL.M. '74); Doctor of Science to

Stanford mathematician and engineer Joseph B. Keller; and Doctor of Humane Letters to Ivan Addae-Mensah, Vice Chancellor of the University of Ghana.

September 11 and its aftermath figured prominently in the program, from a moment of silence at the start of the ceremony to a discussion of the world's future and how NYU graduates can improve it.



(l-r): Ronald Noble, Wilfred J.A. Pereira, Sarah Xochitl Bervera, and Lester Pollack ('57)



Rebecca Rolland ('29) represented the oldest alumni present at the 2002 commencement ceremony

The New York City Fire Department Color Guard led the Platform Party to the stage and, once the crowd was in place, New York City Police Officer Daniel Rodriguez sang his now-famous version of the National Anthem.

In his remarks, Police Commissioner Kelly noted that the World Trade Center attacks had deeply affected and changed the city and its residents, and would be a touchstone for the generation graduating in 2002, a theme echoed by many of the other speakers. Kelly noted that as a result of those events, the proudest declaration to be made is, “I am a New Yorker.” He urged the graduates to “stay in New York, because this is where the future lies.”

The deans of the individual schools and colleges then presented candidates for the granting of diplomas. NYU President-Designate John Sexton presented Christine Bohrer Van Aken as the Law School's candidate for the J.D. degree, and Ron Deutsch as the candidate for the LL.M. degree. Both accepted their degrees and a hug from Sexton to the wild applause of their classmates.

Commencement concluded with a surprise from President Oliva, who announced that pop singer and NYU alumnus Neil Diamond had written an original song for the occasion, entitled “Forever NYU.” Diamond closed the ceremony by performing the tune for the cheering graduates.

Later in the week, the more than 800 graduates in the NYU Law class of 2002 gathered with their friends and family at the Theater at Madison Square Garden for Convocation. In an emotional speech, Sexton said he was proud that his last Convocation would represent “a triumph of Sextonian schmaltz.” To demonstrate, he pointed to the fact that J.D. candidate Gabriel Ross would be hooded by his great-uncle, a graduate of the Law School in the 1930s, wearing a suit that once belonged to his grandfather, also a graduate of NYU Law.

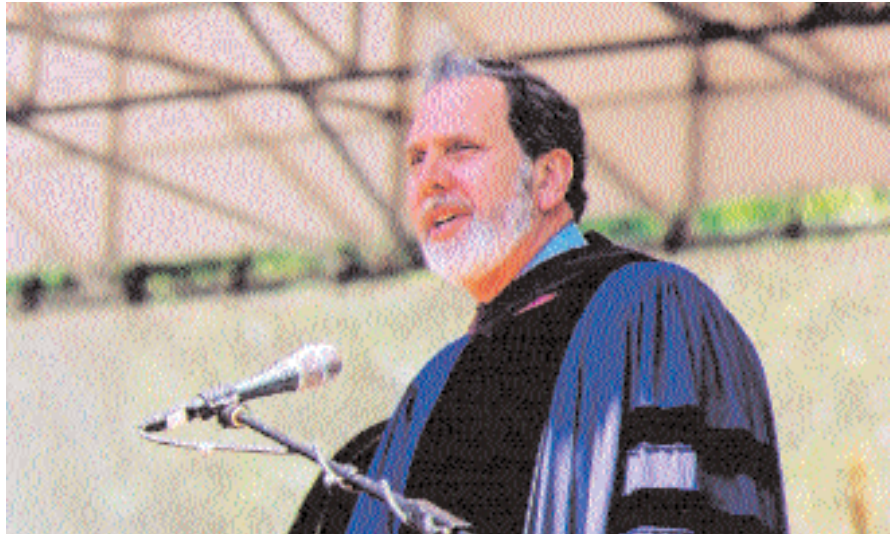
Speaker Sarah Xochitl Bervera represented the J.D. students. She asked a question of the graduates: “What kind of lawyer will you be?” Bervera noted that lawyers, especially in the present day, face difficult ethical choices about what sorts of representation it is proper for them to undertake, and how much effort they should put into achieving social change. In particular, she argued that as lawyers, graduates of the

class of 2002 have a moral duty to speak out against policies that they believe to be unjust or illegal, and pointed to certain actions taken by the government against immigrants as a particular area of concern. Bervera closed by noting that there was a choice to be made about what kind of lawyer one would be, but that the choice is a simple and clear one.

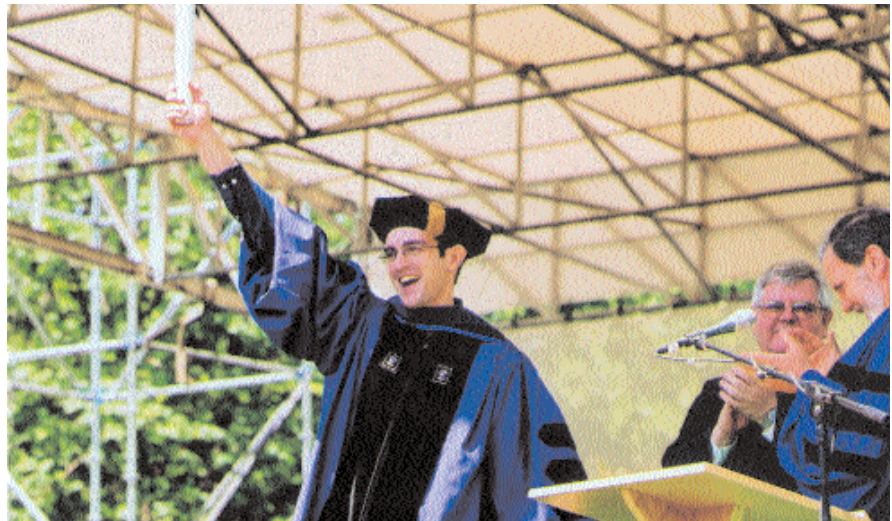
Wilfred J.A. Pereira represented the candidates for LL.M. and J.S.D. degrees. Pereira spoke about the need for students to thank the people who had supported them throughout law school, including the faculty and staff of NYU Law and their friends and family. In addition, Pereira noted that as a foreign L.L.M. who came to New York City knowing almost no one, NYU Law truly had created a sort of family for him, especially in the days following September 11. He described a community that went out of its way not just to ensure that its members were safe, but also attempted to aid others hurt by the disaster by opening up their homes, giving blood, and providing assistance to the relief effort.

Ronald Noble, NYU Law professor and current Secretary-General of the International Criminal Police Organization (Interpol) spoke of his love for NYU and his firm belief that the class of 2002 had received one of the finest legal educations available anywhere in the world. Noble described how his classroom experiences at NYU had helped him deal with some of the difficult issues he worked on in the public sector, most recently as Undersecretary of the Treasury for Enforcement. He urged the graduates to consider doing work in public service, because it is a concrete and rewarding way to give back to the community.

When the time came for the hooding of the individual degree candidates, the candidates for the J.S.D. went first, followed by the candidates for the various LL.M. degrees. The faculty then presented the more than 400 candidates for the J.D. degree, each of whom received a hood from a member of the faculty, along with a firm handshake and hug from Sexton. The final degree candidates to receive their hoods were the nearly 30 members of the class of 2002 who were hooded by relatives who were alumni or staff of the Law School. ■



NYU President-Designate John Sexton

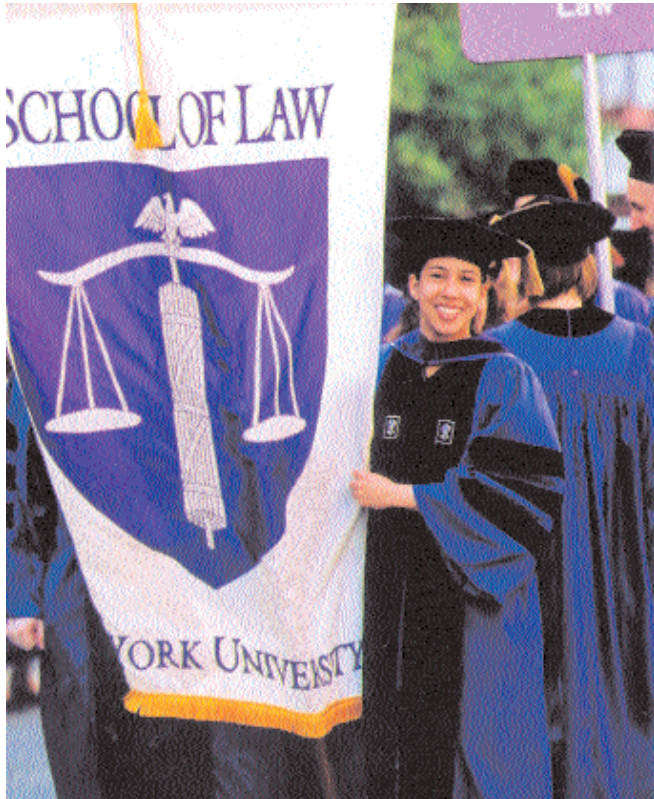


Ron Deutsch accepts his diploma on behalf of LL.M. degree candidates



Christine Bohrer Van Aken accepts her diploma on behalf of J.D. degree candidates

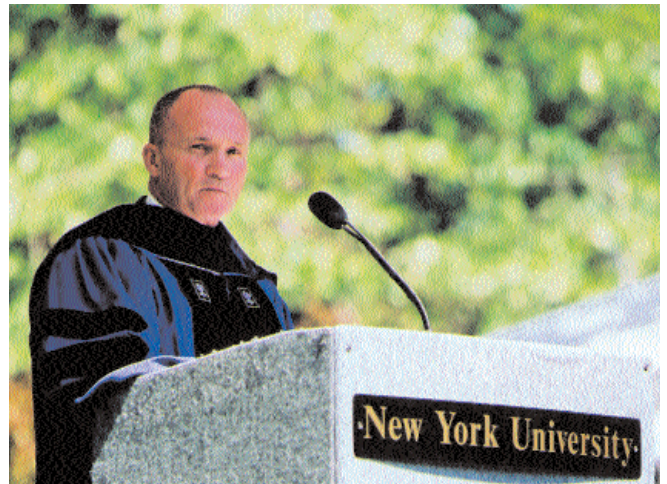
Graduation 2002



Sandra Rodriguez carries the NYU Law banner into the ceremony



NYU President L. Jay Oliva joins in a musical number



New York City Police Commissioner Raymond Kelly (LL.M. '74)



New York City Police Officer Daniel Rodriguez sings the National Anthem



The New York City Fire Department Color Guard

Family Album

It is a tradition at Convocation for graduates to be hooded by relatives or significant others who are alumni or staff of NYU Law. Pictured below and on the following pages are members of the class of 2002 and their family members and loved ones.



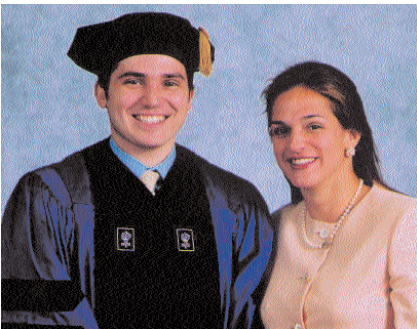
Denise Seldman with her sister-in-law
Miriam Spiro Seldman ('95)



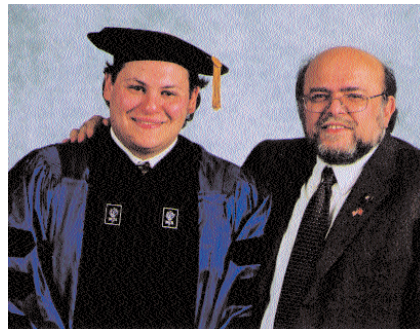
Scott M. Hendler with his grandfather Stanley B. Hendler
('48) and his uncle Professor Richard M. Hendler ('88)



Aparna Kaul with her husband Puneet S. Arora (LL.M. '01)



Antonio J. Perez-Marques with his sister
Gabriella Perez-Baron ('95)



Jonathan C. Wishnia with his father
Bernard Wishnia (LL.M. '82)



Serguei Mitrev with his wife Olga Mitreva (LL.M. '01)



Eric Friedlander with his father Mark Friedlander
(LL.M. '74) and his stepmother Mindy Greene (LL.M. '96)



Sima Ellen Shapiro with her brother Jesse Shapiro ('00)
and her future sister-in-law Danielle Samulon ('00)



Jennie E. Smith with her fiancé Kyle Mooney ('00)



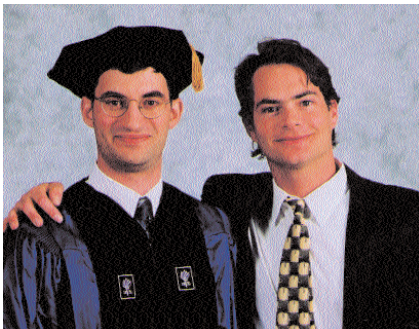
Juan F. Vasquez, Jr. with his father the Honorable Juan F. Vasquez, Sr. (LL.M. '78)



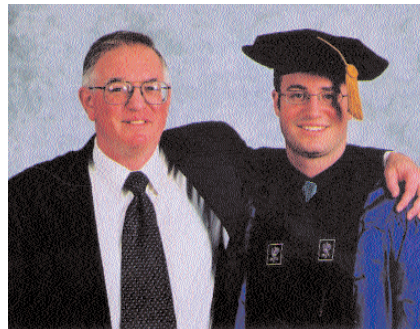
Frank J. Macchiarola with his brothers Joseph J. Macchiarola ('96) and Michael C. Macchiarola ('97)



Melissa D. Froehle with her cousin Sean Mahoney ('01)



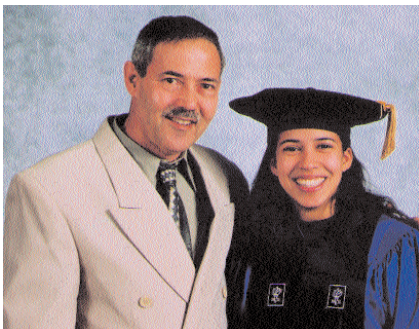
Jeremy D. Alper with his cousin Ty Alper ('98)



Daniel S. Margolin with his father Phillip Margolin ('70)



Laurie Beth Ehrlich with her fiancé Keith Emmer ('00)



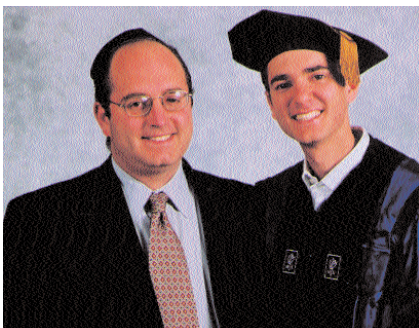
Sandra Rodriguez with her father Valentin Rodriguez, an NYU Law employee



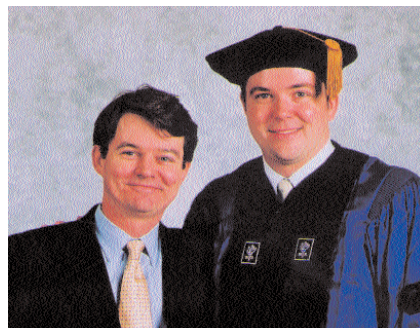
Ryan A. Candee with his fiancée Amanda Norejko ('01)



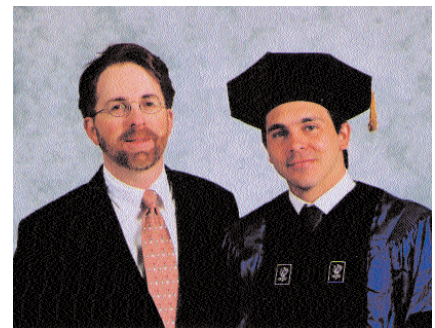
Jacqueline L. Berkell with her sister Kelly Berkell-Mamaysky ('99)



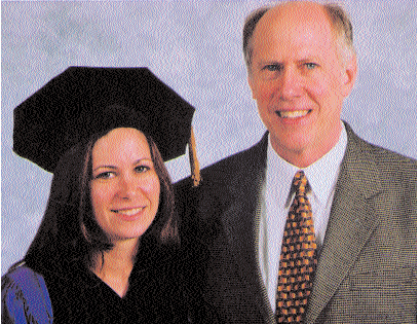
Eddie E. Frastai with his brother Robert H. Frastai ('96, LL.M. '99)



Harold J. Connolly with his brother William G. Connolly III ('91)



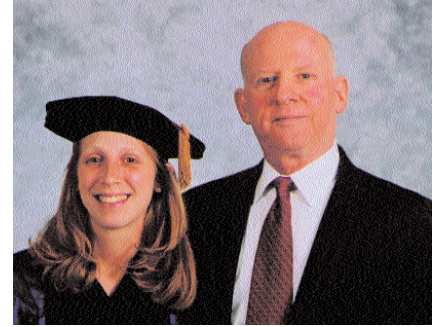
Michael J. Melone with his father Thomas M. Melone (LL.M. '89)



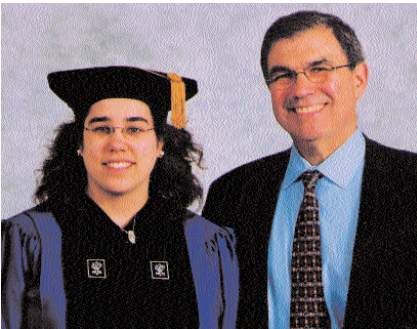
Lisa M. Schneider with her father
Michael Schneider (LL.M. '74)



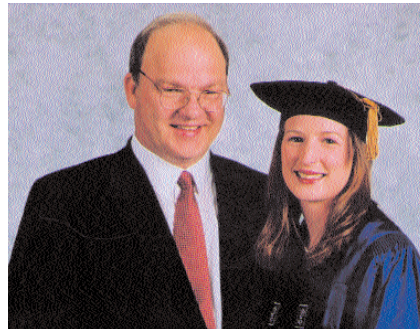
Evan A. Michael with his father Martin P. Michael ('74)



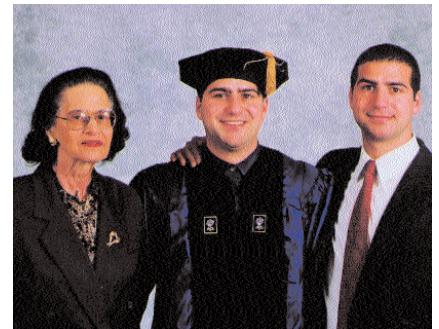
Dara L. Sheinfeld with her father Ira S. Sheinfeld (LL.M. '87)



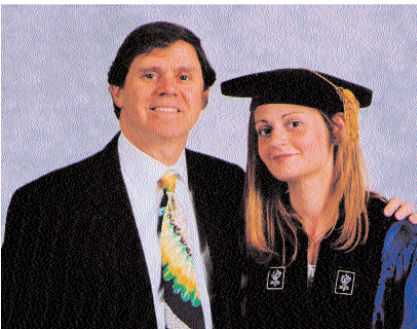
Carla M. Levy with her father Jerome T. Levy ('66, LL.M. '71)



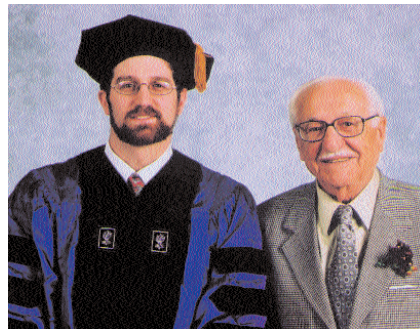
Rebecca Peterson with her father
Andrew Peterson (LL.M. '85)



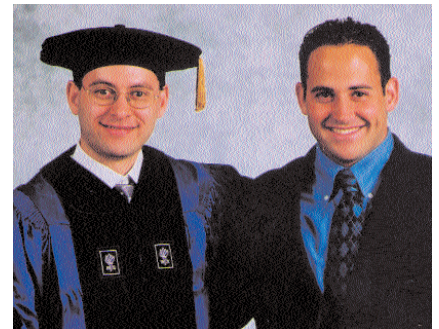
David B. Wolfe with his twin brother Jon Wolfe ('01)
and their aunt the Honorable Peggy Bernheim ('65)



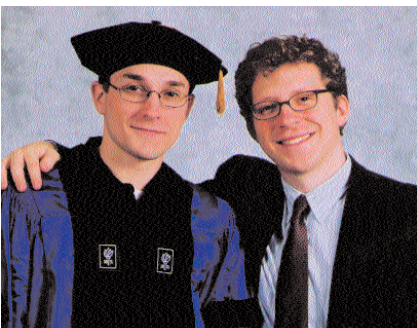
Jessica Amy Malkin with her father David Malkin ('67)



Gabriel Ross with his great-uncle Herman Levenson ('35)



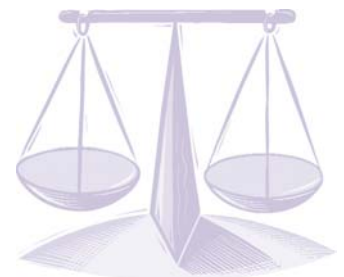
Ricardo Unikel with his brother Alfredo Unikel ('00)



Robert Natter with his brother David Natter ('99)



Marion Ringel with her mother Ronnie Ringel ('74)





Alumni Celebrate Reunion

ALUMNI FROM CLASSES 1952, 1957, 1962, 1967, 1972, 1977, 1982, 1987, 1992, and 1997 descended on Washington Square this year for a festive few days. A gala dinner kicked things off, followed by a weekend of discussions, award presentations, and NYU President-Designate John Sexton's final State of the Law School Address as Dean. And, as always, graduates danced the night away at the Waldorf=Astoria's elegant Starlight Roof.

Reunion 2002

CURRENT ISSUES IN LEGAL ETHICS

The Alumni Reunion's Continuing Legal Education Program hosted an interactive lecture with Vice Dean Stephen Gillers ('68) entitled "Current Issues in Legal Ethics." Gillers' presentation ranged from a discussion of Jimmy Stewart's character in *Anatomy of a Murder*, to a consideration of the ethical implications of the Enron crisis for lawyers. Gillers, who has been a Professor of Law at NYU since 1978, is the author of the widely used casebook *Regulation of Lawyers: Problems of Law and Ethics*.

In an unusual beginning to a talk on legal ethics, Gillers played a clip from the 1959 film *Anatomy of a Murder* in which Jimmy Stewart's character questions a client about the circumstances surrounding the murder of which he is accused. After

explaining the legal differences between justifications and excuses to his client, Stewart unsuccessfully tries to elicit more information. Then, with no other apparent defense, Stewart—walking the fine line between questioning and coaching—subtly suggests an insanity defense with the question, "Were you mad?"

Gillers called on audience members, soliciting their takes on the ethical propriety of Stewart's behavior. A lively discussion ensued, with some people taking the stance that to suggest a defense was not only an ethical lapse but also a failure on the lawyer's part; by failing to broadly explore the issue with the client, the lawyer neglected other possible defenses. On the other hand, an experienced defense attorney from the audience mentioned the necessity of allowing less sophisticated parties to receive adequate representation by investigating all possible defenses in a criminal proceeding.



Professor Stephen Gillers ('68) engages the crowd during the Continuing Legal Education seminar "Current Issues in Legal Ethics"

Gillers then spoke of the Enron crisis and how it can provide lessons to attorneys. What is a lawyer—who is ethically and legally bound to both a client and the system of justice—to do when faced with a



conflict between the two? Gillers proposed various rules that lawyers need to remember, including being independent of the business agents they represent and being prepared to resign when a violation is serious enough. As in the discussion about eliciting client information, a line needs to be drawn "between zealous advocacy and improper advocacy," Gillers said. Yet this line is not only difficult to draw, but inherently ambiguous depending on the exigencies of the situation and the relationship between the lawyer and client. The lesson Gillers offered was that lawyers need to always be vigilant in thinking about and applying abstract ethical principles to their professional practice.

LAW ALUMNI ASSOCIATION AWARDS LUNCHEON

NYU President-Designate John Sexton welcomed alumni, family, friends, students, and faculty to Lipton Hall for the Law



Alumni Achievement Award recipient Anthony Walters ('77) with wife Beatrice Walters

Alumni Association Awards Luncheon. This annual event provides an opportunity for the Law School alumni to come together to celebrate the accomplishments of their peers.

Andrew Segal ('92), the president and founder of Boxer Property Management Corporation, was honored with the Recent

Graduate Award for his extensive accomplishments in business in the decade since he graduated from NYU Law. Segal's company owns, manages, and leases over 5,000,000 square feet of office space in six states. His bold business strategies revolutionized the office leasing business and



changed the face of commercial real estate in major cities.

The Public Service Award went to U.S. Representative Diana DeGette ('82) of Colorado. DeGette took the podium and explained that, like any politician, she was "always ready to give a speech." Recalling her days as the activist president of the Student Bar Association, DeGette spoke about the importance of nurturing future public interest lawyers at NYU. She also thanked her husband, Lino Lipinsky ('82), for helping her pursue her public interest dreams.

Roberta Segal Karmel ('62), Professor of Law and Co-Director of the Center for the Study of International Business Law at Brooklyn Law School, received the Legal Teaching Award. In the 30 years since she graduated from NYU Law, Karmel has authored more than 50 articles that have appeared in books and legal journals. Sexton praised her accomplishments in law and scholarship.

The Alumni Association honored Anthony Welters ('77) with the Alumni Achievement Award. An NYU Law trustee, Welters is Chairman and Chief Executive Officer of AmeriChoice Corporation, one of



Law Alumni Association Award Recipients (l-r): Betty Weinberg Ellerin ('52), Judge Edward Weinfeld Award; Roberta Segal Karmel ('62), Legal Teaching Award; Andrew Segal ('92), Recent Graduate Award; and Traci Quackenbush, who received the Arthur T. Vanderbilt Medal in honor of her late husband, Christopher Quackenbush ('82)

the country's leading providers of public sector health care programs. Since its inception more than a decade ago serving inner city residents of Philadelphia, AmeriChoice has flourished under Welters' leadership, resulting in a profitable, diversified health

services company. The company's health plans pioneered the concept of comprehensive community-based care, and it has won recognition for innovative programs designed to improve access to services and bring people into the health care system.

Justice Betty Weinberg Ellerin ('52) received the Judge Edward Weinfeld Award. Ellerin is an Additional Justice of the Appellate Division of the Supreme Court of the State of New York, First Department. She was the first woman appointed to that bench in 1985. Ellerin thanked the association for her award, and recalled her encounters with the award's namesake, Judge Edward Weinfeld. She praised Judge Weinfeld's intellect and his capacity "to immediately understand the legal implications of any case" when arguments were presented to him in court.

The awards ceremony included a heartfelt tribute to Sexton's close friend and NYU Law alumnus and trustee Christopher Quackenbush ('82), who perished in the September 11 World Trade Center attacks. Quackenbush was posthumously awarded the Vanderbilt Medal, the highest honor bestowed by the Law School. In an emotional presentation, Sexton gave Quackenbush's wife Traci the medal. For more about the life of Christopher Quackenbush, see page 96.

Root-Tilden-Kern Reception



Root-Tilden-Kern graduates gather for a pre-reunion reception at the Waldorf=Astoria. (l-r): Richard Weill ('67), Manuel Klausner ('62, LL.M. '63), Helena Heath-Roland ('87), Tiffany McKinney ('01), David Adams ('77), Professor Vicki Been ('83), and Thomas Brome ('67)



NYU President-Designate John Sexton

SEXTON DELIVERS HIS FINAL STATE OF THE LAW SCHOOL ADDRESS

Later that afternoon, John Sexton delivered his last State of the Law School Address. He began by telling the audience how, at a recent legal community event, he heard Dean Anthony Kronman of Yale Law School announce, "John would love for me to say publicly that NYU is the leading law school in the country, and I can't say that. But it is the leadership law school." Sexton elaborated on that statement with three points that demonstrate the strong state of the Law School: the faculty and students, Dean-Designate Richard Revesz, and the new building.

Sexton praised Dean-Designate Revesz, saying, "I can say to you with great confidence that we will be better off with him coming on than if I stayed on for the next five years—and I did a pretty good job."

Dean-Designate Revesz ended the program. "I think very few times in history does an institution have the chance to make it to the top in ways that matter—and have widespread agreement about that," Revesz said. "Because of what John and you did, we actually have a shot at doing that."

DINNER AND DANCING AT THE WALDORF

During Reunion Weekend, graduates and their guests attended formal class dinners, each separate and distinct, but everyone came together at the All Reunion Dance at the Waldorf=Astoria. At the dance, partygoers enjoyed cocktails and good conversation with classmates and friends and danced into the wee hours of the evening at the hotel's beautiful Starlight Roof. ■

A Good Time Was Had by All

Here's a sampling of what alums had to say about this year's celebration

"It was a great evening, sharing and remembering relationships past and present. Everyone enjoyed themselves. We were glad to be back together as a class from NYU Law. It would be nice to gather on a regular basis and not have to wait five years."
—Lester Pollack ('57)

"My 20th Reunion was a great opportunity to see many old friends and to meet a large number of classmates that I had not known at the Law School."
—Brian Schorr ('82)

"I did not expect it to be so much fun! I felt like I had just graduated yesterday. I only wish that I had more time to talk with everyone. It was such a great turnout and there were so many people who I wanted to see. I am sorry that I had lost touch with so many of my classmates over the years. I hope that I will be in touch with some of them before I see them again at the 15th Reunion!"
—Susan E. Canter ('92)

"Our Reunion was a rousing success. The Russian Tea Room proved to be an elegant setting, and a great time was had by all."
—Eric Roth ('77)

"Reunion was a great success. It appeared that everyone had a great time. It was wonderful to see everyone."
—Ronald Moelis ('82)

"Like fine wine, our classmates are improving with age. Our Reunion was invigorating and memorable, and we look forward to our 45th!"
—Manuel Klausner ('62, LL.M. '63)

"I have deep appreciation for each of my classmates because of the relationship we have enjoyed over the years."
—Wayne Hannah, Jr. ('87)

"I wish we could do it every year."
—Igor Levin ('92)

"The Class of 1977 celebrated its 25th Reunion by breaking with tradition and having its dinner at the Russian Tea Room. The cuisine and ambience were memorable, but not nearly so memorable as the rekindling of old friendships. One of the high points of the evening was a farewell address by Dean Sexton—accompanied of course by numerous hugs—followed by the introduction of incoming Dean Revesz."
—T. Randolph Harris ('77, LL.M. '83)



Class Chairs and Committee Members



Class of 1952

Top row, standing (l-r): Leon Savetsky ('52), Jules Spodek ('52), Edward Joachim ('52), William Friedmann ('53), Robert Slavitt ('52), Irving Perlman ('52), Eugene Levitt ('52), Jack Mackston ('53), and William Bernstein ('52)

Bottom row, sitting (l-r): Leonard Speier ('52), Allan Pines ('52), Joseph Slavin ('52, LL.M. '56), Betty Weinberg Ellerin ('52), and Alfred Drangel ('52)

Class of 1957

(l-r): Paul Berger ('57), Kathleen Shea ('57), Wayne Hannah, Jr. ('57), and Lester Pollack ('57)



Class of 1962

(l-r): Ronald Lightstone ('62), Nicholas Coch ('62), Judith Smith Kaye ('62), Stephen Cohen ('62), and Manuel Klausner ('62, LL.M. '63)

Class of 1967

(l-r): Francis Morison ('67) and David Malkin ('67)



Class of 1972

(l-r): George Wailand ('72) and Erica Steinberger-McLean ('72)

Class of 1977

(l-r): T. Randolph Harris ('77, LL.M. '83), Eric Roth ('77), Mindy Farber ('77), Lawrence Green ('77), Roy Simon ('77), and Richard Feintuch ('77)



Class of 1982

(l-r): Ronald Moelis ('82), Diana DeGette ('82), and Brian Schorr ('82)

Class of 1987

(l-r): Robert Nelson ('87), Elizabeth Manko ('87), Peter Barbur ('87), and Mark Goodman ('87)



Class of 1992

(l-r): Gavin Solotar ('92), Michael Boxer ('92), Igor Levin ('92), Lida Rodriguez-Taseff ('92), and Andrew Segal ('92)

Class of 1997

(l-r): Andrew Migdon ('97), Michelle Migdon ('97), Laurie Thalheimer Rosenblatt ('97), and Raj Vaswani ('97)



Alumni News

AN ENGAGED GROUP OF ALUMNI IS AN essential component of NYU Law's continuing excellence. At gatherings in New York and around the country, graduates of the Law School regularly meet to reminisce about their NYU days, exchange ideas, and consider the future of the school. An accomplished lot, NYU Law alumni have taken diverse career paths, proving the breadth of their legal education. What follows is a sampling of the special people who help to make NYU Law such a dynamic place.

BLAPA Celebrates Alumni and Students at Annual Dinner



The Perry family accepts the BLAPA award for distinguished service on behalf of John Perry ('89), a New York City police officer who perished in the World Trade Center on September 11. (l-r): Patricia Perry; Linda Gadsby ('92), BLAPA President 2002-2003; James Perry; and Joel Perry

The annual Black, Latino, Asian Pacific American Law Alumni Association (BLAPA) dinner brought 150 students, faculty, and alumni together. BLAPA honored four NYU Law alumni for their work and contributions to the minority and legal communities, and

also presented three students with the BLAPA Public Service Scholarship Awards.

The BLAPA Board presented a special posthumous honor to John Perry ('89), who lost his life in the terror attacks of September 11, at the age of 38. Perry worked for the

New York City Police Department for eight years; five of which were in the Advocates Department, the legal office that prepares cases against officers accused of breaking department rules. He was at One Police Plaza filing his retirement papers when the first plane hit Tower One. Perry's mother Pat was told that he said, "Give me my badge—I'll come back and finish the paperwork."

Perry was a member of the New York Civil Liberties Union and enjoyed using his legal skills to represent friends and colleagues pro bono, in addition to serving as an arbitrator for small claims court.

The board next honored Terry Tang ('83), current editor of *The New York Times* Op-Ed page. After graduating from NYU Law, Tang practiced law but soon switched careers to become a journalist. She has worked as a staff writer at *The Seattle Weekly* and as a columnist and editorial board member at *The Seattle Times*. Prior to her appointment as *New York Times* Op-Ed editor, she wrote editorials on national affairs as a member of the *Times* editorial board. "Although I'm not part of the practicing legal community, what I learned here has informed my career in journalism," Tang said. "Both careers are interested in discovery of facts, propelled by inquiry into causation." She also noted that, as an opinion and editorial writer, one "lives and dies by the art of persuasion."

Justice Eduardo Padró ('80) was honored for his work on the bench and also for his

extensive work in the community. Padró was elected to the New York State Supreme Court criminal term in November of 2001. Prior to his appointment, Justice Padró was the first Latino ever elected to a county wide civil court vacancy in New York County. In 1996, Chief Justice Judith Kaye appointed Padró to serve on the Franklin H. Williams Judicial Commission on Minorities. He has also been an active member of bar associations and other numerous civic and community organizations, and spends many hours mentoring younger attorneys and students from NYU Law, Yale University, Aspira, "City as School" High School, and other local schools that visit the courthouse.

Padró thanked the activists who came before him and challenged the Law School to open its doors, along with those classmates who "provided much needed emotional support and political solidarity for attempting this institution." He also acknowledged individuals who have worked hard on behalf of BLAPA and subsequently donated time and energy to make his appointment to the State Supreme Court a reality. "It is finer to serve somebody else than serve oneself," Padró said in his closing remarks. "When you give and give from the heart, life will forever reward you."

The final recipient, Gilbert A. Holmes ('72), Dean of the University of Baltimore School of Law since 2001, was honored for

his work as a student activist, private practitioner, and academic. Holmes was introduced as "someone who is unafraid to tread where no one has gone before." His student activities included protesting the Vietnam War and staging a sit-in at the dean's office to demand the hiring of one other African-American professor because there was only one at the time. As an attorney, he has served as the director of the Police Misconduct Project of the New York Civil Liberties Union and as an arbitrator for the New York City Transit Authority.

His civic involvement has extended beyond legal education endeavors; he has served on the Board of Trustees of Bucknell University and worked as co-chair of the United Negro College Fund Brooklyn campaign. As one of BLAPA's founders, Holmes reflected on its history and noted that the organization was conceived in 1978 after students had approached Holmes and another colleague to incorporate an alumni association for students of color. He has worked to replicate similar arrangements at other schools as well.

The evening concluded with a presentation of three public service awards. BLAPA Treasurer Patrick Michel ('96) said, "This part of what BLAPA does is special because NYU is a public service organization and BLAPA is a public service organization." The three \$3,500 scholarships were created to support

those students planning to dedicate their careers to public service. The awards were presented to graduating students Bernadette Armand and Violeta Chapin, and second year student Priyamvada Sinha. ■

BLAPA Alumni are Leaders in New York City Government

"We had always been a group of political junkies, especially local politics and government," says Herb Barbot ('91), Deputy Comptroller for the Office of the Comptroller of the City of New York. "We celebrated the historical win of the City's first African-American Mayor, David Dinkins. We even helped to elect one of our own—Roberto Ramirez ('93)—to the New York State Assembly when he was only a 2L. We talked and argued and dreamed of one day 'running the City.' As arrogant as that may sound now, we love this City and we love the idea of service. Today we are most fortunate to be serving New York City in this historic time."

Recent BLAPA additions to city government include:

Herb Barbot ('91)

Deputy Comptroller for the Office of the Comptroller of the City of New York

Y. Stacey Cumberbatch ('86)

Chief of Staff to Deputy Mayor Robles-Roman

Jose Maldonado ('80)

Chairman of the Organized Crime Control Commission

Jeanne Mullgrav ('88)

Commissioner, Youth and Community Development

Jeffrey Oing ('89)

Deputy Counsel to the City Council Speaker, Gifford Miller

Carol Robles-Roman ('89)

Deputy Mayor for Legal Affairs and Counsel to the Mayor

Martha Stark ('86)

New York City Commissioner of Finance

Roberto Velez ('89)

Chief Administrative Law Judge at the Office of Administrative Trials and Hearing

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Carroll and Milton Petrie Foundation Establishes Scholarships at the Law School and the University

With a generous \$10 million gift divided equally between the Law School and the University, the Carroll and Milton Petrie Foundation has established scholarships which will benefit the most needy and deserving students. These scholarships will benefit both undergraduates and law students.

In creating these scholarships, the Carroll and Milton Petrie Foundation has opened doors for students whose stories are highly dramatic, but all too real, who seek out NYU as the place where they can triumph and succeed despite the obstacles that life has placed before them.

Bernard Petrie, Milton Petrie's son and a Law School Trustee, recognized that students arrive at NYU from a vast array of backgrounds, and that many have to overcome great adversity to be at NYU, whether social, economic, political, or physical. The Petrie Scholarships were created with these students in mind. The idea for the scholarships was inspired by the example of Bernard's father, Milton, who was known throughout his lifetime for helping those who he encountered or read

about overcome adversity, misfortune, or personal struggle.

Dean-Designate Richard Revesz said of the Petrie Scholarships, "This scholarship is highly appropriate for a school like NYU Law, which has a long tradition of being the law school for those who have been historically underrepresented in the legal profession, or who were the first in their families to obtain an advanced degree. It is wonderful that the Carroll and Milton Petrie Foundation understood our institutional culture so well, and made a gift that so perfectly comports with that culture."

NYU President-Designate John Sexton added, "NYU is about triumph over adversity. From the beginning of NYU's history, this was a university made up of immigrants, minorities, the economically disadvantaged, and others for whom higher education had been only a distant dream. This university has been the doorway for thousands of people who transformed their lives here. Now the Petrie Foundation has ensured that many more students will have that chance."

The BLAPA Public Service Scholarship

The BLAPA Public Service Scholarship was created in 1994 to promote the practice of law in the public sector by graduates of NYU Law. BLAPA alumni have contributed funds to create this scholarship to reduce the debt burden of second- or third-year students who are members of the Asian Pacific Law Students Association (APALSA), the Black Allied Law Students Association (BALSA), the Latino Law Students Association (LaLSA), the Middle Eastern Law Students Association (MELSA), or the South Asian Law Students Association (SALSA), have proven their dedication to the public service, and plan to pursue careers in public interest law. For more information about the Scholarship or to make a contribution, call the NYU Law Office of Alumni Relations at (212) 998-6410.

In the field of law, particularly, where decisions affecting individual lives are often made within the context of the greater society, it is especially important to support students whose backgrounds and experiences help them to be cognizant of that context. The work of the Petrie Scholars will have immeasurable impact over time. Because of the Foundation's support, they will go out into the world well equipped to enter the communities where they will live and work. ■

Filomen D'Agostino Foundation Creates Scholarships at NYU Law

The Filomen D'Agostino Foundation has established the Filomen D'Agostino Scholarship Fund at NYU Law with a gift of \$3.5 million. The scholarship fund will support three students per year, who will be known as Filomen D'Agostino Scholars. The scholarships will be awarded to students who demonstrate a strong commitment to the area of women's and children's rights.

The Foundation is the legacy of one of the Law School's greatest benefactors,

Filomen D'Agostino Greenberg ('20), and is administered according to her wishes by alumnus David Malkin ('67) and her nephew Max D'Agostino.

By the time of her passing in February 2000 at the age of 101, Greenberg had helped transform the school she remembered as five small rooms on Washington Square into an academic powerhouse through her generous philanthropy.

Greenberg defied the conventions of her generation when, at the age of 17, she

applied to law school. Upon graduating in 1920, Greenberg discovered that firms were not terribly eager to hire a woman lawyer. Undaunted, she practiced law on her own. During World War II, she began investing in the stock market and, in time, her investments grew into a fortune.

Greenberg chose to give back to the school that she felt had enabled her to do so much: NYU Law. By 1990, her gifts totaled more than \$6 million, which made her the Law School's largest benefactor of the time. Her help financed the building of D'Agostino Residence Hall and Greenberg Lounge, and enabled the establishment of the Greenberg Faculty Research Fund and the Max Greenberg Professorship of Contract Law, named for her husband. ■

Dan Straus ('81), Law School Trustee, Names Professorship in Honor of His Father

With a gift totaling \$1.5 million, Law School Trustee Dan Straus ('81) has created the Joseph Straus Professorship at NYU Law in memory of his beloved father. Dean Richard Revesz said, "I am delighted that Dan has chosen to memorialize his father in such a meaningful way. A chaired professorship is the most important gift that can be given to an academic institution. It is a most worthy legacy and a wonderful way for the Straus family name to be carried on

at the Law School in perpetuity. As a trustee, Dan understands that chaired professorships are critical to the Law School's ability to draw outstanding faculty. I can think of no better way for a son to remember his father at the school that served them both so well."

After graduating from NYU Law in 1981, Dan Straus spent a few years working as an associate at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison. In

1984, he and his brother Moshael formed The Multicare Companies Inc. to manage four nursing home facilities that their father, NYU Law alumnus Joseph Straus ('37, LL.M. '43), left to their mother after he passed away in 1978. Dan expanded the company, took it public in 1993, and sold the company in 1997. At the time of the sale, Multicare operated over 170 long-term and assisted care facilities with approximately 17,500 beds in 11 states. In 1998, he formed the Straus Family Group to manage his family's holdings, and in 2001, with the valuations of long-term care companies down, he re-entered the market, purchasing 78 long-term care facilities.

Dan Straus was inducted onto the Law School Board of Trustees in 1998. ■

The Changing Face of the Development Office at NYU Law

The new year brought a bittersweet change to NYU Law's Office of Development and Alumni Relations. After 12 years of loyal service and commitment to the Law School community, Associate Dean Debra LaMorte

undertook a new challenge in her ever onward and upward career. On January 1, LaMorte became the Senior Vice President for External Relations at New York University. LaMorte's many friends will miss

seeing her around Vanderbilt Hall, but are also justifiably proud of her well-deserved promotion. Working in tandem with NYU President-Designate John Sexton, LaMorte will no doubt prove to be as valuable an asset to the entire University as she was to the Law School. Thankfully, she will never be too far from "home."

To recognize her unwavering leadership and innumerable contributions to the development and alumni relations initiatives at the Law School, LaMorte was honored at a surprise luncheon hosted by Law Trustee Bonnie Feldman Reiss ('69). Sexton, LaMorte's mentor and development partner over the past dozen years, thanked her for the leadership, grace, and friendship she has given to the Law School.

Jeannie Forrest, NYU Law's Director of Alumni Relations, has accepted the position of Assistant Dean of Development and Alumni Relations. Forrest has been a part of our community for the last eight years and is already family. She brings to her new post a powerful résumé, a dedication to the Law School's mission, an in-depth knowledge of the School's history and culture, as well as a warmth felt by all of her professional colleagues. Before heading up the Alumni Relations team, Forrest was the Program Director for the Institute of Judicial Administration (IJA) and is highly regarded by the hundreds of judges with whom she worked. ■

Looking for CLASS NOTES?



Visit Class Notes ONLINE at www.law.nyu.edu/alumni/classnotes to keep up with your classmates professionally and personally!

We will post your job changes, promotions, marriages, births, publications... any and all achievements or milestones you would like to share with our alumni community.

Email your news to law.classnotes@nyu.edu or write to Class Notes Editor, NYU School of Law, 161 Avenue of the Americas, 5th Floor, New York, NY 10013.

Continuing Legal Education

Students in graduate programs may receive CLE credit for the successful completion of LL.M. courses at the Law School. Upon completion of a course at NYU Law, a student may obtain certification by making a written request to:

Office of Records and Registration
 NYU School of Law
 40 Washington Square South, Rm. 211
 New York, NY 10012
 phone: (212) 998-6040
 fax: (212) 995-4523

The request should include the student's name, social security number, the title of the course for which CLE credit is requested, the semester in which the course was taken, and the student's current mailing address.

The Center for Finance, Law, and Taxation at NYU's School of Continuing and Professional Studies has a significant number of offerings for CLE credit. For more information on the Center's offerings or information on the Institute on Federal Taxation and other tax conferences that are also coordinated by the NYU School of Continuing and Professional Studies, please call (212) 790-1321 or visit www.scps.nyu.edu/cle.

General NYS CLE Information

Information on the New York State CLE Program including the CLE Rules (Part 1500), the regulations and guidelines of the CLE Board, and a list of CLE Board Accredited Providers may be obtained through the New York State Unified Court System's Web site: www.courts.state.ny.us/mcle.htm.

You may also contact the CLE Board directly:

(212) 428-2105
 (877) NYS-4CLE (for calls outside New York)
CLE@courts.state.ny.us

The M. Carr Ferguson Fellowship in Graduate Tax

Upon hearing the news that M. Carr Ferguson (LL.M. '60) would retire from teaching in NYU Law's Graduate Tax Program, alumnus Francis J. Blanchfield, Jr. ('70, LL.M. '74) began spearheading a fundraising initiative in Ferguson's honor to endow the M. Carr Ferguson Fellowship in Graduate Tax. The fellowship will be used to recruit and support a bright and worthy student in the Graduate Tax Program who wishes to pursue a career in either government or teaching.

This is a wonderful way to salute Ferguson, who credits the success of his career to his experience in the Graduate Tax Program, which he was able to attend only because of a fellowship at NYU Law. Ferguson spent four years of his career as a trial attorney at the Justice Department's Tax Division

in the late 1950s and returned to head the Division as Assistant Attorney General from 1977 to 1981. In between and afterwards, he devoted himself to teaching tax law.

To date, more than \$100,000 has been raised toward the \$1.2 million goal. Raising \$1.2 million will provide a scholarship sufficient to provide an outstanding student with tuition as well as room and board. Blanchfield has recruited fellow Mayer Brown Rowe & Maw partner Thomas R. Hood (LL.M. '74) to fundraise alongside him.

If you would like to make a gift with appreciated securities or a credit card, call Meredith H. Celentano, NYU Law Office of Development and Alumni Relations, at (212) 998-6389. ■

David Deutsch ('25) Donates Painting to Law Alumni Association Board



David Deutsch ('25) donated a second painting in honor of Geraldine T. Eiber ('40) to the LAA Board. Pictured here with two of his paintings are Bernard Eiber; Steven S. Miller ('70); David Deutsch; the Honorable Geraldine T. Eiber; and Jeannie Forrest, Assistant Dean of Development and Alumni Relations. Both paintings grace the walls of the Law School's Vanderbilt Hall.

Highlights From the Graduate Tax Program Alumni

During the 2001-2002 academic year, the Graduate Tax Program visited with alumni in Georgia, California, and Washington, D.C. In Atlanta, Allen D. Altman (LL.M. '68), Ronald W. Eisenman (LL.M. '82), and Gary E. Snyder (LL.M. '73), partners at Greenberg Traurig, hosted an intimate breakfast event at their firm and invited local resident Frank L. Fernandez (LL.M. '84), Executive Vice President of The Home Depot, to speak. Fernandez told alumni how invaluable his LL.M. in Tax from NYU Law has been for him. He said he believed that, without it, many of the doors to his success might not have opened for him.

In Los Angeles, Charles P. Rettig (LL.M. '82), partner at Hochman, Salkin, Rettig, Toscher & Perez, hosted a luncheon and invited renowned tax specialist Terence F. Cuff (LL.M. '79), partner at Loeb & Loeb, to speak with the tax alumni. Cuff engaged the audience with a talk about the importance of being good people, good tax lawyers, and good to the law profession in general.

The Graduate Tax Program also held its two annual events in Washington, D.C. The first was held in September at the Red Sage restaurant in conjunction with NYU Law's interview day at the U.S. Tax Court. Tax alumni attended in record-breaking numbers in an apparent effort to reconnect with their School and their colleagues after the events of September 11.

In May, the annual reception held in connection with the ABA Tax Section Meeting also drew an enormous crowd.

As a result of the continued outreach to NYU Law Graduate Tax Program alumni, Professor Paul R. McDaniel, Director of the Graduate Tax Program, reported that during the fiscal year 2000-2001 annual contributions to the Gerald L. Wallace Fund for scholarship aid to students in the Graduate Tax Program exceeded \$200,000 for the first time. In addition, more than \$2.5 million toward the \$5 million fundraising campaign has been raised for the Graduate Tax Program. McDaniel, who concludes his final year at NYU Law in June 2002, said, "This strong support from our alumni has been one of the most gratifying aspects of the Director's job over the past four years."

THE GRADUATE TAX WORKSHOP

The Graduate Tax Program welcomed more than 90 alumni back to Vanderbilt Hall for the third annual Graduate Tax Workshop in its current format. Alumni participated in sessions about current developments in tax ethics with National Board of Advisors member Gersham Goldstein (LL.M.'64) and partnership tax with Professor Noël B. Cunningham (LL.M.'75). Attendees also had the opportunity to choose among courses that were set to take place during two breakout sessions. In the morning,

alumni focusing in the area of Corporate Tax were treated to presentations made by Professor James M. Eustice (LL.M. '58) and National Board of Advisors member Gregory S. Schmolka ('98). Those interested in Executive Compensation spent their time with Associate Dean Brookes D. Billman, Jr. (LL.M. '75) and NYU Law Adjunct Professor Paul M. Ritter (LL.M. '80). Toward the end of the day, participants decided between Tax Procedure with Adjunct Professor Robert S. Fink ('68, LL.M. '73) and Estate Planning with Adjunct Professor T. Randolph Harris ('77, LL.M. '83). Alumni thoroughly enjoyed their return to the classroom to learn from some of the country's best tax academics and practitioners. In addition, each participant received six CLE credits for the one-day event. Holding true to tradition, proceeds from the Workshop were donated to the Gerald L. Wallace Fund.

Information on the fourth annual Graduate Tax Workshop will be available in late Fall 2002. ■

Sexton Honored at the Law Alumni Association's State Bar Luncheon

The Law Alumni Association (LAA) got its chance to say goodbye to NYU President-Designate John Sexton during the Annual Alumni Luncheon in January at the Roosevelt Hotel, which was held in conjunction with the New York State Bar Association's annual meeting. At the event, the LAA Board President, Steven S. Miller ('70), presented Sexton with a gift in honor of the enormous impact he made on the Law School during his 14 years as Dean. Sexton accepted the gift to a standing ovation with tears in his eyes.



LAA President Steven S. Miller ('70) with NYU President-Designate John Sexton

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Information is available only to NYU Law Alumni with a valid username and password. If you do not have your log-in information, simply send an email to: law.onlinehelp@nyu.edu.

On the Road With NYU President-Designate Sexton

NYU President-Designate John Sexton once again took to the road this past year to meet with alumni and newly admitted students around the country. His stops included Boston, where he was joined by Dean-Designate Richard Revesz; Chicago; Los Angeles; Palo Alto; San Francisco; and Washington, D.C. Alumni also gathered in

Atlanta, but Sexton was unable to attend. Besides being a chance to update alumni on the state of the Law School, Sexton's trips offered him the opportunity to bid farewell to friends and colleagues. The new building, recent faculty appointments, the popularity of the Hauser Global Law School Program, and his move to the helm of the University were

among the topics Sexton addressed. A videotaped presentation on the construction and use of the new building provided alums with a comprehensive understanding of the direction in which NYU Law is moving. On a more solemn note, Sexton also discussed the effects of September 11 on the School. ■



Boston

(l-r): Judge John Greaney ('63), James Brown, III ('95), Diana Lloyd ('89), C. Hall Swaim ('64), and Thomas Brome ('67)

San Francisco

(l-r): Alan Zimmerman ('67), Toni Rembe (LL.M. '61), Robert Nelson ('87), Moira Russoniello, and Joseph Russoniello ('66)



Chicago

(l-r): Stephen Geifman (LL.M. '71), Wayne Hannah ('57), Mitchell Hollins ('71), Terry Rose Saunders ('73), and Harry Roper ('66)



Palo Alto

Alumni and friends gather at the Garden Court Hotel

Atlanta

Alumni and friends gather for a reception at the Capital City Country Club



Los Angeles

(l-r): John Power ('61), James Gorton ('86), Marc Marmaro ('72), Kenneth Lemberger ('72), Ronald Lightstone ('62), Ira Bilson ('55), Ronald Jacobi ('71), and Judge Stephen Reinhardt

Washington, D.C.

(l-r): Paul Schmidt ('98), Mindy Farber ('77), Judge Juan Vasquez (LL.M. '78), Beatrice Welters, Anthony Welters ('77), James Burger ('71), Paul Berger ('57), Alan Roth ('79), Howard Braun ('62), and Charles Butler ('98)



New York University School of Law Scholarships

Fritz W. Alexander II Scholarship
 An-Bryce Scholarship
 Arthur Andersen Tax Alumni Scholarship
 Anniversary Classes Scholarship
 Arnold and Porter Scholarship
 Dean Clarence D. Ashley Scholarship
 Asian Law Fellowship
 Lester R. Bachner Scholarship
 Harold Baer Memorial Scholarship
 Baker & McKenzie Scholarship
 Roger Baldwin Fellowship
 Janet M. Beckman Scholarship
 Alexander Berl Scholarship
 Jacob I. Berman Scholarship
 Alexander & Henrietta Bicks Scholarship
 Mortimer Bishop Scholarship
 Samuel Bitterman Scholarship
 BLAPA Scholarship
 Francis J. Bloustein Scholarship
 Oscar & Jeanne Bloustein Scholarship
 Mamdouha Bobst Global Scholarship
 Louis B. Boudin & Vera Boudin Cohn Fellowship
 Murray Bring & Kay Delaney Bring Scholarship
 Bristol-Myers Fellowship
 Edward Brodsky Scholarship
 Donald L. Brown Memorial Scholarship
 Benjamin F. Butler Scholarship
 G. William Calascione Scholarship
 Daniel D. Cantor Scholarship
 Carter Scholarship
 Class of 1921 Scholarship
 Class of 1952 Scholarship
 Denise Cohen Memorial Scholarship
 Cooper & Dunham Research Fellowship in Innovation Law

Elmer D. Coulter Scholarship
 John J. Creedon Scholarship
 Crowe & Dunleavy Graduate Tax Scholarship
 Joseph R. Damico Scholarship
 Thomas S. Daponte Scholarship
 Irwin & Marian Davidson Scholarship
 Richard R. Davidson Memorial Scholarship
 R.A. Davison Scholarship
 S. Samuel Di Falco Scholarship
 Herman Diamond Scholarship
 Charles Digangi Scholarship
 Edward H. Dixon Scholarship
 Martin & Eva Domke Graduate Student Aid
 Norman Dorsen Fellowship
 Ronald Dreier Scholarship
 Arnold & Joan Elkind Global Law Scholarship
 Harry L. Ettinger Scholarship
 Barry Evans Scholarship
 Donald J. Fariello Scholarship
 Alvin J. Feldman Memorial Fellowship
 Murray & Sylvia Fields Scholarship
 Jacob Fishback Memorial Scholarship
 James A. Fogelson Memorial Scholarship
 Ford Foundation Scholarship
 William Fox, Sr. Scholarship
 Judge Harry B. Frank Scholarship
 Morris Henry Frank Memorial Scholarship
 Ned David Frank Scholarship
 Doris C. & Alan J. Freedman Scholarship
 Sylvan D. Freeman Memorial Fellowship
 Justice Lewis R. Friedman Public Interest Fellowship
 Jay & Gail Furman Real Estate Fellowship

Important Notice: 4th International Alumni Conference in Berlin Cancelled

The Alumni Conference scheduled for November 2002 in Berlin has been cancelled. The international event will be rescheduled for sometime in the future. Watch your mail for further details.

Harry A. Gair Scholarship
 Harriet E. Gair Scholarship
 Galgay Fellowship
 Morris M. Geifman Memorial Scholarship
 Gershwind Family Scholarship
 Glass Criminal Justice Fellowship
 Herbert Z. Gold Scholarship
 Golden Circle Loan Repayment Assistance Award
 Irving Goldstein Scholarship
 Golieb Memorial Fellowship
 Rebecca Anne Gourwitz Scholarship
 John Grad Memorial Scholarship
 Ronald & Marilyn Grossman Scholarship
 Louis Gruss Scholarship
 Clifford Hagaman Scholarship
 Hale and Dorr Root-Tilden-Kern Scholarship
 Hauser Scholars Program
 William Randolph Hearst Foundation Scholarship
 Walter Herzfeld Memorial Scholarship
 Samuel A. Herzog Scholarship
 Herbert & Rose Hirschhorn Scholarship
 Joseph J. Holzka Memorial Scholarship
 George & Stella Hyman Scholarship
 Susan Isaacs & Elkan Abramowitz Scholarship
 Jacobson Family Scholarship
 Milton Jentes Scholarship
 Clair V. Johnson Scholarship
 David Kane Fellowship
 Margaret Fuller Karlin Scholarship
 Paul D. Kaufman Scholarship
 Gail Kelner Scholarship
 T.D. Kenneson Foundation Scholarship
 Richard G. Ketchum Scholarship
 Myron Kleban Scholarship
 Charles D. Klein Scholarship
 Leon G. Kozak Scholarship in Tax
 David Kugel Scholarship
 W.C. & W.H. Langley Scholarship
 Judge David Laro Scholarship
 Morris E. Lasker Loan Repayment Assistance Award
 Pauline & Bernard Lasker Scholarship
 Lawrence Lederman/Milbank Tweed Hadley & McCloy Fellowship in Corporate Law
 Godfrey M. Lebharr Foundation Scholarship

Lenore & Emil Leepson Scholarship
 Edward J. Leon Scholarship
 Joshua Levine Scholarship
 M. Carl & M. Levine Scholarship
 Edwin & Gertrude Lieb Scholarship
 Elias Lieberman Fellowship
 Lindemann Family Public Service Scholarship
 Deborah Rachel Linfield Fellowship
 Martin Lipton Scholarship
 George T. Lowy Scholarship
 Alan M. MacCracken Memorial Scholarship
 Mary V. Magilligan Scholarship
 Greer Marechal, Jr. Memorial Scholarship
 Markowitz Scholarship
 Jacob Marley Foundation Scholarship
 Robert Marshall Fellowship
 Thurgood Marshall Scholarship
 D. Lurton Masee, Jr. Scholarship
 Manuel Maxwell Scholarship
 Ruby P. Mayer Scholarship
 Nancy Miller Scholarship
 John & Tina Mizio Scholarship
 Frances Moelis Fellowship in Real Estate Law
 Constance L. Montgomery Scholarship
 Edmund L. Mooney Scholarship
 Cornelius C. Moore Scholarship
 Stacey L. Morrison Memorial Scholarship
 Maximillian Moss Memorial Scholarship
 Elsa Paine Mulhern Scholarship
 Justice Allen Murray Myers and Dr. Leo A. Shifrin Memorial Scholarship
 Elihu A. Novick and Elsie A. Novick Scholarship
 Carl Olsan Scholarship
 Dwight Opperman Scholarship
 Harold Orenstein Memorial Scholarship
 Hanora and Sidney Ostro Scholarship
 Norman Ostrow Memorial Scholarship
 Norma Z. Paige Scholarship
 Clarence Y. Palitz Scholarship
 Palmer Weber Fellowship
 Panken Scholarship
 Donald Pels Scholarship
 Pfeiffer-Gans Scholarship
 Philip Morris Global Scholars Program
 Pickholz Family Scholarship
 Harriet Pipel-Planned Parenthood Fellowship
 John Norton Pomeroy Scholarship

Mark Brisman Graduation Prize

In the World Trade Center attacks on September 11, 2001, the NYU Law community lost a very special alumnus: Mark Brisman ('92). While at NYU, Brisman was an active participant in Moot Court, winning the Moot Court Prize in his third year. In honor of his love for the Law School, and in memory of his life, Brisman's classmates have established a graduation prize in his name. The Mark Brisman Graduation Prize will be awarded each year to a graduating student who has shown excellence in and commitment to Moot Court. This award is a touching reminder of Brisman's contributions to the Law School and a wonderful memorial to his life.

For more on the life of Mark Brisman, see page 95. To learn more about The Mark Brisman Graduation Prize, contact Rachael Lerner at (212) 992-8801; or rachael.lerner@nyu.edu.

Post & Harris Scholarship
 William W. Prager Memorial Scholarship
 Reed Foundation Fellowship
 Bonnie & Richard Reiss Scholarship
 Charles H. Revson Fellowship
 E.C.K. Rippe Loan Repayment Assistance Award
 John C. Robinson Memorial Scholarship
 Root-Tilden-Kern Scholarship

Jeffrey A. Rosen Family Scholarship
 Ely Rosenberg Scholarship
 Alan W. Rosenbluth Scholarship
 Julius S. Ross - S. Michelman Scholarship
 Helena Rubinstein - Howard Weill Scholarship
 Harry J. Rudick Memorial Scholarship
 Jack & Susan Rudin Scholarship

Edward Rudman Scholarship
 Caryl A. Russell Scholarship
 Henry A. Samton Scholarship
 Terry Rose Saunders Scholarship
 Anthony P. Savarese Scholarship
 Henry G. Schackno Memorial Scholarship
 Gerald Schoenfeld Scholarship
 Nathan & Jean Schwartz Scholarship
 Flora & Richard Secular Scholarship
 Max S. & Rose Seidler Scholarship
 Philip E. Semel Fellowship
 J. Irwin Shapiro Scholarship
 Sinsheimer Public Service Scholarship
 Abraham D. & Jennie A. Slavitt Scholarship
 Alfred Sobol Scholarship
 Louis H. Solomon Scholarship
 Dean Frank Henry Sommer Scholarship
 Soros Criminal Justice Fellowship
 Soros Fellowship Program
 C.V. Starr Scholarship
 Lawrence B. Starr Scholarship
 Starr Foundation Global Law School Scholarship
 Ernest E. Stempel Scholarship
 William & Mary Sterling Scholarship
 Nathan D. Stern Scholarship
 Thomas B. Stoddard Fellowship
 Joseph Straus Scholarship
 Sumitomo Corporation Fellowship

Solon E. Summerfield Scholarship
 Robert M. & Carol C. Tanenbaum Scholarship
Tax Law Review Scholarship
 Tepper Family Scholarship
 David Tishman Scholarship
 Leslie J. Tompkins Scholarship
 Louis A. Valente Scholarship
 Harry Voigt Scholarship
 Gerald L. Wallace Scholarship
 Rubin P. Weber Fellowship
 Harold Weill Scholarship
 Alex E. Weinberg Fellowship
 Leonard Weintraub Merit Scholarship
 Melvyn & Barbara Weiss Loan Repayment Assistance Award
 Nina W. Werblow Tax Fellowship
 Edwin Williamson Scholarship
 Morton E. Yohalem Memorial Scholarship
 Charles Zarkin Scholarship
 Samuel & Jewel Zelensky Scholarship
 George B. Zolotar Scholarship
 Harry M. Zuckert Scholarship

as of June 24, 2002

John Perry Graduation Prize

On September 11, 2001, NYU Law lost a special member of its community: John Perry ('89). John was a member of the New York City Police Department and on that day was planning to officially retire. He rushed to assist in the rescue efforts at the World Trade Center and perished in the fight. Perry was a civil activist in all areas of his life. His retirement from the police department meant the opportunity to pursue a dream of assisting plaintiffs in medical malpractice cases, tapping into the knowledge and experience of his father, a doctor. The Law School has established The John Perry Graduation Prize, which will be awarded each year to a graduating student who exemplifies and has shown commitment to all that Perry stood for. For more information about The John Perry Graduation Prize, please contact Meredith Celentano at (212) 998-6389; or meredith.celentano@nyu.edu.

For more on the life of John Perry, see page 96.

A. Thomas Levin President-Elect of New York State Bar Association

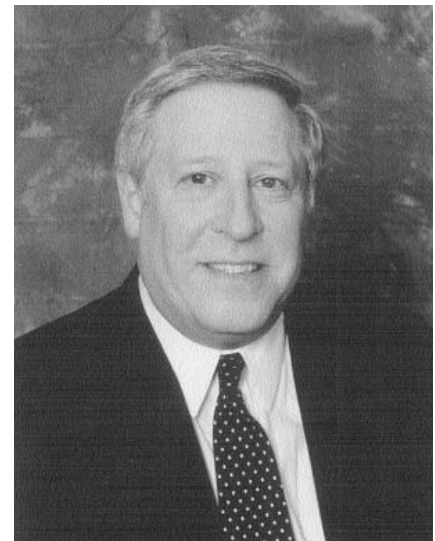
A. Thomas Levin ('67, LL.M. '68), a shareholder and director of the Mineola, New York law firm of Meyer, Suozzi, English & Klein, P.C. will become president of the 70,000-member New York State Bar Association (NYSBA) in June 2003.

Active in the NYSBA, Levin has served on its Executive Committee since 1995, first as a member-at-large, then as 10th Judicial District vice president (Suffolk and Nassau counties), and since 2001 as secretary of the Association. He has been a member of the House of Delegates for more than 13 years. He currently chairs the Association's By-Laws Committee and the Task Force to Study "Pay to Play" Concerns (the practice of contributing to political campaigns in return for future work from a public entity). He is a life fellow of The New York Bar Foundation.

Levin is also a member of the state bar's Municipal and Environmental law sections, committees on Legislative Policy, NY Law/NET Project, Unlawful Practice of Law, and Judicial Selection—appellate panel. He also serves on the Electronic Communications Task Force, Special Committee on the Law Governing Firm Structure and Operation (MDP), Special Committee on Legislative Advocacy, and the Young Lawyer Mentor Program. He is a past chair of the New York State Conference of Bar Leaders.

Levin is also a past president of the Nassau County Bar Association and its Fund, and a life member of the county bar's board of directors.

Officially elected by the NYSBA House of Delegates, the state bar's policymaking body, last January, Levin will



A. Thomas Levin ('67, LL.M. '68), President-Elect of the New York State Bar Association

chair the House and co-chair the President's Committee on Access to Justice (civil legal services for the poor) during his year-long term as president-elect. ■

An Extra-Special Weinfeld Gala

For the 13th consecutive year, NYU Law gathered its most prestigious group of alumni and friends, the Weinfeld Associates and Fellows, to thank them for their continued generosity and commitment to the School.

While each Weinfeld Gala has been special, this year's gathering was particularly unique and memorable as our closest friends and faculty bid adieu to Dean John Sexton and wished him well in his new role

as President of New York University. This special, select group of our community also warmly welcomed our 14th Dean, Richard Revesz, to the post.

To mark this special occasion, the Gala was held at the recently restored Cipriani Ballroom in midtown Manhattan. With soaring ceilings and candlelight, the Ballroom provided a suitably majestic background to celebrate the generosity of our Weinfelds.

The night concluded on a wholly appropriate note: Dean-Designate Revesz made a public display of his personal commitment to increasing the number of Weinfeld members by presenting John Sexton with a personal check. Not surprisingly, the newest member of the Weinfeld Program received a famous Sextonian hug.

The Weinfeld members, consisting of alumni, parents, and friends, commit to making annual gifts of at least \$5,000 in support of the School's Annual Fund. (Recent graduates are invited to join at the \$1,000 level.) ■



Alumni, friends, and faculty enjoying one another's company at the Weinfeld Gala



Dean-Designate Richard Revesz with a gathering of alumni and friends at the Weinfeld Gala



Herbert Hirschhorn ('32, J.S.D. '34) thanks Dean John Sexton for his years of friendship and commitment to NYU Law



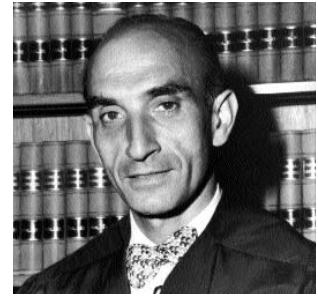
(l-r): Ruby ('73) and O. Peter Sherwood ('71) with Janet Dewart Bell and Professor Derrick Bell



(l-r): Gail and Alfred Engelberg ('65) with Beatrice and Anthony Welters ('77)

The Weinfeld Program

“Judge Weinfeld’s devotion to NYU and its great Law School is boundless. He recognizes fully, as all of us should, what is owed to the institutions of learning that first broadened our intellectual horizons and then led us down the path of law.” —Judge Henry J. Friendly (1987)



Weinfeld Associates and Fellows

1932

Herbert Herman Hirschhorn (J.S.D. '34)

1936

Anthony J. Caputo

1937

J. Wilson Newman

1938

Jack Newton Lerner

1939

Adelaide Forst Fogel

1940

Herbert Z. Gold

1942

Harold D. Berkowitz
Herbert Rubin
Rose Luttan Rubin

1945

Leonard M. Weintraub

1946

Norma Z. Paige

1948

Adolph Koeppel (LL.M. '53)
C. Peter Lambos
Theodore M. Rogers (LL.M. '48)
Dr. Ernest E. Stempel
(LL.M. '48, J.S.D. '51)

1949

Maxwell S. Pfeifer
Murray H. Warschauer

1950

Abner J. Golieb
Honorable Frank J. Guarini, Jr.
Joseph A. Weinberger

1951

Jerome I. Feldman
Martin R. Lewis

1952

Jerome A. Manning
Norman Sinrich (LL.M. '53)

1953

Harry L. DuBrin Jr.
Magistrate David F. Jordan (LL.M. '70)
Herbert Kronish
Stanley C. Lesser
Richard Lieb
Donald A. Pels

1954

Benjamin F. Crane
Honorable Leon B. Polsky
Marcus Eugene Powers (LL.M. '58)
Leonard M. Rosen
Herbert Maurice Wachtell
Stanley S. Weithorn (LL.M. '56)

1955

Ira Edwin Bilson
John J. Creedon (LL.M. '62)
Bella L. Linden
Martin Lipton
George T. Lowy
John C. Nelson
Norman Redlich (LL.M. '55)
David T. Washburn

1956

Walter C. Cliff (LL.M. '56)
Renate Alsberg Hunter
Herbert D. Kelleher

1957

Paul S. Berger
Herbert H. Chaice (LL.M. '62)
Wayne R. Hannah, Jr.
Gustave M. Hauser (LL.M. '57)
Joseph S. Lesser (LL.M. '57)
Lester Pollack
Kathleen H. Shea
Warren J. Sinsheimer (LL.M. '57)

1958

Gerald Aksen
Professor James S. Eustice (LL.M. '58)
Irving Kagan
Edwin A. Kilburn
Arthur J. Mahon
Harlan W. Murray
Honorable Pauline Newman
Herbert S. Podell
Marvin B. Tepper

1959

Murray H. Bring
Alan Jay Fuirst
Dr. Rita E. Hauser
Domenic J. Mizio
William C. Sterling, Jr.
Robert M. Tanenbaum (LL.M. '61)
Melvyn I. Weiss
James Ronald Wolfe

1960

Jack Becker
M. Carr Ferguson (LL.M. '60)
Eugene J. T. Flanagan (LL.M. '60)
Dirk S. Gould (LL.M. '64)
Harry G. Hohn, Jr. (LL.M. '60)
Jerome H. Kern
Walter G. McNeill
Thomas F. O'Toole (LL.M. '67)
Lewis Stein
Stanley I. Westreich

1961

Squire N. Bozorth
Joseph E. Browdy
Richard E. Burns
Honorable Gene Carter
Michael J. Crames
Joel S. Ehrenkranz (LL.M. '64)
Robert G. Galli
Theodore Gewertz
Jerome B. Kauff (LL.M. '65)
Fred S. Lafer
Edward J. McAniff
Roger M. Milgrim
Martin D. Payson
Arthur S. Penn
John B. Power
Sandor C. Schweiger
Harvey I. Sladkus
Barry I. Slotnick
William J. Williams, Jr.

1962

Lester S. Bardack
Howard J. Braun
Nicholas L. Coch
Stephen A. Cohen
George Gottlieb (LL.M. '64)
Ronald Grossman (LL.M. '65)
Stephen L. Hammerman
Manuel S. Klausner (LL.M. '63)
Ronald Lightstone
Carl D. Lobell
William Denis Maroney (LL.M. '67)
Peter J. O'Shea, Jr.
Charles A. Stillman
Vernon E. Vig (LL.M. '63)
Richard C. Warmer

1963

Gary A. Beller (LL.M. '72)
Leonard Boxer
Mark A. Buckstein
Anthony C. Gooch (LL.M. '64)
Stephen F. Huff
Martin Jacobs
Charles D. Klein
John A. Martinen
Eric D. Martins
Edward I. Rudman (LL.M. '63)
Gerald Sobel
Roger W. Thomas (LL.M. '64)

1964

Elkan Abramowitz
Helaine Meresman Barnett
Stephen M. Brecher (LL.M. '71)
Jules Brody (LL.M. '67)
John L. Eastman
Joseph L. Forstadt
Frank L. Gannon
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 Alan L. Fuchsberg
 Marc H. Gamsin
 Amy Wolf Isseroff
 Gregory F. Jenner
 Reuben S. Leibowitz (LL.M. '79)
 Joseph E. Ronan, Jr. (LL.M. '83)
 Alan J. Roth
 Jill C. Scheuer
 Philip R. Sellinger

1980

Kathryn Cassell Chenault
 Susan Upton Douglass
 Karen J. Freedman
 Michael J. Horvitz (LL.M. '80)
 Robert A. Kindler
 Ronald LaBow (LL.M. '80)
 Anna Hayes Levin
 David M. Nussbaum
 Laurie Ferber Podolsky
 Bruce J. Ressler (LL.M. '80)
 Anita S. Rosenbloom (LL.M. '87)
 Mitchell Brent Rutter
 Paul T. Schnell
 David L. Sugerman

1981

Laureen DeBuono
 Mitchell F. Dolin
 Victor F. Ganzi (LL.M. '81)
 Martin J. Gross (LL.M. '81)
 Phyllis Gartner Korff
 Peter S. W. Levin
 Charles A. Mele
 David E. Nachman
 Lawrence G. D. Scarborough
 Alan J. Sinsheimer
 Daniel E. Straus
 John C. Wilcox (LL.M. '81)

1982

Ronald L. Moelis
 Lawrence M. Noe (LL.M. '86)
 David J. Reilly
 Brian L. Schorr
 Pamela S. Seymon
 Emily A. Tabin
 Stewart E. Tabin

1983

Daniel H. Aronson
 Christopher E. Austin
 Wanyong Austin
 Vicki L. Been
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 Shelley Alexann Longmuir

1984

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 Timothy J. Mayopoulos
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 Lewis Robert Steinberg (LL.M. '92)
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 Jerome Walker

1985

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 Bruce E. Yannett

1986

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1987

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 Adam David Chinn
 Mark P. Goodman
 Geoffrey Richard Kaiser
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 Robert Jay Nelson
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1988

Barbara Lynn Becker
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 Timothy Place Bradley
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 Kenneth Gordon Crowley
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 J. Chad Gallant
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 Steve Harris Kanzer
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 Suresh Lal Sani
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 Leon B. Friedfeld
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1999

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Fosca Shackelton White

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Honorable Harold R. Tyler, Jr.
Robert M. Weintraub

Anonymous

Associates (2)
Fellows (1)

as of July 31, 2001

If you are interested in learning about the Weinfeld Program or becoming a member, please contact:
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New York University School of Law
Office of Development
and Alumni Relations
(212) 998-6389
meredith.celentano@nyu.edu

In Memoriam

Conrad H. Sullivan ('26)
Abner W. Feinberg ('28)
Sydney H. Kleinberg ('28)
Philip E. Kopstein ('29)
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Emanuel Berlin ('44)

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Nazareth Magarian ('54)
Robert Margolis (LL.M. '54)
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Warren L. Tomlinson ('54)
Gerald Weinberg ('54)
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V. Bruce LaSala ('57)
James J. Moran (LL.M. '57)
William J. Robert (LL.M. '57)
Gerald D. Stern ('57)
Martin B. Danziger ('58)
Frank R. D'Elia ('59)
Hildegard Karma Estevez de
Castrillo (M.C.J. '59)
Roger M. Quinnan (LL.M. '59)
Morris R. Zucker ('60)
Robert J. Farrell ('61, LL.M. '67)
Thomas E. Fenton, Jr. ('61)
Maurice L. Oberstein ('61)
Steven Audereth (LL.M. '62)
Lionel H. Frankel (LL.M. '62)
William Forbes Ramsey
(LL.M. '62)
Robert Elihu Sigal (LL.M. '62)
Joan L. Ellenbogen ('65)
Robert L. Froemke ('65)

Stephen A. Perelson ('65)
Brenda Sheiner Najberg ('66)
Elliott K. Wilk ('66)
J. Michael Kapp (LL.M. '67)
Paul Floyd Rosenberg (LL.M. '67)
Wayne T. Westling ('68)
Charles V. Wheeler (LL.M. '73)
Howard J. Peyser ('74, LL.M. '80)
Alfred L. Smith, Jr. (LL.M. '74)
David M. Wilson ('74)
Joseph R. Rivest (LL.M. '75)
Donald C. Rowe ('75)
Sol G. Summer (LL.M. '76)
Charles K. Williams (LL.M. '76)
Alan C. Becker ('77)
Carol Keyes Demitz ('77)
Floyd J. Palmer (LL.M. '78)
Richard Hand Kessler (LL.M. '80)
Christopher Quackenbush ('82)
Fernando Antonio N. Lima (M.C.J. '84)
Jennifer H. Small ('85)
Herbert J. Brauer, Jr. ('89)
John William Perry ('90)
Mark Adam Brisman ('92)
Daniel Raymond Brandhorst
(LL.M. '93)
Deborah S. Creane ('93)
Carl Wayne Thomas ('93)
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Kelli Rae Patton

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Ken Levinson

Elena Olivo

ALUMNI CALENDAR 2001 - 2002

September 2001	5	KPMG and Graduate Tax Lecture
	10	Melvyn & Barbara Weiss Public Service Forum
	21	BLAPA Fall Reception
	25	Hauser Global Law School Program Dedication
	28	Groundbreaking Event for New Building
	28	Tax Court (D.C.)
30	Law School Open House (Parents & Visitors)	

October 2001	1	Gelatt Dialogue on Law and Development in Asia
	18	Lewis Rudin Distinguished Visiting Professorship Dinner
	22	James Madison Lecture
	24	Recent Graduate Networking Reception

November 2001	1	Bell Lecture on Race in American Society
	7	LAA Fall Lecture
	8	Gross Talmudic Civil Law Lecture
	13	Root-Tilden-Kern Reception in Washington, D.C.
	13	Tillinghast Lecture on International Taxation
	14	Scholarship Reception (Donors & Students)

January 2002	5	Alumni Reception, New Orleans (at AALS)
	10	Dean's Luncheon with alumni in Washington, D.C.
	25	LAA State Bar Luncheon
	28	Abrams Public Service Lecture

February 2002	20	Graduate Tax Breakfast in Atlanta
	20	Dean's Reception with alumni in Atlanta
	20	Root-Tilden-Kern Reception in Atlanta
	21	Public Interest Auction
	25	Dean's Luncheon with alumni in Palo Alto
	25	Graduate Tax Luncheon in San Francisco
	25	Dean's Reception with alumni in San Francisco
	26	Graduate Tax Luncheon in Los Angeles
26	Dean's Reception with alumni in Los Angeles	
28	Brennan Lecture on State Courts and Social Justice	

March 2002	14	Dean's Luncheon with alumni in Chicago
	22	Graduate Tax Workshop (NYC)

April 2002	3	Law Revue (through 4/6)
	6	Annual BLAPA Dinner
	9	Dean's Reception with alumni in Boston
	9	Root-Tilden-Kern Luncheon in Boston
	11	Weinfeld Gala
	12	Reunion Weekend (through 4/13)
	12	Root Selection Weekend (through 4/13)
	16	Marden Moot Court Finals

May 2002	17	ABA Tax Luncheon, Washington, D.C.
	20	Law School Convocation

August 2002	6	Breakfast for alumni and IJA members attending the ABA Conference in Washington, D.C.
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For a complete calendar listing, visit our Web site at www.law.nyu.edu

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