



THE COMMENTATOR

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February 8, 2006

Annual Survey of American Law Symposium Talks Torture

NICHOLAS KANT '06

When a nation contemplates coercive interrogation, also known as torture, morals and decency have to be weighed against the need for the information was the consensus at a panel discussion on February 3 at the New York University's Annual Survey of American Law Symposium.

The panel on torture was the final of three panels on law and security presented at the Annual Survey of American Law's symposium. Five legal scholars and lawyers discussed the topic, and for a discussion on torture, they



Joe Margulies, Professor at University of Chicago School of Law

couldn't have made it much more boring.

Joe Margulies, a professor at University of Chicago School of Law, spoke first. The most pressing question for him was, "How can we identify the core of the commander-in-chief power?"

Basically, what is there that the executive can do that is beyond the power of Congress to

legislate? Margulies' prime example was moving troops from one hill to another.

"Detention and interrogation have always been understood to be a commander-in-chief power," he said. "But it developed in a historical context. We expect the actions to be bounded by the conflict. When you think of war as something that can be contained, the commander-in-chief can have powers within that container. You can identify when it no longer operates."

But things are different now, according to Margulies.

"All that comes undone, comes unraveled, in the current context," he said. "It's not bounded. That's why the notion of a core commander-in-chief power can no longer be imported to the current situation. The current administration has taken that to mean there are no boundaries to the power."

Margulies said that we need to identify when it is no longer sufficient for the administration to say we should just trust them.

The next speaker was Renee Redman, legal director for the American Civil Liberties Union of Connecticut. She spoke on the dangers of giving the executive too much deference.

Redman spoke about Haitian deportees being subjected to horrible conditions, which she barely described. However, she said that they were horrible, and that they have not been defined as torture because of how immigration courts

define a need for intent to cause pain or suffering.

The next speaker was Abraham Wagner, adjunct professor at Columbia University's School of International & Public Affairs.

"With enough torture, anybody will talk," he said. "But it can be complete nonsense. People will say or sign anything to stop the torture."

The impact of the events of September 11, 2001 has been to cause two different visions on torture by the United States, according to Wagner. There is the new reality versus the old morality (also called the human rights countervision.)

Under the new reality view, "due process is really for sissies," Wagner said. Basically, the enemy is hidden and mobile, and can attack at any time, so we need the

Under the old morality, "there is a basic respect for human dignity," Wagner said. And since information from torture is

banned. It's been banned in part."

Freiman said evidence obtained from torture is admissible for military commissions.



NYU School of Law Professor Michael Wisniewski moderating the panel discussion.

often nonsense, "we trade our nation's moral capital for trash."

"Under the Bush administration, we have essentially turned our back on civilized opinion that has existed since Aristotle," Wagner said. "What we have in this nation is a system of checks and balances, and it doesn't function well when Congress is ignored, misinformed or uninformed."

The fourth speaker was Jonathan Freiman, senior Schell fellow at Yale Law School. He spoke on the current torture laws in the United States.

"Who cares about coercive interrogation? It's been banned right?" Freiman asked. "The answer is no, it hasn't really been

"The use of tortured evidence is necessary to the military commissions," he said.

Freiman said we have different rules and standards for when we are trying to catch drug dealers than when we are trying to stop terrorists in other countries.

"The way we deal with Al Qaeda is different from those running drugs in Washington Square Park. And here's the problem with that – it assumes guilt.

The final speaker was Jonathan Hafetz, associate counsel for NYU Law's Brennan Center for Justice. He spoke on "the gap between the norms that we profess to adhere to and the absence of safeguards to protect those norms."

When is it not enough for the administration to say we should trust them?

information that we might be able to obtain by torture.

The old morality view is maybe more in line with the constitution, Wagner said. Under that view, "torture truly is the refuge of the stupid and the lazy."

Panelists Question and Defend the Wisdom of Solomon

CHRIS MOON '06

The panel's name asked if "all of our voices" had been heard on the issue. The most refreshing part of this panel on the Solomon Amendment was that several of the invited "voices" actually hadn't been heard on this campus before.

On Thursday, February 2 at 4:05 p.m. in Furman Hall, in front of about 40 students and administrators, the Office of Career Services sponsored a panel at New York University School of Law that offered several unique perspectives on the Solomon Amendment.

There was the Yale law professor who opposes the Solomon Amendment litigation, as well as the rare perspective of an NYU Law student who has interviewed on-campus with JAG recruiters. There was even someone from the Service members Legal Defense Network (SLDN) who pointed out

that the real problem, in his opinion, is not the Solomon Amendment, it is the "Don't Ask, Don't Tell" policy that Congress passed

The Solomon Amendment is horrible – Shara Frase

for the military.

The first of the panelists, Shara Frase, spoke on her role as one of the lead attorneys in the FAIR v. Rumsfeld litigation that was recently argued before the Supreme Court. Ms. Frase, a Senior Associate at Heller Ehrman White & McAuliffe LLP, spent her allotted time going over the rationale for the lawsuit. She claimed that the Solomon Amendment was

a horrible law because it compelled the law schools to make speech that they do not agree with.

She also went over the importance of non-discrimination policies at law schools. These policies exist to create an environment where ideas may be judged upon



Peter "Designated Dartboard" Schuck, Professor at Yale Law School.

their merits, and not rejected because of bias. Of course, NYU Law was the first law school in the country to implement a non-discrimination policy for sexual orientation in 1978.

The next speaker, Peter Schuck of Yale Law School, introduced himself as the "designated dart board" because of his unpopular position questioning the validity of the legal position taken by the law schools.

First, though, Professor Schuck clarified that he is strongly opposed to the policy of "Don't Ask, Don't Tell", but wanted those in the audience to remember who

was in favor of the policy. It was "resoundingly endorsed" by a Democratic Congress and signed

The Amendment is consistent with all major religions – Peter Schuck

into law by President Clinton. It is a policy that is consistent with the worldview of all major religions as

Continued on page 2

Infra

Editorials & Opinions	p. 4
Arts and Lesisure	p. 4
Crossword	p. 8

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Questioning The Wisdom of Solomon

continued from page 1

well. Although he strongly disagrees with the policy himself, Schuck pointed out that it is “not beyond the pale” for people to agree with the policy.

Schuck next pointed out the inconsistency of the law schools’ position with regard to the Solomon Amendment. Sure, the law school’s position is that their non-discrimination policies foster an environment where ideas are judged solely on merit, but they also foster an environment of affirmative action policies that reward people on factors other than merit. In addition, the law schools say that they are committed to diversity, but here they appear to be actively suppressing any viewpoint different from the opinion of the schools.

Furthermore, Schuck indicated that, while the FAIR litigation objected to the leveraging of federal funds as coercion, the same schools suing the government supported using federal funds against schools that would not comply with Civil Rights statutes

such as Title VI.

Continuing, Schuck went over his view on the legality of the Solomon Amendment. He felt that



NYU Law Student Michael Blauvelt

it would be shocking if the Amendment was found unconstitutional.

Finally, Professor Schuck argued that the FAIR litigation is bad for law schools and interferes with their pedagogical mission. Simply put, Schuck feels that law schools are being paternalistic in attempting to keep military recruiters off campus. He asked the audience where this paternalism stops. Will NYU Law keep out law firms that don’t carry health care fund-

ing for abortions in their health care plans? Simply put, everyone in law school is an adult and can decide for themselves whether military recruiting is immoral or not.

Following Professor Schuck was Michael Blauvelt, ’06, an NYU Law student who interviewed on-campus with JAG Recruiters and worked with the military at Fort Bragg, North Carolina after his first year at the Law School.

Blauvelt began by also expressing his disapproval of “Don’t Ask, Don’t Tell.” Why then would he interview on-campus and work for the military? One answer is his family. Not only is there a long tradition of family members in the military, but his younger brother is currently preparing to be shipped out to Iraq.

Another answer is his hometown. Blauvelt comes from a small town where only 5 of the 114 students that graduated from high school went on to graduate from college. Many of his classmates ended up in the military, and so he feels a strong connection to the military and wanted to do what he could to help those who serve the country.

Concerning the protests, Blauvelt recognized the free speech rights of those who protest, but felt that those who chant

“shame, shame, shame” at individual students cross the line and go too far. He also related that he had been threatened by a protester



Shara Frase, NYU JD '00, senior associate at Hellerehrman

while interviewing as a 2L. Above all, tactics such as this are counter-productive because it makes it personal. Blauvelt felt that students should attack the policy and not those who interview.

The last panelist was Tom Clark, Board of Directors, Servicemembers Legal Defense Network. Mr. Clark brought the unique perspective of a non-lawyer. He explained the SLDN’s work against the “Don’t Ask, Don’t Tell policy.” In short, he felt that the law should be repealed because it is the only law that “mandates firing” solely on the basis of status.

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Bake for Justice

The Annual Public Service Auction is looking for donations of items and services for the auction – particularly silent auction items donated by law school students or their family and friends. Such items – of any size - might include music or dance lessons, knitted items, books or CDs, baked goods, bottles of wine. Particularly creative items or services are especially welcome – maybe you can cook a special cuisine, give language lessons, offer a drive to the airport, share personalized tips regarding life in a potential internship location, or have some other skill to share. Your donation of a special service or item can help make a vital contribution to the Public Service Auction.

To make a donation please contact

(based on first letter of your last name):

A-L: Adam Stella at astella@nyu.edu

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The Annual Public Service Auction will be held at 6 p.m. on Thursday, March 2nd in Vanderbilt Hall.



public service auction

Visit our website at www.law.nyu.edu/studentorgs/psa
for an exciting list of items to bid on!

Auction Ticket Sales Begin February 21st

Tickets are \$5 in advance and \$10 at the door day of the auction

Each ticket holder is entitled to three free drinks

When you buy your ticket you can also bid in a pre-silent auction for Bar/Bri Coupons (Bar/Bri auction ends March 1st)



Public Defenders Should Help The Whole Person, Says Steinberg

NICHOLAS KANT '06

Public defenders should address more than just a client's criminal case. Many clients also need help with alcohol and drug addiction, homelessness, psychological problems and child custody issues, according to Robin Steinberg ('82), executive director of the Bronx Defenders.

Steinberg spoke in D'Agostino's Lipton Hall on Monday, January 30, as part of the NYU Public Interest Law Center's Leaders in Public Interest Series. The auditorium was packed with 1Ls anxious to sign a piece of paper so that they could get Public Interest Law Center (PILC) money for their summer internships.

For many clients, the criminal case is just a small part of a larger life equation, Steinberg said. "Housing a broad array of public assistance services in a public defender office makes complete and total sense," Steinberg said.

By way of example, Steinberg opened her speech with a story of one of her clients.

"Lisa looked a lot older than she was when I met her, her face and

her body aged quickly in a childhood marked by abandonment, by sexual abuse, and by betrayal,"

the head with a champagne bottle, tying his legs behind him, leaving him naked and bleeding."



Robin Steinberg, NYU JD '82, Executive Director of Bronx Defenders

Steinberg said. "Lisa was charged with robbing her john in a Midtown hotel room by hitting him over

Steinberg got to know "Lisa" as they prepared for the trial over 13 months.

"It was not until two days before the trial that I began to really understand the life this young woman was living," Steinberg said. "She had no home. Her heroin habit was raging out of control, and she had absolutely no idea how to present herself to the jury that would decide her fate in a couple days."

So, Steinberg had Lisa come stay with her in her studio apartment during the course of the trial. "I litigated the case like it was my only one. I did my best to block out the 80 or 85 other clients I had that were waiting for my attention," Steinberg said.

However, the jury convicted Lisa.

"I cried as they led Lisa away in handcuffs," Steinberg said. But on appeal, Steinberg had Lisa's conviction overturned.

"Now, by the traditional standards of public defense, I did a really good job," Steinberg said. "So why does Lisa still haunt me?"

Why does Steinberg still think about Lisa two decades after the fact?

"It's because that while I believe that I addressed her criminal case effectively, I did nothing to help her with her life," Steinberg said. "Looking back, what Lisa really needed was an advocate who would look beyond her criminal case, to her drug addiction, to her home, to her psychological problems."

When a defender only addresses a client's criminal case, the client will most likely keep coming back into the criminal justice system, Steinberg said.

"What's become clear is that the traditional model of public defense has become complicit in the broken machinery that is the criminal justice system," she said. "There is, I believe, a better way." Steinberg called her approach a holistic model of public representation. In this model, the lawyer gets to know the client, and helps with not just the criminal case, but also with other problems that a client has.

"The goal is to make a difference in the life of your client," Steinberg said.

PILC Begins Preparations For Annual Auction: 2 March 2006

RAYMOND LEUNG '07

The 12th Annual Public Service Auction, the largest student-run event of the year, is fast approaching. Under the direction of Niki Fang and Raymond Leung the Public Service Auction Committee is entering the final weeks of preparation for this year's event.

In the fall, students traveled throughout New York City soliciting donations of auction items from local area businesses. At the same time the Alumni Relations Committee was busy contacting NYU Law graduates to request further donations and financial

support, and the Law Firm Donations Committee had its hands full drafting letters to New York City law firms.

This year's auction will be held on Thursday, March 2, at 6:00 PM in Vanderbilt Hall. The exciting items that will be available include tickets to Superbowl XLI, box seats to the 2006 U.S. Open, a one week vacation for two in Jamaica with accommodations at the Ritz-Carlton, salon treatments at exclusive spas, and a leisure stay at the Trump International Hotel. For a sneak peek at more hot items, visit www.law.nyu.edu/

studentorgs/psa/.

Proceeds from the auction support NYU's commitment to guarantee summer funding for public interest work. Through the generous contributions of local and national businesses, law firms, alumni and other members of the NYU community, over \$195,000 has been raised in the past two years alone.

Items of all shapes, sizes, and prices will be available at the auction. Have kids? Bid on a summer camp for the little ones. Interested in exploring the exciting and diverse restaurants around the

city? Bid on restaurant gift certificates, from Balthazar to Vinnie's

The Superbowl. Jamaica. The Trump International. And things you can win too.

Pizza. The event features a silent auction in Greenberg Lounge, a

premier silent auction in Room 110, and a live auction in Tishman Auditorium. Student tickets are \$5 prior to the day of the auction and \$10 if purchased at the door. Regular admission is \$15. Ticket sales begin February 21st.

The Public Service Auction Committee is still looking for donations from the law school community, including students, faculty, and staff.

It's not too late to help out! Individuals interested in donating an item should contact Adam Stella at astella@nyu.edu or Jessica Chicco at jec355@nyu.edu.

Thursday, February 23, 3:00 PM
Vanderbilt Hall, Greenberg Lounge

Election Reform: Voter ID and Section 5 of the Voting Rights Act

- **Panel I – Real Voters: Requiring Voter Identification Using the Real ID**
- **Panel II – To Reauthorize or Not to Reauthorize: Section 5 of the Voting Rights Act**

A Symposium sponsored by the Journal of Legislation and Public Policy

There will be a reception immediately following the event.

Chief Executives Gone Wild: NYU Texas Club Wants Texas Justice

IAN SAMUEL '08

NYU School of Law has a student group dedicated to Intellectual Property law. We have a Jewish group, an Islamic group, and a Christian students group. At NYU, there is a group just for "health law" — and another for drug policy. There's "Law Students for Choice," and Law Republicans; there's a "Real Estate & Urban Policy Forum" and, in addition, an Environmental Law Society. If you're gay, a Mormon, a Federalist, a singer, an animal lover, a woman, a Catholic, or a Democrat, there's a group for you. If the death penalty sticks in your craw, we have a group just for that.

But if you're a Texan and want a group for you, SBA President Oliver Carter has a puzzling answer.

"I intend to oppose it strongly, and I feel confident that almost all on the Board will too," said Carter, in an e-mail to Texas Club co-founders Liron Brish ('08) and Catherine Hammack ('08). Carter's so confident, in fact, that he's already "quite sure" a Texas Club will never have its charter approved by SBA—before he's ever seen the proposal, a constitution, or a budget.

The reason Carter gave for his rock-solid prejudgment against the group is that there's already a Southern Exposure club, which should apparently suffice for all

students broadly defined as "Southern," despite the stark differences between San Antonio and Savannah. Can't Carter—a Southerner himself, guessing by the accent—tell the difference between Charleston and Corpus Christi?

Not to mention that the SBA sponsors plenty of groups with parallel, even nearly identical, goals. There's the "Negotiation and Dispute Resolution"

Texas just can't muster the kind of interest that Cuba can. Or is this South on South violence?

group, with its twin sister, the "Mediation Organization." "Asia Pacific Law Students," meet "South Asian Law Students" and "Asia Law Society." Law Democrats, meet Law Students for Choice. Law Republicans, meet the Federalist Society.

Of course, all of these groups do have differences. You could find, I imagine, a Law Democrat who opposed legal abortion, or a negotiator who had no interest in mediating. But is the differ-

ence between the "Small Business Law Connection" and the "Law & Business Association"—both real groups—really bigger than the dif-

Why does the SBA plans to restrict Texans to the generic 'Southern Exposure' student group?

ferences between Richmond and Rio Grande?

What Carter didn't mention in his e-mail is that he was one of the founders of the "Southern Exposure" group, and that group hasn't met in over a year. What the group is using their SBA-approved annual budget for is anyone's guess. And while Carter and the SBA board are busy endlessly revising the rules for Coase's List, the Texan law students and law professors of NYU have no club for them.

Texas just can't muster the kind of interest that the "Cuba Legal Studies Group" can—maybe an embargo on El Paso would do the trick.

The Schizophrenic Lawyer Phenomenon

CRAIG WINTERS, '06

In a column I wrote a couple of months ago, I mentioned that it was commonplace for prosecutors to switch sides and take jobs at private defense firms — and vice-versa. Most of Eliot Spitzer's newest corporate crime-fighters come from elite New York law firms, and nearly all of the Assistant U.S. Attorneys in the Southern District arrive after multiyear stints at top-flight NYC or DC firms.

Spitzer himself jumped from Paul, Weiss to the Manhattan D.A.'s office, and then back into private practice at Skadden. (After Skadden, he was elected as the state's chief prosecutor). Perhaps today's most ballyhooed AUSA, David Anders (inquisitor of Ebbers and Quattrone), recently signed on to Wachtell's storied nameplate, no doubt earning a serious helping of dough for his trouble.

Everybody needs to earn their grubstake and clothe their kids.

I don't begrudge Anders or whomever their healthy salaries in the private sector. Everybody needs to earn their grubstake, clothe their kids, and sock away for a college education that has grown more expensive than the middle class can comfortably afford. And some of these guys are still trying to pay off their loans, with which most of us can sympathize. As for myself, Citibank hermetically attached a thirty-year repayment plan to my left arm, so I have an outside shot of enjoying the company of my grandchildren before I send in that 360th payment. (Now *that's* a sobering thought.)

It's pretty clear that flipping from public to private sector service is (a) common, (b) not a career killer; in fact, it can enhance your job prospects, and (c) completely reasonable given realistic financial demands. But does that make it any less odd?

Let's be real — it *is* a bit odd. Today you're putting financial kingpins in jail, and tomorrow you're helping them stay out? One day, as a prosecutor, you browbeat a company into waiving attorney-client privilege, and the next day you write an op-ed in the *Wall Street Journal* deploring the practice? In January you authorize the marshals to arrest a corrupt banker during his roast at the Kiwanis club, and in October you tell the press that the government has gone overboard in a fit of prosecutorial indiscretion? How about all those IRS attorneys? I'm sure they do great work for Uncle Sam, but it's just a little weird how nearly every one of them will end up in the private sector, helping their clients *avoid* (not *evade*, the difference is jail time) their taxes.

The role reversal is really a bit mind-bending. In what other profession can one flip back and

forth between adversarial positions with no career consequences (and, in fact, receive a career boost)? Labor union organizers can't move over to union-busting and ever expect to come back (or, perhaps, live). I can't think of a journalist who became a campaign or political spinner and then returned to journalism. Political party switchers are pretty rare, but how about double-switchers? Democrat to Republican to Democrat? (Notable exception: Winston Churchill.)

Double-switching lawyers are a dime-a-dozen. By stating this, I'm not trying to disparage anyone who switches once, or double-switches, or, for that matter, triple-switches. I may even do it myself. But contemplating such a switch made me think hard about its weirdness. And when you think about some of the most aggressive white-collar prosecutors, and then realize that they were once on the other side of the courtroom, defending the targets they now lampoon, you've got to shake your head. You just want to ask him or her: "How'd you feel when you were defending those guys?!" (Or vice-versa. Weird that it works in reverse, too, isn't it?)

Lawyers are merely advocates for their clients — they don't personally assume their clients' moral or legal baggage. I get it. This is certainly clear with respect to defense attorneys. But how about with respect to prosecutors? A prosecutor's client is the amorphous "people's interest," and that job is loaded with discretion. Some

How easy can the transition be between private and government service? What does that say about the nature of the legal profession?

driven prosecutors probably rightly imbue their discretionary choices with their own sense of right and wrong, somewhat lessening whatever distance the "advocate" title implies. If this is true, how easy can the career transitions be between private and government service? And what does that say about the nature of the legal profession?

I'm not sure, but whatever qualms prosecutors, defense attorneys, tax lawyers, etc. may have doesn't seem to dampen our profession's capacity for flipping or double-flipping. A bright, aggressive prosecutor today was likely a bright, zealous defense attorney yesterday. That's the way things are, and there's every indication that it'll always be this way.

But that doesn't mean it isn't a little weird.

Craig's Weekly Shout-Outs

CRAIG WINTERS '06

To Judge Samuel Alito

Congrats! Even though you told the American people you respect the Constitution, we'll cry as you laugh when you stuff that very document in your office's shredder. Back to 1876 we go! Just for audacity's sake, you get a gold star. Who ever said you can't fool all the Democrats all of the time? Or lie with a straight face?

To Judge Alito's "liberal" former clerk:

Heck of a job! At the apex of the Alito controversy (before ABC's Bob Woodruff was injured in Iraq, an event that bumped the Alito floor fight from the front page — and may have doomed the filibuster), one of Alito's allegedly "liberal" ex-clerks wrote an op-ed on behalf of the embattled judge. Our "liberal" clerk told us that Alito wasn't, in fact, conservative at all. Despite his Reagan Administration job application, Alito apparently has no agenda. He's even pro-choice! In fact, according to our source, we've got it all wrong — Alito is the second coming of Thurgood Marshall, except for all the historic civil rights stuff! Heck of a job, ex-clerk — you deserve to have your name emblazoned on a conference room at the RNC's headquarters for living by President Bush's # 1 rule: loyalty before honesty. Or maybe it was

Bush's # 2 rule: act stupid when convenient (what, there's a health care crisis in *this* country? Are you *sure*?). Adherence to Rule # 2 wins you Jack Abramoff's box seats, recently sold to an anonymous bidder at a government repo auction.

To the tax-cut maniacs (see WSJ ed page)

This week the Commerce Department announced that economic growth in the 4th quarter fell to 1.1% — a rate below inflation. A dispassionate observer might look at the facts and say, "hey, during the past 4 years we've cut more in taxes than the combined GDP of China and the U.K. Maybe tax cuts don't work, like most respected economists say." But that would be far too convenient for the wily tax-cut crazies, wouldn't it? Instead, the WSJ ed page and their lunatic supporters in Washington (including the Speaker of the House, the President of the United States, and the Senate Majority Leader) say that *now* is the time for *more* tax cuts! I get it — tax cuts if the economy goes fast, and tax cuts if the economy goes slow! Why does the Republican Party bother with recruiting live people to run for office? They should just buy some cardboard and paint, and rent a gramophone. It'd save everyone a lot of time, for sure.

Commie Propaganda

COMMENTATOR EDITORIAL STAFF

NYU students interested in earning a little extra money might want to consider volunteering to help faculty run scantrons tests through scantron machines. The faculty seem to be in dire need of help in this area.

Philadelphia's school district spends about 8,000 dollars a student. NYU Law spends upwards of 40,000. Guess which gets scantron tests scored quicker?

Speaking of local school district spend, why is it that suburban Philadelphia school district spend about 13,000 per student but Philadelphia itself spends 8,000? If spending doesn't really have an impact, are suburban Philadelphians slow on the uptake or do they just have nothing better to do with their money? Or maybe Philly just runs a damn efficient school district.

Does the volume on the Federalist Society listserv (especially compared to that on the progressive listserves) indicate that Republicans will out-rhetoric Democrats for years to come?

However, the recent thread on Cuba/Iran/Texas makes you wonder about whether or not the Bush administration is going far enough in suppressing speech.

Yoshino Speaks Out Against The "Covering" In Society

CHRISTOPHER BRADLEY '07

Author, poet, and Yale Law professor Kenji Yoshino gave a reading from his new book *Covering: The Hidden Assault on our Civil Rights* at New York University School of Law on Tuesday, January 24. The word "covering" in the title of his book refers to the process of being required either to conform to mainstream norms of conduct and appearance or to risk being discriminated against without any protection under the law. You "cover" the aspects of yourself that do not comport with mainstream values.



Yale Law Professor Kenji Yoshino

The central argument of Professor Yoshino's book is that "[c]overing is an assault on our civil rights. . . . The reason racial minorities are pressured to 'act white' is because of white supremacy. The reason women are told to downplay their child-care responsibilities in the workplace is because of patriarchy. And the reason gays are asked not to 'flaunt' is because of homophobia." Covering is, literally, a hidden discrimination, precisely because it demands that non-mainstream characteristics or qualities or preferences be suppressed, reformed – and emphatically *not* talked about.

Covering is wholly unlike any other book about law written

by a law professor. It is part memoir, recounting Professor Yoshino's own experience "covering" his homosexuality and his Japanese ancestry while growing up. These sections of the book are agonizing and beautiful. At the N.Y.U. reading, renowned psychologist and N.Y.U. professor Carol Gilligan was responsible for the introduction, and she opted

The reason minorities act white is because of white supremacy.

to spend most of her time at the podium reading from Professor Yoshino's book – the end of it, since she had ascertained ahead of time that he would be reading from the beginning. This was an inspired move. Professor Yoshino is a spare and expressive writer whose prose reads like poetry; his words were as mesmerizing coming from the mouth of another as they were when he read himself.

Covering is also part legal argument. Professor Yoshino presents a revealing line of discrimination case law that supports the notion of required covering. It is

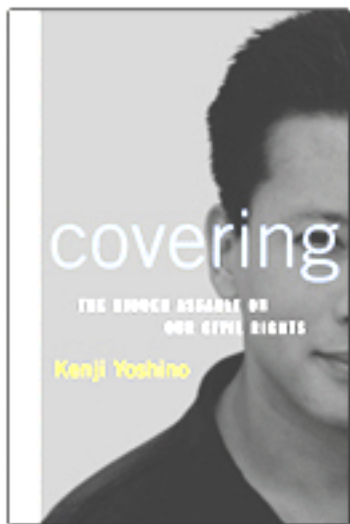
not wrong to be gay, to be a woman, to be black, say U.S. courts – but you can be fired or otherwise discriminated against for "acting gay," "acting like a woman," "acting black."

Professor Yoshino offers a remedy, in broad strokes. On the

Covering is part memoir, part legal argument.

legal front, he endorses a wide-reaching "accommodation" regime (taking its lead from certain Free Exercise cases), under which aspects considered "typical" of members in a given group may not be the grounds for a member of that group to be discriminated against. But at the same time he thinks the adoption of such a regime unlikely.

So he appeals instead for us to realize that the responsibility for fighting covering is not the law's but our own. He leaves the reader with no firm answers, but the book itself represents a performance of the sort of conversation to which he calls his readers. Look beneath the covering, he says, and pull back your own covering, as well.



Yoshino's new book. Featuring the author on the cover.

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Pio Maya Delivers Great Mexican Food to Village (Finally!)

BRIGHAM BARNES '06

Okay, listen. I'm going to be very upfront about this: you can stop complaining about the lack of good Mexican food in New York because there is a new place in the neighborhood: Pio Maya. As an avowed Mexican food enthusiast and former resident of Mexico City, please believe me when I say this place is great. (*Editor's note: when you buy your copy of the Arctic Monkeys CD this year, remember that Brigham reviewed their con-*

now. But if you insist on knowing more, please, continue reading.

Pio Maya is located at 40 West 8th Street in the space formerly known as VonSingh's. The interior is a little small with seats for only twelve or fourteen, but well lit and very clean. Their attentive and dutiful staff takes your order at the counter and the food is served promptly on actual plates with real utensils... but wait, why am I talking about silverware? I guess for some reason I think I

simple and it's delicious, and that is what Mexican food should be. Since discovering this restaurant about two weeks ago I've tried to eat there daily and have now sampled nearly everything on the menu and haven't come across anything I wouldn't recommend. A real food writer would know better than to say: the tacos are great, the tortas are great, the burritos are great, the nachos are good, the tostadas are super delicious, the enchiladas are great, and anything ordered with the restaurant's roasted chicken or chorizo promises to be especially tasty.

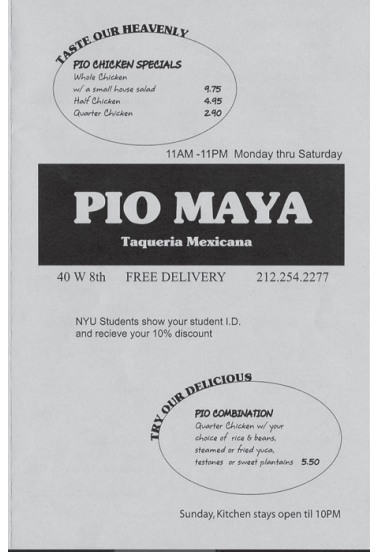
If there's one item I'd especially like to recommend it's the sopas, mostly because sopas aren't a part of the average American's lexicon of Mexican cuisine. A sope is an extra thick, hand-formed tortilla with raised edges topped with the usual Mexican ingredients (maybe you've heard the joke about Mexican food just being seven different ingredients served a hundred different ways). However, there's just something fabulously delicious about an extra thick tortilla, hand formed tortilla. I find the sopas at Pio Maya especially tasty when served without meat and topped only with refried beans, lettuce, onion, salsa, and cotija cheese. Also worth noting: Pio Maya's pinto beans are exceptionally delicious and salty. Sometimes I ap-

proach the rice and beans served with my Mexican food here in America as just an after thought of the chef and a bit of a chore for me to finish off but I could conceive of someday going to Pio Maya and just ordering a plate of beans.

Pio Maya is very reasonably priced and has begun to draw light crowds at lunch and is so worth a visit you wouldn't believe it. If you need any more incentive to check the place out, the price is right as well, as they offer a 10% discount to NYU students with ID.

Editor's Note

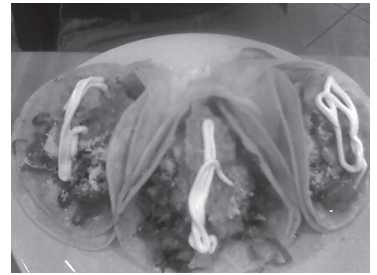
New Yorkers just don't get it. They think that just because their city has tons of fancy restaurants and an incredible variety of cheap eats that somehow they have everything covered. But they don't. Ask any California transplant, or for that matter a Chicago transplant, and they will



cert last semester. Point is, trust his opinion.) If you care about tacos, tortas, tostadas, and burritos you should just stop reading this "review" and go there right

need to sum up the ambiance of the place when really I should just be talking about food.

The most important thing about Pio Maya's food is that it's



instantly bemoan the lack of good Mexican food in New York City.

Quite honestly, the lack of cheap and delicious Mexican food is distressing. I have considered writing a long and meandering article about my own personal search for good Mexican food in the Village, where I would start with the wildly overrated Harry's Burritos, moving in a circle while detailing my search for the Holy Grail of Nachos.

Let's just say that Chipotle, while delicious, should never be the best burrito place in a neighborhood. And now, thanks to Pio Maya, it isn't. So head on up to 8th Street and try it out.

Commie Crossword Solution (see back page for actual crossword)

N	E	D	E		T	O	M		R	O	N	
O	N	E	R		O	T	I		A	R	E	
	E	L	O		O	N			H	C	E	T
Y	R	D		P	M	I	K	S		T	A	F
R	E	D	D	U			N	A		E	T	U
T	S	A	E		S	Y	A	R	T	H	S	A
			L	O	N	A	H	T	E			
Y	A	D	S	R	U	H	T		T	A	R	B
N	I	N		R	O			T	S	B	O	B
A	B	A		E	N	O	T	S		U	M	E
	O	L	O	P		M	A		E	C	A	
	H	S	A		O	E	N		D	E	L	F
	P	I	T		T	M	G		O	H	C	O

Some Girls Set Out to Destroy Brooklyn, Have a Good Time Instead

BRIGHAM BARNES, '06

If there's anything I like, it's a band with a mission statement. Some Girls, a San Diego band made up of members of the Locust, American Nightmare, Plot To Blow Up The Eiffel Tower, and Unbroken, is a band with a mission statement, to say the least. According to their drummer, Sal Gallegos:

"Basically, we wanted to brutalize people and have each song punch people in the face and not let up until they were choking on their own blood. None of this eyeliner-wearing, cupcake stuff—just putting listeners' open ears on the curb and stomping on their heads."

That quote, and listening to a few of their tracks on a few compilation CDs, was all it took to make me curious enough to make a trip out to North Six last Thursday night to see the band in action. I

suppose it didn't hurt that tickets were less than ten bucks and I don't have classes on Fridays.

One of the main things I wondered on my way to the show was what the crowd was going to be like. Some Girls is most easily classifiable as some sort of offshoot of punk, hardcore, and thrash metal—not exactly the type of music I associate with the average Williamsburg hipster. I wondered if North Six would be filled by members of some punk scene that I didn't really know existed—kind of how whenever I see a band like the Cramps, Einsturzende Neubauten, or Bauhaus the show is filled with aged Goths who've grown a little too plump for their pleather and I have to wonder where these people go when the sun comes up.

When I got to North Six I found it to be filled (but by no

means to capacity) by the usual Brooklyn kids in Chuck Taylors and black hooded sweatshirts with no more than three thuggish hardcore enthusiasts to be found in the crowd. I should have known better than to be surprised.

Despite the unthreatening crowd, Some Girls (who really didn't look too different from your average hipster band) delivered "music" to match their mission statement, "song" after very, very loud "song" where each number seemed say "If you thought that last number was hard to listen to, check this out." In fact, the entire evening seemed to be a nearly scientific examination in how far too far could go, how much louder too loud could get, and how much faster too fast could

It stopped being a concert and started being a game, the music stopped being threatening and

started being fun. Despite the fact that the band's front man, Wes Eisold, was screaming himself hoarse on each song and that the guitarists appeared to be breaking a string or two with each song, there was something lighthearted and very safe about this show that was supposed to be an experiment in brutality.

Most of the audience just stood silently (you could hear a pin drop between songs) with wry smiles on their faces while a few enthusiastically "sang" along to each song (which was odd to me as "singing along" would mean that the songs had actual lyrics, and I don't mean to sound like my Grandma, but it just sounded like screaming to me). At one point one of the show's few actual hardcore enthusiasts (if you can't tell, "hardcore" isn't meant to modify enthusiasm here, it's being used to name a musical genus) began

running back and forth through the crowd with fists swinging, set on starting not a mosh pit but a circle of slam dancing—but the result was more like the Tasmanian Devil whirling his way through a forest of skinny, bespectacled hipster trees, in other words, a one-sided and absolute massacre.

For the band's final song, a chanting of the word "Ape" accompanied by the usual instrumental loudness of the evening (plus a second drummer just for that number), Eisold pulled most of the audience up onto North Six's small stage one by one (and it was at this time that I realized he only had one arm), eventually falling off the stage when it got too crowded, leaving him to finish his chant from a seated position on the club's floor. As an anthropological examination, the Some Girls show was something to see, and as a night out, it was a little fun.

The picture below are of a band called "Some Grils," but I don't think Brigham went to see Juliana Hatfield's latest group.



LSHR Presents its 2005-2006 Spring Symposium:

Human Rights and Governmental Obligations in the Wake of Natural Disasters

Panel One: Cathy Albisa, Nat'l Ec. Soc. and Cultural Rights Initiative; Jane Bullock, former FEMA chief of staff; Ajamu Baraka, Executive Director, U.S. Human Rights Network; Claudine Haenni Dale, Adviser to the Rep. of the UN Sec.-Gen. on the Human Rights of Internally Displaced Persons

Panel Two: Gloria Browne-Marshall, John Jay College of Criminal Justice; Vanita Gupta, NAACP LDF; Smita Narula, Executive Director, Center for Human Rights and Global Justice

Panel Three: Mark Geistfeld, NYU School of Law; Kenneth Feinberg, Former Special Master of the 9/11 Victim Compensation Fund; Martha Davis, Northeastern University School of Law

Recent and ongoing humanitarian catastrophes highlight the need for dialogue on the applicability of human rights principles to governments' obligations in this context. An enormous amount of aid has been pledged to victims of the Iranian earthquake in Bam, the Indian Ocean Tsunami, and Hurricanes Katrina and Rita. One hopes that victims of the earthquake in Kashmir and the mudslides in Guatemala will not be neglected. Yet critics charge that much of the suffering that followed these natural disasters was preventable. Misery and death were exacerbated by a lack of preventative planning and construction, by inadequate evacuations, by bureaucratic inefficiency in distributing aid, by discrimination in aid delivery, and by "reconstruction" efforts that displace those left homeless even further.

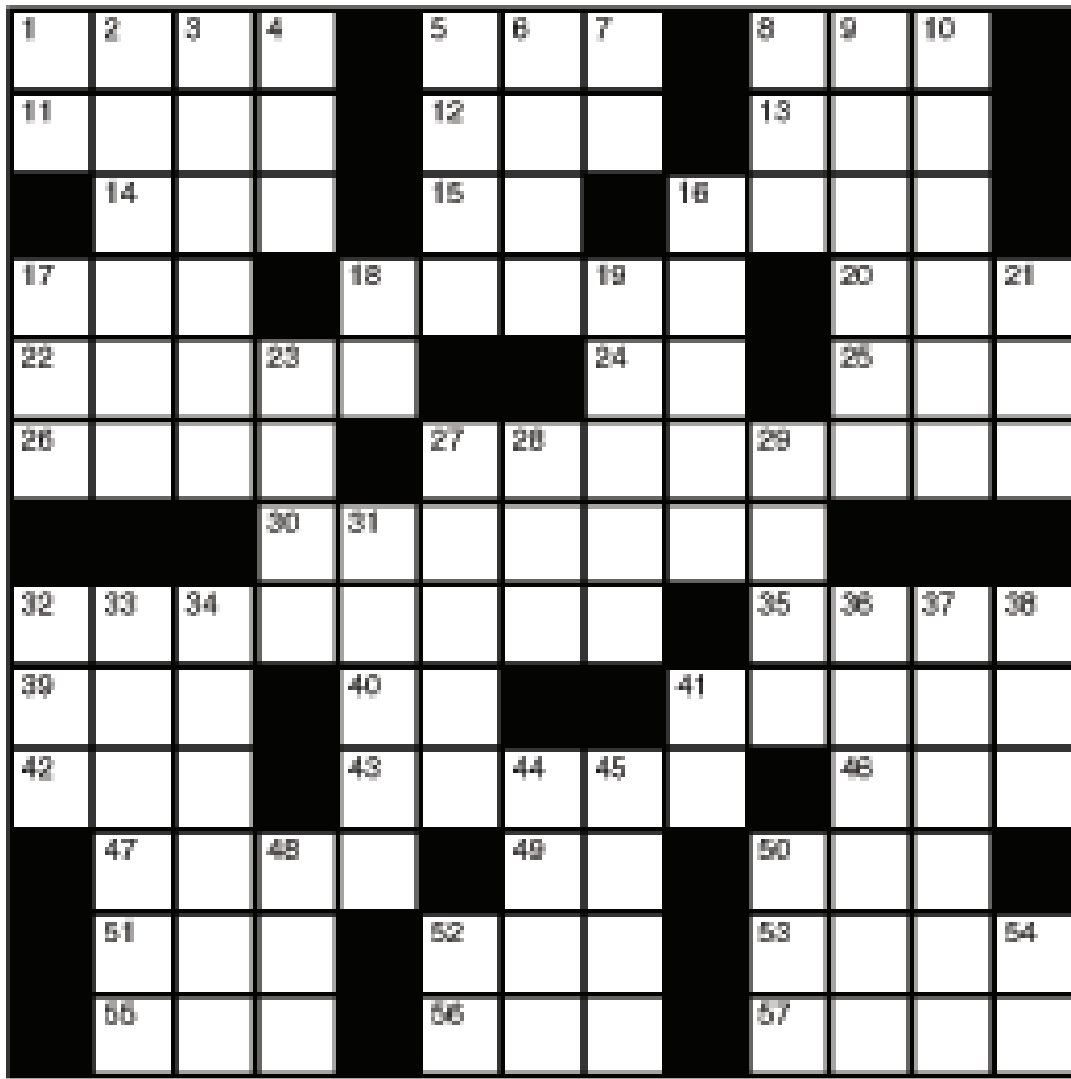
This Symposium seeks to bring these threads together and to clarify the terms of the debate by focusing on the human rights laws and norms that could guide governmental action and define governmental responsibility following natural disasters. To advance the argument on these contentious issues, we have selected a group of speakers ranging from local and national civil rights advocates, to scholars and international experts on internal displacement and refugee issues, to governmental aid administrators.

Tuesday, February 28, 2006
Greenberg Lounge, Vanderbilt Hall
9:45 a.m. to 4:15 p.m.

Open to the Public

Schedule of the Day's Events

- 9:45-11:30 - Natural Disasters and Human Rights: How Do We Respond?
- 12:30-2:15 - Race, Class, Caste, and Status: Discrimination in Disaster Relief.
- 2:25-4:10 - In Search of Accountability: Litigation and Alternative Remedies.
- 4:10-4:15 - Closing Remarks.



Across

- 1. ___ Rios, Jamaica
- 5. time in London
- 8. valuable information

- 11. ran away
- 12. famous Keanu character
- 13. religious Wednesday
- 14. skillful pilot

- 15. morning hrs.
- 16. Prince Charles' sport
- 17. large Australian bird
- 18. JFK director

- 20. NYUL accreditor
- 22. library behemoth
- 24. Next stop after the E.R.
- 25. Anais ___
- 26. Veruca Salt, for example
- 27. Thor's weekly legacy
- 30. alcohol fuel
- 32. smokers' accessories (extinct in NYC)
- 35. Horace Greeley's starting point
- 39. western mountain tribe
- 40. vowel preceder
- 41. multiple mammaries
- 42. rotund
- 43. go light on
- 46. martini with little vermouth
- 47. MIT newspaper
- 49. negative
- 50. bullfighting cry
- 51. Mesozoic or Common
- 52. O.J.'s judge
- 53. Clinton's AG
- 55. neither
- 56. bon ___
- 57. paradise

- 5. small insect
- 6. judge's or partner's assgn't
- 7. numerical homonym
- 8. hot NY restaurant (with a big Buddha)
- 9. see 33 down
- 10. fear
- 16. pooch in Paraguay
- 17. abate
- 18. Jude or Christopher, for short
- 19. people, places, things, e.g.
- 21. whichever
- 23. "let it stand" (proofreader's mark)
- 27. show appreciation
- 28. fever caused by pollens
- 29. snow coaster
- 31. Oscar the Grouch's love
- 32. ___ Wiedersehen
- 33. the forgotten borough? (with 9 down)
- 34. straight, for short
- 36. confused
- 37. calm
- 38. bring before a jury
- 41. skyward
- 44. enter, with "go"
- 45. trial practice run
- 48. Taurus or Mini
- 50. valuable metal
- 52. class distraction (abbv.)
- 54. subatomic particle suffix

Down

- 1. derived from
- 2. din
- 3. queen of Troy
- 4. lyric poem



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