



# THE COMMENTATOR

Vol. XLII, No. 2

The Student Newspaper of the New York University School of Law

October 1, 2008

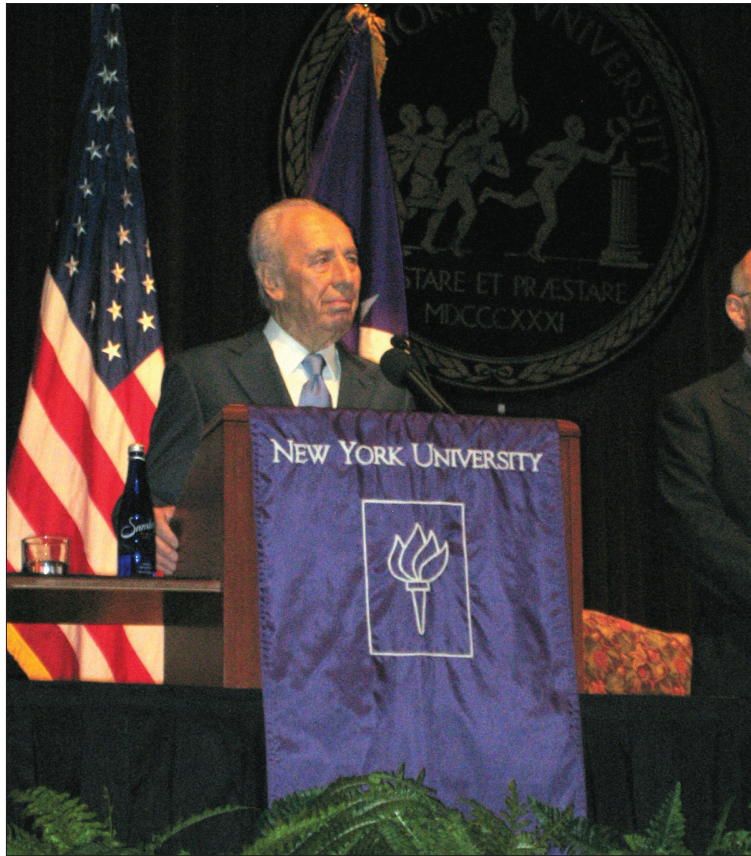
## Shimon Peres Visits NYU and Urges the World to Embrace Science and Equality

BY ANDREW SIMON '09

Winner of the Nobel Peace Prize, author, former Israeli Prime Minister, and current Israeli President Shimon Peres visited the NYU Law campus Thursday, September 25 to speak on "The Globalization of Peace." Peres arrived shortly after 6PM and was welcomed by thunderous applause from the crowd that had packed into Vanderbilt Hall's Tishman Auditorium. In a talk arranged by the NYU Taub Center for Israel Studies, Peres urged the crowd to free their minds of the past and look to the future with science and economy leading the way.

Peres warned that the biggest obstacles to progress are discrimination and an unwillingness to work with others. In this vein, he noted that all people should follow the career paths and make the life choices they wish because the "real sense of democracy is not just free expression, but self-expression." Peres emphasized that intellectual pursuits are more permanent than oil and are therefore our most important resources.

Peres acknowledged the threat he felt Iran posed under the control of President Mahmoud Ahmadinejad, stating that Iran wants to govern the Middle East as a religious state, not just control it economically. He pointed out that we do not fear the development of nuclear technology



Israeli President Shimon Peres spoke to a packed house in Tishman Auditorium on September 25. He advocated a reliance on science and economics to deal with the problems facing the world today—including the threat of a nuclear Iran.

in general, but only its development by certain governments.

Instead of military action, Peres called for a coalition—consisting of the European Union, the United States, Israel, and other concerned nations—to bring economic sanctions against Iran. Peres stressed that

modern economy can play a role in solving the problem because it is "race-less" and allows us to maintain respect for national cultures and traditions while also embracing the new global culture which is our future.

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## Professor Bryan Stevenson Shares His Passion for Justice

BY JULIE MAO '11

On Monday, September 22, students filled Tishman Auditorium to hear Professor Bryan Stevenson give his speech "Confronting Injustice," part of the Public Interest Law Center's Leaders in Public Interest series. While his words were picked up through a microphone and spoken from behind a podium, what echoed across the auditorium was an intimate conversation that pulled at the fundamental hopes of the mostly 1L crowd. Posters promoting the lecture around campus jokingly depicted a crying baby, and few people left the auditorium with tear ducts in check.

In the legal world, Stevenson serves two distinct roles. On the one hand, he is a professor at NYU Law School, teacher and coordinator of the popular Capital Defender clinic. On the other, he is the Executive Director and founder of the Equal Justice Initiative, a leading nonprofit that provides criminal defense services for Alabama's most underserved communities.

Stevenson began his talk by chronicling his path through law school, speaking of the deciding moments that ultimately lead him to Alabama. After graduating from Harvard undergraduate, Stevenson went straight to Harvard Law School. "I had no clue what I was doing," he recalled. It was only after spending time outside of class during his 2L year that Stevenson found his passion for the law. As a legal intern with the Southern Center for Human Rights, he was sent down to Alabama to aid in the legal representation of prisoners within a historically unjust criminal justice system.

The experience of representing death row prisoners in Alabama offered Stevenson a different perspective on the law.

Stevenson then turned the conversation toward the predominantly 1L audience. While law school pedagogy can



Executive Director of the Equal Justice Initiative Bryan Stevenson delivered his annual PILC lecture September 22.

seem dry and students may lose themselves in the throes of exams, Stevenson urged the students to remember their initial reasons for coming to law school. "I am here today to tell you to hold onto the hope for justice," he said.

Following his own advice, Stevenson founded and continues to run the Equal Justice Initiative. The nonprofit organization has garnered numerous awards for defending the rights of prisoners on death row, juvenile offenders, and the wrongly convicted. In the latter part of his talk, Stevenson discussed the link between race bias and the criminal justice system. To date, race is still the greatest predictor of being sentenced to the death penalty in America. Black men constitute an over 50% of the prison population in Alabama. Stevenson explained, 30% of black men in Alabama are disenfranchised because of their past criminal records, rivaling the percentages in the era of the civil rights movement. In the criminal justice system, wealth and race "determine the outcome of a proceeding, not culpability," he argued.

Despite the historical racial biases of the legal system, Stevenson urged students not to give up hope. Being able to bring justice to communities who have long suffered the realities of racial discrimination and being able to comfort a juvenile defendant after his first night in adult prison—these are the experiences that spur Stevenson to continue to work and hope for justice.

As he echoed repeatedly over the course of his speech, we must continually stand up and "say something" about justice.

## Purple & Green: Sustainability at the Law School

BY ANGELA GIUS '10 AND MARON GREENLEAF '10

On Wednesday, September 24, the Law School's new Sustainability Committee and the Environmental Law Society gathered a group of students, staff, and administrators in the school's first conversation about sustainability at the law school, entitled "Purple & Green." "Sustainability" is an amorphous concept, encompassing issues like climate change and environmental justice as well as concrete measures like placing recycling bins in the library. The goal for Purple & Green was to talk about what a sustainable law school might look like and what the law school can do as it endeavors to become sustainable.

The discussion began with presentations by a number of administrators who work on environmental issues. Presenters included Facilities Manager Ken Higgins, Dayanara Ramirez and Bruce White from Food Services and Special Events, and Jeremy Friedman of NYU's all-university Sustainability Task Force. Alison Moppett also provided information

about green initiatives by Residence Services.

Students then had a chance to ask questions, a number of which focused on the school's heating and cooling system. Why are the library and classrooms so cold (or hot)? Higgins described how the school's system is different from those in private homes (there's no central thermostat to easily set the temperature), the difficulties of working with such old buildings, and how NYU's systems function more efficiently than normal air conditioning (for example, the air conditioners are often just fanning in air from the outside). He also discussed the temperature-raising effects of 115 people walking into a classroom, and the challenge to adequately heat the library basement without overheating the upper levels.

The conversation eventually turned to the idea of moving toward a school-wide set-point for temperature in the classrooms. Raising the temperature slightly from the current range of 70–73 degrees to 72–74 degrees could save a significant amount of energy and money. A pilot program for this change is already in

place in offices on the third floor of Vanderbilt Hall. However, making a school-wide change that is both sustainable and comfortable will require further discussion among students and faculty. The Sustainability Committee plans to seek input for the coming year.

The group also discussed the fate of the law school's trash and recyclables. Currently, NYU's recycling program uses separate bins for trash and two kinds of recycling, paper and bottles/cans. The school also recently began a temporary and labor-intensive program to sort trash after all the waste is collected, retrieving the recyclables that students don't put in the recycling bins themselves. Additionally, a new composting program will begin soon.

The Sustainability Committee was formed last spring to help students, faculty, staff, and administrators work collaboratively to "green" the law school. It will continue to work on the issues discussed at Purple & Green, act as a forum for the development of other environmental initiatives, and publish a report highlighting the sustainability initiatives at the law school.

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Not busy enough with law school shenanigans? The Commentator will help you shirk your responsibilities. page 3

Find out the secrets of Professor Kane's sordid past. Here's a hint: taxes. page 4

## Are Equal Rights Only Worth \$600 to NYU?

By JAMES McCURLEY '10

Winston Churchill supposedly remarked that “the only traditions of the Royal Navy are rum, sodomy, and the lash.” As both a believer in joint-service cooperation and an Anglophile it pleases me to no end to report that all three pastimes are alive and well in the United States Army. However, de Sade is a bit too French for my freedom fries, and I never did look good in leather: I must confess to having made a habit of only the first two. Given that I am still technically a sergeant in the Individual Ready Reserve (the backdoor draft pool), I am probably not supposed to be telling you this. Nevertheless, I’ve been receiving far too much spam that promises all sorts of new opportunities if I re-enlist, and I figure that if a copy of this article crosses the desk of anyone important, perhaps they can pull me off the mailing list.

Last Thursday, September 25 provided an opportunity both for nostalgia on my part and identity political fabulousness on OUTLaw’s: JAGs were on campus to recruit the next generation of attorneys who don’t want to have to decide what to wear to work every day. Needless to say, as this is just the sort of thing homosexuals are supposed to think (and have deep insights) about, we needn’t apply unless we are keeping it very much on the DL.

Dean Revesz was kind enough to send out an email highlighting how much it hurts both his feelings and mine to have a big asterisk on the law school’s employer nondiscrimination policy, but—as we all know—money

talks. Plus, there was a fantastic opportunity for us to express our feelings with brightly colored rainbow ribbons conveniently located at the Furman and Vanderbilt Hall building entrances. Not entirely certain why this had become standard practice (I could just as easily have changed my Facebook status to “Jim IS PRO-LGBTIQA[insert additional letters here]WITH RAINBOW!!!!!!!!!!!!!!!”), I decided to follow the email’s instructions and do some reading at [solomonresponse.org](http://solomonresponse.org).

Like many things related to law school, the gripping story behind this phenomenon includes not only resolutions, but also guidelines and explanatory memoranda! The American Association of Law Schools enacted a policy requiring law schools to take steps to “ameliorate” the effects of the Department of Defense’s interpretation of its authority under the Solomon Amendment. As it happens, the National Association for Law Placement (NALP, the organization whose guidelines are responsible for our job offers lapsing after 45 days), also has a manual of guidelines concerning “amelioration best practices.” One of its suggestions reads, “Staffing a table to distribute handouts and/or rainbow stickers and pins. Students are often willing to staff information tables in and around the law school building. Information and handouts on the Solomon Amendment and “Don’t Ask, Don’t Tell” policy are readily available online from a variety of sources.”

The manual helpfully adds, “Rainbow stickers and pins are available at low bulk prices through mail-order websites.”

Despite a bit of Googling, I had trouble finding rainbow ribbon pins in bulk online. I did, however, come across a website offering the next best thing: “PINK is the New BLACK” buttons for forty cents each in quantities over one thousand. Now, while I do not know the law school’s precise annual operating budget, the school’s website states that tuition this year is \$42,890. As we seem to have somewhere around fifteen hundred students, a quick back-of-the-hand calculation reveals: forty-two thousand eight hundred ninety times approximately fifteen hundred plus guesstimated annual giving, various expenses, and a dash of cinnamon equals approximately one hundred gazillion dollars. Similarly, forty cents times fifteen hundred equals six hundred dollars.

Dean Revesz’s email noted that the medical school annually receives federal funding greater than the law school’s entire operating budget. We may now conclude two things: First, the medical school stands to lose some amount greater than one hundred gazillion dollars should the law school not allow JAG recruiters to participate in OCI. Second, outfitting every NYU Law student with a PINK is the New BLACK button would cost only six hundred dollars.

Given that my professors spent a whole lot of time teaching me about cost-benefit analysis last year, I assume that the powers that be performed just such an analysis. If so, basic lawyer’s math gives us the following inequality: \$600 < the value of NYU Law’s employer nondiscrimination policy < some amount greater than \$100 gazillion. The reader may find this to be an uncomfortably imprecise figure. Worse, six hundred dollars seems a disturbingly small lower bound to the amount for which the law school is willing to barter away my rights.

The latter intuition would be truer had the condition of We the Deviants not changed so radically in recent years. One judge, when reviewing the constitutionality of a sodomy statute several years back is said to have wondered: Weren’t we hanging people for this not so long ago? Yes, yes we were. In fact, my existence is still punishable by death in eight countries, life imprisonment in five more, and prison terms and/or fines in numerous others.

Just prior to *Lawrence v. Texas*, I qualified for life imprisonment in Idaho; a prison term of fifteen years in Michigan; ten in Mississippi, Oklahoma, and North Carolina; five in Louisiana, South Carolina, and Virginia; and a shorter stint in Alabama, Florida, Kansas, Missouri, Texas, Utah, and Virginia. Prior to 1962, every state had a criminal sodomy statute on its books, and it is currently unclear whether or not the provision still existing in the Uniform Code of Military Justice is enforceable (post-*Lawrence*, the Court of Appeals for the Armed Forces upheld a conviction for homosexual sodomy and overturned another for heterosexual sodomy.)

When I expressed some frustration at the continuing irrationality of “Don’t Ask, Don’t Tell” to one of my professors last year, he

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## Harvard’s Too Good for Grades; We Aren’t

By ANDREW GEHRING '09

On Friday, September 26, Harvard Law School (HLS) announced that it would be joining the law schools at Yale, Berkeley, and Stanford in eschewing the traditional A-B-C-D-F grading system, moving instead to a four-level pass/fail system. The cynic inside me—and inside a number of anonymous web commentators, too—says that the decision is based largely on admissions factors (Stanford only announced their move to the unorthodox system last May), but HLS’s Dean Elena Kagan insists that the move is intended to “promote pedagogical excellence.”

Unfortunately, Kagan’s announcement doesn’t say much else about the reasons for the switch. Clocking in at under two hundred words (including salutation and valediction), the email sent to students informing them of the change says little of substance. More instructive about potential thought processes undergirding the switch is the email Stanford Law’s Dean Larry Kramer sent to their student body in May. Kramer’s email, too, makes liberal use of jargony catchphrases and puffery—apparently “the reform will have significant pedagogical benefits, including . . . innovation in the classroom and in designing metrics for evaluat[ion]”—but it also goes a bit further. At least part of the professed reasoning for the switch is to “reduce the focus on [getting honors or awards] as opposed to the focus on learning.” And as reported by Inside Higher Ed (IHE), another justification is to stop students from shopping for classes based on whether the professor grades on a curve.

These reasons strike me as wholly unpersuasive. Attempting to provide content to Kramer’s claim about “pedagogical benefits” is a more or less futile exercise. I can see no way for a grading system that essentially just eliminates the +/- aspect of the standard system to have an impact on a professor’s teaching style, so the claim about “innovation” seems hollow. (Even if we accept that the system refocuses students on learning—which I’ll dispute momentarily—it seems like professors always teach to get their students to learn, not to get the best grade.) And there’s no more freedom for “designing metrics of evaluat[ion]” under the new system than there would be under a traditional system that isn’t tied to a curve (which actually provides for

greater nuance in grading, and so seems better suited to designing unique and complete grading metrics).

IHE’s point about preventing shopping for easier classes almost seems on point, but it certainly doesn’t justify using the pass/fail system over the standard one: either could do the same job, as long as there was no curve (or a very high curve, which—if rumors are true—Harvard had anyway). But the real kicker on discrediting this point comes from Kramer’s email: “The new system includes a shared norm for the proportion of honors to be awarded in both exam and paper courses.” I have a bit of trouble wading through the doublespeak, but I’m pretty sure Kramer’s trying to say that the new system is on a curve, just like the old one.

The last justification proffered is that of getting students to learn for the sake of learning, not just for grades. Presumably such a situation would make competition less fierce and make the academic environment more enjoyable generally. But, in fact, the reverse seems more probable. With fewer gradations, students will have a harder time distinguishing themselves come time to apply for jobs and clerkships; no longer will a B+ put you above most of the rest of your class—you need to get the equivalent of an A. Granted, that level also encompasses what use to be an A–, but the level below swallows up the old B+ and B–. Assuming that the “Fail” level exists more for show than for use, it suddenly becomes very difficult to make yourself stand out from the crowd. The result? Greater pressure to be at the absolute top of the class to ensure that you get the coveted “Honors” label. (I’ll also note that Stanford is instituting book awards—awards given to the students who do the best in a given class—further undermining Kramer’s assertion that the system will refocus students.)

Why have I spent 700 words bashing a system that NYU (thankfully) doesn’t use? Because I’m worried. I think Stanford’s and Harvard’s moves to new systems were done to attract new students. If that same mindset settles in at, say, Columbia, NYU may find itself thinking hard about following suit, not wanting to lose potential students because of a perceived better grading system at our neighbor to the north. I just want this to serve as an early warning about how phony and dishonest any such shift would come across.

## THE COMMENTATOR

*The Student Newspaper of  
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## There's a New *Hills* on Television



By STEPHANIE HERBERT '09

Nothing says “90s” quite like *Beverly Hills, 90210*. The show, which ran from 1990 to 2000, defined a generation and redefined primetime soap operas. This season, the CW has unveiled a new *90210*, featuring a new generation of West Beverly High Students.

The new show features several characters from the original series. Jennie Garth reprises her role as Kelly Taylor, a West Beverly Alumna who has returned to the school as a guidance counselor. Fans of the original show will appreciate that Erin Silver, Kelly's half-sister in the original series, is a major character. Shannen Doherty is also back as Brenda Walsh. Now a professional actress, Brenda has returned to West Beverly at the behest of her longtime frenemy Kelly to direct the school musical (which is, somewhat unbelievably, *Spring Awakening*, the current Broadway mega-hit).

I was a fan of the old *90210*, and I am a fan of the new one. The show fills a void in primetime's current offerings. *Gossip Girl*, the CW's other high-profile high school cult hit, depicts excess—of money, alcohol, sex, and drugs—as par for the course. *90210*, on the other hand, shares the audience's own amazement at the excesses of its

young characters. This perspective is largely enabled by Annie and Dixon Wilson, the Brandon and Brenda Walsh of 2K8. Like the Walshes, who moved to Beverly Hills from Minnesota and discovered the true lifestyles of the rich and famous, Annie and Dixon arrive in Beverly Hills from Kansas at the beginning of the new series. Unlike the Walsh siblings, Annie and Dixon are not twins. Rather, we soon learn that Dixon, who is the only black character on the show, was adopted by the Wilsons. Dixon is particularly well-cast. He exudes that same nice-guy charm that Jason Priestley brought to the original series. He is the show's rock, not easily seduced by the glamour of Beverly Hills. Despite the fact that Dixon was shuffled from foster home to foster home before finally finding his happy ending with the wholesome Wilson clan, he seems to be the only character on the show without problems.

Overall, the rest of the show's characters are pretty satisfying. Highlights include Ethan, the cute and constantly grinning lacrosse player, and Adriana, a wholly unlikeable, conniving teen actor with major drug problems. The show does have one serious blemish: the walking disaster that is Annalynne McCord, the model-turned-actress who portrays Naomi, one of West Beverly's most spoiled popular princesses. Ms. Mc-

Cord seems to be a graduate of the Keanu Reeves School of Acting, exhibiting the emotional range of an actor in a Vicks Vaporub commercial: she is either happy, sad, or angry. The nuance of conflicting emotions is not a part of her repertoire. Given these severe limitations, it is unfortunate that she has been given many emotional scenes early on. On paper, her character is not wholly unsympathetic, but her acting is so poor and her conviction so weak that she is unable to compel much of a reaction from her audience. Hopefully her character will develop an eating disorder and be sent away. She needs to be replaced by someone people will actually care about.

Even though *90210* aims to portray an outlandish community unlike most of America, it is, at the end of the day, believable. It feels like high school. Intertwining plotlines depict the students, teachers, and parents of West Beverly High School. The dialogue is, overall, sharp and the tone surprisingly accurate. Some scenarios have a slight after-school-special feel to them, particularly Adriana's drug addiction, but even that heavy-handedness is somehow refreshing.

*90210* has potential. When I watched the original series as a young child, my mother would repeatedly tell me that “this isn't how people actually behave”; in fact, the series was generally regarded as over-the-top and excessive. Eighteen years later, I think the current series is one of the most accurate depictions of affluent teens on television. Comparisons between the two series speak volumes about the past two decades. Its potential for cultural analysis aside, *90210* is definitely worth the space on your DVR.

## Ghost Town: Half Alive, Half Dead

By STEPHANIE HERBERT '09

On paper, *Ghost Town* looks like your typical romantic comedy, except that it stars Ricky Gervais, perhaps best known for his desperately awkward performance in the British version of *The Office*. As a result, the comedy is funnier, and the romance is, well, stranger. Gervais plays dentist Bertram Pincus, which is perhaps the most absurd part of the entire movie: I found it entirely impossible to believe that anyone, let alone demanding Upper-West Siders, would entrust their dental well-being to a man with Gervais' decidedly English teeth. Bertram's favorite part about being a dentist is that his patients have cotton wool in their mouth for the majority of their time with him—he hates people. At the start of the movie he is cold, heartless, and wickedly funny. He freely expresses his distaste for his patients, his colleagues, and the tenants of his building. Gervais' dry, deadpan delivery of his expressions of antipathy and dislike for his fellow humans never gets old.

The first 45 minutes of *Ghost Town* are amazing. The opening scene, in particular, is funny and well-crafted. The movie begins with Greg Kinnear as Frank Herlihy, a wealthy businessman who, we learn very quickly, is cheating on his wife. In a tragic turn of events (which is also a truly hysterical homage to the woes of New York apartments and the male ego), Frank is killed, and immediately we see his ghost appear on the scene of the accident. In one of the movie's most inspired moments, the Beatles' “I'm Looking Through You” plays as Frank's ghost realizes that he is, in fact, a ghost and the opening credits begin. We then meet Bertram, who, following a botched colonoscopy, is able to see and converse with ghosts. The hospital scenes, both pre- and post-colonoscopy, are sublime and easily the movie's comic high point. The hospital staff, a hilarious group of incompetents including *Saturday Night Live*'s Kristen Wiig, are the perfect foil to Gervais' dry tone. Dr. Pincus's conflict with the hospital staff plays like the British *Office* versus the American *Office*; throw

in a colonoscopy, and the results are epic.

The problem with movies like this is that they have to have plots. Ideally, we could get an hour and a half of Bertram at his brutal, unkind best. Naturally, however, there's a catch. Frank's ghost introduces Bertram to Frank's ex-wife Gwen, played by Téa Leoni. As might be expected, Pincus develops a thing for the lovely widow, and as he begins to change his ways in pursuit of Gwen, the movie heads into familiar



Ricky Gervais sees dead people in the new romantic comedy *Ghost Town*.

and decidedly less entertaining territory. Gervais keeps all the scenes light, but the plot is fairly unsatisfying. Frank directs Pincus to break up the relationship between Gwen and her fiancé Richard, a human rights lawyer, with some suggestion that Richard is up to no good. But we never really find out what's so bad about Richard, other than his being humorless and incredibly self-righteous. The movie avoids revealing Richard's dastardly deeds to us in a fairly ridiculous way, and it feels decidedly like a cop out. Toward the end of the movie, even the soundtrack choices become irritating and overly literal. Gervais' wit almost succeeds in obscuring the movie's major flaws, but not entirely.

*Ghost Town* is definitely worth seeing for the comic genius of the movie's first half. The plot is a functional vehicle for Gervais' talents and manages to produce a few very good scenes, but overall it is gimmicky and somewhat stale. Gervais, nevertheless, makes it worth watching.

## MILITARY: Recruitment Worth More Than Nondiscrimination

Continued from page 2

thought I might be unfamiliar with this state of affairs. What he didn't understand was that my knowledge of this history was, along with my belief at the time that the American military is an instrument somehow morally superior to the other guys', what enabled me not only to function but to outperform many of my fellow servicemen during my time in the Army. An acute awareness of just how dead one easily could be had one been born in a different

time and place makes being treated as something less than fully human somewhat easier to take, although I don't recommend it as a long-term motivational strategy.

This, of course, still leaves one question unanswered by the Dean's email: between six hundred dollars and something more than one hundred gazillion dollars, just how much is our nondiscrimination policy worth? I'm waiting to get another message in my inbox which answers that one, but I won't hold my breath.



### WILLEM C. VIS INTERNATIONAL COMMERCIAL ARBITRATION MOOT

Take part in the selection process for the NYU Law team participating in the William C. Vis International Commercial Arbitration Moots in Vienna and Hong Kong.

#### Structure of the Moot

The Moot involves a dispute arising out of a contract of sale between two nationals of states parties to the UN Convention on Contracts for the International Sale of Goods. Information about the Vienna situs of the competition at <http://www.cisg.law.pace.edu/vis.html>; information about the Hong Kong situs of the competition at <http://www.cisgmoot.org>.

#### Prerequisites for Participation in the Moot

- Strong interest in, and familiarity with, international commercial arbitration and, more generally, dispute resolution;
- Basic knowledge of international sales law and/or conflict of laws (enrollment in applicable courses during the 2008-2009 academic year will be considered);
- Interest in oral advocacy

#### Requirements of Moot Team Members

- Extensive legal research on international commercial arbitration, international sales law, and conflict of laws/arbitral procedure;
- Preparation of legal memoranda on behalf of Claimant and Respondent – please note that preparation of the Claimant's Memoranda requires work over the Thanksgiving break and that the Respondent's Memoranda is due very early in the Spring, so team membership requires a significant amount of work over the winter break;
- Oral arguments before panels of three arbitrators in either Vienna, Austria or in Hong Kong.

If you are interested in being considered, please contact both **Jocelyn Burgos** ([jocelyn0102@gmail.com](mailto:jocelyn0102@gmail.com)) and **Chris Alberti** ([albertic@adr.org](mailto:albertic@adr.org)).

## Kane Is Able

*New professor studies fixing developing nations through radical tax reform*

By ASHOK AYYAR '11

Law students are a contentious group; we argue about almost everything. But if there is one thing we can all agree on, it's that tax is a boring subject, fit only for bean counters and others—how shall I put it—devoid of any personality.

Mitchell Kane, new professor of tax law at NYU, bucks this conventional wisdom, leaving this writer wanting to know more about his arcane field.

Kane came into tax quite by accident. He graduated from Yale and the University of Virginia School of Law with a joint degree in philosophy, dreaming of being a public defender. After a clerkship on the D.C. Circuit, he considered an appellate litigation practice. It took a mere two boxes worth of document review while at Covington & Burling to disabuse him of that idea. Instead, he turned his attention to tax, spending four document-free years practicing international tax in Washington, D.C. and London. Thereafter, Kane entered academia at the University of Virginia.

Kane's transition from the metaphysical to the abacus makes for an almost absurdly disparate collection of books lining the walls of his office. On one shelf are the vestiges of his philosophic past—Nietzsche, Plato, and Kant. On the next sit a series of tax treatises, to which Kane now devotes himself.

And his devotion is paying off: Daniel Shaviro, Wayne Perry Professor of Taxation, called Kane “a rising star in the field of international tax” in his blog. Kane's current research explores the relationship between tax and economic development. A forthcoming paper will make the provocative case for developing nations to cede tax authority to developed nations. Developing nations need foreign capital to fuel growth, and private investment does not reach the least developed nations desperately in need of it. If foreign private investment is not coming through, then foreign public investment must be the solution.

But foreign aid, the prevailing brand of public investment, has long been maligned by critics such as NYU's William Easterly as misguided and ineffective. The track record of foreign aid, argues Easterly, has been abysmal. Kane, on the other hand, divorces the benefits of capital infusion from the implementation issues raised by Easterly. Focusing on the former, Kane believes that foreign aid is not the magic bullet to save developing nations. For one, it is not politically feasible

for developed nations such as ours to give out more aid (for reference, the U.S. gave out 0.2 percent of GDP in aid in 2004). Debt financing is not the answer either, as the developing world is already crushed by its existing debt burden, and lenders are wary of default.

What road, then, should developing countries take? Kane proposes a radical tax reform: they should yield tax authority to developed countries in exchange for a lump sum payment. If developing nations are no longer taxing, international tax competition

for the lowest tax rates would not ensue. Avoiding this “race to the bottom” and instead delegating tax responsibility to developed countries would increase tax revenue and efficiency. Developing countries would partake in the added revenues via the payments and apply the proceeds toward development projects. Though this arrangement would not eliminate the problems of implementation (which are rooted in governance, political, public health, and social problems), it would lead to increased capital flows.

Kane intends to further develop his research in international tax and development in the years ahead at NYU. To that end, he looks forward to collaborating with the school's esteemed tax faculty. He visited five schools, including NYU, before deciding to join the Law School. He was swayed by the activity and energy of the law school and continues to be impressed by the engagement of students here.

When told this publication was intended primarily for students, not faculty, Kane immediately seized the opportunity to make the case for tax law to the student body. True to form for a tax professor, he pointed to the numbers first—in particular, the enrollment bump he's seen this year in his income tax class. Last year, he had 40 students; this year, 112. But it isn't all about the numbers with Kane. He speaks about tax with a sense of wonder, which undoubtedly permeates his teaching. “This subject,” he says, “is more interesting than anyone can even imagine. It inspires me every day.” Don't take his word for it, though; his spring course “International Tax Policy” promises to be a fun litmus test.



## Could the Type-A Students Please Raise Their Hands?

*Part of “Growing Up Law School,” a continuing series on the life of a 1L*

By MICHAEL MIX '11

Counting preschool, grade school, college, and now law school, this is my twentieth straight year of going to school. One would think that, by now, I would know what to expect in class. When I started my 1L year in late August, I assumed that class in law school would be very similar to the way it was in college. Of course I knew that the teaching would be a little different—the Socratic Method is a relative rarity in college. But I figured that the students in class would, for the most part, act like normal human beings. I could not have been more wrong.

In college, the vast majority of students, myself included, sat through class anxiously watching the clock. I would say about 10 percent of people brought laptops to class, and these laptop-users usually eschewed note-taking, instead playing games on the internet or checking their fantasy sports teams. Us plebeians that took notes by hand tried to frantically transcribe everything the professor said in a futile attempt to have something to study for the final. Some of my undergrad classes had more than 500 people, so directing questions at the professor was basically impossible. When professors in lecture classes actually asked for class participation, students were somewhat reluctant to raise their hands.

At the end of my first month of law school, I can say without hesitation that the experience is different. I bring my computer with me to class every day, as do the vast majority of other students. Looking at the screens around me in class provides a virtual smorgasbord of websites. In a typical day, I see people on websites for the *New York Times*, CNN, YouTube, ESPN, the Drudge Report, Perez Hilton, Scrabulous (or a knockoff), and much more. It's not necessarily that these people aren't paying attention; instead they have become adept at simultaneously listening to a lecture about personal jurisdiction and reading about the personal life of Britney Spears.



*Future NYU Law gunners start ingrating themselves early.*

But the most notable difference has been in class involvement. In smaller classes in college, participation was usually fairly spread out among the class. Participating gave me a sense of community and proved to the professor that I connected with the material. In law school, though, while I occasionally raise my hand, I really just want to hear what the professor has to say so I can actually learn the material that I didn't understand at all the night before. Unfortunately, some of my classmates think that their grades are directly and positively affected by raising their hands. It became abundantly clear during the first few days of class that some people just love to hear their own voices, whether or not their comment has any merit. It seems that these people have to meet their quota of asking two questions per class or their lives are somehow unfulfilled. Worse still, these questions are often nonsensical or irrelevant. Students pepper the professor with so many hypothetical questions that I wouldn't be surprised if someone asks my Contracts professor to analyze the implications of the implied contract between Aladdin and the Genie. When they aren't asking inane questions, they sometimes just proffer their own views—as if their one month of law school makes them a

genius. It's like NYU made a concerted effort to admit as many Type-A applicants as possible, stick them in class together, and thereby create a Darwinian contest of the hand-raisers.

In law school vernacular, these people are called “gunners.” They enjoy showing off their supposed knowledge and make everyone around them roll their eyes on a consistent basis. But coming into law school, I never expected the amount of gunning that goes on in my section. The gunners end up being the subject of frequent conversations with my section-mates, whether it be at lunch or out at a bar. The gunners have even become good ice-breakers after meeting someone. I frequently find myself in conversations similar to

this one:

Me: Hi, my name is Mike.

Section-Mate: Hi, my name is [insert name here].

Me: Nice to meet you. So, what do you think about [insert gunner here]?

That's just a typical everyday conversation. We end up talking about the gunners so much that it's beginning to depress me. My section is truly a place where everyone knows the gunners' names.

All my fellow 1Ls currently have three professors (not counting Lawyering), each of whom treats gunners differently. From talking to classmates in other sections, it is apparent that some professors are keen to answer every question posed to them, while some treat gunners with outright and utter contempt. Unfortunately, the professors who allow the gunners to espouse their views end up losing the attention of the class.

It has only been one month, but it is obvious that this type of odd in-class behavior is prevalent at NYU Law, and I should probably get used to it. If, however, you are reading this and do not know what I am talking about, or think that no one in your section raises their hand way too much—you might want to reconsider the next time you raise your hand ten times during class.

## PERES: Oil-Independence Is Key to Future

*Continued from page 1*

To buttress his point about the power of impacting a nation's economy, Peres cited the dramatic increase in oil prices. Although he glossed over the increase in China's demand, he noted that oil is not really produced—it is discovered. He further stated that “oil producers” have not discovered anything new to earn the increased price. Oil-selling nations, Peres posited, were capturing the growth of our economies and thereby playing with our national well-being. The question from Peres's perspective is why the world is quietly going along with the program, especially since oil creates pollution and finances terror.

Peres did not leave without offering a solution. He invoked his earlier comments that science is the way of the future, and he said that it holds a solution to the oil problem. He urged the audience to continue to “unlock the secrets of nature.” He then wondered aloud whether the sun would provide the best alternative to oil, given that everyone can use it, it is permanent, it does not produce pollution, and it does not finance terror.

Peres stressed that solar energy does not fund terror, stating that we no longer deal with the classical model—that is, nations of arms—but rather with terror. Terror tactics, he opined, do not spare civilians

and are relatively unpredictable. The upshot of Peres's argument was a call to end the indirect financing of terror by paying the high prices of oil-selling nations, emphasizing that science should lead us out of the thicket.

Peres concluded that there was reason for optimism, though he did not say that the night had ended and the day begun. He did say that we will know the day has begun when we can no longer distinguish a man and a woman from afar, when people of different colors can look to one another and say “brother,” and when a rich man and a poor man have the same opportunities. While we have come far, in Peres's assessment, there is still work to be done.