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CHLPI study finds life-threatening barriers in access to breakthrough Hepatitis C drugs

Via HLS News

A team of researchers from Harvard Law School’s Center for Health Law and Policy Innovation, Brown University’s Department of Medicine, Rhode Island’s Miriam Hospital, Treatment Action Group, and Kirby Institute of Australia, has released findings from a nationwide study of Medicaid policies for the treatment of hepatitis C virus (HCV), which affects over 3 million Americans. The study examined reimbursement criteria for sofosbuvir (Sovaldi), a highly effective medication to cure HCV in the overwhelming majority of patients. The article, which was published today in the Annals of Internal Medicine, details the coverage restrictions put in place by most Medicaid programs, and calls for policy change to improve access to new life-saving HCV treatment.

“The Medicaid restrictions generally apply to the poorest and most underserved patients with HCV infection, are highly stigmatizing, and not evidence-based,” said Associate Professor Jason Grebely, co-author of the paper from the Kirby Institute at UNSW Australia. “The data suggest that state Medicaid policies for access to new HCV therapies should be reviewed and revised in line with national and international clinical recommendations.”

Since 2002, National Institutes of Health HCV guidelines have supported HCV treatment regardless of injecting drug use. International guidelines from the American Association for the Study of Liver Disease/Infectious Diseases Society of America, the European Study for the Association of the Liver, the International Network for Hepatitis in Substance Users and the World Health Organization, now all recommend treatment for HCV infection among people who use drugs. “There is compelling evidence that HCV treatment is safe and effective among people who inject drugs,” say Taylor.

In distinct contrast to the situation in the United States, Australia’s Pharmaceutical Benefits Advisory Committee (PBAC) has recently recommended two highly effective sofosbuvir-based regimens for Pharmaceutical Benefits Scheme (PBS) listing, without drug use or disease stage-related restrictions. Assuming that price negotiations are completed and Federal Cabinet approval gained, Australia should have the broadest access to interferon-free therapy internationally, with PBS listing expected in December 2015 or April 2016,” said Professor Greg Dore from the Kirby Institute.

Based on its findings the study recommends that states review their access criteria and revise them as needed to align with national clinical recommendations. The study concludes that treatment access for people living with HCV should be based solely on clinical criteria and medical evidence. Since the current restrictions do not make clinical, public health, or long-term economic sense, these restrictions should be removed.
New Publication: Food Banks as Partners in Health Promotion: Creating Connections for Client & Community Health

Via Center for Health Law and Policy Innovation

In July 2015 CHLPI released the white paper Food Banks as Partners in Health Promotion: Creating Connections for Client & Community Health.

Food banks are embedded in local communities across the country. They are central to the economic well-being of clients, who often struggle to find regular access to food. Food banks partner with government agencies, donors, and private companies to serve the interests of the more than 46 million individuals in the United States at risk of hunger.

Food banks do not need to be experts in health care, but they can be important partners in health promotion for their clients and local communities. Feeding America has increased national efforts to provide Foods to Encourage, or foods that align with the 2010 USDA Dietary Guidelines for Americans, at member food banks. Recent changes in health care delivery may enable food banks to play a more formal role in health promotion and tailor some services to food insecure populations with specific health needs. There are new incentives for health providers to increase community engagement in order to improve health outcomes for clients. For food bank directors and partner agencies, this means potential opportunities for partnership and new sources of funding.

This White Paper aims to describe some shifts in the health care landscape that open up new opportunities for the nation’s food banks. It will also discuss several of the ways that food banks can take advantage of these developments to become a partner for health care providers. It outlines some top concerns for food banks seeking to form these partnerships, including capacity to invest resources in building new relationships and/or tailoring and expanding services.

EDUCATION LAW CLINIC / TRAUMA AND LEARNING POLICY INITIATIVE

Budget Victory for the Trauma and Learning Policy Initiative

Students in the Education Law Clinic / Trauma and Learning Policy Initiative (TLPI) traveled back and forth to the Massachusetts State House on numerous occasions over the last few months to encourage state legislators to fund An Act Relative to Safe and Supportive Schools.

In July, their work paid off, when both the House and Senate chambers approved $500,000 for the implementation of the statute. The funding will allow $400,000 in grants to schools and $100,000 for the Department of Elementary and Secondary Education (DESE) to establish safe and supportive learning environments and cultures. The funding will also help schools and districts through provisions for technical assistance, state and regional conferences, and sharing best practices related to the implementation of the framework.

This marks a second victory for TLPI and the students who last August prevailed in having the provisions of the bill enacted into law. The Trauma and Learning Policy Initiative, which is a joint program of the Massachusetts Advocates for Children and Harvard Law School, continues to lead efforts in supporting schools to meet the learning needs of all children. TLPI is also working on a research study to assess school culture outcomes for three schools that are using the Safe and Supportive framework.
Each year the Judicial Process in Community Courts Clinic and class includes judges from Japan and Korea who are enrolled in the LL.M. program providing them the opportunity for an internship with an American trial judge. These student/judges return to judicial work in their home countries with new perspectives from their exposure to the workings of our courts. Their written work often tackles innovative approaches unfolding in the US, such as the growth of specialty courts, restorative justice, and judicial participation in plea bargaining.

“Through discussions with judges and court officials, I could see and understand how the American legal system actually works,” says Takahiko Iwasaki, a judge and former clinic student.

I recently had the opportunity to participate in reunions with my student/judges in both Korea and Japan. My visit to Korea in May included several lectures on ADR and a dinner with eight of my former students.

In June, twenty of my former Japanese students hosted a dinner in Tokyo. Among the guests were student/judges who received their LL.M. degrees going back to 1995 and one judge who flew in from his duties in Okinawa for the event. During our week in Tokyo, these judges arranged for visits to the Supreme Court of Japan, the Tokyo District Court, the Judicial Training Center, and the Sapporo District Court.

After years of discussion of our comparative judicial systems, and particularly the initiation of the jury system in both Japan and Korea, it was particularly meaningful for me to experience the Japanese mixed jury (six citizens and three judges) at work. In fact, one of my former students was a judicial member of the jury panel.
Mass SJC Sides with Free Speech Advocates, Declares False Campaign Speech Statute Unconstitutional

Via Cyberlaw Clinic

The Massachusetts Supreme Judicial Court handed a big win to free speech advocates today in its decision in Commonwealth v. Lucas, siding with defendant Melissa Lucas and declaring Massachusetts General Laws Chapter 56, Section 42 (“Section 42”) unconstitutional. The Cyberlaw Clinic filed an amicus brief in the case, in support of defendant Lucas, on behalf of the New England First Amendment Coalition, Boston Globe Media Partners, LLC (owners of the Boston Globe), Hearst Television, Inc. (owners of WCVB-TV Channel 5 in Boston), the Massachusetts Newspaper Publishers Association, the New England Newspaper and Press Association, Inc., and the New England Society of Newspaper Editors. The SJC’s reasoning followed many of the arguments advanced by our amicus coalition.

Section 42 criminalized false campaign speech, providing as follows:

No person shall make or publish, or cause to be made or published, any false statement in relation to any candidate for nomination or election to public office, which is designed or tends to aid or to injure or defeat such candidate.

No person shall publish or cause to be published in any letter, circular, advertisement, poster or in any other writing any false statement in relation to any question submitted to the voters, which statement is designed to affect the vote on said question.

Whoever knowingly violates any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months.

Our amicus coalition argued that Section 42 violated the right to free speech enshrined in the First Amendment to the United States Constitution and Article 16 of the Massachusetts Declaration of Rights. As the coalition brief noted, the statute was an unconstitutional content-based restriction on speech, and swept a staggering array of speech into its ambit. By the terms of the statute, the law applied regardless of whether the speaker or publisher knew the statement at issue was false, whether the statement would be understood as false by a reader or viewer, or whether the statement was made in a context where it was clear it was false, such as reporting on another’s false statement or in parody or satire. This all has the risk of chilling robust political debate, especially where, as here, anyone can file an application for a criminal complaint and thus use the courts to suppress free expression. The brief also noted that other similar (often even narrower) state statutes had previously been struck as unconstitutional.

In its detailed decision, the SJC agreed. Subjecting the statute to “strict scrutiny” in accordance with Article 16 as a content-based restriction on speech, the Court found that “the Commonwealth has not established that § 42 actually is necessary to serve the compelling interest of fair and free elections” (p. 20). Quoting from the United States Supreme Court’s decision in United States v. Alvarez, in which the Court held the Stolen Valor Act to be unconstitutional, the SJC noted that falsehoods can be addressed not via criminalization but via “the simple truth.” (p. 21). As the court noted:

[Even in cases involving seemingly obvious statements of political fact, distinguishing between truth and falsity may prove exceedingly difficult. Assertions regarding a candidate’s voting record on a particular issue may very well require an in-depth analysis of legislative history that will often be ill-suited to the compressed time frame of an election. Thus, in the election context, as elsewhere, it is apparent “that the ultimate good desired is better reached by free trade in ideas — that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which [the people’s] wishes safely can be carried out. That at any rate is the theory of our Constitution.” [Lyons v. Globe Newspaper Co.] (p. 29)]

For these and other reasons, the Court declared Section 42 unconstitutional, and dismissed the criminal charges against Lucas. “This is a victory not only for free speech, but for the freedom of the press,” said Justin Silverman, Executive Director of the New England First Amendment Coalition. “Had this criminal statute been upheld, there could have been disastrous consequences for publishers and reporters throughout the Commonwealth. This decision reaffirms the idea that the best response to false speech is the truth, and that the government should not be the arbiter between the two. Many thanks to the Cyberlaw Clinic and our fellow amici for helping to defend this fundamental First Amendment principle.”

HLS Cyberlaw Clinic students CATHERINE ESSIG (JD ’16), NAOMI GILENS (JD ’16), and D. PATRICK KNOTH (JD ’16) worked with Andy Sellars and Chris Bavitz of the Clinic, along with the amici, to prepare and file this brief.
HARVARD LEGAL AID BUREAU

Self-Care at the Bureau

At 5pm on a Thursday, singing emerges from the seminar room. Students and clinical instructors sit around the table. Staff from other centers linger as they exit the building. No, HLAB hasn’t started a choir. LISA FITZGERALD ’16 is treating the Bureau to a private concert, as part of the new self-care initiative.

DONNA HARATI ’15 began the self-care initiative in the fall of 2014 to help other Bureau members ensure they take care of their mental health, so that they can provide quality legal services to their clients—in the short and long term.

Since its inception, students have organized weekly activities to take a break from clinical and coursework. Activities include knitting, meditating, touch football, making pasta and decorating gratitude jars.

JORDAN RAYMOND ’16 has always recognized that she needs to carve out time for self-care. “Self-care is paramount to me. Sometimes, when I feel drained, I drive to the beach because that’s my happy place and that’s where I can find peace. It’s nice that we are trying to create those peaceful spaces here at the Bureau.”

The Bureau’s self-care initiative subscribes to many models of and philosophies of self-care. Students, clinical instructors and staff alternate in facilitating activities that help them feel grounded.

“There’s no one correct way to take care of yourself, and I’ve learned a lot from what other people have shared. Personally, I like cooking to de-stress, so I led a session in pasta making,” said NICK PASTAN ’15.

Clinical instructor Lee Goldstein led a session on meditation and mindfulness in the fall. “Without a mindfulness practice, I couldn’t begin to understand all the players—our clients, opposing parties and their lawyers, judges and court personnel and most of all ourselves—in this stylized kaboke drama known as lawyering. It enables me see myself as an actor detached from the drama, from ‘outside’,” Goldstein said.

A Tale of Two Student-Run Organizations

It seemed like a natural collaboration: Harvard College; Harvard Law School; a student-run homeless shelter; a student-run legal aid firm. Those parallels ignited the partnership between the Youth to Youth (Y2Y) and Harvard Legal Aid Bureau, which will go into full effect this fall.

The Y2Y shelter, founded by two recent Harvard College alumni, will house homeless youth and provide social services, job training and community programming. The shelter focuses on youth because Boston has a relatively high homeless youth population, but only 8-12 beds total designated for them, according to student attorney AWBREY YOST ’16.

“It can be dangerous for homeless youth to be with adult residents...The Y2Y founders realized, after being involved with the Harvard University Homeless Shelter for adults, that the needs of homeless youth in Boston were not a focus for any organization,” Yost said.

Last January, the Y2Y founders contacted then-President CASSIE CHAMBERS ’15, with a proposal for HLAB to help them design programming to meet the legal needs of the shelter guests.

“It some areas, we saw a natural fit. HLAB is already in family court, and the guests may need support with guardianship, name changes, emancipation proceedings, protective orders and other issues,” said Chambers.

But those issues are only the beginning. Chambers added: “The founders don’t know what legal needs the guests will have because there’s not a lot of research on youth homelessness.”

To prepare for the myriad needs, student groups and clinics at Harvard Law School built a coalition to tap into the assets of each organization. The coalition will apply for funding and hopes to become its own Student Practice Organization.

This year, HLAB will serve as the legal services coordinator for Y2Y. Yost, the leader of HLAB’s Y2Y partnership, will coordinate a weekly intake table at the shelter, building off HLAB’s clinic at Rosie’s Place women’s shelter in the South End.

From the outset, Chambers thought HLAB should be involved with Y2Y. “It fits with our goal of moving services out to the community. It fits with our natural practice areas and the issues that our current clients face. And this is an area where we can do a lot of good. The people at HLAB are incredibly talented and dedicated. The shelter guests need advocates, and we can and should be those advocates.”
HARVARD NEGOTIATION AND MEDIATION CLINICAL PROGRAM

The Negotiation Within

Via HNMCP

HNMCP Director Bob Bordone, former HNMCP Associate Toby Berkman ’10, and Clinical Fellow Sara del Nido ’13, have been published in the Fall 2014 volume of the University of Missouri School of Law’s Journal of Dispute Resolution. The article is entitled, “The Negotiation Within: The Impact of Internal Conflict Over Identity and Role on Across-The-Table Negotiations.”

Bordone, Berkman, and del Nido argue that most existing scholarship on negotiation focuses on strategic, structural and psychological barriers to agreement in across-the-table negotiations, but that internal conflict also plays a profound and powerful role as a barrier, as well. Building on the groundbreaking work in Difficult Conversations and Beyond Reason, which brought to the fore the important identity issues underlying negotiators’ experiences, the article draws on a broad range of scholarship from the fields of psychology, sociology, philosophy, and even literature to propose a framework for understanding internal conflicts, and offers prescriptive advice for self-diagnosing and constructively handling one’s own “negotiation within.”

The framework suggests three domains of internal conflict that, if left unaddressed or poorly handled, could be detrimental to across-the-table negotiations: aspirational identity conflicts (conflicts between two or more identities that the individual aspires to embody), valenced identity conflicts (conflicts between identities the individual experiences as having a positive or negative valence), and transformative identity conflicts (conflict between one or more stable, known identities and a future, unknown identity). An across-the-table negotiation could “trigger” one or more of these domains. While some typical strategies for handling “negotiations within” include denial, avoidance, suppression, or resignation, negotiators should instead move towards “integration,” a thoughtful weighing of all the interests and concerns of the multiple internal selves involved and an effort to generate creative options to meet these interests. To make this move, the article suggests a three-stage process: building awareness of internal conflict through “mirror work,” thoughtfully preparing for across-the-table negotiations through role-play exercises in “chair work,” and managing a “negotiation within” in the moment it is triggered through “table work.”

“The Negotiation Within” represents the beginning of what the authors hope will be a rich conversation among academics and practitioners about internal conflict: “Given the interdisciplinary nature of the work, we hope that thinkers from across the spectrum . . . contribute to an ongoing conversation about how internal conflicts and ‘negotiations within’ play a role in our daily experience, and how we might reframe these conflicts into opportunities for growth and collaboration.”

HOUSING LAW CLINIC (LSC)

Housing Law Clinic’s Julia Devanthéry wins appeal against Wells Fargo

Attorney and Clinical Instructor Julia Devanthéry of the Housing Law Clinic (LSC) recently won an appeal in the case of Wells Fargo Bank v. Cook, et al. Her clients were two homeowners from Mattapan who had been fighting eviction after the unlawful foreclosure of their home.

The central issue in the case was whether a massive 2008 foreclosure prevention workshop held at Gillette Stadium qualified as a “face-to-face” meeting between lenders and borrowers under the regulations which govern Federal Housing Administration insured mortgages. The Appeals Court concluded that Wells Fargo had failed to demonstrate that the Gillette event met the requirements of the regulations since the bank representative rejected the borrowers’ attempt to make a payment, and didn’t have the requisite authority to modify their loan at the event.

Devanthéry, quoted in a Massachusetts Lawyers Weekly article, says “Wells Fargo tried to argue that the HUD regulation merely requires that a lender representative have a meeting in the same room with borrowers,” but that in fact, the regulation contemplates “something much more nuanced and personalized.” Devanthéry says she and her clients are hopeful that the decision will “translate into compliance by FHA-insured lenders to really work with borrowers in a way that allows them to avoid foreclosure if at all possible. In giving FHA-insured mortgages to borrowers, lenders take on additional consumer protection obligations in exchange for mortgage insurance from the federal government. By foreclosing on the Cooks’ home without first complying with the HUD regulations, Wells Fargo is essentially trying to take the benefits of this federally subsidized insurance program, and none of the obligations or responsibilities that go along with it.”

“The win would not have been possible without the work of several outstanding clinical students and the leadership of Housing Clinic director Maureen McDonagh,” Devanthéry said.
I am an Australian final year Bachelor of Laws student studying at Charles Darwin University (CDU). This summer I was honoured to be selected to partake in an inaugural collaboration between CDU and the HIRC to experience not only the tenacity and commitment of the team at HIRC but to join them as they assist clients applying for non-refoulement under both the Refugee Convention and the Torture Convention because they have either suffered persecution in the past or have a well-founded fear of persecution in the future on account of their race, religion, nationality or membership of a particular social group or political opinion should they return back to their home countries. Not only have I had the honour of working with the HIRC legal and academic team but with other dedicated interns.

By day two of my experience I quickly learned that stories of refugee status seekers that have evolved from case law and academic writings in my studies only bears a minimal resemblance to the reality of personally dealing with those who have faced human rights atrocities in their country of origin. My ‘baptism’ into the culture of the HIRC was a sudden immersion into the depths of the clients’ stories and a honed understanding of the importance of the work the HIRC do in providing pro-bono legal assistance to them. My fear of my own inadequacies paled into insignificance when I realized the urgency of the work needed to be done, the time frames in which to do them along with my limited time of 4 weeks with the Clinic. However, I wouldn’t have had it any other way.

In my 4 weeks I had a caseload of 5 clients. I was involved in working with 4 female clients who had suffered a range of gender based violence issues and a male client with a particularly complicated range of intertwined nexus issues including religious and political persecution. I quickly dived into country conditions researching, interviewing clients, drafting affidavits, court documentation preparation, Freedom of Information Act (FOIA) requests and the art of learning to actively listen with empathy so I could bond with clients in order to gain their trust to draw from the client their story and to translate that into a legal representation of why they cannot be returned to their country of origin.

My greatest practical achievements were to help finalize a country conditions report for a young African woman who was to have her Asylum Office interview the week after I finished my clinical placement and to find a willing and able country conditions expert who would provide a corroborating affidavit for our male African client, something that had previously been very difficult to obtain for this particular client. However, my greatest personal achievements were to rise to the challenges that were given to me and to find the experience so incredibly rewarding, stimulating and thought provoking. I know now that my small contribution has at least helped one person seeking peace and freedom by way of protection from human rights abuses in their countries of origin through the granting of asylum or withholding of removal. It is the latter that is the most invaluable of my experiences.

Debbie, Sabi, Phil, Maggie and Lucy, your academic abilities and highly tuned advocacy skills will always remain an inspiration for me and I will remain eternally grateful in having faith in the partnership between CDU and the HIRC and importantly having faith in me to work so closely with your clients and their cases. Thank you for sharing your expertise, your skills and for including me as a HIRC team member through and through. I also thank my own university, particularly Jeswynn Yogaratnam who had faith in my abilities to put me forward for this incredible and rewarding experience.
FOOD LAW AND POLICY CLINIC

Replacing “Kid Food” with “True Food” in School Cafeterias

By Katie Carey, 2015 Summer Intern

On June 10, FLPC co-hosted the first annual Healthy Food Fuels Hungry Minds conference at Harvard University to discuss how to improve the quality of food in schools. Those attending the conference held diverse roles from school administrators to health experts to parents to school food service workers. Many attendees discussed the importance of getting rid of “kid food” in schools and instead serving our children “true food,” a term coined by Minneapolis public schools to describe flavorful, nutritious menu items in lieu of the stigmatized “healthy food” term.

As a third-year law student that previously had only a rudimentary knowledge of school food, I left the conference feeling invigorated. I realized that everyone, including me, has a role in creating positive changes in the school food environment and that we can create change on multiple levels: at an individual school, within a school district, and through state and federal policies.

FLPC Director Emily Broad Leib focused her presentation on how federal policy change affects school food, highlighting the upcoming Childhood Nutrition Reauthorization (CNR). The current CNR, the 2010 Healthy and Hunger Free Kids Act, will expire in September 2015. Advocates are pushing for a wide variety of improvements to school food regulations, including: increased funding for reimbursable meals, food literacy programing, kitchen equipment grants, kitchen staff training, and farm to school grants.

FLPC Research Fellow Bettina Neuefeind discussed policy strategies that local and state actors can implement to improve school food, highlighting examples from the School Food Intervention Toolkit that FLPC plans to publish in summer 2015. She described that the most effective policies are those that introduce kids to growing and preparing food, rather than just being served healthier food in the lunch line. Food literacy programing in schools, such as farm to school, taste testing, and Iron Chef competitions, have all increased students’ preference for true food.

Chef Ann Cooper championed these types of food literacy programs during her keynote address. She proposed that there should not be a different standard for foods served to students in school – adults and children should all have access to good tasting, wholesome, and nutritious foods. The trailblazing Chef Ann compared the price of a daily latte, $4, with the amount we as a country are willing to invest in a school lunch for a child that qualifies for a free meal, $2.98. She also acknowledged that our challenges to better food for kids are bigger than just school lunch, saying we need to improve our country’s food system, making healthy foods more accessible and decreasing consumption of highly-processed foods.

In addition to the lack of funding to support more nutritious school meals, there are other hurdles. As school food directors pointed out, school food is a highly regulated industry. Over the course of the conference, I was consistently impressed by the talented and driven food service directors that presented on their persistent and creative efforts to introduce true food in their schools. For example, Ron Adams, School Nutrition Services Director in Portland, Maine, overcomes the limited growing season in Maine by purchasing and freezing local produce during the summer months. Likewise, many Massachusetts schools are serving under-utilized species of fish from local fishermen. Bertrand Weber, Food Services Director for Minneapolis Public Schools, said it was crucial to ban the sale of competitive foods, à la carte and vending machine sales from his schools to increase participation in breakfast and lunch meal programs.
Harvard Law School Alumna Appointed to Clerk for South African Constitutional Court

Harvard Law School alumna, Philippa Greer HLS LL.M. ’14 has been appointed to clerk for South Africa’s top judicial body, the Constitutional Court, for the latter half of 2015, in a position offered to no more than a handful of lawyers around the world each year. She has been selected to clerk for the Chief Justice, having been chosen from a high number of applicants from across the globe. Her interests lie in strategic litigation and international law. She writes:

“I am both thrilled and humbled to contribute to the Court, whose holdings adopt a progressive and transformative approach to law and equality. South Africa is a development State and certainly faces vast resource challenges in making the rights of the Constitution a reality for all. Yet its Constitutional democracy and the Court’s recent reforms to institutionalize the role of the judicial branch as independent from South Africa’s executive arm, have ushered in a new era, characterized by the rule of law and fundamental dignity for all human beings.

In my position as a Law Clerk to the Chief Justice, I will deepen my understanding of the practical barriers to the implementation of international human rights standards. Since assuming my position at the Court, I have been exposed to a number of high-profile cases, including Legal Aid SA v. Magidiwana, which concerns the right to legal aid and access to justice, specifically with respect to the legal representation of miners at the Marikana Commission of Inquiry.

The Constitutional Court represents transformation in South Africa and the hope of and for a people, in the wake of recovery from a system of racial segregation enforced through law. The recent history of the Truth and Reconciliation Commission (TRC), a restorative justice body assembled to address the gross human rights violations that occurred between 1948 to 1994, South Africa’s Constitutional democracy, its Bill of Rights and its standing on the African continent, combine to offer a particularly complex background to the law and positioning of the apex court.

The Court stands as a memorial to courage and the Court building itself as a moving architectural tribute to the fight against apartheid. Everything from the Court’s judgments to its artwork is distinctive and multifaceted, in recognition of a particular history and hope for further transformation. In the foyer of the Court stands a sculpture by Thomas Mulcaire bearing the words “a luta continua” lit up in projection of the meaning “the struggle continues, victory is certain”. Former Justice Albie Sachs, appointed to the Court by Nelson Mandela in 1994, played a leading role in selecting the Court’s diverse artwork, the first public collection of its kind post apartheid. As a result, the building presents a particularly inspiring physical space to work in.

There are major distinctions to be drawn with the United States Supreme Court, and a comparative analysis can be made with regard to the each Court’s jurisprudence on the death penalty, gender equality, affirmative action, freedom of expression and religion, and socioeconomic rights. For example, despite the racial and geographic arbitrariness of the death penalty in the United States, punishment for the sake of retribution remains permissible under the Eighth Amendment. In 1995, in S v Makwanyane, despite evidence that many South Africans favored the death penalty, the Constitutional Court ruled that it was unconstitutional, with former Chief Justice Arthur Chaskalson citing capital punishment as an example that should be rejected in light of its disparate impact along racial and poverty lines.

If we contrast this “dignity jurisprudence” to the continued use of capital punishment in the United States, for example in Louisiana where the death penalty is confined predominantly to African-American men prosecuted in Caddo Parish in particular, we can see how the Constitutional Court in South Africa has attracted international acclaim and how it serves as a model for the world’s other Constitutions.”

While Philippa was still a student at Harvard Law School, she participated in Harvard’s International Human Rights Clinic and held editorial positions on the Harvard Civil Rights Civil Liberties Law Review and the Harvard Human Rights Journal, as well as serving as a Board Member of Harvard Law School’s Moot Court Board.
The Office of Clinical and Pro Bono Programs offers its heartfelt congratulations to Clinical Professor of Law and Clinic Co-Director Susan Farbstein and Managing Attorney and Lecturer on Law Maureen McDonagh on being named to Massachusetts Lawyer’s Weekly 2015 “Top Women of the Law”.

The event celebrates the achievements of exceptional lawyers in the “legal field, which includes: pro bono, social justice, advocacy and business. The awards highlight women who are pioneers, educators, trailblazers, and role models.”

“We are thrilled to see Susan honored in this way, and look forward to celebrating with her at the official ceremony in October,” writes Cara Solomon, Communication Manager at the International Human Rights Clinic.

Susan Farbstein teaches in the International Human Rights Clinics and is an expert on South Africa, having worked on a variety of human rights and transitional justice issues in that country for nearly fifteen years. Her writing has been published in scholarly journals including the Harvard Law Review and the Harvard International Law Journal, as well as more popular outlets including The New York Times and SCOTUSBlog.

Maureen McDonagh teaches in the Housing Law Clinic—part of Harvard Law School’s WilmerHale Legal Services Center (LSC)—a position she’s held since January 1998. According to her biography on the LSC website, prior to her work at the Center, Maureen specialized in the representation of indigent individuals in criminal defense and child abuse and neglect cases. She served as a Mentor Attorney for the Committee for Public Counsel Services’ Children and Family Law Program, where she instructed attorneys who were new to practice in that area of law. Maureen has volunteered as a Citizen Teacher with the Citizen Schools program, mentoring Boston Public Middle School students in a Legal Apprenticeship Program that met at LSC. She is also adjunct faculty at the Urban College of Boston, which is affiliated with Action for Boston Community Development, Inc.

The ceremony will take place at the Marriott Copley Place Hotel, October 28, 2015, from 5:30 to 8:00 pm.

State Senator Linda Dorcena Forry will deliver the keynote address.