

Harvard Law Today

4 Wilkins on a profession in rapid flux



Dean Elena Kagan '86 moderated the panel discussion between top judges from the U.S. and the U.K.

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Judging on both sides of the Atlantic

Comparing roles, American and British judges agree more than differ

By Michael Armini

IT'S NOT EVERY day that two Supreme Court justices speak at Harvard Law School. This fall, the school hosted five—assuming you take a global view.

At a September event that packed the Ames Courtroom and an overflow room in Langdell Hall, U.S. Supreme Court Justices Stephen Breyer '64 and Antonin Scalia '60 were joined by three of their British counterparts for a panel discussion titled "The Practice of Judging: Comparative Perspectives."

The U.K. judges included The Right Honourable The Lord Roger of Earlsferry, The Right Honourable The Lord Scott of Foscote and The Right Honourable The Lady Justice Arden LL.M. '70. All are senior British judges who decide appellate cases in the U.K.

Moderated by Dean Elena Kagan '86, a former clerk for Justice Thurgood Marshall, the discussion focused primarily on comparisons between the American and British judicial systems. Kagan began the event by

asking Scalia and Breyer if they agreed with the notion that American judges act primarily as "umpires," an analogy debated during the recent confirmation hearings of John G. Roberts Jr. '79, now chief justice of the United States.

While he didn't refute the concept, Scalia said that the Supreme Court is different from other courts because of its ability to decide which cases it will >>6

"We're not there to make sure the good guy won and the bad guy lost."

Antonin Scalia '60

'Promises to keep'

Obama leads focus on Katrina aftermath during Celebration of Black Alumni

By Dick Dahl

THE 2005 CELEBRATION of Black Alumni, held at HLS in mid-September, was the second chapter in a story that began five years earlier. Sharon E. Jones '82 remembers the excitement she and other participants felt in 2000 during the first Celebration of Black Alumni: a sense that they were making history. This time, said Jones, who co-chaired the 2005 celebration with Neil Brown '78 ('79), although the excitement was there, "there was more of a focus on 'Where do we go from here?'"

That focus was reflected in the event's theme: "Promises to Keep: Challenges and Opportunities in the 21st Century." The celebration drew more than 1,000 participants—many of the country's top black lawyers working in settings ranging from law firms to corporations to nongovernmental organizations and academia. Substantive

► **At a gathering of black alumni, a call to fight complacency**

discussions occurred in sessions on topics such as "Strategies to Survive and Thrive in Large Law Firms" and "Promises to Keep: Serving the Public Interest."

But a celebratory tone was also evident throughout, starting the day before the event began, with the dedication of the Charles Hamilton Houston Institute for Race and Justice, named after the black civil rights lawyer and HLS graduate who laid the legal groundwork for *Brown v. Board of Education*. During the weekend, black luminaries who graduated from HLS were recognized for their contributions. They included 93-year-old George Leighton '43 ('46), former U.S. district judge for the northern district of Illinois, who is still practicing law with the Chicago firm Neal & Leroy.

The star of the weekend—who sold out the Sept. 17 Harvard Law School Association Award Luncheon and attracted crowds of students and others outside the entrance to the Holmes Field tent where it was taking place, and in several overflow rooms—was U.S. Sen. Barack H. Obama '91. Obama, the first black president of the Law Review, received the HLSA Award for his commitment to public service, an honor traditionally >>7



After Hurricane Katrina, U.S. Sen. Barack Obama '91 challenged black alumni to ask, "Are we doing everything we can?"



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Celebration of black alumni

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bestowed decades after graduation.

Dean Elena Kagan '86 presented Obama with the award. She has known him since their days together at the University of Chicago Law School, where she was a professor and he was an adjunct professor. Introducing Obama at the alumni gathering, she referred to his now-famous speech at the Democratic National Convention in Boston in July 2004.

"Barack spoke, in that convention speech, of 'the audacity of hope,'" Kagan said. "Barack, Senator Obama, you give so many of us hope—hope in our political life, hope in our country and hope in the future."

In his own remarks, Obama focused in part on governmental failures revealed by Hurricane Katrina. He said that he was angered by the "achingly slow" response of the Federal Emergency Management

► Black lawyers agree: corporations must do more for the inner cities

Agency. But he told the audience that criticizing the Bush administration or the Republican Congress was an insufficient answer. "The truth is, we haven't been

entirely on the case either," he said. "We've been a little complacent. We haven't displayed the kind of cool, focused outrage that Charles Hamilton Houston displayed when the calamities of Jim Crow were occurring around him. In fact, our anger at Bush and the administration lets us off the hook. It allows us to say, 'Well, I didn't vote for him. I wrote John Kerry a check, so it's not my problem.' But of course it is our problem."

Hurricane Katrina—which had struck only two weeks earlier—and related issues of social inequities came up in discussions throughout the event. In a plenary session, "Lawyers as Leaders: Charting the Course of Corporate America," participants seemed to agree that the corporate world needs to devote greater

ECHOES...

...from the Celebration of Black Alumni

"WHEN I ENTERED this law school the day after Labor Day in 1940, there were five other colored faces in a class of 1,249 students. ... Since then, an affirmative action program was instituted in this law school.



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That was an innovation in the administration of American law schools. Who started it? Erwin Griswold, Louis A. Toepfer and the faculty of this great law school. And now see what has happened, what has blossomed into a celebration of black alumni,

a celebration of a life in the law that has been successful. And it is the proper thing to celebrate. And what we have to do by example and by other successes is to prove what I think is obvious: The increase of a diverse population at the law school, the opening of the law school to others with ability and opportunity, benefits everybody, including the society in which we live."

The Hon. George Leighton '43 ('46), U.S. district judge (ret.), at the CBA luncheon

"I DO NOT ASCRIBE to the White House ... any actual malice. I don't think they were there plotting and saying, You know, these were black people; let's not rescue them. But rather what was revealed was a passive indifference that is common in our culture, common in our society, a sense that, of course, once the evacuation order is

issued, you will hop in your SUV, and fill it up with \$100 worth of gasoline, and load up your trunk with some sparkling water, and take your credit card and check into the nearest hotel until the storm passes. And the notion that folks couldn't do that simply did not register in the minds of those in charge. And it's not surprising that it didn't register, because it hasn't registered for the past six, seven, eight, 20, 50, 75, 100 years. The incompetence was color-blind. But what was important to understand was the fact that the people we saw in front of the Superdome and in front of the convention center, they'd been abandoned *before* the hurricane. They had been abandoned to dilapidated housing, and inadequate schools, and the mayhem and violence and chaos that exist in inner cities all around the country."

U.S. Sen. Barack Obama '91, at the CBA luncheon

energy to rectifying social problems. "I don't think the purpose of the corporation is just to make money," said Adebayo O. Ogunesi '79, executive vice chairman and chief client officer of Credit Suisse First Boston. He

argued that focusing on short-term profit is not only morally and ethically wrong, but bad long-term business as well.

During another panel, "A Global Commitment: The Power and Influence of HLS Alumni," Deborah C. Wright '84, chairman, president and CEO of Carver Bank Corp. Inc., in Harlem, said she thought Hurricane Katrina revealed "how weak the private sector is in our central cities, the wealth gap, the talent gap," and suggested that black HLS alumni find ways to strengthen American inner cities financially. "The reality is that a huge base of our people are in the inner cities, and they need us to focus on every possible way that we can to get first-class resources and talent in there. If we don't do it, I'm not sure who will. So at the end of

the day, I think it's our responsibility."

In the same session, David Lammy LL.M. '97, Member of Parliament and minister for culture in the United Kingdom, said one of the things that Katrina revealed to the rest of the world was a "paradox" about black America. "I think that we have fooled ourselves into a false sense of security," he said. "When we see images of Oprah and Denzel Washington and Condoleezza Rice and Colin Powell, when you hear about a group of people coming together like this—the people just in this room—we forget about the nature of poverty in America and the world. The images from



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New Orleans have brought back to the entire world the fight that you had in the 1960s for civil rights. They have come back to remind us that there is more to do."

That reminder reverberated throughout the Celebration of Black Alumni. Obama concluded his speech by echoing words of Dr. Martin Luther King Jr.: "The arc of the moral universe is long, and it bends toward justice. But it doesn't bend on its own. It bends because each of us—Charles Hamilton Houston and Thurgood Marshall and John Lewis and all of you—puts your hand on the arc and you bend it in the direction of justice. That's our task. That's what we must do." *

New Houston institute launched at HLS

The Charles Hamilton Houston Institute for Race and Justice was officially launched at Harvard Law School on Thursday, Sept. 15, kicking off the Celebration of Black Alumni that followed over the next three days.

The new institute honors the legacy of Charles Hamilton Houston '22 S.J.D. '23, the attorney primarily responsible for mapping out the plaintiffs' litigation strategy in *Brown v. Board of Education*.

"It is a distinct honor to serve as the founding director of an institute that will further the vision of racial justice and equality that was so well articulated by Charles Hamilton Houston," said Professor Charles Ogletree Jr. '78.

The institute will sponsor interdisciplinary research on issues such as voting rights, the future of affirmative action and the role of race in the criminal justice system.

Several hundred participants attended panels and heard from a number of speakers, including members of the Houston family, surviving members of the legal team that fought successfully for the Supreme Court's landmark ruling in *Brown*, Supreme Court Associate Justice Stephen Breyer '64, Howard Law School Dean Kurt Schmoke '76, Harvard University President Lawrence Summers, Dean Elena Kagan '86, Assistant Professor Kenneth Mack '91 and Professor Cornel West of Princeton.