

Summer
2019

Harvard Law

bulletin



Presidential
**Power
Surges**

How have
U.S. presidents
found ways to
expand their powers?

HLS faculty weigh in.

CONTENTS



LEAH FASTEN

TOBY MERRILL, DIRECTOR OF THE PROJECT ON PREDATORY STUDENT LENDING. PAGE 34

Presidential Power Surges

18

How have U.S. presidents found ways to expand their powers to achieve their goals?

Common Knowledge

24

Zero-L, Harvard Law School's new online course, helps prime incoming students for success

Are Americans Getting Enough Fiber?

30

The U.S. is falling behind in fiber optic technology, but a few cities and towns are leading the way

Collecting on Dreams

34

An HLS project fights on behalf of thousands whose lives have been upended by predatory student lending

DANA SMITH



SUSAN CRAWFORD, AUTHOR OF "FIBER: THE COMING TECH REVOLUTION—AND WHY AMERICA MIGHT MISS IT." PAGE 30

2

FROM THE DEAN
Curricular innovation

3

LETTERS
From CLAO to criminal law

4

WRIT LARGE: FACULTY BOOKS
*The choosing people;
Books in brief*

7

INSIDE HLS
*Revisiting the
ban on
mitochondrial
replacement therapy;
JET-powered
learning;
Her Honor
Mandala;
Heard on campus*

44

CLASS NOTES
*Love at Langdell;
A home victory;
History maker;
Defending domains;
For India,
a new era in
LGBTQ rights*

53

IN MEMORIAM
Remembering alumni

54

LEADERSHIP
Jessica Tisch '08

56

GALLERY
*An HLS poet
on the moon*



LORIN GRANGER

“If you want a unique opportunity to engage in some serious introspection about what your values are, what your leadership style is, what you want your career to look like ... this is the class for you.” PAGE 10



ON THE FRONT COVER: *Our story looks at expansions of U.S. presidential power over history. The cover illustration features a rendering of the Great Seal of the United States, to which the modern Presidential Seal can be traced.*

Harvard Law Bulletin

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Curricular Innovation

BY
JOHN F.
MANNING
'85

Harvard Law School has always been at the forefront of curricular and pedagogical innovation. More than a century ago, HLS pioneered the case method and the Socratic law school classroom. In 1913, the Harvard Legal Aid Bureau became the first student organization providing legal services to those in need—an innovation that was to become the model for clinical education. And, in the early 2000s,

then-Dean Elena Kagan '86 and future-Dean Martha Minow led an effort that modernized our curriculum with innovative new legislation and regulation and international and comparative requirements.

In a rapidly changing legal profession and world, Harvard Law School—and any great law school—must always stand ready to examine and reexamine its curriculum and pedagogy to ensure that we are preparing the great lawyers and leaders the world needs. It is of course nonnegotiable that our classes teach our students to think like lawyers—to understand the deep logical structure of complex problems, to be able to take

those problems apart and put them back together, to differentiate the relevant from the extraneous, and to question the assumptions that others take for granted.



**Training lawyers
and leaders for the
21st century**

We must also continue to explore new things to teach and new ways of teaching. And that change must be fact-based. To that end, over the past two years, we have held focus groups with practitioners in law firms, public interest firms, and government agencies. We've polled our students and our graduates about their aspirations, about what they've found useful, and about what else they think law students today should be learning. We've used student focus groups to beta-test new material and used analytics to evaluate the success of the work we've done.

As I mentioned in my end-of-year message, we've recently introduced a series of new initiatives informed by these efforts. In this issue of the Harvard Law Bulletin we

report on two of these innovations.

Last summer, we began a new online pre-matriculation course called Zero-L. It grew out of the simple but powerful notion that all students should start law school with a common baseline of knowledge, so none of them have to feel as if everyone else “gets it” but they don't (a feeling I and many others experienced as 1Ls). As you will read in our feature, Zero-L gives incoming students a firm foundation in the key features of the U.S. legal system and the vocabulary of law school before they arrive on campus. It also gives them a sense of what to expect in the classroom, including the Socratic method. Many Harvard Law faculty have lent their talent and expertise to create the series of lively videos that make up the course.

This issue of the Bulletin also includes a story on our new 1L January Experiential Term, or JET. JET gives students nine courses to choose from. These intensive, hands-on offerings use case studies and simulations to give our 1Ls, early in their time at Harvard Law School, opportunities to engage in skills training, teamwork, and self-reflection about the law and about the lawyers they want to become. Both faculty and students have rated JET and its individual classes highly.

As we look to the next academic year, I want to tell you about another addition to the Harvard Law School curriculum. We are launching a 1L Constitutional Law class that addresses separation of powers, federalism, and the 14th Amendment. Together, this class and the 1L Legislation and Regulation course will give our students a 360-degree view of the U.S. system of government and U.S. public law that will prepare them to dive into upper-level public-law courses and clinics.

I hope you enjoy reading about these curricular initiatives as well as some of the latest faculty scholarship, and also our terrific alumni profiles, and the many other stories and updates in this issue. I look forward to bringing you more news of our efforts, and I wish you a productive and happy summer!

Letters

THANKS FOR THE MEMORIES

It was with great joy as well as nostalgia that I read the recent HLB article “A ’60s Experiment with a Ripple Effect.” I worked at CLAO, later named CASLS, from 1969 to 1972 while at Harvard Law School. I was also very fortunate to take Professor Gary Bellow’s inaugural clinical law course. Gary was the giant of clinical legal education and an amazing lawyer. Our legal services work not only was vitally important to the Cambridge and Somerville residents to whom we provided no- or low-cost representation; it was a great way to learn how to become a lawyer.

Indeed, despite missing many Evidence classes because I had to be in trial, I learned evidence on my feet in the courtroom (and managed to do quite well in the course).

My experience working at CASLS led to my first job after graduation as a staff attorney at Atlanta Legal Aid, a second job heading up a pro bono office of a large Baltimore law firm and a lifetime of supporting legal services. For the past number of years, I have taught seminars in alternative dispute resolution and environmental law at the Boston University School of Law and have had the pleasure of helping my students to learn the substance and practice of law through realistic case studies and oral and written presentations, just as I learned through representing real clients at CASLS under the supervision of lawyers and instructors. Recently, I attended the 40th anniversary celebration of the WilmerHale Legal Services Center of Harvard Law School, where I had the pleasure of seeing Jeanne Charn and many former colleagues and marveled at the magnificence of

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the present home for clinical legal services at HLS. Nothing at all like our former quarters! Thank you for this article.

KENNETH A. REICH '72
Boston

YANG'S RESEARCH IS LEADING THE WAY

Thank you for the articles on criminal law and justice in the Winter issue of the Bulletin, especially on Professor Crystal Yang's research on pretrial detention. I work in the community corrections field in Colorado, and one of the most basic overlooked concepts in pretrial detention is the presumption of innocence. Our preliminary research in the state has shown that in many county jails, anywhere from 50% to 60% of the population are pretrial, with the balance serving a sentence. Moreover, many of the individuals arrested and held in pretrial status lose their employment because of their inability to make bail, creating further problems for them and their families.

Structural and legal reforms are required in this area of the crimi-

nal justice process, and Professor Yang's evidence-based research is leading the way.

PATRICK STANFORD '73-'74
Alamosa, Colorado

KUDOS

Congratulations! Firstly, the layout and design in the last issue blew me away as a work of art. Secondly, to anyone who doubts we've made progress as a society in the last 50 years, regard the content. In my class of '62, there were three African Americans (only one who graduated) and 12 women out of more than 500. And compare the courses offered with those of today—how fortunate are today's students. If I were a student today, I might even have become a real lawyer!

Keep up the magnificent work!

JAMES BECKET '62
Ojai, California

Becket is a writer and filmmaker who was active in human rights law and worked for UNHCR and Amnesty International before migrating to Hollywood.

The Choosing People

With “The Jewish American Paradox,” Mnookin seeks to enrich Jewish life in the U.S.



MANY YEARS AGO, HLS PROFESSOR ROBERT MNOOKIN '68 and his wife, Dale, attended a dinner party with the famed psychologist Erik Erikson, whose work focused on identity. Erikson asked Dale what kind of name “Mnookin” was. When she told him it was from a Hebrew word, he asked whether she was Jewish. She replied that she was, and Erikson said, “You don’t look Jewish.”

Robert and Dale Mnookin never had any doubt that they *are* Jewish. But the question of who should be considered Jewish can be surprisingly tangled and

The question of who should be considered Jewish is at the heart of Professor Robert Mnookin’s new book.

fraught. That question is at the heart of Robert’s new book, “The Jewish American Paradox: Embracing Choice in a Changing World.” For him, Jewish identity doesn’t mean having a Jewish name or looking Jewish or having a Jewish mother or even attending a synagogue. He argues for a more simple and open standard: Someone who is willing to publicly identify as a member of the Jewish people *is* a Jew.

The book stems from Mnookin’s own personal journey of Jewish identity. Born in 1942 and raised in Kansas City, he was not—nor is he now—particularly

religious, but he was aware of having a connection to the few Jewish people in his community. At the same time, he never drew attention to his religion, eager to fit in and assimilate. His older daughter, Jennifer, took a different stance when she demanded a bat mitzvah, much to the surprise of her parents, who hadn't bothered to join a temple. And much to his own surprise, when he became a grandparent, Mnookin found himself fervently wishing that his grandchildren would be raised Jewish.

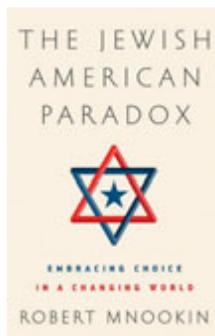
He also realized that his once "passive form of being Jewish," as he describes it in his book, may not be enough to ensure that his wish would come true. Indeed, part of the paradox of the book's title relates to the fact that anti-Semitism and discrimination against Jews have declined in America during his lifetime, but that positive development may also diminish the cohesion that has bound the Jewish community in the face of oppression.

"In the 2,000 years since the diaspora, there's never been a country or a time when Jews have been so well integrated successfully as in America," Mnookin said in an interview. And yet at the same time, he added, "there's great anxiety about whether the American Jewish community is on the decline and will reasonably soon disappear."

He proposes the inclusive standard of self-identification—what he calls a "big tent" standard—that he says will enrich the American Jewish community. While Jewish subgroups should be free to establish their own standards, he says, basing Jewish identity solely on religious practice would exclude the majority of American Jews who are not religiously observant.

Notably, the big tent includes children and spouses in families of intermarriage, a major topic of his book. Mnookin critiques the tradition of determining Judaism based on whether one's mother is Jewish, calling it both under-inclusive (rejecting those devoted to Jewish life) and over-inclusive (insisting that someone is Jewish regardless of their own choice). He also notes that in recent years the intermarriage rate among U.S. Jews has climbed to more than 50%, whereas a century ago intermarriage rarely occurred. Rather than fight this trend, which has alarmed many in the Jewish community, he calls for acceptance of families who seek to engage in Jewish life.

"I think the attempt today in America to try to discourage intermarriage is a fool's errand," he said. "The issue instead should be focusing on the next generation and embracing these families, to make it easier for these couples to participate in the com-



munity and raise the children to think of themselves as Jewish when one parent is not going to convert."

He offers advice on how to raise Jewish children, including tips on negotiating with non-Jewish or non-religious partners (Mnookin's academic research and writing have been focused on negotiation). To facilitate a Jewish connection, parents can incorporate Jewish rituals, education and social groups into their children's lives, he writes. He also advocates cultivating a connection to Israel, although he makes clear in the book that does not mean uncritically accepting its government's policies.

Grandparents too can play a role in helping to raise Jewish children, as Mnookin well knows. In his Harvard Law office, he displays a couple of photos of his grandchildren. They are several years older now, and Mnookin notes that the youngest of them is now 13. The boy's mother is Mnookin's younger daughter, Allison, and his father is a "lapsed Episcopalian" who is not particularly religious. The youngest grandchild's name, one that decidedly does not sound Jewish, is Cornelius Olcott VI. He had his bar mitzvah last year.

—LEWIS I. RICE



IN BRIEF



“How Change Happens,” by Professor Cass R. Sunstein '78 (MIT)

A single person cannot change a social norm; it requires a movement from people who disapprove of the norm, writes Sunstein. He explores how those movements, ranging from the fight for LGBTQ rights to white nationalism, take shape and effect change. Laws, such as those against sexual harassment, can change norms, as can “nudges,” which allow choice but influence people to make changes, such as adding warnings to cigarette packages to discourage smoking. People generally don’t speak out against norms, or they may even falsify what they believe in order to show adherence to them, he writes. But when people live with norms they don’t like, conditions are ripe for change—for good or for bad.

“How Finance Works: The HBR Guide to Thinking Smart About the Numbers,” by Professor Mihir A. Desai (Harvard Business Review Press)

Desai, who is on the faculty at Harvard Law School and Harvard Business School, has taught finance for years to students with a variety of backgrounds. Now he applies his methods in a book aiming to provide readers “with the most central intuitions of finance so that you will never find finance intimidating again.” He begins by delving into the expanse of figures that can make finance intimidating, explaining the ratios and numbers that make up a company’s balance sheet. Other chapters cover entities that make up the financial system, such as hedge funds and investment banks, and the art and science of company valuation. He also shares the perspectives of CFOs and investors to show how the lessons are put into practice.

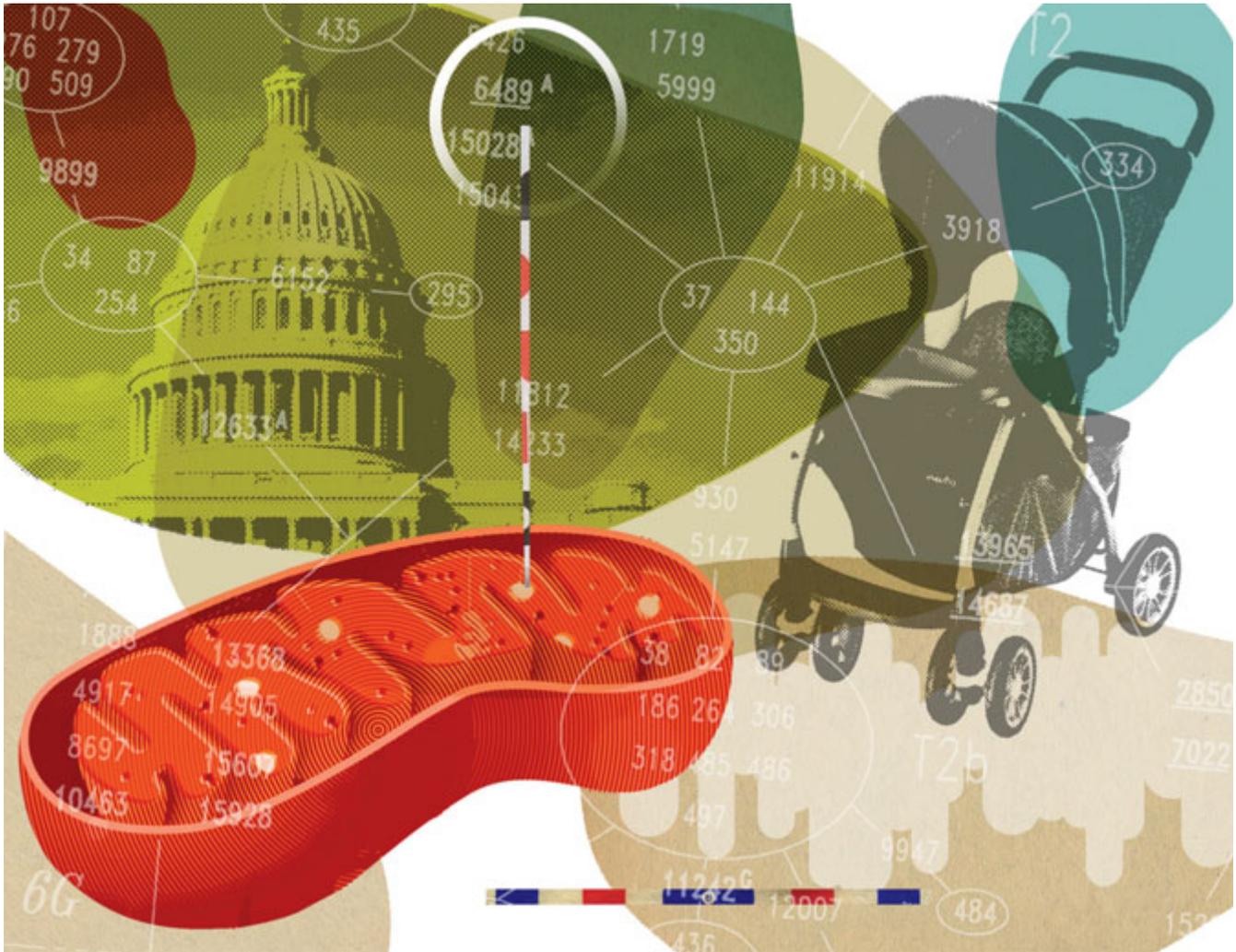
“The Knowledge Economy,” by Professor Roberto Mangabeira Unger LL.M. '70 S.J.D. '76 (Verso)

The knowledge economy, which Unger defines as the “accumulation of capital, technology, technology-relevant capabilities, and science in the conduct of productive activity,” has the potential to dramatically increase growth and reduce inequality, he writes. Yet it has been confined to few workers under the control of elites, which he contends has been a cause of economic stagnation since the 1970s. To facilitate a more inclusive knowledge economy, he proposes a movement focused on changes in education, culture, and politics, which he writes will fulfill “the promise of a better chance to live larger lives and to become bigger together.”

“The Nature of Constitutional Rights: The Invention and Logic of Strict Judicial Scrutiny,” by Professor Richard H. Fallon Jr. (Cambridge)

According to Fallon, we can’t understand what constitutional rights are today without understanding strict judicial scrutiny, which was developed in the 1960s. To pass this judicial test, legislation would be constitutional only if it were “necessary” or “narrowly tailored” to promote a “compelling government interest.” In his book, he examines the emergence of strict scrutiny and how it has applied to cases, including the flag-burning case *Texas v. Johnson*. Fallon supports aggressive judicial review, he writes, because “government ought not be able to act in ways that either the legislature or a reviewing court believes incompatible with a commitment to ensuring and enforcing a robust scheme of rights against the government.”





FACULTY VIEWPOINTS

A Question of Prevention

I. Glenn Cohen on a procedure to avoid passing on genetic mutations, and the push to legalize it

CALLS ARE GROWING FOR THE U.S. to lift a ban on mitochondrial replacement therapy, or MRT, a procedure developed to enable women who are at risk of passing on rare but devastating diseases to have healthy, biologically related children. The procedure involves transferring the mitochondria of an unaffected egg of a donor into the nucleus of an affected egg (mi-

Mitochondrial replacement therapy is not gene editing, says Glenn Cohen. It is not about producing “designer babies.”

tochondrial diseases are passed down on the mother’s side). In 2015, members of Congress, concerned about gene editing, inserted a policy rider into an appropriations bill that has been interpreted to effectively ban the procedure, and even prohibits research on it. The treatment’s supporters counter that MRT is not gene editing, and that the U.S. should look to the

U.K., where the procedure moved into clinical trials two years ago. In April, a group of 35 scientists, lawyers, patient advocates, and bioethicists gathered at Harvard Law School’s Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics for the first major meeting held to discuss changing the policy on MRT in the U.S. Recently, *The New York Times*

argued to end the ban, and supported these efforts by the Petrie-Flom Center to bring stakeholders together. Harvard Law Professor I. Glenn Cohen '03, faculty director of the Petrie-Flom Center, led the event. Here, Cohen offers his perspective on the treatment's safety, and on ethical and legal considerations.

What was the purpose of the April meeting, and what was its outcome?

It was a dialogue on the current state of MRT research, ethical issues and regulation. We wanted to determine what the current law means, whether it should be changed, and if so, how one might do it. The Petrie-Flom Center and Harvard Law School don't lobby, but it is possible we will come up with a publication or another way to offer thoughts to Congress. We haven't yet decided what the next steps should be.

What are the arguments in favor of allowing MRT in the U.S.?

It's estimated that there are roughly 1,000 U.S. children born every year with mutant mitochondrial DNA disease. The children suffer crippling disabilities their entire lives and have shortened life spans. You've also got people who want to reproduce and often don't know they have a problem until they have a single child who shows evidence of the disease. Their options have essentially been to take a chance and possibly have another child with one of these very crippling disabilities or use a donor egg and donor sperm and have a child that is not genetically related to one of the parents.

Is the procedure safe?

The U.K. has studied this for 13 years. There's a huge amount of animal preclinical data, and the like, all suggesting safety, but the truth of the matter is that with any new technology, you really never know

110% what the effects will be five generations from now.

What are the ethical considerations?

There is this question about what is going to be passed on to future generations. In the U.S., the National Academies of Sciences, Engineering, and Medicine suggests that MRT be used first for serious diseases, and perhaps limited to male embryos only, to avoid transmitting forward the altered DNA. We're talking about a small number of people, so I'm not as concerned as I would be if we were talking about millions of people receiving MRT treatment.

Another is whether women who donate mitochondrial DNA ought to be considered mothers in any legal or social sense. In the U.K., mitochondrial DNA donors are not considered mothers in a legal sense. They're exempt from a requirement that they put their names in a donor registry available to the child at age 18.

Then there are lesbians who want to be parents, and cases where the science will potentially permit both women to be genetic mothers of the child through MRT (one giving nuclear, the other mitochondrial DNA). Should we allow the use of this technology for that? I don't know what the right answer is. I'm still struggling with it. It's pretty clear to me that we won't get to that question until the technology is allowed for mitochondrial diseases. That's the first step.

Critics of this procedure ask why women undergo this experimental treatment when established options such as adoption and in vitro fertilization exist?

We don't say to the average person, You really should adopt. You were wrong to have a genetic child. So, it seems somewhat unfair and perhaps discriminatory to intercede with this concern about genetic

essentialism only in the cases of people who have mitochondrial disease. And IVF plus pre-implantation genetic diagnosis is not a solution for MRT the way it is for some other genetic diseases.

What do you think are some of the biggest misconceptions U.S. policy-makers have about MRT?

Mitochondria replacement is quite different from gene editing. What comes to mind is that we're making "designer babies" or we're going to be making them super smart and super tall and beautiful. This is really taking one part of the entire DNA that is diseased and replacing it with another woman's mitochondrial DNA, in a way that does not have these effects on traits.

Another misconception is that this is part of the abortion debate. The goal is not the ending of life. The goal is to enable parents to have children without serious, debilitating, and life-threatening diseases, and in my mind, that is entirely consistent with the pro-life ideology in America.

Why do you believe the U.S. has not approved MRT?

A congressional appropriations bill passed several years ago included a rider aimed at prohibiting gene editing. But the language was quite broad and probably unintentionally has been read to also prevent MRT. Despite some ambiguity in the language, the FDA has read this language as preventing it from even considering an application to use MRT in the U.S.

What has been the ban's impact?

There are people in the U.S. who could benefit from this technology who don't get the benefit. We're basically telling our people: Do it abroad, do it in silence, do it in the shadows. And to me, that puts those people, but also the whole enterprise, into a dubious

I. Glenn Cohen is one of the leading experts on the intersection of bioethics and the law.



posture. Those people should not be treated like outlaws. It would be much better if we could establish a process to do this in the light of day here in the U.S. with the best experts, with data being collected and with the highest ethical protections.

How do you think this will play out in Congress?

I'm hopeful. This is the kind of issue where there might be an opportunity at the current moment to change things. This is not gene editing. This is not abortion. This is not "designer babies." I'm actu-

ally hopeful that people could at least live with this, especially when they're faced with the reality of parents who want to have children who are genetically related to themselves but want to avoid their children suffering from serious diseases. MRT can enable that. —EDWARD MASON

IN THE CLASSROOM

JET–Powered Learning

New 1L January Experiential Term courses focus on skills–building, collaboration and self–reflection



IMAGINE THAT YOU’VE COME TO law school knowing that you want to be a great public interest lawyer or an inventive entrepreneur or a savvy trial lawyer. Or you want to focus on what it takes to be an effective public- or private-sector leader. Or perhaps you don’t yet know exactly what you want to do, but you’re curious about the options. Through a sweeping array of new, hands-on courses, Harvard Law School’s January Experiential Term, or JET, gives 1L students a chance, early in their time on campus, to learn by doing, to work in teams, and to explore—or discover—what inspires their passion in the law.

Advocacy: The Courtroom and Beyond (above) and the Negotiation Workshop (right) were two of the eight new J–term classes for 1Ls offered this year.

Armani J. Madison ’21 arrived at HLS with the goal of working for the public interest, possibly with a civil rights law firm that represents lower-income clients. For his January term course, he chose *Lawyering for Justice in the United States*, one of eight courses created for the new curriculum, all of which are designed to give students time to develop practical lawyering skills, to reflect on their studies and careers, and to connect with each other.

Lawyering for Justice explored how lawyers can contribute to broader movements for social change through impact litigation, legislative and policy advocacy,

transactional work, and community lawyering. Team-taught by four clinical professors—Esme Caramello ’99, faculty director of the Harvard Legal Aid Bureau; Tyler Giannini, co-director of the International Human Rights Clinic; Michael Gregory ’04, clinical professor, Education Law Clinic; and Dehlia Umunna, faculty deputy director of the Criminal Justice Institute—the course focused on a different social justice issue each day. Covering areas such as criminal justice, education, human rights, immigration, and predatory lending, it enabled students to practice core competencies required for effective, systemic

advocacy, including diagnosing problems, identifying stakeholders, and designing remedies. Working in teams, students also engaged in exercises that included participating in a mock bail argument on behalf of a client they had just met and counseling clients on whether to take a settlement. The course culminated in a daylong “hackathon” in which student teams developed a plan of action to address a specific social justice lawyering challenge.

Madison says he valued the opportunity to see what actual lawyering is like; the mock bail hearings, for example, had a significant impact on his understanding of the criminal justice system.

The new experiential learning curriculum offered during January term allows first-year students to explore different areas of law and experience what it’s like to practice in a range of settings. It aims to help students bridge the gap between academic courses and practical lawyering, while making connections across the first-year class.

Viroopa Volla J.D./M.B.A. ’21, who worked for McKinsey & Co. and then Walmart before matriculating at HLS, chose Financial Analysis and Business Valuation as her J-term course. Working in three-person teams, students learned the basics of accounting with a focus on valuation of companies. As a final project, they were given four hours to value a real company and then advocate for their position. The course “made me more excited about” pursuing a career at the intersection of business and law, Volla says.

John Coates, HLS professor and vice dean for finance and strategic initiatives at the school, created the course because he believes that all law students need basic literacy in accounting and finan-

A key goal for John Coates was to make his class hands-on, with students “actually doing work with numbers and financial statements.”

cial skills; it’s something that employers have urged law schools to put more emphasis on, he notes. At least two-thirds of the class had had no significant exposure to accounting before, yet by the end of the first week they were able to “throw around phrases like capital expenditure and expensing, and were using the language real-time in a very energetic way,” Coates says. A key goal, he adds, “was to make it experiential, hands-on—not simply me lecturing or even them discussing, but actually doing work with numbers and financial statements.”

Emma Hobbs ’21, who selected the JET Introduction to Trial Advocacy, says she did not want the class to end: “It was so empowering.” Under the leadership of Ronald Sullivan ’94, clinical

professor of law and director of the Criminal Justice Institute, it offered 1Ls a crash course in effective advocacy, including how to interview witnesses and conduct cross-examinations. Hobbs and her classmates learned under the tutelage of judges, prosecutors, and defense attorneys. She also loved the opportunity to learn from other students. “I would see a technique that one of my peers was implementing and jot it down in my notebook so I could go home and practice it.”

In *Advocacy: The Courtroom and Beyond*, students explored the many settings in which advocacy can be a tool, whether in the courtroom, before a legislature, in impact litigation, or in a transactional setting. Designed and taught by Ara B. Gershengorn, a lawyer with





the Office of the General Counsel at Harvard University, and Erin Walczewski '10, pro bono counsel at Cooley, the course also taught students how to review complaints, develop advocacy plans, and write speeches and op-eds, among other things.

Zekariah McNeal '21, who worked as an electrical engineer before law school, says he chose the Negotiation Workshop because it would provide him with useful skills no matter what he ends up doing. Each day, students in the workshop, taught by Visiting Professor Michael Moffitt '94, were placed in a series of simulated negotiations and videotaped so they could receive individualized feedback. "These negotiation skills aren't just for the boardroom and for sitting across from a business partner; they're also for everyday

life," McNeal says, adding that the course spurred his interest in a career that involves resolving disputes through collaborative solutions.

Like McNeal, and the majority of today's students, Parisa Sadeghi '21 arrived at HLS with several years of post-college work experience. Sadeghi, who taught English in Paris for a year before becoming an investment banker at Goldman Sachs in Manhattan, describes herself as having "a lot of interests and passions." When it came to reflecting on how to translate her diverse interests into a legal career, the new curriculum turned out to be a game-changer.

In *Pathways to Leadership: Workshop for the Public/Non-Profit Sector*, Sadeghi and her classmates learned leadership and team-building skills while be-

Two classes exploring pathways to leadership: above left, in the private sector; above right, in the public sector

ing exposed to a variety of career choices. They participated in a simulated negotiation in which they took on the role of legal counsel on each side, and also a software simulation of climbing Mount Everest. They also met with more than a dozen alumni with careers in fields that varied from federal prosecution to politics.

"If you want a unique opportunity to engage in some serious introspection about what your values are, what your leadership style is, what you want your career to look like ... this is the class for you," says Sadeghi. The class, which also included a rigorous examination of leadership theory, was developed and taught by Clinical Professor Susan Crawford.

For those interested in applying leadership skills in a slightly different venue, *Pathways to Leader-*

ship: Leading Change in the Legal Profession was created for JET by Scott Westfahl '88, professor of practice and faculty director of the HLS Executive Education program. The course emphasized team-building and the psychology of motivation and influence, as well as design theory. As a final project, each team presented an idea to change legal education or practice. Speakers in Westfahl's class included Daniel Yi, senior counsel for special projects and innovation, Department of Justice, and Ally Coll Steele '16, president and co-founder of the Purple Campaign, whose mission is to end sexual harassment in the workplace. "I wanted students to understand that you don't have to be 20 years into your career to start trying to create change if you see a need," says Westfahl.

Professor Todd Rakoff '75 created a JET class called What Kind of Lawyer Do You Want to Be?, which directly poses the question all the JET classes aim to help students answer. Co-taught with Jamie Wacks '98, a lecturer on law and former federal prosecutor, the course presented students with simulated problems in different practice settings, had them undertake fundamental skills training such as interviewing or advising a client, and gave them access to a range of practitioners.

"The course was fun and instructive," says Ioana Davies '21, "which is not easy to come by in life." Davies loved the role-playing, "dealing with problems real people would have"; the chance to ask questions of practitioners; and the opportunities for reflection. The class confirmed for her what practice settings she is more drawn to and the types of pro bono work she might like to do. She also feels even more convinced that at some point, she would like to teach—and just such an experiential course. —ELAINE McARDLE

The Lawyering for Justice teaching team during the class hackathon

JET BACK STORY

The JET courses are part of a series of initiatives that stem from an effort to rigorously assess the HLS curriculum—with an eye toward better preparing students for legal practice in the 21st century. One of the first steps John F. Manning '85 took after beginning his deanship in July 2017 was to constitute a curricular innovations committee. The committee's work during its first year included outreach to students, alumni, employers, and other members of the practicing bar through surveys, focus groups, and multiple individual conversations. The aim was to learn what skills and expertise today's employers are looking for, what students value and hope for in the curriculum, and how courses influenced career paths and professional success.

This input helped inform a number of curricular innovations, including the January Experiential Term. Working under an aggressive timeline, the curriculum committee moved quickly to identify professors interested in developing JET courses, helped facilitate their course plans, and worked out the logistical hurdles of launching eight courses in just under six months. In addition to the current courses, The Craft of Lawyering in a Technology World, led by WilmerHale's Bill Lee, Felicia Ellsworth and Sarah Frazier, will be added to the roster in January.

"Harvard Law School has always been in the forefront of transforming legal education, and it is critical that we never stop innovating," says Manning. "We have outstanding faculty who think hard about what it takes to train and inspire great 21st-century lawyers and leaders. The expansion of our winter term offerings is designed to achieve that end. The new courses also provide students with engaging ways to see and experience law in action, and to reflect on their potential as leaders in the profession and beyond."



STUDENT SNAPSHOT

Her Honor Mandala

A young judicial officer looks to tradition and to the future



IN MARCH 2015, A MAGISTRATE IN Malawi made headlines after ordering two men charged in connection with violence and vandalism at a soccer match to report to a police station any time a match was taking place at the stadium, and remain there until it was over. Local newspapers and radio stations, intrigued by this unusual approach to setting bail, also noted that the magistrate was the youngest in Malawi's history.

"No one goes the extra mile to make sure that the accused person isn't reoffending," observes Chikondi Mandala LL.M. '19, who at the time of her ruling on the soccer incident was 23. "As a way of preventing that, I think we can be a lot more creative, not only with our sentences, but also with our bail conditions."

As for her age, Mandala looks back with a smile. "People would come to court and say: 'This *girl*? This *girl* is hearing my case?' At first, I was offended, but eventually, they appreciate that you are just a person doing your job."

When she was in high school, Mandala was more interested in business and entrepreneurship. "But my father said I should study law, and then I could open my own law firm," she says with a laugh. Then, during her last year at the University of Malawi, armed robbers broke into her family home in the middle of the night. Shortly thereafter, she narrowed her career focus to prosecution or the judiciary.

After earning her law degree in 2013, Mandala completed a seven-month internship with the chief resident magistrate in Blantyre, Malawi's second largest city and a commercial and financial center. She observed court proceedings and drafted rulings and judgments, and "the judiciary won my heart," she says.

Mandala began her career as a senior resident magistrate at the Blantyre Magistrate's Court. Her work bridged Malawi's two legal regimes of customary and statutory law. Customary law often governs matters relating to land, divorce or inheritance; it is unwritten, and its tenets can vary from village to village, or among lineage groups. In a dispute about encroachment or trespassing, for example, the village leader meets with the parties

in a formal hearing *pa bwalo*—the phrase means in "an open area"—and makes a ruling. If the dispute is continued in the magistrate's court, this earlier judgment from a traditional authority is taken into consideration. "We look at it as primary justice, a step

in a conciliatory process," she says. In 2016, Mandala was appointed to the Blantyre High Court, which serves as both an appeals court and a court of original jurisdiction. As an assistant registrar, she served as a judge in chambers, presiding over interlocutory matters such as assessing damages. She also handled administrative matters, including scheduling, staffing and finances, enabling her to see the inner workings of the court. Almost immediately, she became heavily involved in managing the logistics for a major resentencing project, one arising from a high court ruling that the country's mandatory death sentences for murder and treason were unconstitutional. In the end, out of approximately 200 prisoners on death row, only one death sentence was confirmed; for many of the others, who had already spent years in prison, new sentences resulted in immediate release.

At Harvard Law School this past

year, Mandala took courses ranging from trade and development to feminist legal theory. She was especially excited about writing her required LL.M. paper, in which she addressed customary landholding in Malawi, a largely rural country with an economy strongly based on agriculture.

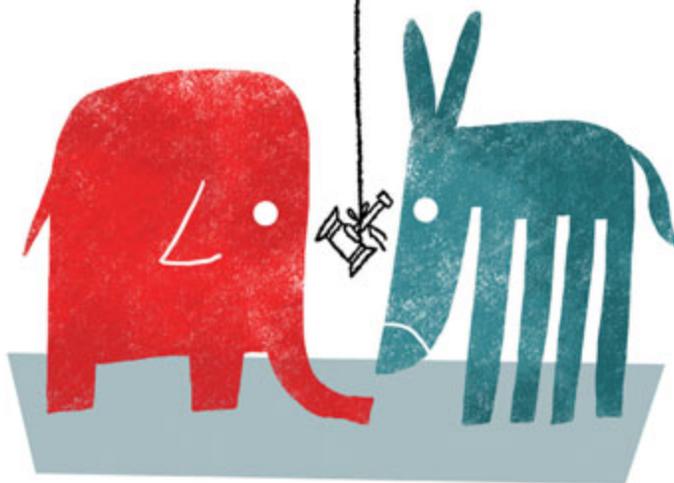
"In Africa, predominantly, there are patrilineal systems of customary landholding, but in Malawi, it's the other way—two-thirds of the land is passed down from mother to daughter," Mandala notes. "I find that interesting, because it's rare."

Her paper focused on how this system is changing, often because of development or from political motivations. "If I have a brother, and we're living on our mother's land, he has to negotiate with me to even have somewhere to farm, or to build a house; he doesn't have individual rights to the land. But when [developers] come in, they assume that the decision-maker will be my brother," she says. "Things like this impact customary structures of land inheritance, and place power where it's not supposed to be, to the detriment of women."

Through her LL.M. studies, Mandala says she learned so much: "context, history, background, and even being able to think critically about the law itself, why it exists, and how we can make it better." Another takeaway from her year at HLS is "that you are cared for by the institution, in terms of the resources and even the people that are available for you." Mandala, who plans to return to Malawi and continue her work in the judiciary, says, "I think I'd like to emulate that as much as I can, to make the judiciary an institution that is actually there for people and not just a big watchdog that hands out sentences." —AUDREY KUNYCKY

"We can be a lot more creative, not only with our sentences, but also with our bail conditions."

HEARD ON CAMPUS News and views from speakers at HLS



“For decades, the Court has always managed to maintain the public’s respect, in large part because the public has perceived it as less partisan than other institutions. If we, as an institution, don’t find the way to find that middle, we stand a chance of going the way that our other branches of government have gone, and losing the respect that is at the core of our institution.”

—**SONIA SOTOMAYOR**, *U.S. Supreme Court justice, speaking to students at Harvard Law School before she judged the final round of the Ames Moot Court Competition, Nov. 13.*

“Finance has been symbiotic with technology forever. And we dematerialized money a long time ago, before many of you were probably born. I think that there are plenty of scams to go around. And if you go into this space, just know, it’s a swampy area. ... We don’t have any of the crypto exchanges regulated yet. I’ve contended to Congress, we’ve got to at least bring the crypto exchanges inside the regulatory perimeter. Get [them] into the SEC or CFTC. But it’s not there yet.”

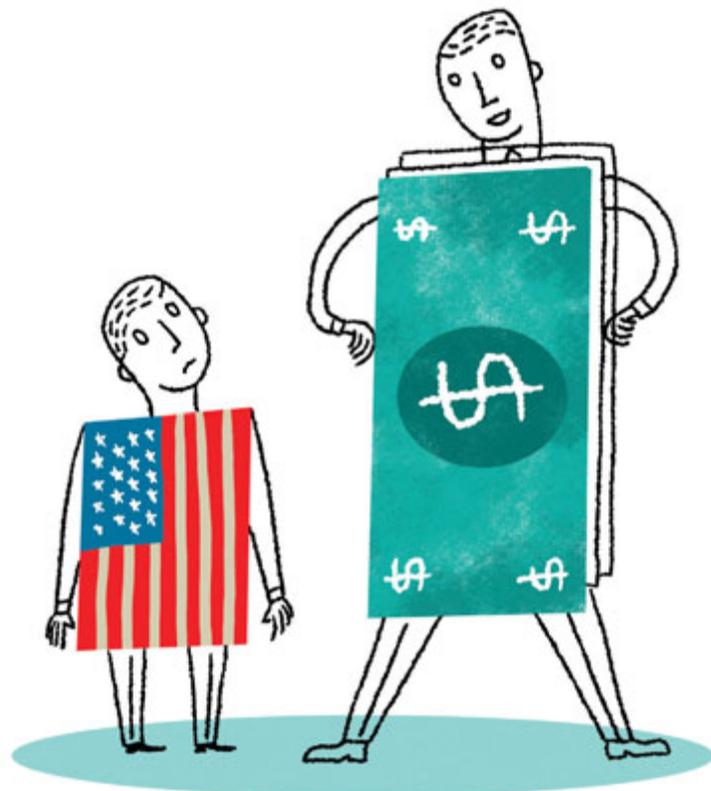
—**GARY GENSLER**, *former CFTC chairman, “The Future of Blockchain Regulation” keynote address, the 2019 HLS Blockchain, Fintech & the Law Conference, April 16.*

“It was my first experience of seeing what it meant to stand with someone as they are enduring injustice. That’s the role of the social justice lawyer: to create community and stop that oncoming train.”

—**BLAKE STRODE ’15**, *civil rights lawyer, speaking at the 40th anniversary celebration of the HLS Legal Services Center, April 5. Strode, who was recalling his experience as a student lawyer at the LSC, was presented with the Bellow-Charn Championship of Justice Emerging Leader Award at the celebration.*

“It used to be as a society and a country that getting elected president or winning the Nobel Prize was one of the greatest achievements that you could do. But now it’s going to Silicon Valley and starting a startup and ... being a billionaire before you turn 30.”

—**JOHN CARREYROU**, *the reporter who broke the story about the problems of the blood-testing company Theranos, speaking at an HLS panel, Oct. 1, where he framed the rise and fall of the Silicon Valley firm as a cautionary tale.*





“It cannot be denied that there are serious strains currently in the post-World War II order, or that a surfeit of crises is near at hand. ... [But] I am fully convinced that the multilateral trading system will endure, that it will be improved and will in fact thrive.”

—ALAN WOLFF, *World Trade Organization deputy director-general*, “Testing the Resilience of the Multilateral Trading System,” March 12.

“We live in a country that has made it difficult to be middle class, excruciating to be poor, and downright impossible to be ‘poor and’—poor and black, poor and female, poor and gay, poor and sick.”

—JOE KENNEDY III ’09, *U.S. representative*, “Building a Moral Capitalism,” Feb. 4.

“You know we make a lot of decisions around content enforcement and what stays up and what comes down. Having gone through this process over the last few years of working on this system, one of the themes that I feel really strongly about is that we shouldn’t be making so many of these decisions ourselves.”

—MARK ZUCKERBERG, *Facebook co-founder*, on the company’s proposal for an external review board that could weigh in on content questions and appeals and provide binding decisions. Zuckerberg participated in a conversation with Professor Jonathan Zittrain ’95 in front of Harvard students as part of Harvard’s Techtopia initiative, Feb. 11.

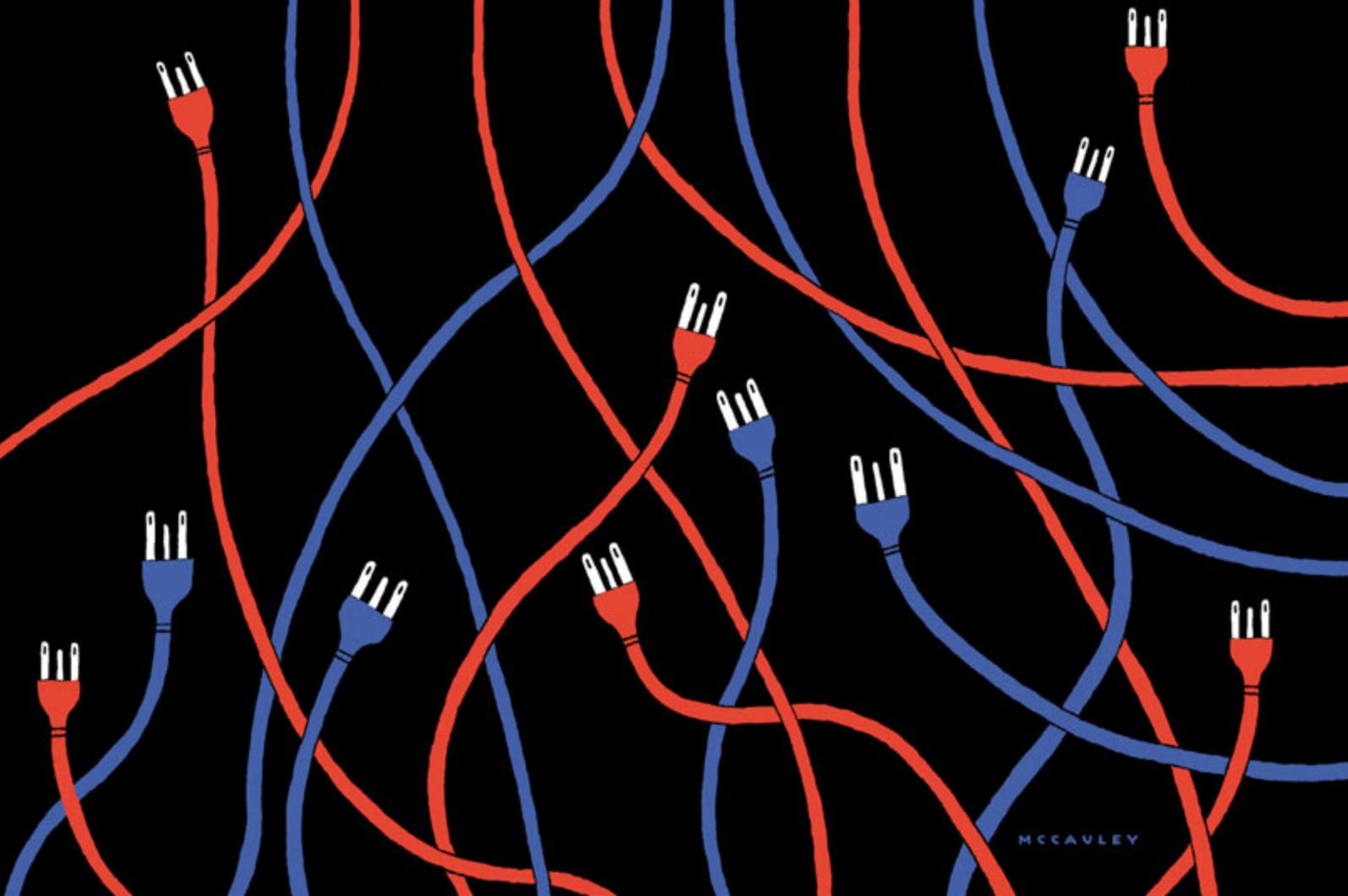
“When my nomination was announced in January 2017, my then-14-year-old daughter had a very important question for me. She said, ‘Dad, will you get your picture in the newspaper?’ And I told her no! I told her, deputy attorney general is a low-profile job. Nobody knows the deputy attorney general!”

—ROD ROSENSTEIN ’89, *then-U.S. deputy attorney general*, from his keynote, “Defending the Rule of Law: The Only Winning Move is Not to Play,” *HLS Spring Reunions*, April 6.

“A Harvard Law degree gives you the privilege to take risks that others cannot, to recover from mistakes that others cannot. Resist the impulse to play it safe. Think consciously about what you are doing and why you are doing it. If you just go with the flow and let others define what happens to you, then one day, you will wake up and realize that the life you are living is not your own. This does not require you to abandon the prestigious institutions that many of you are heading to. I built a wonderful career by climbing the ranks at my old law firm, Paul, Weiss. But becoming a great lawyer requires that you be courageous, press boundaries wherever they exist, and insist that things can always change for the better, especially now.”

—ROBERTA KAPLAN, *founding partner at Kaplan Hecker & Fink*, *HLS Class Day Speech*, May 29.





MCCAULEY

BY ERIN PETERSON

Illustrations by Adam McCauley

Presidential Power Surges

HOW HAVE U.S.
PRESIDENTS FOUND
WAYS TO EXPAND
THEIR POWERS
TO ACHIEVE
THEIR GOALS?
HLS FACULTY
WEIGH IN,
LOOKING AT
OUR NATION'S
PAST AND THE
WAY PRESIDENTS
HAVE LEARNED
FROM HISTORY
TO CONSOLIDATE
POWER AND
PURSUE THEIR
AGENDAS.

P articular moments in history and strategic breaks with unwritten rules have helped many presidents expand their powers incrementally, leading some to wonder how wide-ranging presidential powers can be.

When Donald Trump was campaigning for president, he all but promised to be a rule-breaking, norm-busting leader. During the Republican National Convention, he announced, “I alone can fix it.” More than two years into his presidency, many remain laser-focused on the ways he has sought to expand presidential powers relative to the coordinate branches and historical baseline.

Though his approach is decidedly unconventional, Trump is far from alone among presidents in his desire and efforts to exercise greater control over events, says Professor Noah Feldman. “Most presidents try to [expand their powers] incrementally, and Trump has tried to do it non-incrementally.”

At the same time, an array of formal and informal checks, developed over time, have curbed some presidential efforts.

Feldman and a range of other scholars on the Harvard Law School faculty, some of whom have served in recent presidential administrations, suggest that the shifting strength of presidential power over time is a response to the times themselves, the person in office, and public perceptions. The three most recent presidents have cannily learned from their predecessors—and have used lessons from the past as blueprints to expand their capacities.

‘THEY JUST COULDN’T HAVE CONTEMPLATED ANY OF THIS’

LONG BEFORE PRESIDENTS WERE USING various levers to maximize their powers,

the framers of the Constitution were creating the structures that would allow for—and limit—the options that were available to them.

The framers were particularly focused on constraining presidents, says Professor Mark Tushnet, whose research focuses on legal history as well as constitutional law and theory. “The starting point was that we’d gone through a revolution against monarchical power,” he says. “Nobody wanted the chief executive to have the kinds of power the British monarch had.”

In addition to separating the government’s legislative, executive and judicial branches, the framers imposed a range of other limitations. For example, presidents had to get re-elected, they had relatively short terms, and they could be impeached.

But what the framers could not have foreseen was the dramatic way that the world—and the United States’ role in it—would be transformed in the centuries to come. Those changes almost necessarily have led to presidents with more influence and control than the framers could have imagined.

Professor Michael Klarman notes that America had an isolationist approach early on: George Washington laid it out explicitly in his farewell address. But by the end of World War II, the United States was the world’s greatest power. After the Cold War, it was the only superpower left. “It’s a vastly different role for the United States to play,” he says. “As a country takes on a greater international

role, it’s not surprising that the president would become more powerful.”

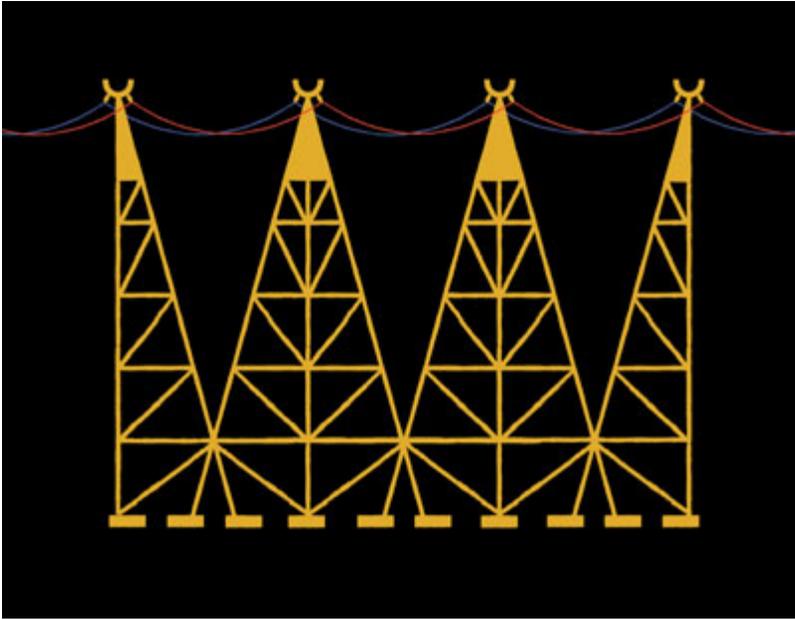
The president’s role also changed as the government started to regulate an increasingly complex economy in the swiftly growing nation, says Klarman. By the mid-20th century, for example, the expanding number of administrative agencies, from the Federal Communications Commission to the Environmental Protection Agency, were all, in varying degrees, under the president’s control. The leaders a president chose for the agencies effectively allowed for high-level control of the policies likely to come out of them.

So if it seems as if more recent presidents have had more power than even Washington or Lincoln, it’s not an illusion. “The nature of the government at the federal level has changed so dramatically that [the framers] just couldn’t have contemplated any of this,” says Klarman, a legal historian whose most recent book is “The Framers’ Coup.” “The world has changed.”

WHY TIMING IS EVERYTHING

A PRESIDENT’S ABILITY TO CONTROL THE levers of power can be augmented—or constrained—by the historical moment. During a crisis, presidents often find ways to rapidly increase their authority, whether those approaches are constitutional or not.

An early example of this growth can be seen in Lincoln’s administration, says Klarman. Lincoln may not have had any specific ambitions to expand the rela-



DURING A CRISIS, PRESIDENTS OFTEN FIND WAYS TO INCREASE THEIR AUTHORITY, WHETHER THOSE APPROACHES ARE CONSTITUTIONAL OR NOT.

tively modest presidential powers when he arrived. But when the Civil War broke out, he didn't hesitate to push the limits of those powers, if not defy them entirely.

Lincoln called for 75,000 military volunteers after Confederates fired on Fort Sumter, and he later suspended habeas corpus—seemingly both congressional powers. He also authorized military trials of civilians. “He did all sorts of things that were constitutionally dubious,” Klarman says. “But during wartime, people expect the commander in chief to win the war. They don't care that much about constitutional niceties.”

Eighty years later, during World War II, Franklin D. Roosevelt also expanded his reach and control. Through a pair of War Powers Acts, for example, Roosevelt increased his authority to reorganize vast swaths of the executive branch and independent government agencies to support the war effort, says Klarman. He gave himself the authority to censor mail. He also cracked open previously confidential information from the census, which ultimately led to Japanese American internment.

More recent presidents have also used cataclysmic events—most notably, the attacks of Sept. 11—to leverage significant power. Professor Jack Goldsmith, who served as an assistant attorney general in the Office of Legal Counsel in the George W. Bush administration and is co-founder of the Lawfare blog, says that

expansions of presidential powers linked to 9/11 have generally come with congressional support and have spanned the presidencies of George W. Bush, Barack Obama '91, and Donald Trump. “[Presidents have] been detaining enemy combatants at the Guantánamo Bay detention center without trial for more than 18 years,” Goldsmith says. “The executive branch's powers of secret surveillance in the domestic realm are super broad as a result of congressional authorizations.”

While wars may be among the more common points at which presidents expand their authority, they are not the only moments. Economic crises can also lead to scenarios in which presidents can vastly increase their powers.

During the Great Depression, for example, FDR's wide-ranging New Deal programs designed to improve consumer confidence and support workers also strengthened his ability to regulate the economy, says Feldman, whose book “Scorpions” focuses on FDR and his Supreme Court.

Even if times of crisis open up new opportunities for presidents to take decisive, meaningful action with fewer constraints, limits do remain. FDR, who often seemed to increase his powers with impunity, was occasionally checked by the judicial branch. During the Depression he issued an executive order that prohibited hoarding gold and demanded that all people and companies deposit their gold with the Federal Reserve just weeks before abandoning the gold standard entirely. He invalidated contracts written specifically to avoid legal and economic consequences of the order. Later, however, in the Gold Clause cases, the Supreme Court struck down some of FDR's actions, notes Feldman.

UNWRITTEN RULES ARE MADE TO BE BROKEN
THE REMARKABLY BRIEF SECTION OF THE Constitution that lays out the powers and responsibilities of the president, Article II, leaves wide swaths of open space in which presidents can flexibly interpret their powers. (Perhaps not surprisingly, presidents typically do so in their own

HLS SCHOLARS TAKING THE LONG VIEW

MICHAEL KLARMAN

A legal historian, he is author most recently of “The Framers’ Coup: The Making of the United States Constitution.”



MARK TUSHNET

His research focuses on legal history as well as constitutional law and theory. His recent books include “In the Balance: Law and Politics on the Roberts Court.”



DAPHNA RENAN

Her research includes a focus on presidential power, national security and criminal procedure. She served in the U.S. Department of Justice from 2009 to 2012.



JACK GOLDSMITH

Co-founder of the Lawfare blog, he writes about terrorism, national security and executive power. He served in the Office of Legal Counsel in the George W. Bush administration.



NEIL EGGLESTON

White House counsel from 2014 to 2017, he teaches a course at HLS titled Presidential Power in an Era of Conflict.



NOAH FELDMAN

A constitutional law scholar, he is the author of a biography of President James Madison and a study of FDR and his Supreme Court, among many other books.

favor.) Often, a president’s power is prescribed not explicitly by Article II, but by the norms created over the course of two centuries of history.

For example, Washington famously insisted he wouldn’t serve for more than two terms, despite those who wanted to see him in office for life. That two-term limit wasn’t written into the Constitution, but it was observed by every president who followed—until FDR stayed at the helm for four terms, says Klarman.

Assistant Professor Daphna Renan, who served in the Obama Justice Department and whose scholarship includes a focus on executive power, says an important question—beyond the breach itself—is what reaction it provokes. “Presidents have broken norms, and then the question is how others have responded,” she says.

In the case of four-term presidencies, it took just two years after Roosevelt’s death for Republicans to draft—and for

Congress to pass—what would become the 22nd Amendment, limiting presidents to two four-year terms.

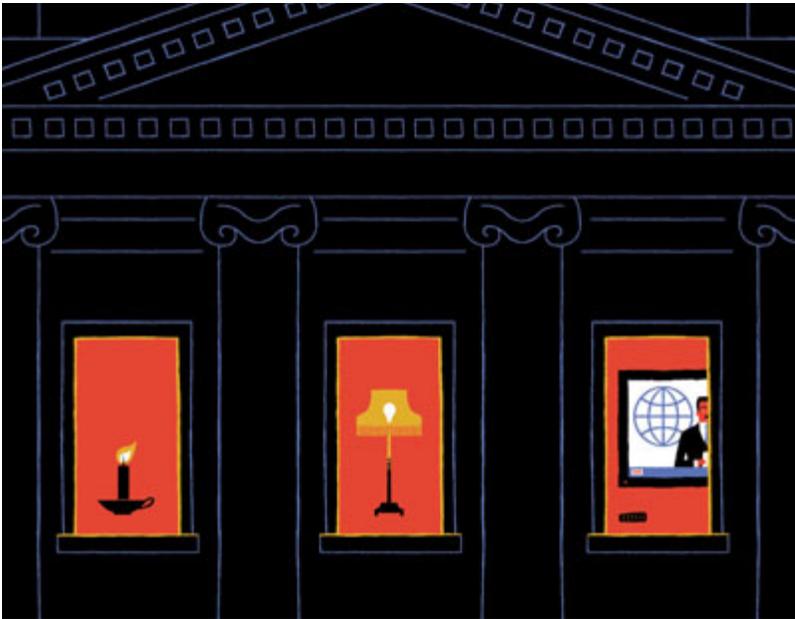
Another norm that has been stress-tested is the idea of investigatory independence, says Renan. Though the FBI might technically be within the president’s purview, after Nixon and the Watergate scandal, presidents have generally treated individual investigatory decisions, especially where investigations touch on White House activity or personnel, as outside of the president’s direct control. And individual administrations have adopted specific policies and procedures to limit White House contacts with the Justice Department (including the FBI) about specific investigatory matters.

President Trump hasn’t embraced this norm. He’s publicly criticized the FBI’s leaders and threatened to “get involved” in investigations. But then-Attorney General Jeff Sessions’ recusal from the

Russia investigation and the decision of then-Deputy Attorney General Rod Rosenstein ’89 to appoint a special prosecutor, among other moves, suggest how countervailing forces can help a norm prevail. “When others react negatively to the norm break—and even take measures to reinforce or shore up the norm—then the norm itself can be further entrenched,” says Renan.

Still, other norms have fallen away, she says. For example, the framers—particularly concerned with the idea of a demagogue coming into power—were not enthusiastic about presidents’ addressing the people directly. In general, presidents were expected to share policy positions with Congress in writing.

President Andrew Jackson pushed against these norms. Presidents Teddy Roosevelt and Woodrow Wilson went on to shatter them by regularly engaging with the public, says Renan. Later, FDR used fireside chats to captivate a nation



OFTEN, A PRESIDENT'S POWER IS PRESCRIBED NOT EXPLICITLY BY ARTICLE II OF THE CONSTITUTION, BUT BY THE NORMS CREATED OVER TWO CENTURIES OF HISTORY.

and persuaded the public to get behind some of his grandest policies. Plenty of presidents have drawn from this playbook since then, with examples ranging from Kennedy's knockout television performances to Obama's early use of social platforms including Facebook to Trump's use of Twitter as a primary mode of presidential communication.

Klarman says the value of "the rhetorical presidency" is significant: "I don't think FDR could've had the power he did if he didn't have the ability to do his radio chats, and Trump wouldn't be president if it weren't for Twitter and his ability to reach tens of millions of people directly."

THE RISE AND FALL (BUT MOSTLY RISE) OF PRESIDENTIAL POWER

THE LAST THREE PRESIDENTS IN PARTICULAR have strengthened the powers of the office through an array of strategies.

One approach that attracts particular attention—because it allows a president to act unilaterally, rather than work closely with Congress—is the issuing of executive orders. "All presidents act in some measure by executive order," says Neil Eggleston, who served as White House counsel from 2014 to 2017 and teaches a course at HLS on presidential power. He notes that most presidents issue hundreds of them during their time in office, and few merit much notice. "That said, you can predict when they're going to be controversial."

Eggleston says that Bush used executive orders to establish the Guantánamo Bay detention camp despite significant protest. Obama used executive orders to expand immigration protections for immigrants who arrived in the United States as children through DACA. (His order for the parents of these children, DAPA, was blocked in federal court.)

Eggleston adds that Trump has pursued his own controversial executive orders, among them the travel ban, which suspended the issuance of visas for people from seven countries—five with Muslim majorities. Today, a portion of an adapted order continues to stand.

Presidents are often particularly assertive about pushing the limits of power when it comes to pursuing the promises on which they staked their campaigns. Tushnet says that as Obama worked to get pieces of the Affordable Care Act funded, he adopted aggressive interpretations of existing statutes in order to accomplish his goals. Whether Trump's power move in February—calling a national emergency in order to move forward with the construction of a border wall, even without explicit congressional support—will succeed remains unclear. But the result will certainly help inform future presidents about the likely ways they can or cannot exercise their authority.

As the United States has grown larger, more complex and more powerful, so too have the powers that presidents wield. And while presidents today may hold far more power than they did when the Constitution was written, the powers of institutions that have the ability to curb them have grown as well.

For Feldman, the question is not whether a given president has too much power or not enough, but whether—using the metaphor of Oliver Wendell Holmes' living Constitution—they are right for the time. "The question we should ask is whether, in a given moment, the president's expansion of executive power is necessary to the survival and flourishing of the body," Feldman says. That remains an eternal question of U.S. constitutional law.



Andy Boes '21, along with all 1Ls and LL.M. students, participated in a new online course last summer, covering topics from the stages of civil litigation to how to read a case.



Harvard Law School's new
online course Zero-L helps prime
incoming students for success

BY ERICK TRICKEY

PHOTOGRAPHS BY MARK OSTOW

Common

Knowledge

First-year law student Mara Chin Loy didn't follow a traditional path to Harvard. The first person in her family to go to law school, she majored in human biology and minored in Italian at Stanford. Though her job as a domestic violence program associate with the Center for Court Innovation in New York City familiarized her with some aspects of the legal system, she didn't know quite what to expect when she was accepted to HLS.

"I was not very familiar with law school as a process," she recalls. But by the time she arrived on campus, she felt well-prepared for her first semester.

That's because she—along with all other first-year J.D. students and all LL.M. students—participated in Zero-L, a new, 10-hour online course featuring a dazzling array of Harvard Law School professors. Zero-L provides a grounding in things like the separation of powers, the

basics of American constitutional law and the stages of civil litigation. It also covers how to read a case and explains the Socratic method, offering tips on how to speak in class in response to a cold call.

"I thought it was really helpful for preparing me," says Chin Loy. "I felt I was able to fully focus my time on learning the material in my class, as opposed to spending a few weeks trying to figure out what was even going on."

Zero-L, an initiative started under HLS Dean John F. Manning '85, is meant to ensure that all incoming students, whatever their backgrounds and previous areas of study, start with the foundational knowledge that will enable them to thrive at HLS.

Andy Boes '21 majored in political science and economics at the University of Notre Dame, but he doesn't come from a family of lawyers. "I didn't have a lot of exposure to the legal world, other than the tangential academic exposure that you get through political science," says Boes. Zero-L's lessons gave him "a good foundation," he says. "It made me feel a little bit more comfortable going into my classes."

As a refresher, Boes rewatched Zero-L's lessons on how to brief a case and the Amer-

ican court system's structure during his first semester. "Learning the structure of our court system in a little more detail was probably the most practically helpful in how it served me in my coursework," he says. "We focused on some of it in the Legislation and Regulation course that all first-years take."

Many of Boes' fellow students appreciated the Zero-L segments on the Socratic method and responding to cold calls, he says, such as a mock class in which current HLS students take questions from a professor. "I think it was helpful in giving us a baseline understanding of what it looked like in practice," he says.

The Zero-L courses are designed to help prepare all incoming students, including those like Boes and Chin Loy, who don't have pre-law backgrounds and didn't learn about the law at the family dinner table. Manning himself was one of those students 37 years ago.

"Zero-L was partly inspired by my own experience as a law student," says Manning, who was the first in his family to graduate from college and the first to go to law school. "When I arrived at HLS, I felt completely clueless about a lot of things. I didn't know what the common law was, or the differences between state and federal courts. We launched Zero-L to give our incoming students a common baseline of knowledge about the American legal system and about the vocabulary of law."

Zero-L is also helping to demystify law school for an increasingly diverse student body. "Our student body comes from many different backgrounds, and from all over the world," says Manning. About one in six come from STEM backgrounds—science, technology, engineering and mathematics. About one-quarter of students arrive with four or more years of post-college work experience. About one in six J.D. students are international students.

In late 2017, a few months after Manning took over as dean, he appointed a committee to develop Zero-L. Professor I. Glenn Cohen '03, who teaches Civil Procedure to incoming 1Ls every fall and had developed an online bioethics course through the HarvardX online-learning initiative, played a key role in the committee's work, along with Jessica Soban '07, associate dean for strategic initiatives and admissions. "The idea was to come up with a curriculum that hits the sweet spot," Cohen says, providing a helpful

Zero-L is meant to help all incoming students, including those who don't have any pre-law background.



Mara Chin Loy '21 especially liked the Zero-L video on the Socratic method. "It was helpful to break it down, to explain why it's used in law school, to demystify the cold call," she says.



Gonzalo Robles LL.M. '19, a lawyer from Panama, says some of Zero-L's lessons helped him make the transition from Latin American and European civil law to American common law.

introduction to law for some students and a useful refresher for others.

After a series of focus groups and interviews with a range of students, the committee developed 10 hours of lively video lessons from HLS professors, along with multiple-choice questions. “What is law?” Cohen asks at the start of his own video. “It may seem like a really silly question! I mean, don’t we all know what law is? The answer may be trickier than you think.”

In a video demystifying the Socratic method, Professor Jeannie Suk Gersen ’02 tells Cohen how she overcame her own trepidation about speaking in class as a law student. “The idea of public speaking was absolutely my biggest nightmare,” she says. “The fact that it was required as a part of my education at Harvard was the biggest gift that I could’ve received for preparation for my professional life.”

Lecturer on Law Susan Davies, at the start of her presentation on how a bill becomes a law, sings a few lines of the 1976 song “I’m Just a Bill” from ABC’s “Schoolhouse Rock!” series before taking participants through the 10 basic steps of how federal legislation is made. In his segment, Professor Noah Feldman delivers a compelling lecture on the history of the Constitution, hitting some of the high points from the Constitutional Convention through the Civil War and Reconstruction to the civil rights movement in just 22 minutes. “In my opinion, Constitutional Law is the most fun, and in many ways the most important, course that you’ll take in law school,” says Feldman. “In the United States, as the French traveler Alexis de Tocqueville noted already in the 19th century, every major topic has a tendency to become a question of the Constitution.”

To gather feedback on the course while it was under development, HLS shared it with students from the Board of Student Advisers, who serve as peer advisers to 1Ls and as teaching assistants in the First-Year Legal Research and Writing Program. By early August, the school rolled out Zero-L for all incoming 1L and LL.M. students.

“It was a good intro to Harvard Law,” says Gonzalo Robles LL.M. ’19, a lawyer from Panama who practiced in mergers and acquisitions and finance before coming to HLS. “We got to see professors before we even went to Harvard. So, we now see familiar faces in the halls.”

Robles says some of Zero-L’s lessons

helped him make the transition from Latin American and European civil law to American common law. Zero-L’s module on the Socratic method was new to Robles, since his law school classes in Panama were lecture-based. And Zero-L’s review of American constitutional law helped him understand key concepts in U.S. Supreme Court jurisprudence, such as the slippery slope argument and the institutional competence argument. “If I had not taken Zero-L, I would have been lost in class,” Robles says.

Students have described themselves as feeling excited and prepared after taking Zero-L. “Students told me, ‘I don’t know how I would survive 1L without this,’ ‘This was a huge confidence booster,’ and ‘This really gave me a sense of what it’s like to be at law school,’” says Cohen. Completion rates for Zero-L were high, says Manning, and the module on how to read a case, taught by Cohen, proved one of the most popular.

HLS is preparing an updated version of Zero-L for this year’s incoming class. Just as the school relied on extensive student input in developing the original version, it is using feedback from follow-up surveys and focus groups as well as course usage patterns—analyzed in partnership with the Harvard Office of the Vice Provost for Advances in Learning—to help shape the enhanced course.

Plans include new modules by Professors Annette Gordon-Reed ’84 on legal history and Holger Spamann S.J.D. ’09 on law and economics, as well as an introduction to the criminal justice system and a module on the sociology of the legal profession. According to Cohen, the course may differentiate between “core” and “enrichment” lessons, expanding the total number of hours but keeping the core lessons close to 10 hours.

“Giving students this foundational knowledge so that everyone starts with a common baseline is important in and of itself,” says Manning. “But letting students know they have the tools to succeed also helps prime them for success.”

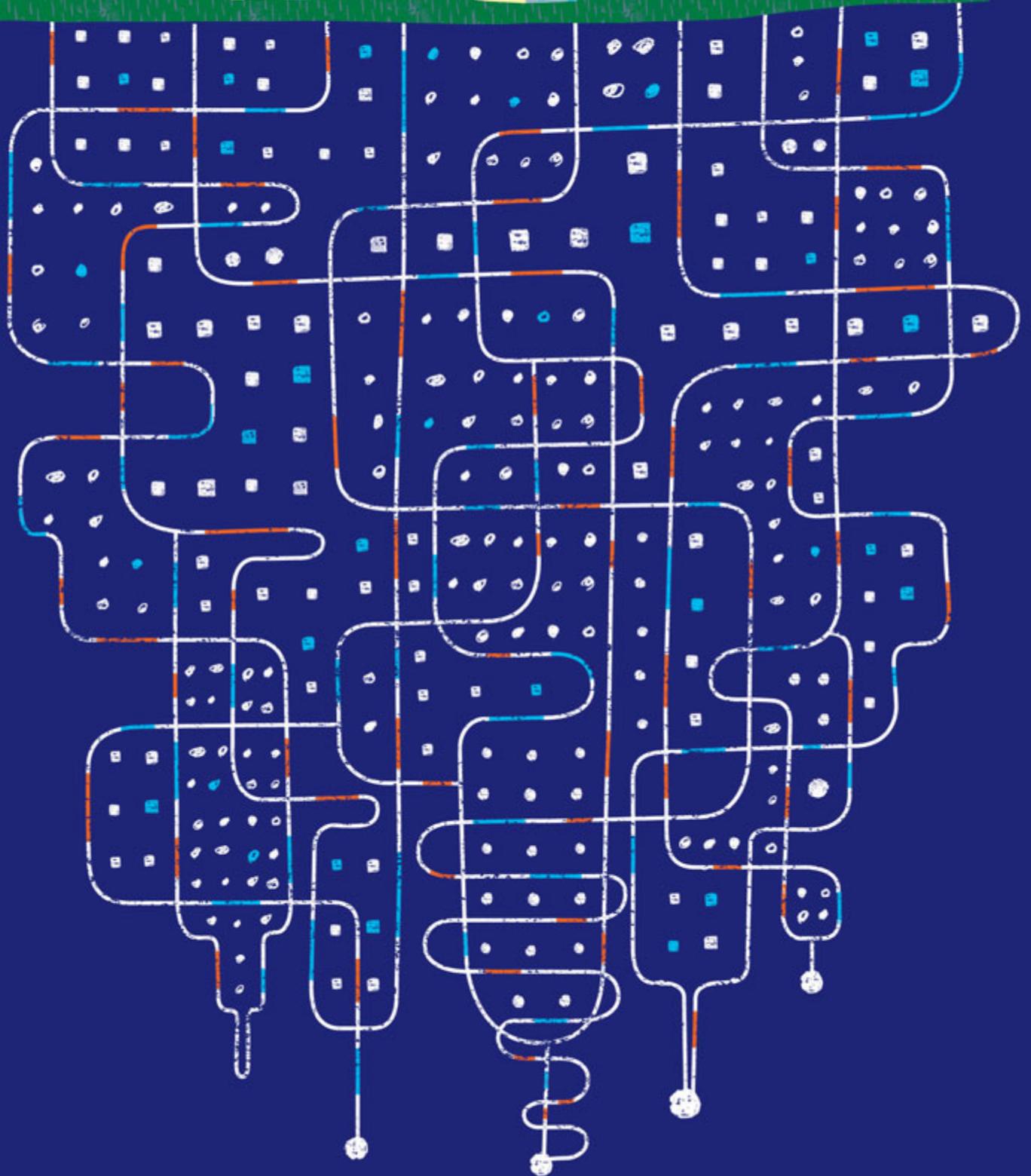
“Letting students know they have the tools to succeed helps prime them for success.”
—Dean John F. Manning ’85

The U.S. is
falling behind
in fiber optic
technology,
but cities and
localities are
leading the way.

By Elaine
McArdle

Illustration by
Melinda Beck

**ARE
AMERICANS
GETTING
ENOUGH** **Fiber?**



IMAGINE AN INTERNET CONNECTION SO FAST AND CLEAR that all the musicians in an orchestra can play their instruments from their own homes in perfect time with colleagues scattered across the country. Imagine students in a tiny rural school taking high-level science classes taught by expert teachers 2,000 miles away, with such visual clarity that they can participate in real-time scientific experiments.

That level of internet connectivity is standard in South Korea, Hong Kong, Singapore, Sweden and China. But internet service in most parts of the U.S. continues to be slow, unreliable and expensive. Because of a series of telecom policy decisions, the U.S. is falling further and further behind other nations, with a host of serious implications that affect not only the economy, education, health, and well-being but also the fabric of democracy, says Susan Crawford, clinical professor at Harvard Law School.

On the national level, almost no one is paying attention, says Crawford. And she is out to change that.

Fiber optic technology, which results in dazzlingly fast and reliable internet connectivity, should be available at a low price to everyone in the U.S., just as it is in other countries, argues Crawford in her latest book, *"Fiber: The Coming Tech Revolution—and Why America Might Miss It,"* published this year by Yale University Press. The contemporary notion of a decent, thriving life "requires a persistent, cheap data network that reaches everyone"—and that means fiber optic technology for everyone, she says.

"Fiber optic plus advanced wireless is going to be the place where all the new industries for the next 100 years are born, where all the new jobs, all the new ways of making a living, come to being," says Crawford, who served as special assistant for science, technology and innovation policy for President Barack Obama '91. "We need it—now—to make sure we have a world-class health care system, the best education for our children and the ability to cope with climate change."

In the near future, fiber access will be available in 68% of Asia. Meanwhile, due to the deregulation of the telecom industry, the U.S. lags far behind in this critical technology, says Crawford: In terms of average download speed, the U.S. ranks 25th out of 40 nations that are in the Organisation for Economic Co-operation and Development. Fiber connects American cities, but only about 13% of individual homes and businesses, mostly in very affluent places, have fiber optic connections—what's called "last-mile fiber connectivity." Most Americans get their internet from a single provider, typically one of five companies that control high-speed internet access. These companies have no incentive to upgrade to fiber.

"We are really not in the game," says Crawford. Internet providers "have divided markets very successfully. They can charge whatever they want for the services they provide. We've got a really stagnant, noncompetitive market."

But her book is not about technology but rather progressivism, and it tells a story of hope, she stresses. Electricity was once controlled by a few companies and available only to the wealthy. It took "enormous local courage" and

the leadership of President Franklin D. Roosevelt, in the face of incredible opposition, to make sure that everyone, despite economic status, received it. Fiber is equally astonishing in what it offers for improving lives, Crawford says, and similarly should be regarded as a public good, a utility service to which every American is entitled.

CRAWFORD PLACES HER FOCUS ON HUMAN STORIES, including those drawn from the successes of 800 plucky localities in the U.S. that have sidestepped powerful forces to bring fiber to their residents: places like Chattanooga, Tennessee, and rural Minnesota, where 27 tiny townships created a fiber services cooperative to bring first-rate, affordable internet service to farms. It makes good sense at every level, Crawford argues. While costly to install, once laid in the ground, fiber is infinitely upgradeable, and because the lines can be shared by numerous operators, service prices are competitive.

"Localities are just sick of being bossed around. So that's why they're building their own networks," she says. The big internet providers have successfully supported laws in 19 states that now prohibit local governments from supporting fiber optic build-out, arguing that internet service should be a private enterprise. But that's misleading,

**"Fiber optic plus advanced wireless
[will be] where all the new industries
for the next 100 years are born."**

Crawford insists—the utility lines themselves should not be controlled privately but instead should be shared by as many service providers as want to jump in, thus driving prices down. The issue of fiber optics "may be highly partisan at the federal level, but at the local level it's just people wanting everybody to lead a decent life. This really is the seeds of what we're seeing across the country, this sort of movement toward ensuring that people get their basic needs met at a reasonable cost."

Crawford, who wrote *"Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age"* in 2014, launched her current book project around the same time during a trip to South Korea, where she witnessed the enormous digital divide between that country, where fiber connectivity is pervasive, and the U.S. A visit to Stockholm shortly afterward drove the point home, during which the mayor asked Crawford how Sweden could help the U.S. get on board with fiber optics in order not to drift into irrelevance. She traveled to Tokyo, Oslo, Hong Kong, and Singapore, which all have 100% fiber adoption, to find out why connectivity was so available and so cheap, with typical prices of \$25 to \$40 a month.

By contrast, American telecom and cable companies, with no incentive to support fiber technology, are strongly opposing it, including by trying to confuse the issue, she



Susan Crawford,
author of **“Fiber:
The Coming Tech
Revolution—and
Why America
Might Miss It”**

says. For one thing, they are promoting 5G wireless service, the latest generation of cellular mobile connection, as an alternative to fiber. In fact, 5G depends on fiber lines in order to work, Crawford explains, and 5G won't function in rural areas because it would require cell towers every 200 feet, which is extremely expensive. “It is in their interest not to have people fully understand this issue,” she says. And as the local communities have taken matters into their own hands, the industry has fought back hard.

Crawford got encouragement in her research from

then-HLS Dean Martha Minow, who recognized the social justice implications of telecommunications policy. Another supporter, Professor Yochai Benkler '94, faculty co-director of the Berkman Klein Center for Internet & Society, praises her book. “At this moment in American history, [as we are] facing a deep loss of trust in government and good governance, Crawford's rich case studies of municipalities that have overcome destructive corporate lobbying to deliver for their citizens is a lesson we all need,” he says.

A key part of the story is that China is planning to connect 80% of their homes and businesses to fiber very soon. Moreover, China is loaning \$68 billion to other countries for infrastructure and soon will be touching 65% of the world's population and 40% of the world's GDP, Crawford says. She's hoping that awareness of China's primacy in this arena “will be a Sputnik moment” for national attention in the U.S. “American companies will have no leverage to be part of that market, won't be able to reach that global population, and we seem to have no response to that in this country,” she says.

But the U.S. won't get a massive upgrade to fiber unless there is a concerted effort at the national level. The FCC, she says, should set fiber as the standard for all citizens, so they enjoy opportunities for education, jobs and health care.

“Human decency is at our core and should be attached to our policy,” says Crawford, whose next project is addressing the effect of rising sea levels in Charleston, South Carolina, which poses essentially the same question: What is the role of local government in solving major problems?

While the issue of fiber optic connectivity is urgent and the challenges significant, Crawford is optimistic. “America has saved the world from tyranny,” she says. “We built a transcontinental railroad system. We built the federal highway system. We built the Hoover Dam. Americans are capable of this,” she stresses. “And we can turn quickly to projects of national importance. It's just that we're a bit in the dark right now about this one.”

Collecting

on

An HLS project is fighting
on behalf of thousands
whose lives have been
upended by predatory
student lending

By Julia Hanna
Photographs by Leah Fasten



In 2012,
Toby Merrill
founded the
HLS Project
on Predatory
Student
Lending,
which she
directs.

Dreams



As a 2L, Toby Merrill '11 was enrolled in a Harvard Law School consumer clinic litigating against predatory lenders of subprime mortgages. There she fought for the rights of individuals who had hoped to fulfill the American dream of home ownership. Now Merrill has a new mission, no less urgent: to bring a measure of fairness to people affected by the predatory lending practices of some for-profit colleges that are alleged to provide worthless degrees in exchange for thousands of dollars in government-backed loans. Frequently members of some of society's most vulnerable populations, these clients often began their journey with the simple desire for upward mobility—namely, a better life through education.

In 2012, Merrill founded and became director of the HLS Project on Predatory Student Lending, focusing on for-profit schools that promised students a direct path to well-paying, middle-class jobs via programs focused on a specific role—medical assistant or paralegal, for example—but failed to deliver. Senate hearings and a two-year investigation into these schools led by then-Iowa Sen. Tom Harkin detailed the systematic use of inflated job placement data and aggressive recruitment tactics to target groups that included immigrants, people of color, veterans, and single mothers. In one case, noted by Harkin, a school claimed that it placed 70% to 90% of students in jobs, when the actual rate was 20% to 30%.

The financial fallout of that widespread fraud, when combined with the poor quality of instruction found in many programs, was catastrophic: Statistics show that individuals enrolled in for-profit colleges typically account for 13% of the student population but 47% of all federal loan defaults, often because of the inability of the borrowers to secure well-paying jobs; and more than \$30 billion in federal tax funding goes to for-profit institutions every year, in the form of those student loans.

In her work with victims of predatory subprime mortgage lending, Merrill had been a firsthand witness

to the power of affirmative litigation on behalf of individuals harmed by unscrupulous lending practices. She saw how that work could not only help individuals get restitution but also, in the best-case scenario, lead to improved policy. When she learned more about the tactics used to lure students into shoddy degree programs with little value on the job market—students who were trying to improve their lives by getting an education and who, at that point, had virtually no options for legal action—the issue had a visceral pull.

“Predatory student lending sits right at the intersection of racial and economic justice,” says Merrill, whose interest in fighting injustice and race discrimination in America led her to spend the summer after her second





Eileen Connor,
director of litigation
at the project

year in law school working on the NAACP’s voting rights project and in its death penalty practice.

Located in HLS’s Wilmer-Hale Legal Services Center in Jamaica Plain, the project and its staff of 12 are engaged in class-action lawsuits on behalf of tens of thousands of students at now-defunct institutions such as Corinthian Colleges (with a class of 110,000 plaintiffs) and ITT Technical Institute (750,000). But they also take on individual cases which they feel will effect change in industry or government practices. Director of Litigation Eileen Connor has met hundreds of people whose lives have been up-

ended by predatory student lending, but she still finds herself thinking about Crystal, a young single mother who was recruited away from Roxbury Community College by a Corinthian school subsidiary.

“They told her, ‘You can do what you’re doing here, but twice as fast—so you’ll be able to work that much sooner and support your young child.’ Of course, that was appealing to her,” Connor says. The report issued by the Harkin Senate committee found that recruiters at some for-profit colleges are frequently instructed to exploit just such a “pain point” in order to convince a prospective student to enroll. But the quality of education Crystal received didn’t provide her with the skills she needed to compete in the job market. The Senate report



Attorney Josh Rovenger (above, at desk) joined the project last year, inspired by the passion of Toby Merrill and her team. Every semester it trains six to eight students, including this spring, Levi Barry '19 and Sejal Singh '20 (pictured right).

also found that, on average, only 25% of the money paid to for-profit colleges is rolled into needed teaching materials, equipment, and instructor pay; the remaining 75% is used for marketing, executive compensation, and profit. Unable to find employment in her chosen field of medical assistant, Crystal was forced to default on her loan and ended up living in a homeless shelter; the default had disqualified her from applying for subsidized housing. In addition, the government garnished her wages and took her earned income tax credit, which she had been planning to use as the first and last months' deposit to rent an apartment. There is no time limit on the collection of student loan debt, so these penalties can continue for decades.

"This all happened because a predatory company took advantage of someone with the earnest desire to learn and to work," Connor says. "It's a perversion of the ideal of higher education when the reason we have a federal student loan program at all is to create opportunity."

Josh Rovenger '13 joined the project last year. While he had always been drawn to public interest law, he hadn't been following the legal cases involving for-profit colleges before interviewing for an attorney position with Merrill and Connor. Then he got excited: "It wasn't really an exact moment or case, but more the passion they showed. Toby said that once you learn about the work, you can't help

but get angry and worked-up about what's going on."

And if he ever feels distanced from that moment, a clinical student's reaction brings it all back: "It's a reminder to everyone here of how absurd some of the actions are that we're challenging," Rovenger says. Each semester, the project hosts six to eight clinical students, providing exposure to the class-action cases underway while also enabling students to act on behalf of individuals. "My clients are people who have been taken advantage of," says Sejal Singh '20. "But they are not victims—they're very smart, resilient actors who are committed to moving forward with their lives. Working with them has been inspiring, and in the process, I really feel as though I've been able to build a range of skills that are going to prepare me to move forward in my career as an attorney."

Creating positive change in an area as complex and far-reaching as predatory student lending can have a frustratingly long timeline.

But in its relatively brief seven-year existence, the project has earned substantial wins, bringing clients that much closer to justice. Among its recent victories was a ruling last fall in the case of *Bauer v. DeVos* that—in conjunction with a similar suit brought by 19 states and the District of Columbia—prevented the Department of Education from illegally delaying the enforcement of established borrower defense regulations that offer protections for students. Such protections include the cancellation of debt when an institution breaks the law and a ban on forced arbitration.

"Forced arbitration has been a longstanding issue in the context of consumer protection," says Merrill. "The transparency that occurs with private litigation has been shown by study after study to be an important driver of public enforcement; forced arbitration cuts off an entire stream



CONSIDERING THE CONSUMER: Faculty Research at HLS

Many faculty members at HLS focus their research on aspects of consumer law and protection. **Professor Howell Jackson '82**, for example, is an expert on financial regulation, federal budget policy and entitlement reform. He writes, teaches, and consults with government agencies on these topics and incorporates consumer protection into much of his work, including in his analyses of consumer financial regulation. In recent years, he has also worked with students on reform proposals to relieve the burden of student loans for Social Security recipients of limited means.

Professor Cass Sunstein '78, former head of the White House Office of Information and Regulatory Affairs, is author of numerous publications, including his 2008 classic, “Nudge,” which put the behavior and well-being of consumers at the center of the equation.

Professor Oren Bar-Gill LL.M. '01 S.J.D. '05 draws on law, economics and psychology in his influential work on consumer contracts, from his book, “Seduction by Contract: Law, Economics, and Psychology in Consumer Markets,” to articles on topics such as the psychology of subprime mortgages. Earlier in his career, he co-wrote an article titled “Making Credit Safer,” arguing that credit products like mortgage loans and credit cards should be regulated as stringently as physical products like cars and toasters are.

Bar-Gill’s co-author was **U.S. Sen. Elizabeth Warren** (then an HLS professor and now professor emerita), who conceived of the Consumer Financial Protection Bureau as a way to better regulate mortgages, student loans and other financial products.

of information that’s key to functional oversight. Now, for the first time in a long, long time, we have the opportunity to bring people’s claims in court.”

Included in the project’s active impact litigation docket is the class-action lawsuit *Calvillo Manriquez v. DeVos*, a case brought jointly with Megumi Tsutsui ’14, a former student of the project now practicing law at the Oakland, California-based Housing and Economic Rights Advocates. The suit charges that the U.S. Department of Education required tens of thousands of former Corinthian Colleges students to repay their loans, despite earlier findings by the Obama administration Department of Education that they were not liable to do so.

Rather than discharge the loans, the department reversed course, calculating a repayment rate based on private income data obtained from the Social Security Administration.

“The thrust of the case is that the Department of Education is engaged in retroactive rulemaking using illegally obtained information,” says Rovenger. For now, the team has won a preliminary injunction to freeze loan collection for thousands of students, with the eventual goal being to fully discharge them.

“Our work here has always involved fighting against a Department of Education that isn’t doing what it should be,” says Merrill. “So while we have sued the department of the current administration a number of times, we also sued the one under the previous administration.”

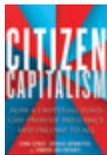
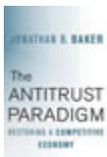
Merrill cites relatively recent successes, including the ruling reversing the freeze on the mandatory arbitration ban, as evidence that the legal landscape is shifting and coalescing around a new perspective on student lending. “Three years ago, [students] couldn’t sue a for-profit school. It was hard to get the government ... to decide to do anything,” she says. “We were able to change both of those things.”

Even so, she acknowledges that hundreds of thousands of students represented in federal courts around the country are still waiting for relief. It’s part of what keeps her and the rest of the team motivated. And they’re not alone. Merrill notes that the Project on Predatory Student Lending works with a range of advocacy organizations across the country, supplying needed information and insight to help advance policy change. And the network of clinic alumni, Megumi Tsutsui and others, has only extended its reach. “It’s been so gratifying to see former students take up the fight as part of their professional endeavors,” says Merrill. “We’re all focusing our energy on cases that we think can make a difference, moving the ball forward to make a more fair and just society.”

The project exposes students to complex litigation and allows them to provide direct services to clients. Zoe Kemmerling '20 (right) contributed to both aspects of the project’s work.



Chronicling travels to the moon and the Arctic, the dawn of a code war, the unwinding of a miracle



SELECTED ALUMNI BOOKS

“The Antitrust Paradigm: Restoring a Competitive Economy,” by Jonathan B. Baker ’82 (Harvard)

Antitrust rules were relaxed in the 1980s, based on the theory that doing so would bring greater efficiencies to the market, which would outweigh risks associated with firms exercising market power. That premise was wrong, according to Baker, and that is particularly clear now, with the rise of giant information technology companies limiting competition. The author, a former director of the Bureau of Economics at the Federal Trade Commission, outlines the economic harms that resulted from antitrust deregulation and proposes rules to address competitive problems stemming from the information economy.

“Citizen Capitalism: How a Universal Fund Can Provide Influence and Income to All,” by Lynn Stout, Sergio Gramitto and Tamara Belinfanti ’00 (Berrett-Koehler)

The authors, experts in corporate governance (Belinfanti is a professor at New York Law School), propose a plan that they say would unleash the power of corporations as a force for good. A Universal Fund would operate similarly to a

mutual fund, but all U.S. citizens would be shareholders. Its assets would be corporate stocks acquired through donations from corporations and wealthy individuals, and its income would be equally distributed to all citizen-shareholders. Such a fund, they say, could harness \$40 trillion in current corporate assets to improve social and economic problems, including income inequality, without any new taxes or government funding.

“Dawn of the Code War: America’s Battle Against Russia, China, and the Rising Global Cyber Threat,” by John P. Carlin ’99 with Garrett M. Graff (PublicAffairs)

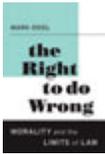
Carlin, a former assistant attorney general for national security, chronicles his own experiences fighting cyber threats—from Chinese online economic espionage to Russian interference in the 2016 presidential election—and outlines potential future dangers. While there have been successes in identifying perpetrators, he warns that deterrence has fallen behind, leaving an increasingly interconnected world vulnerable to attack. To win the “Code War,” he recommends more transparency about threats; designing devices for security, not just ease of use; and going on the offense, with sanctions and military strikes, for



example. “[W]e need a high-level, societal commitment and research effort to innovate our way to a more secure future,” he writes.

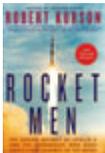
“Heroes, Rascals, and the Law: Constitutional Encounters in Mississippi History,” by James L. Robertson '65 (University Press of Mississippi)

The former Mississippi Supreme Court justice and law professor at the University of Mississippi has written a history of his home state told through people’s encounters with its constitutional processes. The book includes stories of how a Mississippi court became the first in a Southern slave state to free slaves and how the law changed business practices in the state, including the length of the workday in lumber mills. It chronicles “the enormous effect that constitutions and courthouses have on our social existence—indeed, our everyday lives.”



“The Promise of Elsewhere,” by Brand Leithauser '80 (Knopf)

When you are a middle-aged man with a middling career teaching at a mediocre college—not to mention “apologetically childless and bipolar and inadequately bankrolled”—a Journey of a Lifetime might seem like the answer to your problems. It does for Louie Hake, the protagonist of this comic novel, whose quest to tour the world’s great architectural sites starting in Rome takes a surprising turn to the Arctic. Along the way, he pursues romance with a jilted bride and discovers a different kind of architecture in the form of icebergs.



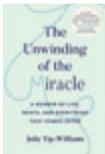
“Radical Inclusion: Engaging Interfaith Families for a Thriving Jewish Future,” by Edmund Case '75 (Center for Radically Inclusive Judaism)

The author begins the book by recalling the criticism he heard from a rabbi he’d known much of his life when he got engaged to an Episcopalian woman in 1974. Case would later give up his law practice to devote his career to supporting and welcoming interfaith families into the Jewish community. In order to help perpetuate Jewish tradition even at a time when a growing number of Jews are intermarrying, he calls for more encouraging attitudes toward interfaith unions and a campaign to engage interfaith families in Jewish life.



“The Right to Do Wrong: Morality and the Limits of Law,” by Mark Osiel '87 (Harvard)

No one would deny that people have the right to declare bankruptcy. But some may feel ambivalent about people exercising that right. That distinction—between what is legal and what some consider moral—is the focus of the book from the University of Iowa College of Law professor, who examines how nonlegal means can ensure that rights are not exercised irresponsibly. Indeed, lawmakers often rely on social mores to check abuses of the laws they make.



“Rocket Men: The Daring Odyssey of Apollo 8 and the Astronauts Who Made Man's First Journey to the Moon,” by Robert Kurson '90 (Random House)

Over the course of more than two years, Kurson interviewed the three men who made the first trip to the moon in 1968. The result is an in-depth insider account of the experiences of astronauts Frank Borman, Jim Lovell, and Bill Anders and others who succeeded despite a dramatically accelerated timeline for the mission, planned to beat the Soviets to space and to fulfill President John F. Kennedy’s promise in 1961 that the U.S. would go to the moon by the end of the decade. The trip paved the way for future NASA missions and, the author writes, helped bolster the nation during a tumultuous year.

“Sacred Duty: A Soldier's Tour at Arlington National Cemetery,” by Tom Cotton '02 (Morrow)

The U.S. senator from Arkansas, who served in combat in Iraq and Afghanistan, recounts the history of the Army’s 3rd Infantry Regiment, better known as the Old Guard, and his own experience as platoon leader. Cotton traces the Guard’s origins from 1784 when it served in the Northwest Territory, to its actions on 9/11 when a plane crashed into the Pentagon near Arlington. Central to the Old Guard’s role is honoring fallen soldiers in funerals at Arlington National Cemetery. Cotton reveals firsthand insight into the regiment’s focus on getting the details right, from “tip control” of the saber during ceremonies to reciting condolences to next of kin.

“The Unwinding of the Miracle: A Memoir of Life, Death, and Everything That Comes After,” by Julie Yip-Williams '02 (Random House)

At age 37, the mother of two young girls, Yip-Williams received a diagnosis of Stage IV colon cancer and thereafter chronicled her journey toward death and her gratitude for the gift of her short but extraordinary life. That she made it to that age was its own miracle: When she was a baby, born vision-impaired in Vietnam, her grandmother wanted her parents to take her to an herbalist to end her life. And yet she became a wife, mother, attorney, and finally an author who provided intimate details of the nearly five years she lived after diagnosis, and how she prepared her family for her death, which came in March 2018.

“Will China Save the Planet?” by Barbara Finamore '80 (Polity)

Finamore, a senior attorney and senior strategic director for Asia at the Natural Resources Defense Council, addresses how China evolved from a climate change resister and recounts efforts the country has made toward decarbonization, including reducing reliance on coal and bolstering the electric vehicle industry. China’s climate policies reflect its own national interest, she writes, while also benefiting the earth.

Recently elected mayor of his native Shreveport, Louisiana, Adrian Perkins '18 seeks to rejuvenate the city he loves

A Home Victory

PROFILE

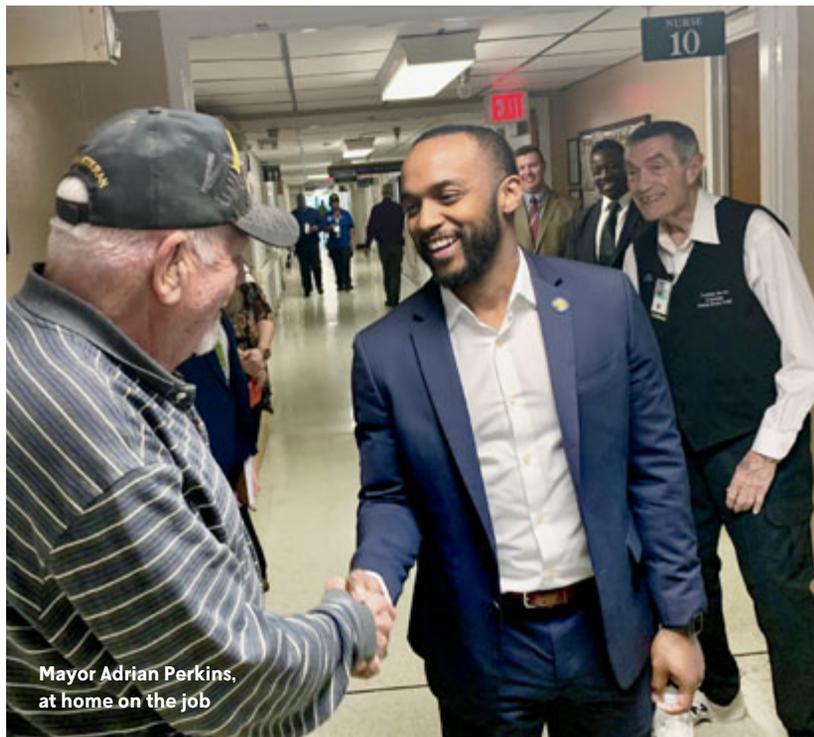
Adrian Perkins '18 got a gift from a colleague at his new job: a unicorn that now sits on his desk. It's a reminder

of the unique path he took to that job, from growing up in a single-parent household in the Cedar Grove neighborhood of Shreveport, Louisiana, where he sometimes slept under his bed at night because of drive-by shootings; to the war zones of Iraq and Afghanistan, where he earned a Bronze Star; to Harvard Law School; and then back to where his life began. He returned to Shreveport this time as perhaps its most prominent citizen, elected mayor in December at age 33, seeking to turn around a struggling city of about 200,000 people that faces challenges he believes can be surmounted, as he has overcome obstacles in his own life.

Perkins launched his run for mayor last year during his 3L year at HLS. When he started law school, he expected he would practice law and indeed had an offer from Sidley Austin. But the allure of going home proved too strong, particularly at a time when his city was losing jobs and experiencing a high crime rate. At the same time, he had to convince the electorate that he could lead the city despite his relative youth and lack of government experience. He campaigned on making Shreveport safer and leveraging technology to improve city services and the economy (while an HLS student, he wrote an article for *Wired* magazine on luring tech companies to smaller cities). He also pointed to his life experience: the first African American class president at West Point, eight years serving in the Army, student government president at Harvard Law, and a deep history with and commitment to Shreveport. He won the election with 64% of the vote.

"My entire story was geared toward leading the city out of the trends that it was in, and pushing it into the 21st century," he says.

His story shows that progress can come by adapting to new circumstances. That ability arose in him early in life, at age 4, when his father left his family, and his mother, Johnny, started raising him and his two older broth-



Mayor Adrian Perkins, at home on the job

ers herself. She has served as an example for Perkins, who praises her strength, her moral standards and her zeal for education. He was educated in a more affluent part of the city as part of a minority enrichment program, which he said helped him learn about traversing different worlds, something he also did as a student at HLS with a different background from that of most others there.

As a junior in high school, Perkins watched the twin towers fall and became determined to join the military. After West Point, his first deployment was to Iraq, where he was a 23-year-old platoon leader of 30 men. He still remembers his first patrol shortly after arriving at Baghdad under mortar fire. He rode in the lead vehicle, and when he got out to secure the area, he was afraid, he acknowledges. But he did it, and for his men and for himself, that was what counted.

"I knew the men were watching me. I knew it was what I signed up for. And I knew it was a commitment to my country. And I put my foot

down, and then I put my next foot down. And I just put one foot in front of the other until those fears went away."

He learned lessons from his military experience that he has brought to the mayor's office. People want leaders who wouldn't ask them to do anything they wouldn't be willing to do themselves, he says. And people want leaders who genuinely care about their well-being, no matter what the situation is.

Perkins has another important perspective that he can see, literally, from his mayor's office. Across the street is the office where his mother still works, 40 years now for the electric company. It's funny, he says—she seemed to expect that he would get into HLS and even become mayor. That's because she has always led him to believe he can accomplish whatever he wants. And now he goes back to his old neighborhood and speaks to kids who are faced with some of the same challenges that he faced not that long ago, and he tells them to believe the same thing. —LEWIS I. RICE

Michael Leiter '00 reflects on the threats that face us today

Defending Domains

PROFILE

Is the U.S. safer now than it was 20 years ago? That depends on the threat, says

Michael Leiter '00, director

of the National Counterterrorism Center from 2007 to 2011 under the Bush and Obama administrations. "We are massively safer now than we were on 9/11 from a large-scale national security attack. But there are other things we're clearly not safe from at all."

As a former top national security official and current adviser to companies in the defense, intelligence, and technology sectors, Leiter has spent his life assessing threats. The son of a Holocaust survivor, in college he worked for the Department of Justice's Office of Special Investigations, where he helped track down Nazi war criminals. Certain that he would never find a more exciting job in law, he walked out of his LSAT prep course and decided to join the Navy instead.

Leiter was a naval flight officer for six years before law school finally tempted him. When he arrived at Harvard Law School in 1997, national security drew little attention. The school had no classes, student groups or academic journals on the subject.

That all changed after Sept. 11, 2001. After serving as president of the Harvard Law Review, Leiter clerked for Justice Stephen Breyer '64 on the U.S. Supreme Court, which is where he was on 9/11. Suddenly, the disparate parts of Leiter's background—from pursuing international war criminals to serving in the military in the Middle East to immersing himself in constitutional law as a clerk—came together as the perfect preparation for the post-9/11 war on terror.

After two years as an assistant U.S. attorney, Leiter moved on to a series of national security roles in the federal government. There he tackled issues at the crossroads of national security and constitutional law, from warrantless wiretapping to interrogation methods to testing the limits of the Patriot Act.

In 2007, when Leiter became the director of the NCTC, the new agency was intended to coordinate all counterintelligence information, a response to post-9/11 criticisms that

the federal government had failed to piece together information in its possession that could have been used to prevent the attacks. But processing such a huge volume of data brought its own challenges. Leiter describes waking each morning to between 6,000 and 10,000 pieces of new intelligence concerning hundreds of specific threats to the U.S. and its interests. The work required a deep focus on the most pertinent threats and a keen ability to shut out distractions.

He recalls testing that ability on the weekend of April 30, 2011. He celebrated his wedding only to turn around the next day and spend 14 hours in the Situation Room while he waited tensely for a team of Navy SEALs to capture or kill Osama bin Laden. "Both events, in completely different ways, were unbelievably emotionally intense experiences," Leiter says. "There was no room in my brain or psyche to have anything else enter in."

Eight years later, counterterrorism and national security measures look starkly different. The hunt for terrorist hijackers and bombers has largely been replaced by a more nebulous war. Today's threats include mass shootings, cyberattacks, election interference

and data privacy compromises.

When it comes to terrorists, the federal government is "very good at finding the people who are planning these attacks and intervening," Leiter says.

But protecting data and information privacy is a more amorphous goal. "I understand if someone is trying to shoot me what the harm is," Leiter says. "But what exactly is the harm if I'm worried about losing some percentage of privacy in my information?"

With increasingly digitized lives, Americans are vulnerable in new ways that the federal government alone cannot address, says Leiter. Every sector of the economy, from the automobile industry to real estate to pharmaceuticals, now has a stake in cybersecurity. That means the private sector must share responsibility for national security in unprecedented ways.

Which might be why, in 2017, Leiter became a private sector attorney for the first time. A partner at Skadden, Arps, Slate, Meagher & Flom, he focuses on legal issues at the intersection of national security and technology. He has his work cut out for him.

—LANA BARNETT '15



Michael Leiter,
director of
the National
Counterterrorism
Center from
2007 to 2011

Constitutional law expert
Menaka Guruswamy LL.M. '01 takes
the long view on change

For India, a New Era in LGBTQ Rights

PROFILE

Menaka Guruswamy LL.M.

'01 got the news when she turned on her phone after landing in Hyderabad: The

Indian Supreme Court had reached a decision on a years-long case she'd been arguing challenging Section 377 of the Indian Penal Code, a colonial-era law criminalizing gay sex as "carnal intercourse against the order of nature." A judgment would be issued the next day. Guruswamy and her partner, Arundhati Katju—a criminal lawyer and co-counsel on her five-person team—found themselves running for the last flight back to New Delhi. The gate was already closed, but after Guruswamy explained the situation, a sympathetic agent escorted them through security and onto the plane.

"Everything about the case was dramatic," she says. "None of it was sane and even-keeled." The 495-page ruling the next day, Sept. 6, 2018, striking down the law, was hailed in the international press for going beyond the decriminalization of gay sex to acknowledge the individual rights of LGBTQ people and apologize for past mistreatment.

The case's petitioners included five prominent professionals from the arts, media, and business worlds, plus 20 students and graduates of the Indian Institutes of Technology. "The IIT students were wonderful to have as petitioners because they represent a diverse microcosm of India in terms of class, income and region," Guruswamy says, adding that being a student at IIT (which has an acceptance rate of less than 2%) is seen by many in Indian society as the pinnacle of achievement. She was struck by the fact that despite their success, their affidavits included details of depression and other forms of mental illness stemming from the fear of living as a gay person in a country where homosexuality was illegal.

Sodomy cases, she says, rarely go to trial, and result in even fewer convictions due to lack of evidence. But statutes like Section 377 set the state's moral tone: "They criminalize a people and tell them that who you love is just not OK." Cited for her eloquence and con-



Menaka Guruswamy successfully argued against a colonial-era law that criminalized gay sex in India.

viction in the courtroom, Guruswamy brought the commitment and humanity of same-sex relationships to life as clear evidence that LGBTQ individuals should be extended the same basic constitutional rights of nondiscrimination, equality, expression, and dignity as other Indian citizens.

A senior advocate at the Indian Supreme Court, Guruswamy recently completed a research and teaching stint at Columbia University. Throughout and since that time, she has continued her work on constitutional rights cases, including one that involves allegations of 1,528 extrajudicial executions by Indian military and security personnel. Eight years into that work, she notes that it involves another colonial-era law, this one granting the military immunity from being prosecuted in civilian courts; in 2012, with Guruswamy appointed as *amicus curiae*, a ruling was issued that opened up the possibility of those cases being tried in court, a process that is ongoing.

"I think I'm drawn to constitutional law because it's the only way you can expand human freedom outside of the legislative process," Guruswamy says. "If you are a minority of any sort, in any country, a constitutional court is a great avenue for making progress."

When the inevitable questions come up

regarding next steps for gay rights in India—marriage, adoption—Guruswamy notes that last year's ruling is still relatively young: "We'd like to see these issues trickle down into the court systems at the district level for the general population to take the next steps." For now, she's happy to see a broad shift happening in Indian society, perhaps most noticeably in the presence of gay protagonists and storylines in Indian movies and TV series. And she believes that change, when it comes, will come quickly, noting that the Supreme Court's sweeping 2018 decision was a huge turnaround from a 2013 ruling (made by a two-judge panel) that only the legislature could overturn Section 377.

Guruswamy is also encouraged by cases brought to decriminalize homosexuality in Singapore, Botswana and Kenya that appear to have been catalyzed by the Indian ruling. "India is a constitutional democracy of the global south and a very conservative country," she observes, describing a kind of "global constitutional conversation" that is taking place. "This is not Canada or the United States. You can't make the argument that this ruling represents Western cultural values. The simple point being, if India can do it, why can't we?"

—JULIA HANNA

IN MEMORIAM

1930-1939

JAMES O. BASS SR. '34
May 22, 2019
 RALPH H. WINKLER '38
Nov. 24, 2018

1940-1949

YASUTAKA HOWARD
 FUKUSHIMA '40
May 7, 2018
 DANIEL ALLAN KRAMER '42
 ('46)
Feb. 2, 2019
 JOHN A. PERKINS '43
Oct. 12, 2018
 BURTON K. ADELMAN '44
 ('48)
Dec. 21, 2018
 LEONARD JOSEPH '44 ('47)
March 6, 2019
 RICHARD W. DEARBORN '48
Dec. 14, 2018
 FREDERIC H. HILTON '48
Jan. 1, 2019
 ROBERT H. WAGNER '48
Oct. 2, 2018
 THOMAS A. CALDWELL JR. '49
Dec. 12, 2018
 BERNARD A. FEUERSTEIN '49
Nov. 16, 2018
 PETER B. MUNROE '49
Jan. 5, 2019
 ROSWELL B. PERKINS '49
March 10, 2019
 ERIC K. PETSCHKE '49
Nov. 3, 2018
 JOHN SAFER '49
Dec. 7, 2018
 KARL SCHMEIDLER '49
Dec. 23, 2018
 FELIX T. SMITH '49
Oct. 15, 2018

1950-1959

HAROLD B. BERMAN '50
March 25, 2019
 JAMES F. BRESNAHAN '50
 ('54) LL.M. '55
Oct. 23, 2018
 WALLACE E. COWAN '50
Oct. 24, 2018
 JOHN J. GIBBONS '50
Dec. 9, 2018
 MAURICE H. GOETZ '50
Dec. 3, 2018
 JACK GREEN '50
Nov. 7, 2018
 DAVID GROSSBERG '50
March 4, 2019
 KENNETH R. LA VOY JR. '50
Jan. 9, 2019
 WINSTON V. MORROW '50
March 5, 2019
 RICHARD B. RAGLAND '50
Feb. 13, 2019
 VERN H. SCHNEIDER '50
March 13, 2019
 CHARLES P. SCHWARTZ JR. '50
March 17, 2019
 NORMAN P. SINGER '50
March 9, 2019
 JOSEPH H. GOLDBERG '51
March 15, 2019
 JOSEPH C. LEPANTO '51
Feb. 22, 2019

KENNETH A. MACGOWAN
 JR. '51
Feb. 18, 2019
 NATHAN S. PAVEN '51
Nov. 23, 2017
 CHARLES F. SHERIDAN JR. '51
Dec. 27, 2018
 EUGENE F. SIKOROVSKY '51
Sept. 30, 2018
 JAMES P. TIERNEY '51
Feb. 5, 2019
 WALLACE R. BAKER '52
May 2018
 ELLIOTT H. EISMAN '52
Feb. 6, 2019
 BARTON E. FARBER '52
December 2016
 RICHARD L. GOLD '52
April 18, 2019
 SIDNEY D. ROSOFF '52
Jan. 4, 2019
 WILLIAM J. WARD '52
Oct. 20, 2018
 ELWYN EVANS JR. '53
March 1, 2019
 MYRON H. HENDEL '53
Nov. 21, 2018
 ARNOLD W. HUNNEWELL '53
March 19, 2019
 ROBERT T. KENNEDY '53
March 28, 2019
 WALTER L. LANDERGAN JR.
 '53
Oct. 5, 2018
 GEORGE S. PARLIN JR. '53
Jan. 10, 2019
 LAURENCE B. ROSSBACH JR.
 '53
Dec. 23, 2018
 RUSSELL B. SUGARMON JR.
 '53
Feb. 18, 2019
 DONALD S. COHAN '54
Oct. 20, 2018
 ROBERT S. JACOBS '54
Feb. 12, 2019
 WILLIAM H. PAINTER '54
Oct. 28, 2018
 JAMES M. ROSE JR. '54
March 3, 2019
 LEO SILVERSTEIN '54
Oct. 30, 2018
 FRANK SOLOMON JR. '54
Feb. 16, 2019
 CHARLES ROBERT BELL '55
Oct. 9, 2018
 ALLAN R. CURHAN '55
Feb. 4, 2019
 RONALD R. GAGNON '55
Nov. 6, 2018
 RALPH I. LANCASTER JR. '55
Jan. 22, 2019
 JOSEPH F. NOCCA '55
Dec. 19, 2018
 EUGENE PIAZZA '55
Feb. 11, 2019
 EDWARD K. PINCUS '55
Dec. 15, 2018
 DAVID L. RATNER '55
Jan. 5, 2019
 JOHN C. SIHLER '55
Dec. 6, 2018
 CHARLES H. WHITE '55
Oct. 8, 2018
 ENRICO ZANELLI LL.M. '55
April 9, 2019

WILLIAM M. ZIERING '55
Dec. 10, 2018
 JOHN L. ARRINGTON JR. '56
 LL.M. '57
May 15, 2019
 THADDEUS HOLT '56
Dec. 29, 2018
 STANLEY H. KIMMEL '56
Dec. 21, 2018
 DONALD S. MACDONALD
 LL.M. '56
Oct. 14, 2018
 ESTHER MALETZ-STONE '56
April 24, 2017
 MARY G. MANETTI '56
Feb. 11, 2019
 WALLACE E. BRAND '57
Dec. 5, 2018
 JAMES R. BRIDGELAND JR. '57
Jan. 22, 2019
 JOHN E. CORCORAN JR. '57
Nov. 12, 2018
 JOHN B. FRENCH '57
Nov. 21, 2018
 ROBERT G. HUNT '57
Nov. 5, 2018
 NILES P. KOINES '57
March 2, 2019
 JOHN G. REED '57
Feb. 21, 2019
 HENRY J. STERN '57
March 28, 2019
 FREDRIC C. TAUSEND '57
Dec. 18, 2018
 JOHN E. MEROW '58
Jan. 12, 2019
 ANDREW S. MEYER '58
January 2019
 A. WILLIAM ROLF '58
Feb. 20, 2019
 ALAN R. SCHWARTZ '58
Feb. 22, 2019
 SIGMUND R. BALKA '59
Jan. 16, 2019
 THOMAS C. CLARKE '59
Oct. 6, 2018
 JAMES H. DUFFY '59
Jan. 29, 2019
 GEORGE F. DUKE '59
Aug. 21, 2018
 KY P. EWING JR. '59
Dec. 19, 2018
 JOSEPH FELDSTEIN '59
Feb. 9, 2019
 STEPHEN GORDET '59
Oct. 6, 2018
 ARNOLD H. MAYS '59
June 18, 2018
 WILLIAM M. SIMMONS '59
 ('60)
March 18, 2018
 EDWARD L. SKOLNIK '59
October 2018
 ROBERT S. SUMMERS '59
March 1, 2019
 WAYNE D. WISBAUM '59
Dec. 30, 2018

1960-1969

MYRON D. COHEN '60
Oct. 9, 2018
 DAVID N. LEVINSON '60
Jan. 14, 2019
 DAVID W. MITCHELL '60
Dec. 19, 2018

EDWARD RUDNITSKY '60
Feb. 6, 2019
 QUINLAN J. SHEA JR. LL.M.
 '60
March 16, 2019
 BANCROFT R. WHEELER '60
March 21, 2019
 NORMAN D. BLOCK '61
Feb. 20, 2019
 BASIL M. "MICKEY" BRIGGS
 '61
April 25, 2019
 FRANCIS J. HIGGINS '61
Dec. 1, 2018
 HERBERT F. KAHLER '61
Oct. 23, 2018
 DANIEL A. KAVANAUGH '61
Jan. 10, 2019
 RICHARD G. LANGDON '61
March 25, 2019
 WILLIAM E. RATTNER '61
March 16, 2019
 WILLIAM R. STRATTON '61
Feb. 27, 2019
 CARL S. ARNTZEN LL.M. '62
Sept. 18, 2018
 JOHN C. CULVER '62
Dec. 26, 2018
 JOHN M. DEWEY '62
Jan. 23, 2019
 WILLIAM E. CUMBERLAND '63
Nov. 29, 2018
 J. THOMAS FRANKLIN '63
Nov. 3, 2018
 CHARLES I. KINGSON '63
Feb. 26, 2019
 GIRISH C. PATEL LL.M. '63
Oct. 6, 2018
 JOSEPH M. ROSENTHAL '63
July 16, 2015
 JEROME K. TANKEL '63
Feb. 3, 2018
 MICHAEL B. TISCHMAN '63
Nov. 7, 2018
 JOSEPH J. ZEDROSSER '63
Feb. 20, 2019
 ROBERT BAXT LL.M. '64
March 12, 2018
 WALTER R. "ROD" BURKLEY
 JR. '64
Dec. 4, 2018
 JON H. W. CLARK '64
Nov. 30, 2018
 JAMES J. GARRETT '64
Feb. 18, 2019
 RONALD D. GREGG '64
March 16, 2019
 F. WILLIAM HABERMAN '65
March 2, 2019
 THOMAS R. ALLEN LL.M. '66
April 14, 2019
 MICHAEL J. CRONIN '66
Nov. 2, 2018
 LESTER G. "RUFF" FANT III
 '66
May 19, 2019
 DANIEL N. HOFFMAN '66
Oct. 2, 2018
 WILL E. LEONARD JR. LL.M.
 '66
Jan. 2, 2019
 FRANK W. LLOYD '67
Oct. 31, 2018
 DANIEL O. WHITE '68
Nov. 21, 2018
 WILLIAM A. GREGORY '69
January 2017

1970-1979

JAMES H. COIL '70
Dec. 29, 2018
 THOMAS A. RICHARDSON '70
Dec. 17, 2018
 ALLEN B. LEVITHAN '71
Dec. 24, 2018
 ELLIOT S. AZOFF '72
Jan. 26, 2019
 JOSEPH M. SANTANIELLO '72
Feb. 23, 2019
 EUGENE C. PAYNE III '73
Jan. 18, 2019
 WILLIAM C. POWERS JR. '73
March 10, 2019
 JORGE L. CUBAS '75
April 8, 2019
 DANIEL P. CUNNINGHAM '75
March 31, 2019
 STEPHEN J. ELLMANN '76
March 8, 2019

1980-1989

FRANK B. CROSS '80
April 27, 2019
 ROBERT J. KIPNEES '80
Dec. 2, 2018
 ORNAH R. BECKER '81
May 29, 2018
 DALE W. DOVER '83
Jan. 14, 2019
 FERDI M. TONGSIR LL.M. '83
2011
 THEODORE A. BRENNER '84
Dec. 6, 2018
 WILLIAM "TEMPLE"
 DICKINSON '84
Jan. 29, 2019
 TAMARA LOTHIAN '84
June 8, 2016
 DONNA E. WARREN '84
Oct. 19, 2018
 GAIL E. HOROWITZ '86
May 1, 2019
 JANE LESLIE NEWBERRY '86
June 27, 2018
 STEVEN M. ANDERSON '89
Dec. 27, 2018
 R. SCOTT FALK '89
May 17, 2019
 KEN IKARI '89
Nov. 22, 2018
 STEPHEN R. SULENTIC '89
Dec. 18, 2018

1990-1999

KEITH E. CLAIBORNE '90
Aug. 3, 2018
 LENORA M. LAPIDUS '90
May 5, 2019
 GLENN T. WARE LL.M. '96
Jan. 6, 2019
 YVETTE A. BUDÉ LL.M. '97
Oct. 25, 2013
 MICHAEL W. LEWIS '98
June 21, 2015

2000-2009

TEL B. CARY SADLER '04
November 2016

A Conversation with Jessica Tisch '08

Revolutionizing police tech with the NYPD

When Jessica Tisch was a student at Harvard, she never imagined working at the New York Police Department, but a friend's advice after graduation led her to a job with the NYPD's counterterrorism bureau. Ten years later, Tisch J.D./M.B.A. '08 is the NYPD's deputy commissioner of information technology. She has put data-driven policing tools in the hands of New York City's 36,000 uniformed police officers, including 911 dispatch information and electronic report forms on iPhones. To see how officers use the technology, the 38-year-old often rides along in police cruisers.

BULLETIN: What have been your biggest accomplishments?

TISCH: I think we have revolutionized law-enforcement technology. We have given officers access to data where and when they need it: in the field and in real time. The mobile platform that we built gives every cop an iPhone, puts a tablet in every car.

Historically, if I was a police officer responding to a 911 call for service, I would only have a dispatcher's summary of the information that a call-taker typed in, relayed by the 911 caller. It's fourth-hand information. So we built a 911 app. Officers see, in real time, all of the 911 jobs in their precinct. They see the text the call-taker typed into the system, so they don't have to rely on a dispatcher's summary. They can call the complainant back. If they're responding to a domestic violence job, they can see if there's a history of domestic violence in that location.

How did you end up working for the NYPD?

Very randomly. I graduated with a J.D./M.B.A. in June 2008 and took the bar exam in July. The financial crisis was hitting, and I thought it'd be difficult to find a job. A friend said: "Why don't you go work at the NYPD? I know someone there." I said, "I can't even imagine what someone like me would do at the Police Department." I was put in touch with the deputy commissioner of counterterrorism at the NYPD. He said, "Why don't you come work for me?" I said: "I don't know. Counterterrorism sounds really scary. I'm more into 'Law & Order' kind of stuff." He said: "Trust me, this will be right for you. It's what we hire civilians to do."

Who were your favorite HLS professors?

A wonderful professor, David Westfall, was my Property professor. I had Elizabeth Warren for Contracts. She was a magnetic speaker and teacher. It's funny, I see her on the campaign trail now, and the way she addresses the audiences takes me back. That was how energetic she was in the classroom.

How has the Contracts class helped you?

We work with big technology companies: IBM, Cisco, Microsoft, Apple, AT&T, Verizon. We spend hundreds of millions of dollars a year on technology contracts. I make sure those contracts are structured so that

the NYPD gets the most value out of the taxpayer dollars we spend. I can trace all of that back to my Contracts class, understanding the basic principles of contracts and how they work.

How else have you benefited from your Harvard Law education?

All day, every day in my job, I deal with policy, I deal with procedure, I do negotiations. My legal training seeps into all of it. Harvard Law School taught me how to think, how to put arguments together. It changed the way I approach problems that sometimes have nothing to do with the law.

How often do you go out with the officers to see how the tech works for them?

All the time. To do my job well, you really need to understand how the officers do their job. Only in understanding that can you design systems and solutions that help them. A lot of my job involves talking to them and getting their feedback. Most of our best ideas come directly from focus groups with officers.

I've gone to robberies. I've gone to shootings. We deployed this new technology a few years ago called ShotSpotter: We placed audio gunshot detection sensors on the roofs of buildings in precincts where we have more shootings. Those sensors triangulate to the exact location where gunshots were fired and send a real-time alert to the officers in the field. It's pretty nifty.

When we first deployed it, I rode around with officers in Brooklyn. The alert came in over the officers' smartphone, they listened to the audio of the gunshots, and they responded immediately. They interviewed witnesses and ultimately made an arrest.



Jessica Tisch, deputy commissioner of information technology at the New York Police Department

What can you learn electronically about what is going on in the city?

From my phone, I can see every 911 job citywide. I can see all wanted flyers, all missing-person flyers. I can see all or most NYPD training, because we built a distance-learning app where officers can take trainings and do quizzes. I can submit an employee suggestion. I can view CCTV from the 20,000 cameras that we have deployed across the city.

What does your office look like? What's in it?

I wanted my office to look like a tech space, so it's mostly white. It's not a traditional NYPD office, which are mostly dark, with wooden furniture. I keep what we call our legacy treasures on a big shelf. It's almost a museum of old NYPD IT that we've decommissioned. I have the old power switch from the legacy mainframe 911 system. I have one of the first legacy mobile devices that we used, kind of a pager. I have an old black-

and-white CCTV surveillance-camera viewing box. And I have current stuff: body cameras, a mobile radiation detector.

How would you compare your background with the NYPD's culture?

It's obviously very different. But the uniformed members of the services are quite accepting of civilians like me, who come with very different backgrounds and experiences. I look at it as complementary skills. I can't take down a door in the middle of the night. I don't think I would have the courage to. But they've been energetic about working with me to develop tools that help them do their jobs better.



Gallery BY LEWIS I. RICE

Fantastic Voyage

| July 20, 1969

On the 50th anniversary of man's first steps on the moon, a poet's words recalled

WHEN APOLLO 8 COMMANDER FRANK BORMAN RETURNED from the first voyage that orbited the moon, he addressed Congress to talk about the feat. Except he didn't have the words to describe it in the way he wished he could, calling himself an "unlikely poet, or no poet at all." So the astronaut instead recited the words of a poet to express the awe he felt looking down upon the planet we all call home: "To see the earth as it truly is, small and blue and beautiful in that eternal silence where it floats, is to see ourselves as riders on the earth together, brothers on that bright loveliness in the eternal cold—brothers who know now they are truly brothers."

Those words were by Archibald MacLeish LL.B. 1919, a three-time Pulitzer Prize-winning poet, playwright and lawyer who a half century ago served as a literary interpreter of events beyond the imagination of most observers. Indeed, even New York Times journalists found themselves deficient in capturing the meaning of the voyages to space of that era. As MacLeish later recounted, he received a phone call two days before Christmas 1968 from a Times editor who acknowledged that the newspaper was dissatisfied with its reporting on the mission. The editor asked MacLeish to provide his reflections on the subject—by noon the next day. (As it turned out, that deadline was before the poet could have been inspired by seeing the famous photo Earthrise, which was taken from the spacecraft on Dec. 24. He, like most everyone else, watched the coverage of the flight on television.) His reflections, including the words Borman cited, appeared on the front page of the Times on Christmas Day.

"It seemed to me that the question to reflect about was what this great event was, this world-shaking event that held everyone's attention," MacLeish recalled. "Was this simply a triumph of technology, the latest best piece of hardware, or was it something more?"

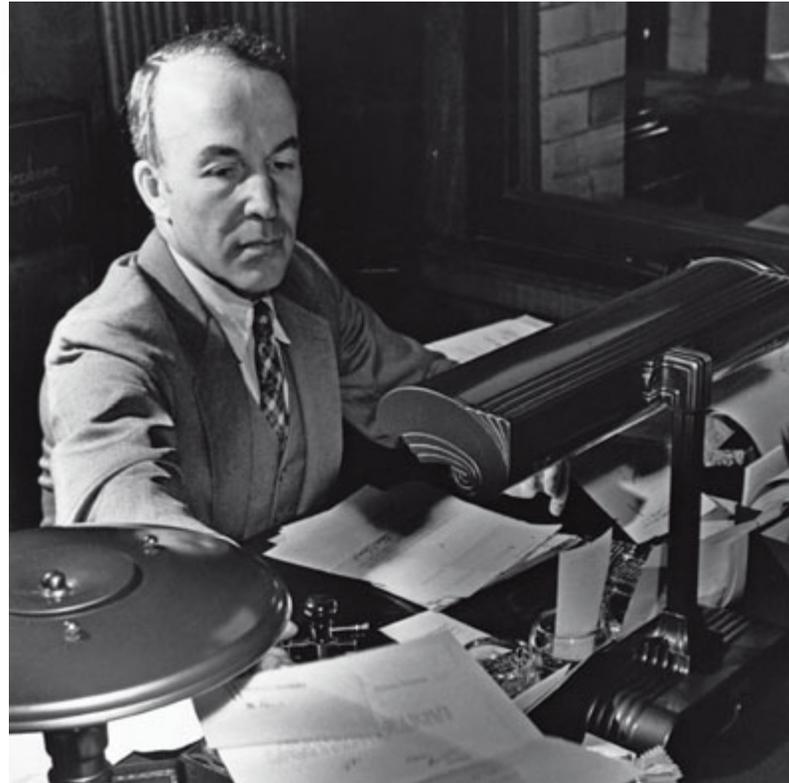
It seems fair to say that MacLeish thought it was something more. And it was something even more several months later, when the Apollo 11 astronauts landed on the moon. On the next day, July 21, 1969, the Times presented the biggest headline in its history on its front page, which included two bylines. One was of a science reporter who wrote the news story. The other: Archibald MacLeish. As former Times editor A. M. Rosenthal later revealed: "What the poet wrote would count most, but we also wanted to say to our readers, look, this paper does not know how to express how it feels this day and perhaps you don't either, so here is a fellow, a poet, who will try for all of us."

Here is a glimpse of the poem "Voyage to the Moon," which appeared in its entirety on the front page of the Times nearly 50 years ago:

You were a wonder to us, unattainable,
a longing past the reach of longing,
a light beyond our light, our lives—perhaps
a meaning to us...
Now
our hands have touched you in your depth of night.



The July 21, 1969, edition of the Times. MacLeish's poem is in the lower left corner.



A half century ago, Archibald MacLeish LL.B. 1919, three-time Pulitzer Prize-winning poet, playwright and lawyer, served as a literary interpreter of events beyond the imagination of most observers.

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