

# News in Brief @ Yale Law School

**OPENING ARGUMENT**  
VOLUME 1, ISSUE 1  
SEPTEMBER 2007

**YALE LAW SCHOOL**

**OTHER SIDE:**  
Should diversity play a role in judicial appointments?

**THIS SIDE:**  
Should YLS change its stance on military recruiting?

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**AN OBLIGATION TO STUDENTS**  
BY ROBERT A. HORT

When employers seek the active involvement of the Law School in associational freedom by permitting the use of our building for individual or group meetings with any employer, the Law School does, however, refuse to act on our own independent judgment about the moral propriety of those being policies. Yale law students are free to judge for themselves whether to work employment with employers who refuse to hire whom-

**A LETTER FROM DEAN KOH**  
BY DR. DAVID DEKEN FOR THE PROVID

Thirty-two years ago, in 1975, the Federal United States in the first year of the Society was founded in the 1980s and where the American Commission Society had a national meeting last year in the last administration, the President, the first Lady, and Secretary of the Treasury, and the National Economic Advisory Board. Not is the American National Security Advisor, the past and present U.S. Ambassadors to the United Nations and the chair of the Senate Judiciary Committee all members of our recruiting program. The intellectual standards of the recruiting process are essential to completing successfully - a responsibility we respect our students. We will be assisting the military in its efforts to recruit the best and brightest. It is essential to complete the "sticker" process. The military is a physically fit, intellectually gifted, and highly motivated group of individuals. We are proud to have them on our campus. If you are interested in joining the military, please contact the military recruiter at the Law School. We will be happy to assist you in your application process.

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**NOT MY KIND OF COURT**  
TWO WOMEN OF COLOR SOUND OFF  
BY JESSICA ANDERSON & JEAN HAN

"Should diversity play a role in judicial nominations?"

Diversity proponents and opponents alike often pose this question, the former to call attention to the lack of minority or female candidates in consideration, the latter to examine an apparent interest in selecting a minority or female candidate over a white male. Whatever one's motives, the question of diversity will always loom large during nominations because this question is really about how we should think about race and gender in the judicial process.

This brings us to a fundamental question about judicial nominations that has not been asked enough: "Do race and gender play a role in the nomination of John Roberts to Chief Justice?"

Raise your hand if you answered "no" to this question. Raise your other hand if you consider yourself a diversity opponent. If both of your hands are dangling in mid-air

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**A LETTER FROM THE EDITORS**  
(AND A NOTE ON OUR FORMAT)

We started this publication for two reasons. First, we wanted to foster a politically oriented exchange of ideas at YLS. It has become a truism that more dialogue across the Washington aisle would benefit the nation. *Opening Argument* is a conduit for such dialogue at YLS, which is bristling with policy ideas of its own.

Second, we started *Opening Argument* in order to create an inviting forum for a diversity of views. While some of the contributors to this newsletter may be intensely committed to a particular stance, the newsletter as a whole will adopt no orthodox view of its own. As editors, we are committed to producing a newsletter that is firmly non-partisan and to seeking op-eds as intellectually diverse as YLS itself.

The format of this newsletter is designed to reflect the respect with which we treat our authors' opinions. Taking inspiration from an edition of Mark Twain's *Diaries of Adam and Eve*, this is a newsletter with two front pages and no back page. Each half is dedicated to a theme all its own. When you're done with one half, simply flip the newsletter over and start afresh.

We chose the two themes for this issue because they have received more recent attention at YLS than any other. The Solomon Amendment is a constant source of discussion because the Supreme Court will be hearing Yale's challenge to this law this year. Diversity in judicial appointments was a hot topic of debate over summer email lists and is now at the forefront of national dialogue with two Supreme Court seats to fill.

We wish to thank the YLS community for its support. Dean Koh has written a letter of introduction, and Deans Templeton and Thompson have been extraordinarily helpful and supportive of our vision. Our thanks also to the Ruebhausen family for its generous financial support, and to George de Brigard for his help with graphic design. Above all, we wish to salute the students and alumni who so intrepidly contributed articles to this, our *debut issue*.

We hope that you enjoy reading the first salvo of *Opening Argument*. We welcome letters to the editors and look forward to hearing what you think!

Tara Helfman  
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Justin Muzinich  
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Opening Argument's unique double-sided layout ensures that topics receive equal treatment. Alumni who wish to contribute op-eds to Opening Argument should contact Justin Muzinich (justin.muzinich@yale.edu) or Tara Helfman (tara.helfman@aya.yale.edu).

## PUBLICATIONS

## Opening Argument Broadens Debate at YLS

WHEN JOINT-DEGREE STUDENT Justin Muzinich and Tara Helfman '06 first considered starting an op-ed publication at the Law School, they envisioned their peers and faculty as their primary audience. A non-partisan publication focused on current issues, they reasoned, would be a means of fostering political dialogue within the YLS community.

But *Opening Argument* quickly found legs beyond the Law School's courtyard and classrooms. By its second issue, the publication included opinions on U.S.-U.N. relations penned by former House Speaker Newt Gingrich and former Member of Parliament Tony Colman. By the third issue, the publication found its way into the dossiers of the Senate Judiciary Committee just as its NSA surveillance hearings were beginning.

Since last September, Helfman and Muzinich have put out four issues of *Opening Argument*. Each issue tackles two current, hot-button public policy topics. Though *Opening Argument* takes aim at controversial subjects, its editors hope to create discussion without being divisive.

"We want to foster an exchange of views where different sides can be debated openly and given equal treatment," Helfman says. "We want to shy away from people assuming staunch viewpoints and talking only to their own camps. What we're trying to do is bring all of the camps into one eminently readable and concise publication."

The questions posed by the co-editors are frequently inspired by email, classroom, and student lounge discussions. In fact, an email thread that began on the 3L listserv after a YLS student asked a question on C-SPAN gave *Opening Argument* its first topic—diversity in judicial nominations.

"We really try to keep our ear to the

ground as far as what's going on, what people are talking about," Muzinich says.

Among the issues *Opening Argument* has debated: the Law School's stance on military recruiting; the Alito nomination; the economics and employment policies of Wal-Mart; the South Dakota abortion ban; and energy policy.

*Opening Argument's* form follows its function as the publication's philosophy of pluralism guides both its graphic design and editorial content. Inspired by Mark

**By the third issue, *Opening Argument* found its way into the dossiers of the Senate Judiciary Committee, just as its NSA surveillance hearings were beginning.**

Twain's *Diaries of Adam and Eve*, each issue is designed with a double-sided layout, ensuring its topics receive equal treatment.

Diversity of both viewpoint and experience is the editors' key criterion in selecting contributors for the publication. First-year law students' opinions are frequently printed alongside those of senators and business leaders as the academic and vocationally oriented alike are invited to weigh in. The issue that tackles Wal-Mart, for example, includes a rather theoretical contribution by Richard Epstein '68 and a more operationally oriented opinion written by Wal-Mart's Executive Vice President and Chief Operating Officer Eduardo Castro-Wright.

It was *Opening Argument's* third issue (which simply asked contributors "Is NSA wiretapping good policy?") that garnered the most attention from outside the Law School. Contributors included Harvard Law School Professor Alan Dershowitz '62, Senator Conrad Burns, Yale Law School Professor John J. Donohue, and several YLS students. The issue, in fact, had just been printed when it was included in briefing materials for members of the Senate Judiciary Committee on the eve of their NSA hearing.

Besides that unanticipated audience of policy makers, the editors' greatest reward has been seeing *Opening Argument* being read and discussed at the Law School. "Some of the best reactions have been from people who hold staunch viewpoints and who are sometimes surprisingly grate-

ful for having had read a well-written, opposing viewpoint," Helfman says.

The other reward, Muzinich adds, has been the positive response and financial support *Opening Argument* has received. Every good publication has its fairy godmother; *Opening Argument's* came in the form of the Zelia P. Ruebhausen Student Fund established to foster student and faculty intellectual exchange.

Though Helfman graduated this year, she plans to stay involved in *Opening Argument*. "Justin and I both feel a bit proprietary over this," she says. "We started *Opening Argument* with a commitment to first-rate content, and we've striven to provide exactly that, issue after issue." ☞

## Law School Announces Five Faculty Appointments

Five new faculty members join the YLS community this academic year, bringing their expertise in the areas of constitutional, criminal, corporate, employment, and immigration law.

**Heather K. Gerken**, whose areas of study include election law, constitutional law, and civil procedure, joined the faculty as a professor of law on July 1. Gerken is one of the country's leading experts on voting rights and election law, the role of groups in the democratic process, and the relationship between diversity and democracy.

Gerken comes to YLS from Harvard Law School, where she was appointed assistant professor of law in 2000 and promoted to professor of law in 2005. An acclaimed teacher, she was the first junior professor in the history of Harvard Law School to receive the Sacks-Freund Award for Teaching Excellence, awarded annually to Harvard Law School's most outstanding instructor.

A summa cum laude graduate of Princeton University, Gerken earned her J.D. (also summa cum laude) from the University of Michigan Law School. She served as a law clerk for Judge Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit, and for Justice David H. Souter of the United States Supreme Court, before entering private practice in Washington, D.C.

Gerken is currently working on a book on the trans-substantive concept of "second-order diversity" in American public law.



**Christine Jolls**, a leading scholar in employment law and law and economics, joined the Law School faculty as a professor of law. Jolls has been in the forefront of the emerging field of behavioral law and economics, a cutting-edge area of scholarship that incorporates behavioral models into the economic analysis of law.

A Phi Beta Kappa graduate of Stanford University, Jolls majored in English and quantitative economics as an undergraduate. She received a J.D. magna cum laude from Harvard Law School (where she won the John M. Olin Prize in Law and Economics) and a Ph.D. in economics from the Massachusetts Institute of Technology.

Jolls joined the Harvard faculty in 1994 before serving as a law clerk for Judge Stephen F. Williams of the D.C. Circuit, and then for U.S. Supreme Court Justice Antonin Scalia. She returned to the Harvard faculty in 1997 and was named professor of law there in 2001. Jolls won the Harvard Law School Dean's teaching award in spring 2003, and served as Harvard Law School's vice dean for scholarship and intellectual life in 2003-04.

Jolls serves on a number of editorial and advisory boards, is a research associate of the National Bureau of Economic Research (where she co-directs the Program in Law and Economics), and serves as reporter of the American Law Institute's *Restatement of Employment Law*.

Jolls is currently working on a book entitled *Equality's Tools*.



**Yair Listokin '05** was recently appointed associate professor of law. His primary research and teaching interests are business organizations, bankruptcy, contracts, corporate finance, and empirical legal studies.

Listokin earned an A.B. magna cum laude in economics from Harvard in 1998, a Ph.D. in economics from Princeton in 2002, and a J.D. from Yale Law School in 2005.

As a YLS student, Listokin was twice named the John M. Olin Prize winner for the best student paper in law and economics, and he was a John M. Olin Fellow in Law and Economics. In 2005-06, he clerked for Judge Richard A. Posner at the U.S. Court of Appeals, Seventh Circuit.







**Tracey L. Meares** will join the Law School faculty in January 2007 as a professor of law. Meares's teaching and research interests center on criminal procedure and criminal law policy, with a particular emphasis on empirical investigation of these subjects.

Meares earned a B.S. in general engineering from the University of Illinois, and a J.D. from The University of Chicago Law School. Upon graduation, she clerked for Judge Harlington Wood, Jr., of the U.S. Court of Appeals for the Seventh Circuit. She then served as an honors program trial attorney in the Antitrust Division of the Department of Justice. Most recently, she served as the Max Pam Professor of Law and director of the Center for Studies in Criminal Justice at The University of Chicago Law School.

Meares holds an appointment as a senior research fellow at the American Bar Foundation and is an affiliate of The University of Chicago Center for the Study of Race, Politics and Culture.

Her publications include *Urgent Times: Policing and Rights in Inner City Communities* (with Dan Kahan, Beacon Press 1999) and a forthcoming Foundation Press casebook on criminal law (with Dan Kahan and Neal Katyal '95).

**Michael J. Wishnie** '93, a graduate of both Yale University and Yale Law School, recently joined the YLS faculty as clinical professor of law.

Wishnie's expertise includes immigration law and the civil rights of immigrants, including the rights of non-citizens in the workplace, under the welfare laws, and on habeas corpus. His work at the Law School will address employment issues affecting low-wage and undocumented workers and civil liberties after September 11, in a program grounded locally in community education, litigation, and advocacy initiatives.

Wishnie was most recently a professor of clinical law and co-director of the Immigrant Rights Clinic and the Arthur Garfield Hays Civil Liberties Program at New York University.

Prior to NYU, he served as an IOLA Fellow at The Legal Aid Society, Brooklyn Neighborhood Office; as a law clerk to Judge H. Lee Sarokin (U.S. District Court, District of New Jersey, and U.S. Court of Appeals for the Third Circuit) and U.S. Supreme Court Justices Harry Blackmun and Stephen Breyer; and as a Skadden Fellow/staff attorney working on the ACLU Immigrants' Rights Project.

Wishnie has also taken a leading role in numerous important lawsuits, and is a frequent participant in Supreme Court and other appellate litigation involving the civil rights of immigrants.

## Access to Knowledge Conference Draws Hundreds to Law School

The information revolution holds great but fragile promise for development, freedom, and justice. But without a coherent framework for why access to knowledge matters, this potential could be undermined by the growing trend of ownership and regulation of knowledge.

To help determine the future of this Access to Knowledge (A2K), Yale Law School's Information Society Project, led by Professors Jack Balkin and Yoichi Benkler, sponsored a conference on April 21-23, 2006, at the Law School.

Policy makers, activists, industry leaders, and academics addressed areas such as intellectual property policy, telecommunications, education, culture, science, and health care. Leading American and international thinkers and advocates from more than thirty countries, including Brazil, India, South Africa, Nigeria, Israel, and Malaysia, focused on generating cutting-edge research agendas, concrete policy solutions, and strategic partnerships for the next decade.

The range of panels included "The Economics of Information," "Network Neutrality in the Developing World," "Digital Rights Management and Globalization," and "Access to Medicines."

To join an online discussion of issues from the conference, visit <http://research.yale.edu/lawmeme/>.



## Madeleine Albright Delivers Heyman Lecture

The Honorable Madeleine K. Albright, the 64th United States secretary of state, delivered the inaugural Samuel and Ronnie Heyman Federal Public Service Fellowship Lecture on March 21 in the Levinson Auditorium. The Heyman Lecture is made possible by a gift from Samuel and Ronnie '72 Heyman that also provides federal executive-branch fellowships for Yale Law School graduates. In keeping with the Heymans' vision of encouraging YLS graduates to explore careers in public service and to bring creative, entrepreneurial ideas to the federal government, Albright's lecture, "Public Service in the Age of Globalization," described the lessons she learned as a public servant and the many ways in which Yale graduates can serve the public interest.

## Donors, Students Connect at Luncheon

The Law School Development Office hosted a luncheon in the spring to bring together donors who have established and supported endowed scholarships, and current students benefiting from those funds. The luncheon was designed to put a



Alisha Bjerregaard '08, Bonnie Scott Jelinek, and Brie Pettigrew '06 at the donor-student lunch in March.

face to the scholarships, both for students and donors. In all, about 85 students and donors attended the luncheon. One donor traveled all the way from Ohio for the event.

"I really thought the luncheon was a wonderful idea," says Dr. Bonnie Scott Jelinek, a 1969 graduate of the Yale Divinity School. The Joan Keyes Scott Memorial Fund was named after Jelinek's mother. Among the first women to graduate from Yale Law School, Joan Keyes Scott '42 was a lawyer and probation officer; a wife and mother; and a polio and breast cancer survivor.

"Not only did I get to meet my student and hear all about her interest in immigration law and Asia, but I got to meet so many interesting people at my table," Jelinek says. "We talked all about their studies and their future plans, how much they loved being at Yale Law School, and the whole Yale experience."

## Professor John Donohue III Delivers Inaugural Lecture

John J. Donohue III delivered his inaugural lecture as the first Leighton Homer Surbeck Professor of Law at Yale Law School on March 7. His lecture, "Powerful Evidence' the Death Penalty Deters? Surely You're Joking, Mr. Sunstein!," drew on recent research he has done on the deterrent effect of the death penalty, and was a response to recent econometric studies that have found a deterrent effect associated with each execution. "One of the most famous American law professors—Cass Sunstein of the University of Chicago—has recently relied on this empirical evidence as the basis of his argument that capital punishment is morally required on the grounds that it will save innocent lives," says Donohue. "The title of my talk refers to the fact that Sunstein deemed the empirical evidence to be sophisticated and powerful, which leads to my chosen subtitle, "Surely You're Joking, Mr. Sunstein!" since we found the evidence to be enormously fragile."

Donohue's talk is part of a book he is writing about the uses and abuses of statistical evidence in policy debates, called *Landmines and Goldmines: Why It's Hard to Find Truth and Easy to Peddle Falsehood in Empirical Evaluation of Law and Public Policy*. Says Donohue, "In general, whether we are talking about global warming, the



effects of a medical drug, the deterrent effect of the death penalty, or the impact of federal antidiscrimination law, there is a set of problems that must be adequately addressed before causal inferences about the treatment in question can be made. My talk highlights some of the problems that plagued the studies concluding that the death penalty is a deterrent and shows that while Congress has recently been told that the evidence of deterrence is substantial and unanimous, this conclusion is clearly in error.”

The Surbeck Professorship was established in 1998 in memory of Leighton Homer Surbeck of the Class of 1927. Mr. Surbeck, a leading partner at the Hughes, Hubbard and Reed law firm, created the professorship for a teacher of extraordinary skill and reputation whose scholarship and teaching focuses on practical solutions to legal problems. Professor Donohue’s work has brought the tools of law and economics to bear on some of the most pressing issues of our time, including gun control, abortion, and race relations.

## Lowenstein Clinic Research Influences Sudan Divestment

Yale University announced in February that it was barring investments of its endowment assets in obligations of the Sudanese government—as well as in seven oil companies currently operating in Sudan—as a response to the genocide being committed with support from the government of Sudan in the Darfur region. As part of the announcement, the University commended as “invaluable” the work of the Advisory Committee on Investor Responsibility (ACIR) and the Allard K. Lowenstein International Human Rights Clinic at Yale Law School.

The decision to divest was made by the Yale Corporation, Yale’s governing board, based on a recommendation by the Corporation’s Committee on Investor Responsibility, following the review of a report by ACIR. The ACIR’s work included an extensive research report prepared by the Allard K. Lowenstein International

Human Rights Clinic on the links between companies operating in Sudan and the ongoing genocide in the country.

“Numerous respected United States and international authorities and organizations have concluded that the systematic violence in Sudan constitutes genocide, and that the Sudan government supports and is deeply involved in this horrific activity,” University President Richard C. Levin said. “The time-honored principles that Yale observes as an ethical institutional investor have guided us to take this strong action.”

The ACIR and Lowenstein Clinic reports are available at <http://aciryale.edu/sudan.html>.

## Samuel Alito ’75 Sworn in as Supreme Court Justice

The nomination of Samuel A. Alito, Jr. ’75 to be an Associate Justice of the U.S. Supreme court was confirmed by the Senate on January 31 in a 58 to 42 vote. Within hours, Alito was sworn in during a ceremony held at the Supreme Court.

President George W. Bush congratulated the new Justice: “Sam Alito is a brilliant and fair-minded judge who strictly interprets the Constitution and laws and does not legislate from the bench. He is a man of deep character and integrity, and he will make all Americans proud as a Justice on our highest court.”

Alito is the 110th justice to serve on the Supreme Court. He is the sixth graduate of Yale Law School to become a Supreme Court justice. He was born in Trenton, New Jersey, and attended Princeton University before coming to YLS. While at Yale Law School, Alito was an editor of *The Yale Law Journal*.

Alito joins fellow YLS graduate Clarence Thomas ’74 on the U.S. Supreme Court. The other four YLS graduates who have served on the Supreme Court are: Sherman Minton, Class of 1917 LLM, served on the court 1949-56; Abe Fortas, Class of 1933, served on the court 1965-69; Potter Stewart, Class of 1941, served on the court 1958-81; and Byron White, Class of 1946,



*New U.S. Supreme Court Justice Samuel Alito ’75 raises his right hand as he participates in a ceremonial swearing-in in the East Room of the White House in Washington as his wife Martha-Ann holds the Bible.*

served on the court 1962-93.

Other Supreme Court Justices with Yale Law School ties include former YLS faculty members William Howard Taft and William O. Douglas.

The nomination of Alito and the confirmation hearings engaged a large segment of the YLS community.

YLS professors Anthony T. Kronman ’75 and Ronald Sullivan testified about the nomination before the Senate Committee on the Judiciary. Professor Kenji Yoshino ’96 was one of six legal scholars who contributed five questions to *The New York Times* on what they would ask Alito if they had the chance. Professors Reva Siegel ’85 and Robert Post ’77 wrote “Questioning Justice: Law and Politics in Judicial Confirmation Hearings,” an essay on the confirmation process published in *The Yale Law Journal’s* online companion piece *The Pocket Part*.

An informal group of Yale Law School students and alumni declared their support for the confirmation of Alito in an ad that ran in *The Hill* magazine. Another informal group of faculty and students reviewed all 415 judicial opinions that Judge Samuel Alito wrote while serving as a Circuit Judge. And *Opening Argument*, Yale Law School’s student-run political debate publication, published both pro



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and con op-eds by YLS students on the nomination.

You can read some of the discussion that Alito's nomination provoked at the Law School on the web at [www.law.yale.edu](http://www.law.yale.edu).

## American Academy of Arts and Sciences Recognizes Ian Ayres

In April, the American Academy of Arts and Sciences announced its 2006 Class of Fellows—a group composed of 175 of the world's leading scientists, scholars, artists, businesspeople, and public leaders. Among those honored was Ian Ayres '86, William K. Townsend Professor of Law. Ayres's areas of study include antitrust, business associations, civil rights, contracts, corporate finance, law and economics, and property. He is the author of more than a

dozen books, most recently *Optional Law: Real Options in the Structure of Legal Entitlements*. Six other Yale Law School alumni were also elected to the 2006 Class of Fellows: Floyd Abrams '59, Bill Clinton '73, Richard H. Fallon, Jr. '80, Benjamin W. Heineman, Jr. '71, Lawrence Lessig '89, and

Seth Paul Waxman '77.

## Elm-Ivy Award for Peggy Delinois Hamilton

Peggy Delinois Hamilton, the Selma M. Levine Clinical Visiting Lecturer in Law, was awarded a Yale University Seton Elm and Ivy Award for 2006. Established in 1979, the Seton Elm and Ivy Awards honor individuals whose work strengthens the relationship between the University and the city of New Haven. In addition to serving as a member of the New Haven Board of Education and an advocate for the new community bank in New Haven, Hamilton has expanded the Law School's Community and Economic Development Clinic. Through that clinic, law students



help New Haven entrepreneurs grow their businesses—a true collaboration between the Yale ivy and the Elm City that gets to the heart of the Elm and Ivy Awards.

## Liman Public Interest Program Expands

The Arthur Liman Public Interest Program at Yale Law School held its ninth annual colloquium on March 30 and 31, 2006. It took place in a period of expansion, growing diversity, and a weaving together of Yale Law School not only with its undergraduate counterpart, Yale College, but also with several other leading universities and colleges, including Brown, Harvard, Princeton, Barnard, and Spelman.

With the provision of fellowships to undergraduates for summer work on public interest and its funding of Yale Law graduates to work for underserved populations, the Liman Program is a unique, intergenerational effort to build a community of concerned advocates focused on public service.

This year's colloquium, *Organizing and Reorganizing: Public Interest in Individual & Global Contexts*, brought scholars, advocates, and students from across the

country. It ran in conjunction with the unveiling of the portrait of the Honorable Stephen Reinhardt '54 of the United States Court of Appeals for the Ninth Circuit. Topics discussed included the challenges of helping the disabled, the problems for immigrants in the labor market, and the relationship between advocacy against life without parole and advocacy against the death penalty.

The Liman Program was founded in 1997 by the family, friends, and colleagues of Arthur Liman '57. Liman personified the ideal of commitment to public interest. Throughout his long and distinguished career, he demonstrated how dedicated lawyers can serve the needs of people and causes that might otherwise go unrepresented.

"We are really touched by all the help and support that the Liman family has provided for public interest work," says Judith Resnik, Arthur Liman Professor of Law and Founding Director of the Liman Program at Yale Law School. "The Program makes plain what law schools can do, working cooperatively with lawyers, current students, alumni, and undergraduates at several universities to provide services to those so lacking in support."

"I am honored to continue my father's legacy through the Liman Public Interest Program," says Doug Liman, executive producer and movie director, whose films include *Swingers*, *The Bourne Identity*, and *Mr. and Mrs. Smith*. "It is my hope that even



Judge Stephen Reinhardt '54 with his wife, Ramona Ripston, executive director of the ACLU of Southern California. Judge Reinhardt's portrait was dedicated at this year's Liman Colloquium in March.

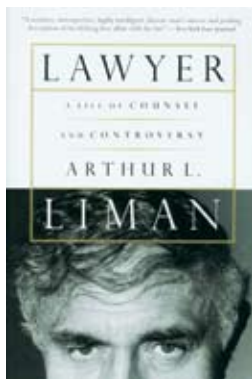
more Fellows will have the opportunity to provide a voice and advocate for those in need.”

In 2004, with a gift from Arthur Liman's son Doug Liman, the summer undergraduate public service program expanded from stipends for Harvard students to funding for students at Brown and Yale as well. With additional support from the Liman Family Foundation, the program expanded again in summer 2005 to include students from Barnard, and this summer, students from Princeton and Spelman also participated in the program.

In 1998, the summer program had three Summer Fellows and this summer will have more than two dozen.

“In so far as we know,” says Professor Resnik, “we are the only such program in the country that has created this kind of ‘intergenerational’ ladder of public-spirited undergraduates, law students, and graduates. And the program is special in that it aims to help this ‘fellowship’ continue over time. Further, we have just launched our first inter-law school fellowship, as one of the upcoming Law School Fellows will be at NYU’s Brennan Center.”

Deborah Cantrell, the director of the Liman Program, added: “It is remarkable proof of the effectiveness of the ‘fellowship’ that twenty-three of our twenty-six former Law School Fellows remain working on behalf of those who are underrepresented or underserved.”



Arthur Liman's book, *Lawyer: A Life of Counsel and Controversy*, is a guide for students interested in a life in public service.



Top (from left): Sameera Fazili '06, Marc Silverman '06. Bottom (from left): Charisa Smith '05, Paige Herwig '06, Larry Schwartztol '05. Not pictured: Alice Clapman '03, Anna Rich '03.

## The 2006–07 Liman Fellows

Alice Chapman '03 will serve her fellowship at the Immigrants' Rights Project of the ACLU in New York.

Sameera Fazili '06 will spend her fellowship year at Shorebank in Chicago, working with their affiliate Northern Initiatives to create a consortium of community development financial institutions in an innovative effort to raise investment capital for persons with less access to such funds.

Paige Herwig '06 will work at the National Women's Law Center in Washington, D.C., where she will focus on state regulations of pharmacies as she explores ways to improve access to contraception in light of the unwillingness of some pharmacists to dispense it.

Anna Rich '03 will work at the National Senior Citizens' Law Center in Oakland, California, to advocate for individuals with disabilities and for low-income seniors affected by Medicare's new private-plan-based prescription drug law.

Larry Schwartztol '05 will hold the Program's first joint fellowship, co-sponsored by the Brennan Center for Justice at New York University Law School; he will be a part of its Democracy Program and direct his efforts toward reform of state felony disenfranchisement laws and the enforcement of state voting rights for individuals with criminal convictions.

Marc Silverman '06 will spend his fellowship year at Advocates for Children in New York, where he will work on behalf of older youth with disabilities as they make the transition from schools to employment, post-secondary education, training programs, and independent living.

Charisa Smith '05 will begin a new project at JustChildren in Richmond, Virginia, where her focus will be on juvenile parolees in need of legal assistance to obtain housing, education, health care, mentoring, and vocational training. She hopes to establish centers that will provide a range of services for juvenile parolees.



**Additional student-run conferences held in the spring term included:**

“Sex for Sale: The Commodification of Intimacy” sponsored by the *Yale Journal of Law & Feminism* on February 4.

The 13th Annual “Rebellious Lawyering Conference” on February 24-26.

Young Scholars Conference, sponsored by the *Yale Journal of International Law*—the fourth annual conference showcasing the best student scholarship in international law, on March 4.

The Yale Entertainment and Sports Law Association Conference on April 7.

## Bernstein Symposium Focuses on ‘Demands of Memory’

The annual Robert L. Bernstein International Human Rights Fellowship Symposium was held on April 20-21, at the Law School.

This year’s symposium, “The Demands of Memory: The Purposes, Forms and Moral Obligations of Remembering Atrocities,” focused on the moral complexity of memory in the aftermath of periods of serious human rights abuses.

The symposium began with a staged reading of a play by Etan Frankel called *Truth and Reconciliation*, followed the next day by a discussion with current Bernstein Fellows, and panel discussions on “Trials and Truth Commissions as Processes for Remembering” and “Artistic and Popular Forms of Memory and Memorialization.” The symposium was sponsored by the Orville H. Schell, Jr. Center for International Human Rights at Yale Law School. Paul Kahn ’80, the Robert Winner Professor of

Law and the Humanities, is the Center’s director, and James Silk ’89, Associate Clinical Professor of Law, is its executive director.

The Robert L. Bernstein Fellowships in International Human Rights were established in 1997 to honor Robert Bernstein, the former chair, president, and CEO of Random House, Inc., and the founding chair of Human Rights Watch. The fellowships provide financial support to allow two Yale Law School graduates to pursue full-time international human rights work for one year. Former Bernstein Fellows have worked on projects promoting and protecting human rights in such diverse locations as Eritrea, Northern Ireland, South Africa, Thailand, Israel, India, and Tibet.

The 2006-07 Bernstein Fellows are:

Ethel Higonnet ’05, who will spend her fellowship year in and around the Ivory Coast documenting sexual violence in the current civil war; and Jeremy Robbins ’06, who will spend his fellowship year in Argentina working with the Center

## New Website Highlights YLS Programs, People, News

THE LAW SCHOOL launched a new website at the end of May, giving the Law School a virtual-world makeover. Though the [www.law.yale.edu](http://www.law.yale.edu) address remains the same, the site has an entirely new graphic design, improved information architecture and navigation, and more dynamic content.

Large, rotating photos and regularly changing profiles of faculty and students highlight the Law School’s personalities and landscape. Interested in what your favorite professors are up to? Visit the new faculty pages or the News section to read news articles about and commentaries written by YLS faculty.

RSS feeds provide dynamic news and events content on the homepage, while the site’s new “In Focus” section emphasizes the Law School’s strengths in a number of areas, including constitutional law, corporate law, human rights, international law, and public service.

Expanded web services for alumni include detailed information on regional events, alumni weekend, and gift and volunteer

opportunities. And not to worry—alumni favorites such as the online YLS Career Connections (formerly the Alumni Mentoring Network) are still available as well.

A new section on visiting Yale and New Haven will help both returning alumni and prospective students explore the area’s restaurants, lodging options, and cultural and recreational opportunities.

The Law School web team completed the project in record time, beginning work on the redesign in the fall of 2005 and launching the new site at the end of May. Consulting firm mStoner assisted in creating the new information architecture and design. The new site is built using RedDot Solutions’ content management system, which will allow for

easier updates to and customization of the site.

The website redesign was generously supported by the Oscar M. Ruebhausen Fund.

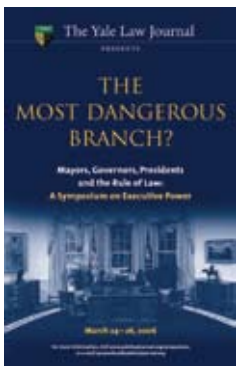
Alumni are invited to send suggestions for continued improvements to [webmaster.law@yale.edu](mailto:webmaster.law@yale.edu).



for Legal and Social Studies and the Association for Civil Rights to develop and enlarge legal recourses for prisoners seeking to challenge human rights violations in prisons.

For more information on the Schell Center's activities and events, visit its new website at [www.law.yale.edu/schell](http://www.law.yale.edu/schell).

## Yale Law Journal Symposium Discusses Executive Power



From the response to Hurricane Katrina to the controversies over NSA wiretapping, theories of executive power have moved over the past year from the academy to the headlines. *The Yale Law Journal's* March symposium, entitled “The Most Dangerous

Branch: Mayors, Governors, Presidents and the Rule of Law,” brought together some of the nation’s leading legal scholars to discuss the issues these controversies have raised and to question new and existing theories of executive power.

The symposium kicked off online on *The Pocket Part*, the *Journal's* online companion publication. Symposium participants, including Dean Harold Hongju Koh, began the discussion in an online forum discussing “2005: The Year of the Executive.” Other panels dealt with the nature of executive action and the theory of the unitary executive. The concluding panel asked participants “how to rewrite Article II for the modern era?”

“*The Journal* was very lucky to have chosen a topic in April of last year that would be the most important topic of conversation in March of this year,” said editor in chief C. J. Mahoney ’06. “We hope that the papers and discussions generated by this event will push theories of executive power beyond the traditional paradigms.”

The symposium issue of the *Journal*, featuring papers presented at the confer-

ence and responses by commentators, will be published in Issue 9 of Volume 115. The issue will be printed in October.

Symposium participants included: Dean Elena Kagan, Harvard Law School; Cass Sunstein, University of Chicago; Steven Calabresi ’83, Northwestern School of Law; John Manning, Harvard Law School; Jack Goldsmith ’89, Harvard Law School; Sai Prakash ’93, University of San Diego Law School; Neal Katyal ’95, Georgetown Law School; Jenny Martinez, Stanford Law School; and Yale Law professors Jonathan Macey ’82 and William Eskridge ’78.

An alternative panel, “Disempowered Voices in Legal Academia,” took place as a result of students protesting the *Law Journal's* acceptance of an article by Kiwi Camara and his participation in the symposium. Camara had sparked protests while a Harvard Law student for using racist speech in some communications with his classmates. The panel was moderated by YLS Professor Ronald Sullivan with panelists Professor Richard Brooks, YLS; Professor Valerie Purdie-Vaughns, Yale Psychology Department; Professor Randall Styers ’84, University of North Carolina; and YLS joint-degree student Nusrat Choudhury ’06.

## China Law Center Hosts Workshop on Budget Supervision

Yale Law School’s China Law Center hosted an “International Workshop on the Legislature, Budget Supervision, and Public Finance” in Beijing in May. The workshop explored how China’s national and local legislatures might more effectively exercise “the power of the purse” to help improve transparency and openness in public administration.

Under the Chinese Constitution, assemblies known as “people’s congresses” have the authority to supervise public expenditures at every level of government. Scholars and officials acknowledge, however, that the ability to exercise this power has been extremely limited in practice. “Few of the mechanisms designed to



*Paul Posner, Jeffrey Prescott ’97, and Liu Zheng at The China Law Center’s budget workshop in Beijing.*

provide checks on government power operate effectively in China,” noted Jeffrey Prescott ’97, associate director of The China Law Center. “Effective legislative review of government budgets is an important way

**“To push forward reform in China, we need a sense of political responsibility, political wisdom, and we need people in positions of power to use their power to promote reform.”**

to address systematic problems like corruption.”

The China Law Center co-sponsored the workshop with Professor Cai Dingjian, director of the Institute for Study on Constitutionalism at China University of Political Science and Law in Beijing. Cai, a former visiting scholar at YLS, is one of China’s leading experts on the legislative system. Attending the two-day event were leaders from China’s central and local legislatures, top scholars and other government officials. The China Law Center’s team also included four current and former U.S. budget officials.

The Chinese participants were frank about obstacles to reform, while seemingly “technical” budget issues quickly implicated more fundamental questions of government transparency and the public’s role in the political process.

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“The challenges they face in this area are enormous,” Prescott noted. “The leadership would like to see a more rational and effective public finance system, but there is still resistance to reforms that challenge traditional power centers.”

Cai concluded the workshop by urging officials to take further action, saying, “To push forward reform in China, we need a sense of political responsibility, political wisdom, and we need people in positions of power to use their power to promote

reform.” Despite the challenge, many participants expressed interest in pursuing further efforts in their own localities, and invited Professor Cai and The China Law Center to work with them to design experimental reforms.

The China Law Center was established in 1999 to increase understanding of China’s legal system and support China’s legal reform process. It is directed by Professor Paul Gewirtz ’70, Potter Stewart Professor of Constitutional Law.



## Yale Panel Discusses Visit of China’s President Hu

Following Chinese President Hu Jintao’s visit to Yale University on April 21, a panel of faculty assembled in Battell Chapel, where they reacted to Hu’s speech and discussed the social, legal, economic, and political realities of China. Participating in the panel were (from left): Deborah Davis, Professor of Sociology; Paul Gewirtz ’70, Potter Stewart Professor of Constitutional Law and Director of The China Law Center; Harold Hongju Koh, YLS Dean and Gerard C. and Bernice Latrobe Smith Professor of International Law; Frances Rosenbluth, Professor of Political Science; and Ernesto Zedillo, Director of the Yale Center for the Study of Globalization and former President of Mexico.

Professor Gewirtz’s remarks focused on the Chinese legal system, while Dean Koh spoke to the human rights issues China faces. Gewirtz discussed widespread corruption, incompetence, and lack of legal standards in China, saying that China is “not a rule of law society.” Despite the institutional problems within the Chinese legal system, Gewirtz spoke of some good news, noting that in the past twenty-five years there have been improvements to the Chinese political system and that economic pressures have prompted a new emphasis on developing a sound legal system.

Dean Koh called human rights in China “abysmal,” and went on to outline modes of repression in China, among them censorship, detention, torture, and the brutal suppression of groups such as the Falun Gong and Tibetan Buddhists. Koh suggested that it would be in China’s best interest to modernize and democratize, saying that the country can’t enter the 21st-century global economy with a 19th-century view of human rights.

## Law and Business Colloquium Series Honors Marvin Chirelstein

The Law School has established a colloquium series in honor of Marvin A. Chirelstein, who inspired countless students to pursue careers in the business and tax fields while he was the William Nelson Cromwell Professor at the Law School from 1965-82, teaching Business Units II, Taxation of Income, and Corporate Tax.

Marvin Chirelstein was a master teacher and distinguished scholar. His pathbreaking casebook with Victor Brudney on Corporate Finance (first ed. 1972) introduced modern finance into the law school business law curriculum. In addition, his *Federal Income Taxation*, now in its ninth edition, continues to illuminate the arcane tax world to law students.

Mark ’80 and Kim Campisano generously contributed funds to endow the colloquium. A Partner and General Tax Counsel at McKinsey & Co, Mark “took every class that Marvin offered,” and recalls him with the utmost fondness: “Marvin brought a wonderful intellectual sophistication to the study of business and tax law. His classes were always filled with penetrating analysis and playful humor. He made it easy to envision a career in these fields that was stimulating, challenging, and fun.”

The Marvin A. Chirelstein Colloquium on Contemporary Issues in Law and Business brings leading members of the corporate bar, business and investment communities, judges and regulators, to the Law School to discuss emerging practice and regulatory issues, as well as scholars from other institutions to present their ongoing research on corporate governance and finance. An aim of the colloquium is to provide students with a realistic sense of the varieties of business law practice. The colloquium is open to the Law School community and a limited number of law students can enroll in it as a seminar.

Roberta Romano ’80, Oscar M. Ruebhausen Professor of Law and Director





(Above) Colloquium students; (left) Dean Harold Hongju Koh, Professor Roberta Romano '80, Marvin Chirelstein, and Mark Campisano '80.



Hon William Chandler '79 LL.M.

of the Yale Law School Center for the Study of Business Law, organized the Chirelstein Colloquium this year, which was held in the spring 2006 semester. The colloquium was inaugurated on January 30 with a lecture by Campisano on "Form Over Substance in International Tax Planning" followed by a reception and dinner in honor of Marvin Chirelstein and the Campisanos.

Ten additional distinguished alumni and law professors participated in the colloquium during the semester, on topics ranging from thinking about industry-based solutions to protecting hedge funds' proprietary trading information upon employee departures, the crafting and interpretation of complex indenture provisions, behind-the-scene analyses of takeover and board succession battles, and to the decisional process for making a substantial private equity investment. Speakers included: Hon. William Chandler '79 LL.M., Chancellor, Delaware Court of Chancery; John C. Coates, Professor, Harvard Law School; Victoria Cundiff, '80, Partner, and Chair, Partnership Evaluation Committee, Paul Hastings; Peter Ezersky '85, Managing Principal, Quadrangle Group LLC; Stewart Kagan '85, Partner, Akin Gump Strauss Hauer & Feld LLP; Marcel Kahan, George T. Lowy Professor of Law, New York University School of Law; Martin W. Korman '89, Partner and Chair, Mergers & Acquisitions, Wilson Sonsini Goodrich & Rosati; Robert Todd Lang '47, Senior Partner, Weil, Gotshal, & Manges LLP; Michael E. Levine '65, Distinguished Research Scholar, NYU Law School, retired senior airline execu-

utive and former Dean, Yale SOM; Charles Nathan '65, Partner and Global Co-Chair, Mergers & Acquisitions Group, Latham & Watkins LLP; Rosa Testani '88, Partner, Akin Gump Strauss Hauer & Feld LLP.

Student response to the colloquium has been enthusiastic. "The colloquium was one of the best courses I've taken here," said Marek Grabowski '06. "I do think that most of the courses I have taken here were more theoretical than practical, and that's probably a good thing, but it is very helpful for someone like myself, who intends to go

to work for a law firm, to listen to people with experience particularly with different types of deals and transactions."

"I found it incredibly enjoyable and stimulating," agreed Valerie Jaffee '07, "and I think that it fills a niche that definitely could use more filling at the Law School, by providing a relatively informal opportunity to build an intellectual community around corporate law issues."

The Chirelstein Colloquium is just one of many activities coordinated by

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## HONORS



### YLS Awards Honor Deborah Cantrell and Brian Pauze

Winners of the Yale Law School Teaching and Staff Awards for the 2005-06 academic year were: (from left) Deborah Cantrell, director of the Arthur Liman Public Interest Program, and Brian Pauze, a user support specialist for Instructional Technology Services. A reception honoring Cantrell and Pauze was held May 4 in the Law School's Alumni Reading Room. Yale Law Women established the annual Teaching and Staff Awards, and administers the award selection process.

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the Center for the Study of Business Law. The Center holds regular Weil, Gotshal & Manges Roundtables, alumni breakfasts in New York City on corporate law topics, and endowed lectures to honor John R. Raben '39 and Judge Ralph Winter '60. Professor Paul Mahoney '84 of the University of Virginia gave a Winter Lecture on Corporate Law and Governance this spring entitled "Did the SEC Improve Corporate Disclosure? Evidence from the 1930s," and Professor Oliver Hart gave a Raben Lecture on "Partial Contracts."

For more information on the Center's activities, visit [www.law.yale.edu/cbl](http://www.law.yale.edu/cbl).

## YLS Community Responds to Tragedy of Hurricane Katrina

Hurricane Katrina blew ashore as the 2005–06 academic year began, and the YLS community found many ways to demonstrate its zeal for public service and its concern for the communities hardest hit by the area's freakish storms. The Katrina Class Challenge and the Yale Law Women Mardi Gras fundraiser raised nearly \$17,000 in relief funds, which was matched dollar-for-dollar by Yale Corporation members. Students joined with Professors Bob Solomon and Denny Curtis '66 to develop the Hurricane Relief Law Project, a new clinic to help focus the School's relief efforts. The Deborah L. Rhode '77 Public Interest Fund helped students travel to New Orleans to meet with local nonprofits to develop research and advocacy projects in housing, criminal justice, education reform, and local election issues. Students and faculty worked with leaders of the Louisiana bar and government officials on ways to restructure the state's public defender services (*see sidebar*). And about twenty students from the Law School spent their vacation week volunteering with Habitat for Humanity and other organizations in the region to help address the severe housing crisis.



*Professor Ron Sullivan with Frank Neuner, president of the Louisiana State Bar Association, at the May conference on Louisiana Public Defense.*

## YLS Organizes Conference on Louisiana Public Defense

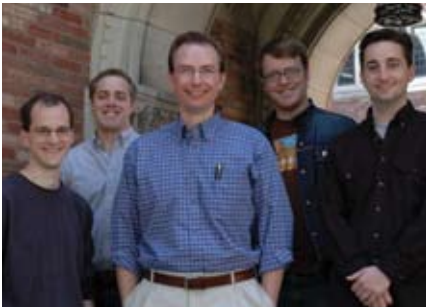
**IN MAY, YALE LAW SCHOOL and the Louisiana State Bar Association convened a meeting of national experts, judges, lawyers, and professors from Louisiana to discuss indigent defense in that state. Ronald S. Sullivan, Jr., associate clinical professor of law and supervising attorney, led the Yale contingent. Also attending from Yale Law School were Stephen Bright, president and senior counsel for the Southern Center for Human Rights and visiting lecturer in law at YLS; Megan F. Chaney, Robert M. Cover Clinical Teaching Fellow; Andrea Armstrong '07; and Johanna Kalb '06. The conference was funded by a grant from the Zelia P. Ruebhausen Student Fund.**

**Among the conference's goals: providing comparative information on the structure, operation, and funding of public defense systems in other states, and facilitating informal conversations and consensus on the essential attributes of a constitutional indigent defense system among individuals critically involved in Louisiana's public defender efforts. Moving forward, conference participants asked YLS to remain involved in the reform effort and to reconvene participants in six months to draft comprehensive reform legislation.**

**Conference participants included Louisiana Supreme Court Chief Justice Pascal F. Calogero, Jr.; Orleans Parish Criminal District Court Chief Judge Calvin Johnson; Louisiana Supreme Court Justice Bernette Joshua Johnson; and the leadership of the Louisiana Public Defenders Association, the Louisiana Association of Criminal Defense Lawyers, and local bar associations. Professors from the law schools of Loyola University, Louisiana State University, and Tulane University also attended the conference, as did public defenders from Georgia, Florida, Kentucky, Louisiana, New York, and Washington, D.C. ∞**

## North Dakotans Find a Second Home at YLS

When a student from the Peace Garden State arrives at Yale Law School, he typically expects to be the only North Dakotan student in town. But when Dakota Rudesill '06 arrived, he was surprised to discover, while flipping through the Law School Facebook, that there were no fewer than four North Dakotans in the Class of 2006 alone. Even more remarkable is that they were all basically from



*Left to right: Joseph Pull '06, Tom Sylvester '06, Dakota Rudesill '06, Casey Pitts '08, and Charlie Korsmo '06 form the Law School's North Dakota contingent.*

the same part of North Dakota: Fargo and its environs.

After making his discovery, Rudesill sent out an email to his fellow North Dakotans and “suggested we get dinner and get to know each other. I christened us the YLS North Dakota Caucus, although we have yet to lobby for anything—yet.”

During the 2005-06 academic year the group was improbably joined by a fifth North Dakotan, Casey Pitts '08, who is also from Fargo.

Ironically, Rudesill says, “Casey and I had met once, but my wife has known him for years. Casey’s older sister Amber was one of my wife’s best friends in high school in Fargo, and I met Casey at Amber’s wedding in Providence in fall 2002. I don’t think either of us knew then that we were applying to YLS, much less that we’d both end up here at the same time!”

Whether the coincidence is just a statistical anomaly or a credit to North Dakota schooling, these five students have formed a unique friendship. They intend to keep in touch after graduation and to “encourage other North Dakotans to apply.” ∞



## Associate Dean Barbara Safriet Retires

Longtime Associate Dean Barbara Safriet retired after the spring term, ending almost twenty years of dedication to the School in general and the graduate student program in particular. Colleagues and students celebrated her service at several receptions in May. In a farewell message to the graduate students, she recalled her role as “adviser, teacher, listening ear, and friend” and termed it “the best job at the Law School.” Dean Safriet remains a Dean’s Senior Fellow in Law at the School. ∞

## VOTING RIGHTS

### YLS Students Help Protect Voters’ Rights in New Orleans *by John Tye '06*

IN LATE APRIL, six students flew down to Louisiana to help ensure a fair mayoral primary election in New Orleans as part of the Hurricane Relief Law Project. After Hurricane Katrina, a group of us had started the Project to address legal issues in the rebuilding of the Gulf Coast. Advised by Professors Denny Curtis '66 and Bob Solomon, we spent the semester working on several issues, including education, criminal justice, housing, and voting rights.

The Law School gave us funding to work with the Louisiana Voting Rights Network, a nonpartisan coalition of nonprofits working for a fair election. The election was controversial because of accusations that the procedures in place would effectively exclude tens of thousands of voters, especially black voters, now scattered across the country by the storm. LVRN planned to put poll monitors in dozens of polling sites throughout the city, and to run a legal command center that could respond quickly to any problems that came up.

We arrived at the end of a months-long campaign by hundreds of law student volunteers to register voters evacuated

from New Orleans and help them vote by absentee ballot. Before the big day, we were trained in local election law, and we helped to organize logistics: identifying high-risk polling sites, making maps, assembling documents for poll monitors. Election day itself, April 22, was long; we were up at 4:30 am and we worked until 9 at night.

Our team from Yale played an important role. One of our students confronted a sheriff refusing to let monitors into a poll, while another discovered that the state had given an incorrect address for one poll, a mile away from the actual major polling site. Other members of our team stayed in the legal command center, fielding calls from scores of volunteer poll monitors. While the operation of the polls was not as chaotic as was feared, predictions of low black voter turnout were ultimately correct.

In the mayoral primary, incumbent Ray Nagin advanced to a runoff with Lt. Gov. Mitch Landrieu. (Nagin was subsequently reelected for a second term on May 30.)

The trip was fascinating. We were thankful for the chance to tour the city’s destroyed neighborhoods, to meet activists from New Orleans and around the country and, after the polls were closed, to squeeze in a midnight stroll down Bourbon Street.