# news in brief

## Ph.D. in Law

the Latest Innovation in Legal Education Offered by Yale YALE LAW SCHOOL is about to initiate yet another major innovation in legal education. Beginning in Fall 2012, students with a J.D. can apply for an entirely new degree, the Ph.D. in Law.

The first such degree program in the country, Yale Law School's Ph.D. in Law is designed to prepare students for careers in law teaching. The program will give students the specialized training and mentorship they need to produce their own published work. The Ph.D. will stand alongside Yale Law School's other very successful law teaching degrees—the J.S.D. and LL.M—which are designed primarily for students who have received their initial legal education outside the United States.

The new Ph.D. program is made possible, in part, by a grant from The Mellon Foundation, as well as by the generous support of Meridee Moore '83, founder of Watershed Asset Management, L.L.C.

"In the past few decades, legal scholarship has matured as an academic discipline," observed Dean Robert Post '77. "The portfolio of written scholarship expected of entrylevel law professors has risen quite dramatically, and for this reason increasing numbers of candidates for such positions now pursue Ph.D.'s in allied disciplines like eco-

The first such degree program in the country, Yale Law School's Ph.D. in Law is designed to prepare students for careers in law teaching. nomics, history, philosophy, or political science. Because such disciplines train students in standards and questions that are different from those of the law, the natural next step for the legal academy is to create our own Ph.D. program that can focus on the questions and practices of the law itself. Students obtaining a Ph.D. in law may of course engage in interdisciplinary studies, but their work will be anchored in the framework of legal scholarship."

Yale Law School already is the most important institution in the U.S. for the education of future law professors. Despite the Law School's relatively small size, approximately ten percent of law professors currently teaching in the United States—including the deans of eight of the top ten law schools—received their legal education at Yale.

"It is becoming increasingly hard to transition directly from law practice to teaching," Dean Post explained. Candidates for entry-level law school positions are now expected to present a relatively mature scholarly profile; they need a defined research agenda and a substantial portfolio of writing. Students who do not pursue a Ph.D. in an allied discipline increasingly seek post-J.D. fellowships, which afford the time and opportunity to write. But such fellowships do not provide in-depth scholarly training.

Students in the new Ph.D. in Law, by contrast, will be required to take coursework, pass qualifying examinations, and write a dissertation. Students will also learn how to teach.

The first class of Ph.D. students will begin their studies in Fall 2013. Applications will be accepted in Fall 2012. The program is open to those who have earned a J.D. degree at an American law school. Ph.D. students will be entitled to a waiver of the cost of tuition and will receive a stipend to cover their living expenses. For more information, visit *www.law.yale.edu/phd*.



### THE INTERSECTION OF THEORY AND PRACTICE

THE LAW SCHOOL'S new PH.D. in Law program joins a panoply of courses, clinics, and programs that have, in recent years, strengthened the bond between theory and practice at the School.

The Ethics Bureau, Supreme Court Advocacy Clinic, and the Media Freedom and Information Access Practicum are just a few of the projects that provide hands-on learning opportunities for students to work on groundbreaking national issues (see "Beyond the Book: The Expansion of Experiential Learning" in Yale Law Report Summer 2011, pgs. 34–41). The Jerome N. Frank Legal Services Organization offers such cutting-edge clinics as the Worker and Immigrant Rights Advocacy Clinic, Veterans Legal Services Clinic, and the Transnational Development Clinic (see recent clinic accomplishments on the following pages). And unlike most other law schools, Yale Law School allows students to take clinicsand appear in court—during the spring of their first year. About 80% of YLS students take advantage of this unique opportunity to combine theory with practice, and many students take more than one clinic. With more than two dozen clinics and projects, there are always places available.

The Law School's "Challenges of a General Counsel" course (see page 40) is just one of a number of courses where students learn from practitioners in the field. Other experiential learning opportunities bring academics and practitioners together in close-knit collaborations with real-world results. These include the San Francisco Affirmative Litigation Project, the Law School's partnership with the San Francisco City Attorney's Office, where students work alongside city attorneys and Professor Heather Gerken on innovative public interest lawsuits; and the School's Center for Global Legal Challenges, where students prepare white papers and amicus briefs under the guidance of Professor Oona Hathaway for congressional staff and the U.S. State Department.

The School's Center for the Study of Corporate Law, under Sterling Professor Roberta Romano, continues to attract the nation's top corporate leaders and financial experts to engage students and faculty in the national and international financial and corporate debates of the day. The Law School's accelerated three-year JD/MBA degree provides a fast track to the business law and managerial fields for interested students as well.

And Yale Law School's outstanding support for the public interest continues with the awarding of more than three dozen long-term fellowships to students and recent graduates (see page 44). These placements offer valuable, on-theground training that often results in a permanent position in an NGO or government agency. The fellowship support, along with assistance from programs like COAP (see page 49), forms a solid foundation upon which to build a public interest career.

"Actual experience in solving problems in local, state, national, and international contexts can be extremely valuable, especially when supplemented by the most sophisticated available legal scholarship. The Law School encourages innovative partnerships with agencies and practitioners so as to prepare our students to practice law in the area of their choice upon graduation," said Dean Post. FACULTY

### Yale Law School Welcomes Three New Faculty

FIONA DOHERTY '99, Abbe Gluck '00, and Gideon Yaffe have been named to Yale Law School's faculty.

Doherty joined the faculty as a Clinical Associate Professor of Law. She has served as a Visiting Clinical Associate Professor of Law here since fall 2011, co-teaching the Criminal Defense Project and the Veterans Legal Services Clinic. Prior to that, she was the Arthur Liman Senior Fellow in Residence and co-taught the Liman Public Interest Workshop, "Accessing Justice and Rights—From Streets to Prisons."

"Fiona is an outstanding clinical professor and lawyer," said Dean Robert Post '77. "She brings grace, clarity and conviction to her work and to her students."

Doherty graduated from the University of Virginia in 1996 with a B.A. in History and Slavic Languages and Literatures. She earned her J.D. in 1999 from Yale Law School, where she received the C. LaRue Munson Prize for excellence in the clinical program. Following Law School, she clerked for the Honorable Martha Craig Daughtrey on the U.S. Court of Appeals for the Sixth Circuit. She then received a Bernstein Fellowship from Yale Law School to work with the Committee on the Administration of Justice (CAJ), a human rights organization in Belfast, Northern Ireland.

Following her fellowship, she was a senior associate and then senior counsel at the Lawyers Committee for Human Rights (now Human Rights First) in New York City. She was a member of the U.S. Law and Security Program, working to ensure that U.S. anti-terrorism measures incorporated human rights protections. She also served in the Human Rights Defenders Program, where she continued to work on issues involving Northern Ireland.

Abbe Gluck 'oo joined the Law School as an associate professor of law. Previously an associate professor of law and the Milton Handler Fellow at Columbia Law School, Gluck is an expert in civil procedure, legislation, federalism, and health law.

"Abbe brings energy, practical experience, and scholarly range. Her work in the theory of legislative interpretation is dazzling," said Dean Post

Gluck has served as special counsel and senior advisor to the New Jersey Attorney General, as chief of staff and counsel to the New York City Deputy Mayor for Health and Human Services, senior counsel in the New York City Office of Legal Counsel, and deputy special counsel to the New York City Charter Revision Commission

She earned B.A. degrees in English and International Studies, both summa cum laude, from Yale University. She earned her J.D. from Yale Law School, where she was student director of the Landlord-Tenant Clinic, chair of the Student Board of Directors of the Jerome N. Frank Legal Services Organization, notes editor of The Yale Law Journal, and a member of the Yale Law & Policy Review. She served as a John M. Olin Fellow in Law, Economics, and Public Policy and as a Coker Fellow in Civil Procedure. Following law school, she clerked for then-Chief Judge Ralph K. Winter on the U.S. Court of Appeals for the Second Circuit, and for U.S. Supreme Court Justice Ruth Bader Ginsburg.

In January 2012, Gluck served as co-lead counsel on a U.S. Supreme Court amicus brief filed on behalf of 104 health law professors in support of the health reform legislation.

Gideon Yaffe has been named Professor of Law. Yaffe had been on the University of Southern California faculty since 1999, teaching criminal law and a variety of philosophy courses. His research interests include the philosophy of law, particularly criminal law; the study of metaphysics including causation, free will and personal identity; and the study of intention and the theory of action. He has also written about the history of early modern philosophy.

"Professor Yaffe is a profound intellect, and he brings to the school a deep grasp of how the insights of philosophy can be brought to bear on legal questions like personal responsibility and accountability. His broad understanding of contemporary neuroscience is also of enormous value," said Dean Post.

Yaffe is a member of the MacArthur Foundation's Law and Neuroscience Project and collaborates with several neuroscientists to devise experiments that aim to be of legal and philosophical significance.







With support from the Mellon Foundation, he spent the 2009–2010 academic year as a neuroeconomics student at Caltech. He also spent a year in residence at the Huntington Library with support from a Frederick Burkhardt fellowship from the American Council of Learned Societies. In 2010, he received The Berger Prize—given by the American Philosophical Association for the best article or chapter in legal philosophy over the last two years—for "Excusing Mistakes of Law."

His most recent book, *Attempts* (Oxford, 2010), concerns the philosophical foundations of the law governing attempted crimes. He is also the author of *Manifest Activity: Thomas Reid's Theory of Action* (Oxford, 2004) and *Liberty Worth the Name: Locke on Free Agency* (Princeton, 2000).

He holds an A.B. in philosophy from Harvard and a Ph.D. in philosophy from Stanford. FACULTY

### Shapiro, Tyler, Wishnie Awarded Named Professorships

THIS PAST SPRING, the Yale Corporation voted to approve endowed professorships for three Yale Law School professors. Scott Shapiro '90 has been named the Charles F. Southmayd Professor of Law; Tom Tyler has been named the inaugural Macklin Fleming Professor of Law; and Michael Wishnie '93 has been named William O. Douglas Clinical Professor of Law.

Scott Shapiro joined the Yale Law faculty in July 2008 as a professor of law and philosophy. He previously taught law and philosophy at the University of Michigan and before that, was a professor of law at the Benjamin N. Cardozo School of Law.

His areas of interest include jurisprudence, international law, constitutional law and theory, criminal law, family law, philosophy of action, and the theory of authority. He is the author of *Legality* (2011) and editor (with Jules Coleman) of *The Oxford Handbook of Jurisprudence and Philosophy of Law* (2002).

He earned B.A. and Ph.D. degrees in philosophy from Columbia University and a J.D. from Yale Law School, where he was senior editor of *The Yale Law Journal*.

Tom Tyler joined the Yale Law faculty in January 2012 as a professor of law and psychology. He is also a professor (by courtesy) at the Yale School of Management. He was previously a University Professor at New York University, where he taught in both the psychology department and the law school. Prior to joining NYU in 1997, he taught at the University of California, Berkeley, and at Northwestern University.

Professor Tyler's research explores the role of justice in shaping people's relationships with groups, organizations, communities, and societies. In particular, he examines the role of judgments about the justice or injustice of group procedures in shaping legitimacy, compliance, and cooperation.

He is the author of several books, including Why People Cooperate (2011); Legitimacy and Criminal Justice (2007); Why People Obey the Law (2006); Trust in *the Law* (2002); and *Cooperation in Groups* (2000). He was awarded the Harry Kalven prize for "paradigm shifting scholarship in the study of law and society" by the Law and Society Association in 2000, and in 2012, was honored by the International Society for Justice Research with its Lifetime Achievement Award for innovative research on social justice.

He holds a B.A. in psychology from Columbia and an M.A. and Ph.D. in social

psychology from the University of California at Los Angeles.

Michael Wishnie '93, who is also director of the Jerome N. Frank Legal Services Organization (LSO), joined Yale Law School in 2006. He assumed directorship of

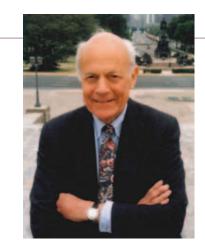
umed directorship of Tyler Shapiro

the LSO in February 2011, following the announcement of the departure of longtime director Bob Solomon. Wishnie's teaching, scholarship, and law practice have focused on immigration, labor and employment, habeas corpus, civil rights, and veterans law.

For many years, Wishnie and his students have represented a wide range of community groups, churches, labor unions, and individuals in litigation and other

> forms of advocacy to defend and advance the rights of working people, immigrants, and in his newest clinic, veterans. This work has led to a variety of notable cases in recent years, including a landmark \$350,000 settlement in a civil rights lawsuit on behalf of eleven persons arrested by ICE agents in a

> > series of home raids in New Haven in June 2007 (*see page 16*) and representation of Vietnam Veterans of America in a suit alleging the Pentagon wrongfully discharged 26,000 service members since 2001 on the basis of personality disorder (*see page 13*).



### Judge Louis H. Pollak '48, Former YLS Dean, Dies at 89

U.S. DISTRICT JUDGE Louis H. Pollak '48, a former dean and faculty member at Yale Law School, died on May 8, 2012, in Philadelphia. (Please see story on page 63.)

### LECTURES

## Professor Daniel Markovits '00 Delivers Guido Calabresi Inaugural Lecture

DANIEL MARKOVITS '00 presented his inaugural lecture as the Guido Calabresi Professor of Law on April 9, 2012. In the lec-



aw on April 9, 2012. In the lecture, "Market Solidarity," Markovits discussed a new general theory of economic markets, which displays market relations as a central pillar (as important as politics and the state) supporting order and stability in open, cosmopolitan societies.

Markovits joined the Yale Law School faculty in 2001 as an Associate Professor of Law, after clerking for the

Honorable Guido Calabresi '58 of the U.S. Court of Appeals for the Second Circuit. He was named a Professor of Law in 2007 and assumed the Calabresi Chair in 2010. He works in the philosophical foundations of private law, moral and political philosophy, and behavioral economics. He has written numerous articles on contracts, legal ethics, distributive justice, and other topics and is author of the book, *A Modern Legal Ethics: Adversary Advocacy in a Democratic Age* (2008), and the forthcoming, *A Text in Contracts*. He holds a B.A. from Yale, an M.Sc. from the London School of Economics, a B.Phil. and D.Phil. from Oxford, and a J.D. from Yale Law School.

The Guido Calabresi Professorship was established in 2006 through a bequest of Ralph Gregory Elliot '61 to honor Guido Calabresi '58, former Dean of Yale Law School and respected jurist on the U.S. Court of Appeals for the Second Circuit.

www.law.yale.edu/videos

### HONORS

### Dual Honors for Professor George Priest

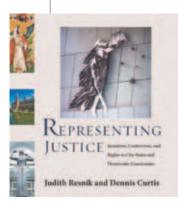
PROFESSOR GEORGE L. PRIEST, Edward J. Phelps Professor of Law and Economics, was honored twice recently—once in Lima and again by the American Enterprise Institute.

Last November, the School of Law of the Universidad Peruana de Ciencias Aplicadas (University of Peru of Applied Sciences) in Lima organized a festschrift honoring



Priest's work. The conference, convened over two days, honored his work in the history of law and economics and the theory of the selection of disputes for litigation; the determinants of standard form contracts and the economic analysis of modern tort law; the analysis of antitrust and regulation; and the operation of capitalism and of economic growth. The conference consisted of comments on Priest's work by distinguished legal and economic scholars and officers of government. It culminated with the presentation of a book containing many of Priest's most important articles with commentary by distinguished Peruvian scholars.

During Priest's time in Peru, he was also



## *Representing Justice* by Professors Judith Resnik and Dennis Curtis '66 Wins Scribes, PROSE, *Choice* Magazine Awards

REPRESENTING JUSTICE: Invention, Controversy, and Rights in City-States and Democratic Courtrooms by Yale Law professors Judith Resnik and Dennis Curtis '66 was honored recently with several prestigious publishing awards: the Scribes 2012 Book Award given by the American Society of Legal Writers; the 2011 PROSE Awards for Excellence in both the Social Sciences and Law & Legal Studies categories; and Outstanding Academic Title of 2011 by *Choice* magazine, the major review medium for academic libraries.

The central question of *Representing Justice* is the relationship between courts and democracy. Professors Resnik and Curtis explore the evolution of adjudication into its modern form by mapping the remarkable run of the political icon of Justice and by tracing the development of public spaces dedicated to justice: courthouses.

The Scribes Book Award has been given annually since 1961 to honor the best work of legal scholarship published in the previous year. The PROSE Awards have been given annually since 1976 and recognize the best in professional and scholarly publishing in books, journals, and electronic content in more than forty categories. *Choice* magazine publishes an annual list of the most significant print and electronic works reviewed in *Choice* during the previous calendar year.

In June, Professors Resnik and Curtis delivered a lecture, based on their book, for the annual meeting of the Supreme Court Historical Society.

interviewed extensively by the press, including by the important newspaper *Economia*. A rough translation of Priest's quote is "The way to reduce poverty is through investment, not by camping in public parks."

In March, Priest was appointed chairman of the Council of Academic Advisers of the American Enterprise Institute, succeeding the prominent political scientist James Q. Wilson. The Council consists of academics from leading U.S. universities, including Martin Feldstein, Gertrude Himmelfarb. and Glenn Hubbard.

Priest has been a member of AEI's Council of Academic Advisers since 1994.

An internationally recognized expert, Priest has focused his research over the past two decades on antitrust, the operation of private and public insurance, and the role of the legal system in promoting economic growth. He joined Yale Law School in 1981 and is co-director of the John M. Olin Center for Law, Economics and Public Policy, which facilitates the scholarly work of the Yale law and economics faculty and supports student interest and research in the field.

### ROUNDTABLE

### Latin American Legal Studies Kicks Off Breakfast Series

THE LATIN AMERICAN LEGAL STUDIES Program at Yale Law School inaugurated its breakfast roundtable series for lawyers in Latin American practice with an event April 12 devoted to international investment arbitration. More than 100 people participated at the roundtable, moderated by Yale law professor Daniel Markovits '00 and simulcast in the New York and Washington offices of Simpson Thacher and the Paris offices of Cleary Gottlieb.

Six prominent panelists drawn from academia, litigation, and arbitration addressed the current state of international investment arbitration, with particular emphasis on Latin America. Emma Lindsay of Simpson Thacher underscored the continent's importance in pointing out that while a third of the cases resolved by the International Centre for Settlement of Investments Disputes (ICSID) involved Latin American countries, nearly half of pending cases do.

Yale Law professor Michael Reisman '64 LLM, '65 JSD argued that the development of international investment arbitration law is a dialectic process, not a practice in crisis, and outlined five possible paths the development could follow given current political and economic trends.

University of Chile law professor Santiago Montt '04 LLM, '07 JSD, a senior manager at BHP Billiton, looked at how the jurisprudence arising from international investment arbitration can be treated as a nascent form of international public law or international constitutionalism and noted how rule of law can be reinforced or eroded depending on how national governments respond to claims brought by foreign investors.

Claudia Annacker of Cleary Gottlieb focused on charges of corruption and how such charges are primarily used by national governments to prevent international investment disputes from going to arbitration and less frequently by foreign investors using alleged government corruption as an offensive tool to obtain redress.

Carolyn Lamm of White & Case argued against the ad hoc committees reversing ICSID decisions, and Guillermo Aguilar-Alvarez of King & Spalding discussed the recent setback to international standards recorded by a Mexican court. Emma Lindsay offered an empirically grounded analysis whose projection indicates continued heightened relevance of Latin American questions in this developing field.

Additional details are available at www. law.yale.edu/intellectuallife/15190.htm.

#### HONORS

### Judith Calvert Receives NNLSO Vanguard Prize

YALE LAW SCHOOL ASSISTANT DEAN and Registrar Judith Calvert has been named recipient of the 2012 Vanguard Prize given by the National Network of Law School Officers (NNLSO). The award recognizes individuals for outstanding professional achievement in support of student services. Calvert, who has been with Yale



for more than twentyfive years and at the Law School since 2002, is a longtime member of NNLSO, serving as editor of *The Journal*, NNLSO's biannual electronic publication, from 2003–2007 and on the Executive Committee from 2003–2008. Calvert's

service to Yale Law School has included developing an online exam system and enhancing the ability to create reporting about curricular issues for the faculty.

#### HONORS

### CDO's Marilyn Drees Named Vice President of NALP

MARILYN DREES, director of the Career Development Office (CDO), has been selected to serve as vice president of NALP: The Association for Legal Career Professionals for 2012–2014. A graduate of Stanford Law School, Drees joined CDO in 1999 and since then has served in a variety of NALP roles, among them, founding member and past co-chair of the Judicial Clerkship section, founding member of the OSCAR (On-Line System for Clerkship Application and Review) working group, and chair of the Bylaws Committee. As vice president, she will be in charge of establishing a new regionally elected council.



### STUDENTS

### Supreme Court Ruling Cites Amicus Brief Written by Ethics Bureau Students

AN ALABAMA DEATH-ROW INMATE who lost his chance to appeal his murder conviction because his attorneys essentially abandoned him will get that chance thanks, in part, to a meticulously researched amicus brief filed by students in the Ethics Bureau at Yale Law School. The U.S. Supreme Court cited the brief in a lengthy footnote to its January 18 ruling in favor of Cory Maples in the case, *Maples v. Thomas*. The Ethics Bureau was established at the Law School in 2011.

"It is so gratifying—and a little dizzying—to have one of the very first projects undertaken by the Ethics Bureau at Yale be an amicus brief for the winning side in a United States Supreme Court case and for the Court to rely on the brief in so many ways," said Yale Law School visiting lecturer Lawrence Fox, Ethics Bureau instructor and partner in the firm, Drinker Biddle & Reath.

Maples, convicted of murdering two people in 1995, had been represented pro bono by two first-year associates in the New York firm Sullivan & Cromwell in arguing that his counsel at his initial trial was ineffective. When an Alabama court rejected those claims, it sent notices to the two lawyers, but the lawyers had left the firm without informing the court or Maples, so the notices were returned to the court clerk's office unopened. Maples' Alabama attorney also received notice of the ruling but did nothing. As a result, Maples missed the deadline for filing an appeal to federal courts, and when he asked for a waiver of that deadline, both the state and federal courts denied it.

"Our amicus brief focused on the ethical violations of Maples' two lawyers at Sullivan & Cromwell (they abandoned their client and did not properly withdraw as his counsel), of his local counsel in Alabama (he essentially said that he would not do any work on the case at all), and of the firm Sullivan & Cromwell (they continued to represent Maples even after it came to light that their lawyers had abandoned him, which created an impossible conflict of interest)," said Stephanie Turner '12, one of seven students who worked on the brief.

"We argued that Mr. Maples was abandoned by his lawyers and that therefore, he shouldn't suffer for their mistakes," said Ramya Kasturi '12.

The Supreme Court agreed and in a majority opinion (7-2) written by Justice Ruth Bader Ginsburg, said that in view of the extraordinary facts of the case, it was not Maples' fault for missing the deadline and that there was sufficient cause to excuse him.

Ginsburg referred directly to the students' amicus brief in stating:

The unclear state of the record is perhaps not surprising, given Sullivan & Cromwell's representation of Maples after the default. As amici for Maples explain, a significant conflict of interest arose for the firm once the crucial deadline passed.

"Generally, clients are held responsible for mistakes on the part of their lawyers, such as negligently forgetting to file a motion," said Michael Drezner '12. "Yet this case concerned the more serious question of whether the same responsibility should attach when a client is abandoned by his attorneys. The Supreme Court answered with a resounding no."

The Court sent the case back to the federal courts, where Maples will be allowed to challenge his conviction.

Other Yale Law School Ethics Bureau students who contributed to the Maples case were Alexander Fenner '12, Kathryn Boudouris '11, Lawrence Kornreich '12, and Carleen Zubrzycki '12.



Students in Larry Fox's Ethics Bureau clinic on the steps of the Supreme Court where they heard oral arguments in Maples v. Thomas

### REPORT

## Yale Law School and Junta Release Report on Remittance Practices

TROUBLED BY PERSISTENT BARRIERS to financial stability faced by New Haven's immigrant community, Junta for Progressive Action and Yale Law School's Transnational Development Clinic issued a report, "Supporting Transnational Families: Improving Remittance and Banking Services for Immigrants in New Haven," that provides the first meaningful study of how New Haven's immigrants send millions of dollars to family members abroad every year and the barriers they face in doing so. It proposes a series of policy recommendations to make the process of remitting money fairer in New Haven and more effective in combating poverty abroad.

Some of the report recommendations include:

- Educating consumers around new rights relating to cost disclosure and dispute resolution under the Dodd-Frank Act;
- Requiring fuller disclosure of remittance costs by remittance service providers;
- Educating consumers about banking options, particularly smaller, community-oriented banks; and
- Advocating for banks to reach out to immigrant communities with dual-language staff and materials.

Worldwide, remittances—cross-border transfers of money from migrant workers to their family members—to developing countries are larger than overseas development aids inflows. Remittances originating in New Haven every day form a vital lifeline for recipients in low-income countries and regions. The Junta/TDC study surveyed 145 community members and found that they sent about \$200 per month, for a total of \$348,000 a year. This suggests that New Haven's large immigrant community remits millions of dollars each year.

# Visiting the Law School



The Honorable **Jeh Charles Johnson**, General Counsel of the Department of Defense, gave a Dean's Lecture on February 22 titled "National Security Law, Lawyers and Lawyering in the Obama Administration." The lecture was co-sponsored by the Dean's Office, the American Constitution Society, and the Yale Law School Center for Global Legal Challenges.



H. Rodgin Cohen, senior chairman and partner at Sullivan & Cromwell LLP, delivered the John R. Raben/ Sullivan & Cromwell Fellowship Lecture on March 26. His lecture was titled "The Financial Crisis and the Regulatory Response." It was sponsored by the Yale Law School Center for the Study of Corporate Law.



Columbia professor **Saskia Sassen** delivered the 2012 Storrs Lectures on January 30 and 31. Her first lecture was titled "The Making of New Bordering Capabilities" and her second, "Ungoverned Territories or New Types of Rights and Authority?" Sassen is the Robert S. Lynd Professor of Sociology and co-chair of The Committee on Global Thought at Columbia University.



Harvard professor **Annette Gordon-Reed** delivered the James A. Thomas Lecture on March 5. The lecture was titled "Slavery and Race: Monticello Legacies." Gordon-Reed is a professor of law at Harvard Law School, professor of history in the Faculty of Arts and Sciences, and Carol K. Pforzheimer Professor at the Radcliffe Institute for Advanced Study.

MIT professor **Stephen A. Ross** discussed "Regression to the Max: The Use and Abuse of Financial Theory in Legal Disputes and Regulation" at the Judge Ralph K. Winter Lecture on Corporate Law and Governance on February 27. Ross is the Franco Modigliani Professor of Financial Economics and a professor of finance at MIT's Sloan School of Management.





Videos of some of these lectures can be found at *www.law.yale.edu/videos.* 

STUDY

## Cultural Cognition Study Concludes Public Apathy over Climate Change Unrelated to Science Literacy

ARE MEMBERS OF THE PUBLIC divided about climate change because they don't understand the science behind it? A study conducted by researchers associated with the Cultural Cognition Project at Yale Law School and published in the journal *Nature Climate Change* suggests that the answer is no.

"The aim of the study was to test two hypotheses," said Dan Kahan, Elizabeth K. Dollard Professor of Law and Professor of Psychology at Yale Law School and a member of the study team. "The first attributes political controversy over climate change to the public's limited ability to comprehend science, and the second, to opposing sets of cultural values. The findings supported the second hypothesis and not the first," he said. The study was funded by the National Science Foundation.

"In effect," Kahan said, "ordinary members of the public credit or dismiss scientific information on disputed issues based on whether the information strengthens or weakens their ties to others who share their values. At least among ordinary members of the public, individuals with higher science comprehension are even better at fitting the evidence to their group commitments."

"Cultural cognition" is the term used to describe the process by which individuals' group values shape their perceptions of societal risks. It refers to the unconscious tendency of people to fit evidence of risk to positions that predominate in groups to which they belong. The results of the study were consistent with previous studies that show that individuals with more egalitarian values disagree sharply with individu-

als who have more individualistic ones on the risks associated with nuclear power, gun possession, and the HPV vaccine for school girls.

"More information can help solve the climate change conflict," Kahan said, "but that information has to do more than communicate the scientific evidence. It also has to create a climate of deliberations in which no group perceives that accepting any piece of evidence is akin to betrayal of their cultural group."

For more information on the Cultural Cognition Project, visit *www.culturalcognition.net*.

### CENTERS

## Center for Environmental Law & Policy Releases 2012 Environmental Index

SWITZERLAND LEADS the world in addressing pollution control and natural resource management challenges according to the 2012 Environmental Performance Index (EPI), released in January during the World Economic Forum in Davos, Switzerland. The index measures the environmental performance of various countries based on established targets. It is produced by the Yale Center for Environmental



Law & Policy and Columbia University's Center for International Earth Science Information Network, in collaboration with the World Economic Forum.

Latvia, Norway, Luxembourg, and Costa Rica rounded out the top five positions in the 2012 EPI, which ranked 132 countries

based on 22 indicators across ten major policy categories including air and water pollution, climate change, biodiversity, and forest management.

More information about the 2012 EPI is available at *http://epi.yale.edu*.

## **Clinic Students Contribute to Noted Gas Pipeline Lawsuit**

YALE LAW SCHOOL STUDENTS continue to make valuable contributions to high-profile, public interest cases being handled by the San Francisco City Attorney's Office. The work is part of the students' participation in the San Francisco Affirmative Litigation Project (SFALP), a partnership between the Law School and the City Attorney's Office founded in 2006 by Yale Law professor Heather Gerken and former visiting lecturer Kathleen Morris.

Morris, who works for San Francisco City Attorney Dennis Herrera's office, had high praise for Josh Bendor '13 and Miles Farmer '12, who were deeply involved in the preparation of a lawsuit Herrera filed against the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA). "The legal work was extremely challenging and intricate, and they did an outstanding job," Morris said.

The lawsuit accuses PHMSA of having "abjectly failed" to enforce federal gas pipeline safety standards for more than a decade prior to the deadly explosion of a PG&E gas transmission line in San Bruno, California, in 2010. The blast claimed eight lives, injured more than fifty others, and destroyed or damaged more than 100 homes.

Bendor and Farmer tackled a number of legal research projects in advance of the filing of the complaint. Bendor noted, "It's been a real privilege to work on this case. The legal issues were fascinating and made all the more vivid by their connection with the life or death issue of pipeline safety."

Echoing these sentiments, Farmer stressed the partnership between the City and the Law School.

"In working with the San Francisco City Attorneys to hold federal regulators accountable for their lack of meaningful oversight, we have been fortunate to get the opportunity to work with incredibly high-quality attorneys on novel legal issues."

"This partnership has been wonderful for Yale," said Gerken. "The students get to do cutting-edge public interest work with some of the best lawyers in the country. What could be better?" PANEL

## "Prods and Pleas" at Climate Change in the Courts Panel

COURTS ADJUDICATING TORT CLAIMS brought by climate-change victims can play an important role in catalyzing legislative and executive action to slow global warming, Yale Law School Deputy Dean Doug Kysar and recent graduate Benjamin Ewing '11 argued at a panel discussion at the Law School in February.

Ewing, who is now a doctoral student in political theory at Princeton University, and Kysar, who is the Joseph M. Field '55 Professor of Law at YLS, presented their argument before a panel of leading legal scholars and nearly 100 students at the "Climate Change in the Courts" discussion, sponsored by the American Constitution Society, the Federalist Society, the Yale Environmental Law Association, and *The*  Yale Law Journal. Ewing and Kysar expand on their argument in "Prods and Pleas: Limited Government in an Era of Unlimited Harm," published in *The Yale Law Journal's* November issue.

During the panel, Richard Epstein '68, a professor of law at New York University School of Law and professor emeritus at the University of Chicago, dissented from Ewing and Kysar's claim that nuisance actions brought by climate-change victims are consistent with the structure of tort law. Epstein argued that climate-change actions are analogous to the type of claim that, in the common-law tradition, would be handled by an administrative body (known as the court leet), not the tort system. Epstein suggested that the Environmental Protection Agency, not the federal judiciary, is the natural successor to the court leet today. Meanwhile, panelist Daniel Farber, a professor of law at the

University of California, Berkeley, concurred with Ewing and Kysar's view that courts could play a productive role in responding to climate change. But Farber argued that public-law litigation under the Administrative Procedure Act, not tort law, is the most viable vehicle for change.

Epstein, Farber, and Jonathan Zasloff '93, a professor at the University of California, Los Angeles, have all recently published essays in *The Yale Law Journal's* online edition responding to Ewing and Kysar's article. The original article and the response essays are available on the YLJ website, *yalelawjournal.org*.

Third-year law student Alex Platt '12, a Yale Law Journal articles editor who oversaw the editing and production process for "Prods and Pleas," moderated the event.

www.law.yale.edu/videos

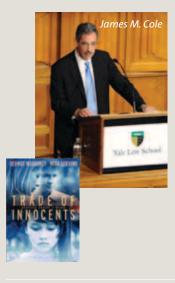
## **Conference Roundup**

The Abrams



Institute for Freedom of Expression at Yale Law School held a **Global Censorship Conference** the weekend of March 30. Sponsored by

the Information Society Project at Yale Law School and Thomson Reuters, the conference examined, among other topics, how government censorship has changed in response to advances in technology. It was the first major event for the Abrams Institute, which was established in October 2011 by Floyd Abrams '59, one of the country's leading experts in freedom of speech and press issues.



On April 12 and 13, Yale Law School sponsored a symposium on domestic and international human trafficking. Titled "Trade of Innocents: A Global Perspective on Human Trafficking," the symposium offered a series of talks and panels about the efforts of law enforcement agencies and non-governmental organizations to detect, investigate, and prosecute such crimes. Deputy U.S. Attorney General James M. Cole delivered opening remarks; it also featured an exclusive, advance screening of the film Trade of Innocents, starring Dermot Mulroney and Academy Award winner Mira Sorvino. The event was organized in conjunction with the U.S. Attorney's Office for the District of Connecticut, the Federal Bureau of Investigation, and the film's producers.

### OTHER CONFERENCES OF NOTE

"States, Minds, and States of Mind: Mental Health as a Human Right"

Eighteenth Annual Rebellious Lawyering Conference

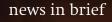
Yale Journal of International Law's International Center for the Settlement of Investment Disputes (ICSID) Conference

- New Directions in Environmental Law: "[Re]Claiming Accountability"
- "Interpreting Federal Statutes: The Dysfunctional Dialogue between the Courts and Congress"

"Parity as Practice: the Politics of Equality"



www.law.yale.edu/videos





### Justice John Paul Stevens Presides at Moot Court Finals on Texas Affirmative Action Case, Holds Conversation with Linda Greenhouse '78 MSL



RETIRED U.S. SUPREME COURT JUSTICE John Paul Stevens was at Yale Law School April 24 to preside over the Thurman Arnold Prize Finals of the Morris Tyler Moot Court of Appeals. The case being argued, *Fisher v. University of Texas at Austin*, considered whether the University of Texas at Austin's use of race in undergraduate admissions is constitutional. The actual case comes before the U.S. Supreme Court next term. Joining Justice Stevens on the panel were the Honorable Judge Diane Wood of the U.S. Court of Appeals for the Seventh Circuit and the Honorable Judge Brett Kavanaugh '90 of the U.S. Court of Appeals for the

District of Columbia Circuit. Yale Law students Pete Huffman '12 and Kasdin E. Miller '12 argued for the petitioner, Abigail Fisher. Allyson Bennett '13 and Connor S. Sullivan '13 represented the respondent, the University of Texas at Austin.

"We are very excited to see our four talented competitors argue such a high-profile case," said Moot Court co-chair Wendy Zupac '12. "It is also a once-in-a-lifetime experience to listen to arguments in front of such a distinguished panel, including a retired Supreme Court Justice and two of the most prominent appellate judges in the country."

Later that evening, Justice Stevens was the guest of the *Yale Law & Policy Review* for a conversation with Linda Greenhouse '78 MsL. Greenhouse, a lecturer at Yale Law School and the Knight Distinguished Journalist-in-Residence, covered the Supreme Court for *The New York Times* for thirty years and currently writes a biweekly column for the *Times* on legal issues. The conversation focused on Justice Stevens' jurisprudence and experiences on the Court, as well as his recent memoir, *Five Chiefs*.

*"The Yale Law & Policy Review* is honored to host one of the nation's most distinguished jurists," said Russell Balikian '12 and Kasdin Miller '12, editors-in-chief of the *Yale Law & Policy Review*, which plans to publish Justice Stevens' remarks in an upcoming issue.



CLINIC

## Veterans Clinic Discovers Hundreds of Illegal Personality Disorder Discharges

THE UNITED STATES MILITARY has a personality disorder discharge problem, according to a report released in March by the Vietnam Veterans of America, which was the subject of a front-page article in *The New York Times* in February. The report, "Casting Troops Aside: The United States Military's Illegal Personality Disorder Discharge Problem," is based on records obtained from the Department of Defense through federal Freedom of Information Act litigation. Yale Law School's Veterans Legal Services Clinic represented VVA in the litigation and also prepared the report.

Since fiscal year 2001, the military has discharged more than 31,000 service members with an alleged diagnosis of personal-

### "The Department of Defense must act justly, responsibly and promptly to help them heal."

Robert Cuthbert Jr., a Veterans Clinic student and U.S. Army veteran

ity disorder, but the documents obtained through FOIA reveal that hundreds of those separations were in violation of a DoD rule to protect against wrongful PD discharge and thus were illegal. The military has refused to correct the wrongful discharges, and because a personality disorder is considered a pre-existing condition, veterans who received the PD diagnosis are ineligible for certain benefits.

"Everyone agrees that illegal personality disorder discharges occurred," said Robert Cuthbert Jr., a Veterans Clinic student and U.S. Army veteran. "Some of these veterans may suffer from undiagnosed Posttraumatic Stress Disorder or Traumatic Brain Injury. The Department of Defense must act justly, responsibly and promptly to help them heal." Among other things, the report calls for a review of all personality disorder discharges executed since 2001 so that illegal discharges can be identified and corrected on the record and appropriate benefits can be restored to service members.

The clinic students and faculty representing the Vietnam Veterans of America in the litigation and who prepared the report are Melissa Ader '12; Robert Cuthbert Jr., Yale Graduate School of Arts and Sciences; Kendall Hoechst '14; Eliza H. Simon '13; Zachary Strassburger '12; and Professor Michael Wishnie '93, director of the Veterans Legal Services Clinic.

### CLINIC

### Connecticut Governor Signs Bill Written by Vets Clinic Students

A BILL TO HELP STATE VETERANS charged with low-level criminal offenses avoid incarceration and get back on the right track has been signed into law by Connecticut Governor Dannell P. Malloy, thanks to the efforts of four members of the Veterans Legal Services Clinic. The bill expands access to jail diversion programs for the veterans and allows them to receive mental health, substance abuse, and other types of treatment rather than jail sentences. It was written by clinic students Kate Cahoy '12, Sofia Nelson '13, Eric Parrie '13, and Jon Fougner '14 on behalf of the Connecticut Veterans Legal Center (CVLC), a clinic client.

"We know that veterans returning from Iraq and Afghanistan have extremely high rates of post traumatic stress and traumatic brain injury, and that many cope with substance abuse," said Margaret Middleton, executive director of the CVLC and a clinical visiting lecturer in law at the Law School. "Those issues commonly contribute to impulsive and thrill-seeking behaviors that end up with low-level charges like disturbing the peace. This bill will help those veterans get into appropriate treatment with providers who are educated in the unique needs and experiences of combat veterans."

The clinic students began researching



Clinic students on their way to Hartford to advocate for the bill.

and drafting the bill last fall, examining laws in other states and meeting with key Connecticut stakeholders to determine the type of program that would best serve the needs of veterans. Working with the staff of the Select Committee on Veterans' Affairs and various legislators, they drafted a bill that would address those needs and save the state money as well. They followed up by authoring a white paper on the bill for CVLC and meeting with legislators, staff, and executive branch agencies.

"The students from the Yale Veterans Legal Services Clinic who worked on this project deserve every ounce of credit for its passage," said Middleton. "They made this bill happen from the earliest research to the frantic last-minute late-night calls. Each of them demonstrated a huge range of talents necessary to get a bill like this past all of the potential hurdles. The Connecticut Veterans Legal Center could not have been more fortunate to work with such an outstanding team."

The Veterans Legal Services Clinic was founded in 2010 by Professor Mike Wishnie '93 and Middleton to train students to address the needs of Connecticut's military veterans. This year, the clinic was co-taught by Middleton and Visiting Clinical Associate Professor Fiona Doherty '99 (Doherty joined the Yale Law faculty on July 1).



Some of the current and former Yale Law School Liman Fellows

PROGRAMS

## Doug Liman Honors His Father with Film for Fifteenth Anniversary of Liman Program

ON THE EVENING OF March 1, 2012, friends and supporters of the Arthur Liman Public Interest Program and Fund gathered to celebrate the fifteenth anniversary of the professorship, held by Judith Resnik, and of the program that has developed over that time. More than sixty of the seventy-seven Liman Fellows returned and heard the reflections of the four deans—Guido Calabresi '58, Anthony Kronman '75, Harold Hongju Koh, and Robert Post '77-who nurtured the program, as well as the warm comments from Ellen Liman, and Ellen's and Arthur's sons, Lewis '87 and Doug. Lewis, now a lawyer in private practice at Cleary Gottlieb Stein & Hamilton LLP, spoke of his father's impact. Doug, using his skills as a movie director, produced a short film about his father's career. his commitments to public service, and how the Liman Program came into being.

The two-day Colloquium—*Accessing Justice/Rationing Law*—that accompanied the festivities brought together six chief justices—Tani Cantil-Sakauye, Chief Justice, California Supreme Court; Sue Bell Cobb, former Chief Justice, Alabama Supreme Court; Wallace Jefferson, Chief Justice, Supreme Court of Texas; Chase Rogers, Chief Justice, Connecticut Supreme Court; Randall T. Shepard '72, Chief Justice, Indiana Supreme Court; and Jonathan Lippman, Chief Judge, State of New York. They discussed the demands for and resources provided to courts and users. The chief justices and the Liman Fellows spoke about their shared challenges—how to help all those seeking to use courts. Participants considered the adequacy of representation of criminal defendants, the idea of "civil Gideon" (state-provided lawyers for indigent civil litigants in family and other cases), and what role, if any, alternative processes and new kinds of courts may play in responding to the needs of courts and their users.

Chief Judge Lippman captured the con-

cerns: "The rule of law—the very bedrock of our society—loses its meaning when the protection of our laws is available only to those who can afford it. We might as well close the courthouse doors if we are not able to provide equal justice for all our very reason for being." Perspectives from experts in the U.K. and the E.U. reminded participants that commitments to "fair and public hearings" traverse the globe, as do the challenges to fulfilling those aspirations.

The Arthur Liman Program and Fund at Yale Law School was created in 1997 to forward the commitments of Arthur Liman '57 to public service in the furtherance of justice. Since its inception, the Program has funded seventy-seven Yale Law School graduates to spend a year working on issues such as welfare rights, elder law,



(From left) Lewis Liman '87, Ellen Liman, Doug Liman



Professor Judith Resnik, Hon. Randall Shepard '72, Hon. Jonathan Lippman, Hon. Tani Cantil-Sakauye, Hon. Wallace Jefferson, Hon. Chase Rogers, Hon. Sue Bell Cobb, and Dean Robert Post '77

indigent criminal defense, immigration, and juvenile justice. Nine incoming fellows will, in 2012–2013, add their work, along with four fellows receiving extensions, to comprise the largest yearly group thus far. The extensions were made possible by support from the Vital Projects Fund, along with matching funds from the host organizations. (*See list at right*.) The Program also awards some thirty summer fellowships each year to students at Barnard, Brown, Harvard, Princeton, Spellman, and Yale so that the students can pursue public interest projects at organizations across the country.

The Liman Program is directed by Hope Metcalf; the Senior Liman Fellow in Residence is Sia Sanneh. This past fall, the weekly workshop, Abolition: Slavery, Supermax, and Social Movements, focused on how and in what arenas abolition movements arise and whether such efforts ought to be directed toward extreme isolation of prisoners. Also in the fall, the Liman Program, along with the ABA Section on Litigation and John Jay College of Law, held a symposium, Overcriminalization/ Excessive Punishment. And in April, the Liman Program co-hosted, with Columbia Law School and the ABA Subcommittee on Solitary Confinement, a program on isolation and incarceration. (See pages 44-51 for more information on fellowships at Yale Law School.)

### LIMAN FELLOWS 2012-13

In 2012–13, thirteen Liman Fellows will work in underserved communities across the country. This is the largest group of Yale Law graduates that the Liman Program has supported since its inception in 1997. Among the group, nine are newly appointed, and four are continuing for another year.

Chesa Boudin San Francisco Public Defender's Office, San Francisco, CA

Isabel Bussarakum The Defender Association, Seattle, WA

Forrest Dunbar Alaska Office of Public Advocacy, Anchorage, AK

Romy Ganschow Brooklyn Legal Services, Brooklyn, NY

Edward McCarthy Connecticut Office of the Public Defender, New Haven, CT

Daniel Mullkoff New York Civil Liberties Union, New York, NY

Lindsay Nash Immigration Justice Clinic, Cardozo Law School, New York, NY Yaman Salahi American Civil Liberties Union of Southern California, Los Angeles, CA

Rebecca Scholtz Legal Aid Society of Minneapolis, Minneapolis, MN

Diala Shamas Creating Law Enforcement Accountability and Responsibility (CLEAR), CUNY School of Law, Queens, NY

Sirine Shebaya ACLU of Maryland, Silver Spring, MD

Olivia Sinaiko Southeast Alaska Conservation Council, Juneau, AK

Jenny Zhao ACLU of Northern California, San Francisco, CA



www.law.yale.edu/intellectuallife/aboutarthurliman.htm



STUDENTS

## YLS Students Play Role in Connecticut's Decision to Repeal Death Penalty

THE REPEAL OF Connecticut's death penalty for future crimes is cause for reflection and a sense of accomplishment for many current and former Yale Law School students who worked diligently behind the scenes to make it happen. Gov. Dannel P. Malloy signed the repeal bill on April 25. It was approved by the Connecticut House and Senate in early April.

The students were instrumental in the production of a report written by former Yale Law Professor John Donohue, a report that clearly influenced many Connecticut legislators to support the repeal.

"It was a thrilling moment," said Donohue, "hearing the head of the Connecticut Senate speak at 2 a.m. quoting my report, then Martin Luther King, as the final words in the debate before the repeal passed."

Completed in October 2011 after five years of work, the report evaluated the application of the death penalty in Connecticut from 1973 until 2007, during which time 4,686 murders were committed and nine sustained death sentences were handed down. It demonstrated, through an "egregiousness" rating system, that "arbitrariness and discrimination are defining features of the state's capital punishment regime" and concluded, "The end result is that identical murders within Connecticut will be treated very differently depending on illegitimate factors, such as race or judicial district."

Donohue said that the contribution of Yale Law School students, who spent hours and hours doing research, data analysis, and other tasks, was "enormous and pivotal. Without the collective talent of a couple of dozen law students, both volunteers and those taking my courses for credit, the report would not have been anywhere near as strong a product."

## WIRAC Secures Victory in East Haven Case

In the spring of 2009, WIRAC students filed a formal complaint to the U.S. Department of Justice **Civil Rights Division alleging** widespread anti-Latino profiling and violence by members of the East Haven Police Department. In fall 2009, DOJ opened an investigation, and assisted by the clinic's representation of the complainants, released its report in December 2011 finding pervasive racial profiling by the department and a pattern of discriminatory policing practices against Latinos. In January 2012, four East Haven police officers were indicted for violating the civil rights of Latinos.

### CLINIC

## Landmark Settlement in New Haven Immigration Raid Case a Victory for WIRAC Students

ELEVEN NEW HAVEN RESIDENTS who claim immigration agents illegally raided their homes in 2007 achieved a landmark settlement in February in their civil rights lawsuit against the government. The eleven were represented by students from Yale Law School's Worker & Immigrant Rights Advocacy Clinic (WIRAC) and pro bono counsel from Cleary Gottlieb Steen & Hamilton of New York, led by Jorge Tenreiro 'o6. They will receive \$350,000, and any of them with deportation proceedings ongoing at the time of the settlement will have those proceedings dismissed.

The men alleged that on June 6, 2007, Immigration and Customs Enforcement agents and other officers spread out across the predominantly Latino neighborhood of Fair Haven, invaded homes without warrants or consent, and illegally arrested them and others solely on the basis of their Latino appearance. They claimed the raids were in retaliation for New Haven's municipal ID program approved just two days earlier, which offered identification cards to all city residents regardless of immigration status.

The monetary settlement appears to be the largest ever paid by the United States in a suit over residential immigration raids, and the first to include both compensation and immigration relief.

In addition to current clinic students, a long list of others from Yale Law School contributed to the effort over the past five years, working on the civil rights action, removal defense cases, FOIA suits, and policy campaigns arising from the raids.

"There is nothing more inspiring for a teacher than to watch determined and skillful students, partnered with committed local organizations, dedicate themselves to a group of traumatized but courageous clients, and then to achieve this sort of extraordinary outcome," said Professor Mike Wishnie '93, who co-directs WIRAC with Professor Muneer Ahmad.

