

Cass Sunstein, administrator of the Office of Information and Regulatory Affairs, a department within the Office of Management and Budget

HARVARD LAW Today

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April 2012

New directions in regulatory policy

Here's the scorecard:

BUSH	\$3.4 billion
CLINTON	\$14 billion
OBAMA	\$91.3 billion

These numbers represent the **net monetary benefits** of final federal agency regulations issued through the third fiscal year of each of these administrations. They were presented to HLS students and faculty on March 26 by **Cass R. Sunstein '78**, former Felix Frankfurter Professor of Law and

current administrator of the Office of Information and Regulatory Affairs, a department within the Office of Management and Budget. As administrator, Sunstein oversees the federal government's entire regulatory process. He was on campus to discuss "New Directions in Regulatory Policy."

How was that \$91.3 billion in net benefits achieved? President Obama's Executive Order 13563 required all federal agencies to develop plans for streamlining or eliminating inefficient or ineffective rules, based primarily on cost-benefit analyses. "If this sounds like a deregulatory initiative, it is," said Sunstein. Agency compliance with this "look-back" order has resulted in savings in fuel economy, home appliance energy efficiency, economic savings for businesses, and advances in highway safety. "The number of deaths on the highways is now lower than at any time in recorded history," Sunstein said. "There are people in this room who are with us →7

ILENE PERLMAN

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2012 GREAT NEGOTIATOR

"You're never going to be a good negotiator unless you are willing to walk away from a negotiation when it isn't going to succeed. You don't ever stake out a maximalist position. If you're not ready to walk, you're not going to get anywhere," said former **U.S. Secretary of State James A. Baker III** at HLS on March 29. Baker was at the law school to receive the 2012 Great Negotiator Award and to talk about some of the notable challenges he faced during his tenure at the State Department, including the reunification of Germany within NATO, the Gulf War and the Israeli-Palestinian conflict. The award, established 12 years ago by HLS's Program on Negotiation, recognizes individuals whose lifetime achievements in the field of negotiation and dispute resolution have had a significant and lasting impact.



TOM FITZSIMMONS

HLS FORUM

Globalization's impact on legal education



MARTHA STEWART

[L-R] HLS Professors Gabriella Blum, Janet Halley and Frank Michelman discuss what globalization means for schools.

HARVARD LAW SCHOOL'S S.J.D. Program celebrated its 100th anniversary the weekend of March 23 by hosting a Global Legal Education Forum that drew hundreds of attendees and participants from around the world.

The purpose of the forum was to examine the impact of globalization on legal education and the practice of law. The program addressed these relationships through a variety of panels and discussions, on topics ranging from specific uses of information technology to more abstract concepts of global law schools and global legal practices.

An opening panel took a broad view of globaliza-

tion, parsing what that term means when it's applied to law schools and the practice of law.

HLS Professor David Wilkins '80 said that globalization is making people think in new ways about the legal profession and the role of legal education. But he characterized these connections as unclear and ill-defined.

"It's not clear what global law is," he said. "There is no global government, there is no single global sovereign, and the more all the globalization trends we try to iden-

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Harvard Law School
125 Mount Auburn Street
Cambridge, MA 02138

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BRIEFS

U.S. Attorney General Holder: Class Day speaker

Barron appointed to higher-ed board

Professor **DAVID BARRON '94** was appointed to the Massachusetts Board of Higher Education by Gov. Deval Patrick '82. The board defines the mission and sets policy for the Massachusetts system of public higher education, including 15 community colleges, nine state universities and five UMass campuses. Barron most recently served in the Department of Justice as acting assistant attorney general for the Office of Legal Counsel.

Holder named 2012 Class Day speaker

U.S. Attorney General **ERIC H. HOLDER JR.** will be this year's speaker for Class Day ceremonies on May 23. The 82nd attorney general of the U.S., Holder was nominated by President **BARACK OBAMA '91** in 2008. From 1997 to 2001 Holder served as deputy attorney general, the first African-American named to that post.

Gertner briefs on fair sentencing

NANCY GERTNER, HLS professor of practice and a former judge of the U.S. District Court of Massachusetts, was counsel of record in an amicus brief submitted to the U.S. Supreme Court in *Dorsey v. U.S.* and *Corey Hill v. U.S.* The Court will determine whether the Fair Sentencing Act of 2010, which redressed some of the inequities in the sentencing of defendants in crack cocaine cases, applies to defendants who were sentenced after the law was enacted, but whose crimes were committed beforehand. The brief argues that Congress enacted the FSA to correct errors in the Anti-Drug Abuse Act of 1986 and that it represents an acknowledgment that "sentencing under the prior law was unjust."

Halley: Lifetime achievement award

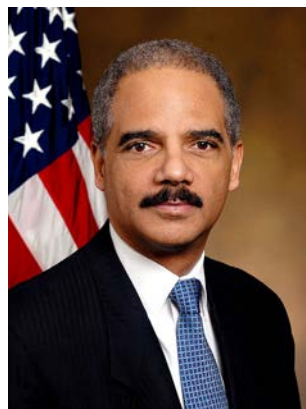
The Association for the Study of Law, Culture and the Humanities named Professor **JANET HALLEY** the recipient of the James Boyd White Award. The recognition is given annually to professors who have demonstrated a distinguished body of work from a "humanistic" perspective. Halley is an expert on comparative family law, discrimination, law and literary theory, law and social theory, legal theory, and the regulation of sexuality.

WTO team wins North American regional

On March 3, the Harvard Law School WTO moot court team won the North America regional at the ELSA Moot Court Competition on WTO Law. This was the first year a team from HLS has competed. The team, which is made up of **DANIELLE BART '13**, **ASHLEY CHUNG '12**, **MICHAEL JACOBSON '13**, team captain, and **CHRIS YAP '12**, with Professor **MARK WU** as faculty adviser, will compete in the global finals in Montpellier, France, in May.

Tie compensation to long-term results

Professor **LUCIAN BEBCHUK LL.M. '80 S.J.D. '84** testified before the U.S. Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on Financial Institutions and Consumer Protection on Feb. 15. At a hearing titled "Pay for Performance: Incentive Compensation at Large Financial Institutions," Bebachuk said: "Going forward, regulators should ensure that equity-based compensation, the principal form of compensation for senior executives, will be tied to long-term results. Such regulations would serve both financial stability and the long-term interest of shareholders."



Eric H. Holder Jr



David Barron '94



Nancy Gertner



→ **BRIG. GEN. MARK MARTINS '90**, chief prosecutor at the Office of U.S. Military Commissions in the Department of Defense, delivered a major address at HLS on April 3 on "Legitimacy and the Limits of Command in Reformed Military Commissions." He elaborated upon significant reforms that he has suggested should be made to the military commissions system beyond those undertaken in the Military Commissions Act of 2009.

➔ WATCH VIDEO <http://hvrd.me/MarkMartins2012>



Professor Nancy Gertner (third from left) and Dean Martha Minow (right) participated in a judicial leadership conference at HLS.

A JUDICIOUS GATHERING

More than 300 judges, attorneys and academics attended the National Association of Women Judges' leadership conference at Harvard Law School on March 9 to 11. The conference featured a keynote address by HLS Professor of Practice **NANCY GERTNER**, who served for 17 years as a federal district court judge, as well as a conversation between Dean **MARTHA MINOW** and U.S. Supreme Court Justice **ELENA KAGAN '86**. Panels included education sessions on courts in times of fiscal crisis and issues related to the intersection of children and immigration in judicial proceedings.



PHOTOS BY MARTHA STEWART

A conversation with Justice Kagan on March 10

Bids for Beads

The 19th Annual Public Interest Auction was held on April 5 at HLS. The Mardi Gras-themed event was titled "Carnival on the Charles: Bids for Beads." The auction items, whose proceeds support Summer Public Interest Funding, included a Justice Souter bobblehead doll, a guided tour of the Court of Appeals for the Armed Forces, lunch with Larry Summers and High Tea with Professor Carol Steiker '86.

HARVARD LAW TODAY

Assistant Dean/Chief of Communications
ROBB LONDON '86

Editor
CHRISTINE PERKINS

Managing Editor
LINDA GRANT

Design Director
RONN CAMPISI

Contributors
SOPHY BISHOP, DICK DAHL, JILL GREENFIELD, CAROLYN KELLEY, SARAH MARSTON, EMILY NEWBURGER, LEWIS RICE, LORI ANN SASLAV, KIM WRIGHT, JERI ZEDER

Editorial Office
Harvard Law Today
125 Mount Auburn St.
Cambridge, MA 02138
617-495-3118
today@law.harvard.edu

Send change of address to
Alumni Records
125 Mount Auburn St.
Cambridge, MA 02138
alumrec@law.harvard.edu

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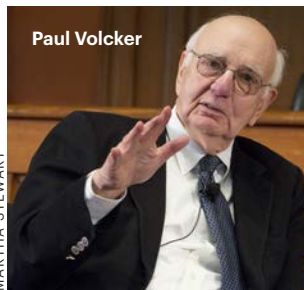
VOLCKER RULES

Financial reform and banks

PAUL VOLCKER, FORMER chair of the Federal Reserve under Presidents Carter and Reagan, and former chair of President Obama's Economic Recovery Advisory Board, was on campus in early April to discuss financial reform legislation and the banking system crash. Banks, Volcker said, play a crucial role in society, and because we rely on them, we give them special protection and special borrowing status. "If that's all true," Volcker said, "they ought to pay attention to their fundamental business and not get involved in all the activities that drove us over the

cliff in the first decade of the century." He discussed the "Volcker rule," a provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010), which prohibits banks from trading for their own account.

➔ WATCH VIDEO hvr.me/Volcker2012



Paul Volcker

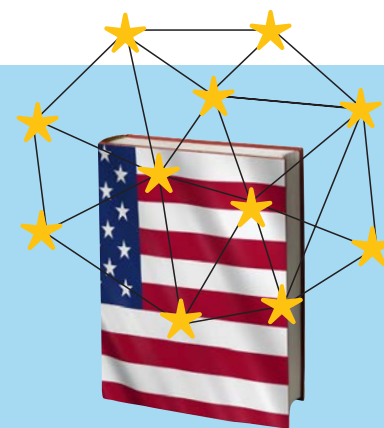


Do they look suspicious?

Several HLS students challenged the concept of racial and cultural profiling by posting online images of themselves in hoodies, in solidarity with Trayvon Martin, a 17-year-old black student who was shot and killed earlier this year in Sanford, Fla., by a neighborhood watch volunteer. Students attended a protest in Harvard Square and more than 100 gathered outside Langdell Library on March 26 for a vigil to remember Martin. The vigil, sponsored by the Black Law Students Association, included remarks by Dean **MARTHA MINOW** and Clinical Professor **RONALD SULLIVAN '94**.

STUDENTS VICTORIOUS IN FREEDOM OF SPEECH CASES

Students in HLS's Cyberlaw Clinic were involved in an important victory for freedom of speech in two cases before the Massachusetts Supreme Judicial Court: *Commonwealth v. Barnes* and *Commonwealth v. Diorio*, which involved WBUR's OpenCourt project. The court's decision, issued on March 14, follows a long line of precedent in holding that courts generally may not restrain media organizations or others that attend public court proceedings from reporting on proceedings. The Cyberlaw Clinic served as co-counsel to OpenCourt in both cases. Clinic students who contributed to case briefs included **ALAN EZEKIEL '13**, **XIANG LI '13**, **MATT MCDONELL '13**, and **TOM SPENCER '13** and summer 2011 Cyberlaw Clinic intern and New York University School of Law student Ava McAlpin.



The Digital Public Library of America

We now have the ability to create the greatest library the world has ever known, and to bring it within clicking distance

of virtually every person on earth—at least everyone on the Internet. The technology is available, but are the will and the funding? That was the question before participants at a Digital Public Library of America event, sponsored by Harvard Library Strategic Conversations, at HLS in March. In a talk during the event, HLS Professor **JOHN PALFREY '01**, also vice dean of library and information resources, said the basic principle behind the DPLA is to use modern technology to give everyone access to knowledge. Works in progress are focused on how to index and provide access to a wide range of content, working through issues of scope and audience, as well as financial, technical and legal considerations. The DPLA is currently hosted by Harvard's Berkman Center for Internet & Society.

How to make a public interest career part of a happy life

➔ WATCH VIDEO hvr.me/KaineHolton2012

FORMER GOVERNOR OF Virginia **TIM KAINE '83** and First Lady **ANNE HOLTON '83** discussed work-life balance at a March 6 event sponsored by the Bernard Koteen Office of Public Interest Advising. Between them, they have

been a missionary, a fair housing lawyer, a local and state elected official, a federal clerk, a legal aid lawyer and juvenile court judge, a law professor, a stay-at-home parent, a nonprofit advocate and a national party chair. They talked about how to construct a long-term career in public service that is able to evolve, meaningful and fun and allows time for family, friendship, and nonlaw community involvement.



Anne Holton and Tim Kaine

MARTHA STEWART

'We have a moral obligation to check government abuses'

RALPH NADER '58 and BRUCE FEIN '72 discussed "America's Lawless Empire: The Constitutional Crimes of Bush and Obama" at HLS on Feb. 8.

Pointing to what he calls lawless, violent practices by the White House, its agencies and both political parties, Nader took issue with the amount of spending by the military on foreign wars while thousands of Americans die each year due to workplace accidents, preventable pollution and lack of access to health insurance. Fein said: "I want to underscore that it is not an option in a democracy to be a spectator to politics, because it's a collective endeavor. We have a moral obligation to use our eyes and ears to check government abuses because, even if they don't affect you, they could affect your neighbor."



➔ WATCH VIDEO <http://hvr.me/Nader2012>

Ralph Nader joined Bruce Fein at an HLS event on Feb. 8.

JON CHASE

Spring Break 2012

During the third week in March, a number of Harvard Law students traveled around the world and to remote areas in the U.S. to offer their legal services.

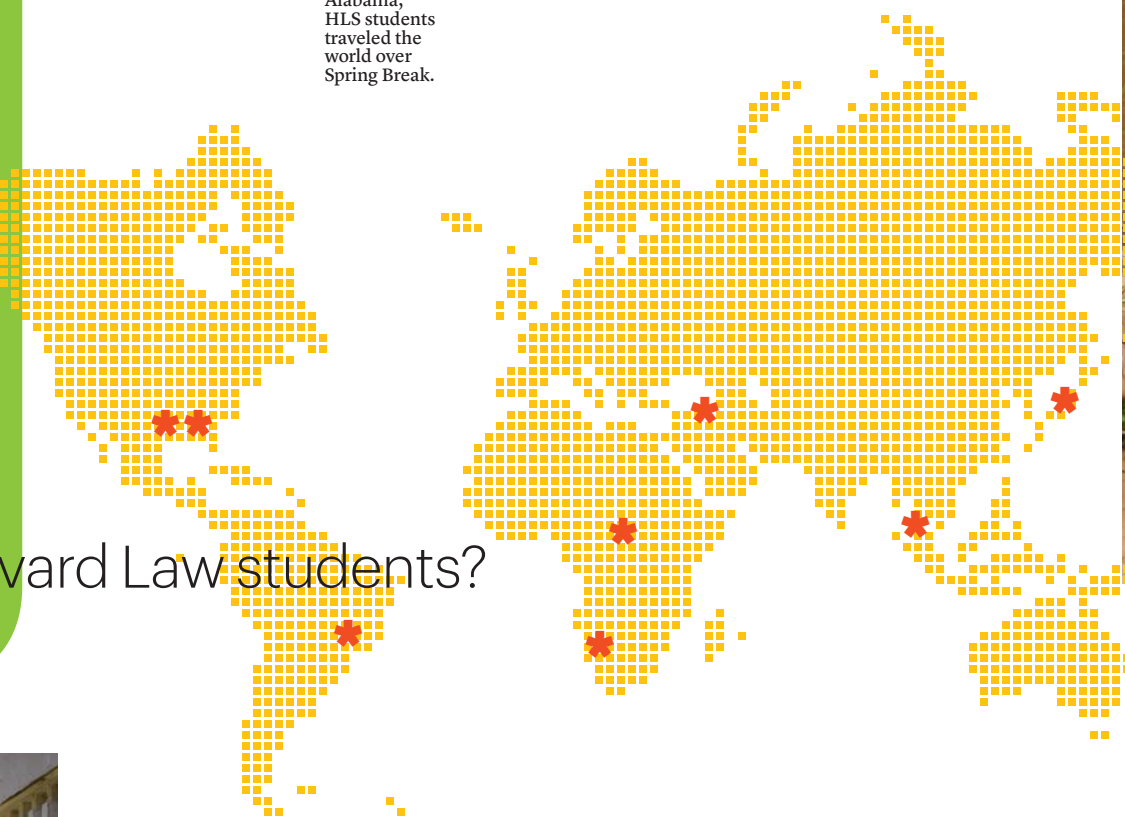
With funding from the Office of Clinical and Pro Bono Programs, teams of students worked with farmers in the Mississippi Delta, immigrants in Alabama and patients living with HIV/AIDS in New Orleans.

Fifteen students from the International Human Rights Clinic traveled to four countries to participate in fact-finding investigations. Closer to home, students conducted interviews related to the Occupy Boston movement for a multi-clinic examination of freedom of expression and assembly in the U.S.

Several student organizations also went abroad. The Jewish Law Students Association went to Israel, the Black Law Students Association went to Namibia and the Asia Law Society went to Japan.

Here are some snapshots from their trips.

→ From Namibia to Alabama, HLS students traveled the world over Spring Break.



Where in the world were Harvard Law students?



Brazil

CLINICAL STUDENT **FRANCES DALES '13** participated in a human rights fact-finding mission at Aníbal Bruno prison in Recife, Brazil. The International Human Rights Clinic is co-counsel in the ongoing litigation of precautionary measures issued by the Inter-American Commission on Human Rights regarding killings, torture and other grave abuses at Aníbal Bruno prison, the largest detention center in Latin America. There are currently more than 5,400 men detained in the prison complex, which was designed to hold 1,448.

The International Human Rights Clinic students in Brazil, under the supervision of clinical instructor Fernando Delgado, also presented a briefing paper on the prosecution of dictatorship-era crimes.

Harvard Law students traveled around the world to offer their legal services.

IN EASTERN DEMOCRATIC Republic of Congo, a team of students investigated access to sexual and reproductive health services, including abortion, and the effect on women's lives. [L-R] Immaculée Birhaheka, director of PAIF (Promotion et Appui aux Initiatives Féminines); **MICHELLE DOWST '13**; **ANKITA RITWIK '13**; and Pélagie Ebeka Mutangi, lawyer and gender justice officer with the DRC Program of the International Center for Transitional Justice

Students, with HRP director Mindy Roseman, investigated human rights violations related to sexual and reproductive health.



The Democratic Republic of Congo



The International Human Rights Clinic has been documenting human rights violations in Burma since 2004.

Thailand

MATTHEW BUGHER '10 and **JAMES TAGER '13**, [L-R] along with five other HLS students, investigated human rights violations in Burma. Under the supervision of clinical faculty Tyler Giannini and Susan Farbstein '04, they conducted interviews in refugee camps along the Thai/Burmese border, examining human rights violations committed by the Burmese military against villagers.



Alabama

CAROL WANG '13 [above right], **JACQUELINE PIERLUISI '12** and **DAVID BAAKE '14** participated in a legal clinic to help empower and organize the Latino population in Northern Alabama. Students delivered a “Know Your Rights” presentation about HB56, a controversial new immigration bill. They also worked with attorneys to help immigrants prepare power of attorney paperwork in case they are detained by U.S. Immigration and Customs Enforcement. **PAIGE AUSTIN '13**, **CHARLOTTE ALVAREZ '12** and **CONNIE SUNG '14** worked with Alabama Appleseed in Montgomery to conduct legal research and to help advocate for the repeal of HB56. Austin produced a video about their work.

➔ WATCH VIDEO <http://hvr.me/Antiimmigrationvideo2012>



Students attended a rally with immigration activists and civil rights and labor leaders protesting voting rights restrictions and HB56.

STUDENTS WORKED WITH the HLS Mississippi Delta Project in Clarksdale, Miss., hosting workshops on property rights and drafting a guide on estate planning and how to gain clear title to land for small farmers in the Mississippi Delta. Students learned about the challenges faced by small landowners, many of whom lack the resources to prepare for estate succession.

Mississippi



Students addressed property law issues and made policy suggestions for partner organizations in the Delta.

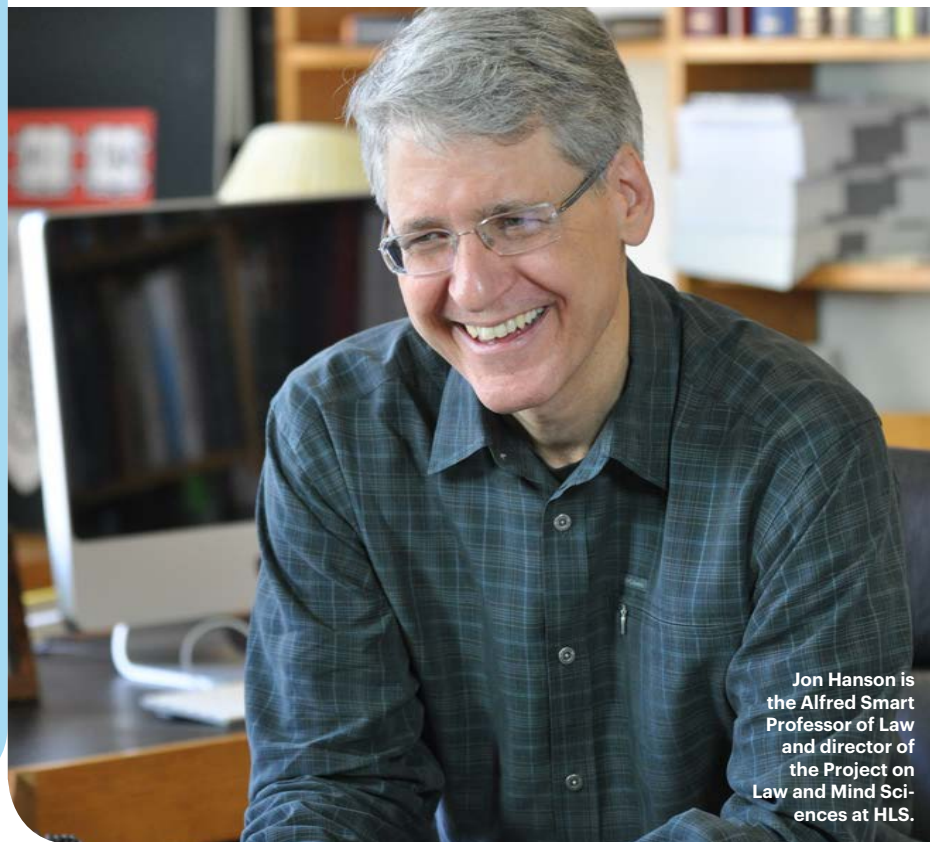


Many small farmers' business growth is constrained by regulations designed for industrial farms but which also apply to them.

The connection between law and mind sciences

Director of the Project on Law and Mind Sciences at Harvard Law School, Professor Jon Hanson has long combined social psychology, economics, history and law in his scholarship. After PLMS hosted several conferences featuring leading mind scientists and legal scholars, Hanson collected the work of many of the contributors in a book he edited, “Ideology, Psychology, and Law” (Oxford University Press, 2011).

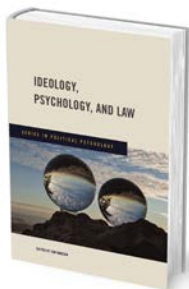
In the following Q&A, he speaks about the new book, the connection between law and mind sciences, and his own work in a field that has grown rapidly over the past 20 years.



Jon Hanson is the Alfred Smart Professor of Law and director of the Project on Law and Mind Sciences at HLS.

PHIL FARNSWORTH

↓ “Ideology, Psychology, and Law” (Oxford University Press, 2011)



What sparked your interest in the study of mind sciences and the law?

My interest has evolved through several stages. Although I studied economics in college, I did so with special interest in health care policy, where the life-and-death decisions have little in common with the consumption choices imagined in neoclassical economics. Purchasing an appendectomy through insurance has little in common with buying a fruit at the market.

After college, I spent a year studying the provision of neonatal intensive care in Britain’s National Health Service, attending weekly rounds with neonatologists at London hospitals, meeting with pediatricians in rural English hospitals, interviewing nurses who were providing daily care for the infants—some of whom were not viable—and speaking with parents about the profound challenges they were confronting. Those experiences strengthened my doubts regarding the real-world relevance of basic economic models for certain types of decisions.

In law school, I studied law and economics but tended to focus on informational problems and externalities that had been given short shrift by some legal economists at the time. After attending a talk by, and then meeting with, the late cognitive psychologist Amos Tversky, I became an early fan of the nascent behavioral economics movement.

It wasn’t, however, until I spent a couple of years immersed in cigarette-industry documents in the early and mid-1990s that I felt the need to make a clean break from the law’s implied psychological models and turn to the mind sciences for a more realistic alternative.

Well, they made clear that the tobacco industry articulated two views of their consumers—an inaccurate public portrayal and a more accurate private view. The first, which the industry conveyed to their consumers and to lawmakers, was of smokers who are independent, rational and deliberate. Smokers smoke cigarettes because they choose to, because smoking makes them happier, even considering the risks. The industry thus gave consumers a flattering view of themselves as autonomous, liberated actors while assuring would-be regulators that there was no need to be concerned about the harmful consequences of smoking. Smokers were, after all, just getting what they wanted.

The second view of the consumer, which was evident in the industry’s internal documents, was of consumers as irrational, malleable and manipulable. The industry’s confidential marketing strategy documents, for instance, made clear that the manufacturers theorized and experimented to discover how to target, persuade, lure, and chemically hook young consumers to take up and maintain the smoking habit. That internal understanding of consumers had nothing in common with the industry’s external portrayals.

I came to the realization that, unfortunately, the latter view of the human animal is far more accurate and, furthermore, that failure to understand the actual forces behind human behavior may be contributing to injustice.

How did that realization influence your research?

In the late 1990s, I put my writing down and devoted a couple of years to learning what I could about the mind sciences—social psychology, social cognition, cognitive neuroscience and the like. Those fields, coincidentally, were blossoming with new theories, new methodologies, and new findings and insights, most of which created challenges to the fundamental assumptions in law and legal theory.

What were some of those insights?

To keep things simple, I’ll boil them down to two big ones. First, mind scientists had learned that most people in Western cultures operate with a naive and common-sensical model of human psychology that presumes that an individual’s actions reflect a stable

personality or disposition and little else. From that perspective, people are presumed to be in control of, and responsible for, their behavior and its consequences.

By the way, that’s the same model of human behavior that is employed in law and conventional legal theory. And it’s the same model that the tobacco industry actively promoted.

The second big insight was that that model of human behavior is fundamentally wrong. People are moved less by a stable disposition and more by internal and external forces that generally go unnoticed in our causal stories. The errors go beyond our causal assessments of other people’s behavior; we confuse and deceive even ourselves, believing our own reasons, when social science reveals those reasons often turn out to be mere confabulations.

What does that mean for the law?

Exactly. That’s the big question. My briefest answer is: a lot. The book is one place where the contributors and I begin to sketch some of the answers.

Given the large gap between what the law assumes and what the mind sciences have shown to be true, my initial goal has been to understand the breadth and contours of that gap and to develop a better understanding of the psychological and contextual forces behind human behavior. I have resisted the strong urge to focus on only those psychological tendencies that can lead to straightforward but narrow implications for law.

Having said that, abandoning the familiar, if wrong, conception of human behavior is daunting and unsettling; it calls for establishing new knowledge structures and being open to some humbling truths about ourselves and some uncomfortable truths about our justice system.

I expect that several generations of lawmakers, legal academics and lawyers will be grappling with the implications of what mind scientists are discovering about human behavior. Indeed, they will have to do so if we are ever going to find meaningful solutions to many of our thorniest policy challenges. ♦

➔ MORE ONLINE <http://hvrld.me/Hanson2012>

➔ *“[F]ailure to understand the actual forces behind human behavior may be contributing to injustice.”*

JON HANSON

Global Legal Education Forum

tify accelerate, the more lawyers realize that for every global norm and global rule and global organization, there are local complexities, cultures, regulations, institutions, that are equally important in resolving whatever the issue is.”

HLS Professor Gabriella Blum LL.M. '01 S.J.D. '03, a native of Israel, said she's seen a marked difference in the perception of global law since she first arrived at Harvard to pursue her degrees 12 years ago.

“I was struck by how irrelevant international law was to anything that was going on at the law school,” recalled Blum, who now teaches a required first-year class in international law. “You wouldn't find international law papers in the Harvard Law Review; it was almost entirely absent from faculty workshops. ... As sad as it is to say it, it was 9/11 that changed that. It was 9/11 that kind of demonstrated what globalization could mean in some ways and why international law has become important.”

The ways in which globalization is affecting law schools were addressed repeatedly throughout the forum.

Co-panelist John Burgess '76, partner and co-chair of the international transactions group in the Boston office of WilmerHale, discussed the necessity of new and more intangible skill sets in international law settings.

“I think there's greater sensitivity now to those qualities of a lawyer that relate to advising clients—solving problems, communicating issues, advocacy and also persuasion—as part of the practice,” Burgess said. “Those qualities don't come out of just a rigid reading of appellate decisions.”

Still, he said, the key to success for lawyers practicing globally is to set a solid foundation by first mastering their own substantive area of law.



[L-R] S.J.D. candidate Daniel Vargas, with Professors William Alford, vice dean for the graduate program and international legal studies, and David Wilkins, director of the Program on the Legal Profession



Jing Guan LL.M. '09

PHOTOS BY MARTHA STEWART

“I have never known a great global lawyer standing alone,” he said. “What I have known are great competition lawyers or human rights lawyers or mergers and acquisitions lawyers whose practice is international in scope.”

While the primary focus of the forum was global, the program's final panel had a more parochial theme, addressing a recent New York Times series of articles that questioned whether law schools are in “crisis.”

The panel included Times reporter David Segal, the author of those articles, as well as Kyle McEntee, co-founder and executive director of Law School Transparency, a non-profit consumer organization devoted to law school reform and reducing costs.

In his articles and in his comments as a panelist, Segal criticized law schools for not being honest in revealing the difficulties graduates are having getting jobs at the same time that tuition continues to escalate sharply.

A major culprit, he said, is the annual “Best Law Schools” ranking by U.S. News & World Report and the powerful effect it has on law schools striving to achieve high slots. For instance, he said, some are “fibbing” on the nine-month post-graduation data that they

supply to the American Bar Association and which the magazine uses as a benchmark in its rankings.

“Many of these graduates are working in places like Starbucks and Radio Shack, and they are being counted as employed after graduation,” he said. “More perniciously, there are a number of law schools that are hiring their own students at this magical date.”

However, two other panelists countered that Segal and McEntee were taking too narrow a view of the situation.

“The crisis to me is very simple: a major recession plus increasing competition among law schools,” said Bryant Garth, dean of Southwestern Law School. “Prospective law students have chosen their law schools because of the services they offer—their career services, their academic support, their clinics. They have been shopping largely on the basis, rightly or wrongly, of services, and law schools have responded in a more competitive market by enhancing those services and charging tuition to enhance those services.”

Lauren Kay Robel, president of the Association of American Law Schools, was of similar mind.

The primary reason the cost of tuition has been increasing for years, she said, is that states have “radically disinvested” in public higher education, leaving the burden to students and prospective students—who get the money via federal loans. She also said that escalating tuition is affecting all other forms of higher education.

Garth agreed.

“There will be increasing competition. There will be winners and there will be losers. There will be change. But I don't see a radical transformation as part of the immediate prospect.” ♦

today, or not hurt today, as a result of tremendous advances in highway safety.”

Sunstein sees more savings and net benefits coming as dozens of federal agencies continue examining their regulations and getting rid of those that are redundant, outmoded or an unjustified drag on consumers and industry. “There are air pollution technology requirements imposed on gas stations that are redundant because cars already have the technology,” Sunstein said, by way of example. Sitting on Sunstein's desk is a final proposal from the Environmental

Protection Agency to eliminate that—at a savings of tens of millions of dollars.

Regulations account for half of OIRA's responsibilities. The other half involves information. Sunstein dubbed the new guiding principle for how the government presents information to the public as “Plate, Not Pyramid.” He was referring to the switch from the U.S.D.A.'s cluttered and unedifying food pyramid to the clean, simple, readily grasped food plate. The idea is that

QUOTABLE

“[T]he dream of incorporating statistical analysis of rules ... and empowering the public is not so far from being a reality.” **CASS SUNSTEIN**

all federal agencies must strive for that kind of clarity when presenting information to the public. Another initiative is aimed at eliminating what Sunstein called “comparison friction”—when data comparisons are insufficiently enlightening. For example, at www.fueleconomy.gov, consumers can compare the annual

fuel cost over five years of a particular car with the fuel cost of the average vehicle. That's a lot more informative than the old fuel economy label, which compared city and highway mile-

age. OIRA is also currently working on “smart disclosure,” in which new apps will make it possible for people to analyze their own past choices and make better decisions in the future.

Per the January 2011 executive order, federal agencies are also making the public comment pro-

cess more open and accessible—see www.regulations.gov. Enhanced accessibility to government-collected data at www.data.gov will, according to Sunstein, permit personal control over information and help markets work better.

Wrapping up, Sunstein said, “In view of the state-of-the-art techniques we now have for engaging the public and disclosing material, and for assessing the consequences of rules both before we act and after we act, the dream of incorporating statistical analysis of rules, avoiding mistakes and empowering the public is not so far from being a reality.” ♦

Channeling Shakespeare, the new pub in the Caspersen Student Center encourages students to “strive mightily but eat and drink as friends.” Framed Harvard Law School memorabilia line the walls, including archival maps of campus,

“And do as adversaries do in Law, Strive Mightily, But Eat and Drink as Friends”



The new pub has become a student destination for dining, socializing and even studying

criminal and tort exams from 1871, and an 1897 letter to students from Dean James Barr Ames which begins “My attention has been called to a growing practice of smoking in the corridors in the intervals between lectures ...”



The billiard room is decorated with posters from HLS Drama Society parodies, including 1982’s “It’s a Long Way to Certiorari.”



The Pub is open Wednesday through Friday evenings. The cafe, adjacent to the pub is open Monday through Friday, as well as for brunch on the weekend.

PHOTOGRAPHS BY JON CHASE

The Caspersen Student Center features a new HLS pub

Multiple choice bar exam

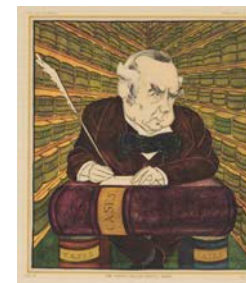


← “Charles Hay, Lord Newton,” by John Kay (1806).



↑ An undated image of HLS Professor Samuel Williston 1888 possibly posing with a draft manuscript of his treatise on Contracts.

→ What result and why?: Professor James H. Chadborn teaching Evidence in Austin North.



← “Sir Thomas Willes Chitty, Bart.,” by Lithographer Edmond Xavier Kapp (1924).

→ Vice Dean Livingston Hall welcoming the first women students of Harvard Law School (1950).



↓ “The Twelve Great Justices of the Supreme Court,” by Caricaturist David Levine. (1971)



BOTTOM ILLUSTRATION: COURTESY OF THE ESTATE OF DAVID LEVINE; ALL OTHER IMAGES: HLS HISTORICAL AND SPECIAL COLLECTIONS