

# Harvard Law Today



8 *Class Day Speaker*  
*Alec Baldwin*

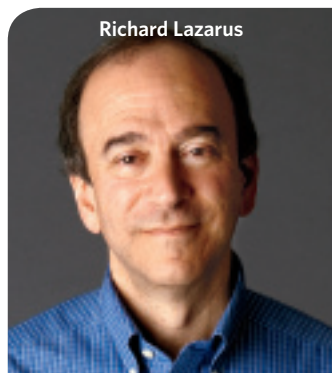


Justice Ginsburg reminisced about her time at HLS and congratulated the graduating Class of 2011.

## IMPROMPTU—AND INCOGNITO ...

*To the surprise and delight of this year's graduates, Supreme Court Justice Ruth Bader Ginsburg '56-'58 dropped in on HLS's commencement after receiving an honorary degree from the university earlier in the day. >>8*

## World-class appointees bring new expertise



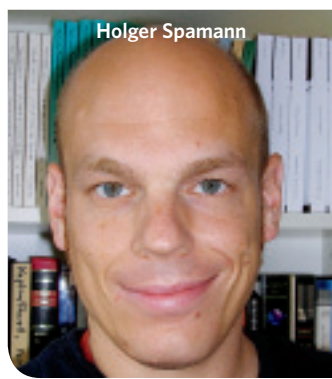
Richard Lazarus

### Leading scholars add to the faculty

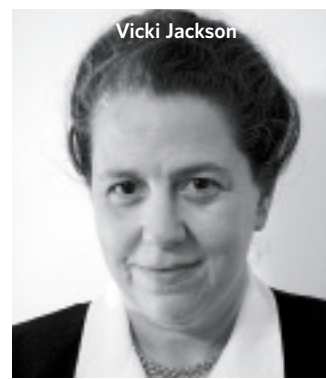
Dean Martha Minow continues to grow the faculty with five new appointments. Minow described the latest hires as "superb teachers who will bring their enormous talent and wisdom to the HLS community." >>6



Minir Desai



Holger Spamann



Vicki Jackson



Robert Greenwald

## Scholars analyze the evolution of anti-discrimination law

New strategies for dealing with an age-old problem

**I**N RECENT DECADES, legislative bodies throughout North America and Europe have enacted sweeping laws to protect racial and ethnic minorities, women, the disabled and other groups who are victimized by discrimination. Perhaps not surprisingly, these efforts have encountered resistance—oftentimes successful—leaving anti-discrimination scholars and activists to ponder new strategies for dealing with an age-old problem.

On May 6 and 7, a group of these scholars from the U.S., Canada and Europe participated in a Harvard Law School workshop that analyzed the



A recurring theme throughout the discussions was a sense of disillusionment among U.S.-based participants with the role that legal institutions have come to play in tackling inequity and discrimination.

recent evolution of anti-discrimination law on both continents.

The organizer of the event, HLS Professor Grainne de Burca, said that she and a European colleague, Ruth Rubio Marin, had begun a project looking at how European anti-discrimination law was changing under European Union rules. "I became aware that there were many interesting debates with resonances on both sides of the Atlantic," she said. "We thought this workshop would provide an opportunity for us to learn from each other, given that similar problems are being addressed in very different contexts but with many common >>7

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### INSIDE

- 2 *Constitutional reform for Honduras*
- 3 *Six profs, six ideas, 60 minutes*
- 3 *A decorated general gets another medal*
- 5 *As one journey ends, five new ones begin*
- 8 *Class Day and Commencement 2011*

## BRIEFS

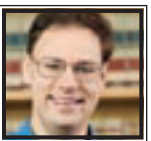
## STEIKER APPOINTED TO PUBLIC COUNSEL SERVICES COMMITTEE



The Massachusetts Supreme Judicial Court appointed Professor **Carol Steiker '86** to a three-year term on the Committee for Public Counsel Services. The 15-member committee oversees

the statewide provision of public defense services and other legal representation for indigent people in criminal and civil court cases and proceedings in Massachusetts. Steiker, who was named the Howard J. and Katherine W. Aibel Professor of Law at HLS in 2007, is well known for her criminal law scholarship, particularly for her research and writing on the death penalty.

## THE LAW AND FINANCE OF MARK-UPS



On behalf of the Financial Industry Regulatory Authority, **Allen Ferrell '95**, the Harvey Greenfield Professor of Securities Law, recently conducted an analysis of more than 161,000 equity

transactions in order to assess the mark-ups and mark-downs that broker-dealers charge when customers buy and sell securities. The results of this study, titled "The Law and Finance of Broker-Dealer Mark-Ups," have subsequently inspired changes to the FINRA's rules governing mark-ups, commissions and fees.

## A 'PUBLIC' CIRCUS AT HLS



The 18th annual Public Interest Auction took place on April 7. Emceed this year by Professors **Randall Kennedy** (photo left) and **Jonathan Zittrain '95**, the event—billed as "Step Right Up! Bids Under the Big Top"—raised \$98,683

to support the Summer Public Interest Funding program, which provides opportunities for students to begin their careers working in public interest. More than 150 items, including a solo string concert by Professor **Joseph Singer '81** and a day of indentured servitude from the president of the Harvard Law Review, were auctioned off.

## BENKLER, STEVENSON NAMED FORD FOUNDATION VISIONARIES



Harvard Law School Professor **Yochai Benkler '94** and **Bryan Stevenson '85**, founder and executive director of the Equal Justice Initiative, were two of 12 recipients of the Ford Foundation



Visionaries Award. The award was created in recognition of the 75th anniversary of the Ford Foundation to celebrate social innovators from a variety of fields. Benkler was honored for his

work harnessing technology for social good. Stevenson was recognized for his work challenging bias against the poor and people of color in the criminal justice system.

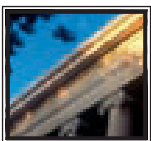
## ZITTRAIN JOINS FCC AS DISTINGUISHED SCHOLAR



Professor **Jonathan Zittrain '95**, co-director of the Berkman Center for Internet & Society, was appointed as the Federal Communications Commission's Distinguished Scholar. FCC Chairman

**Julius Genachowski '91** announced the appointment in May. Zittrain, who will continue his teaching and scholarship at Harvard during the appointment, will be based in the Office of Strategic Planning & Policy Analysis and will work on a range of issues related to 21st-century communications networks.

## TOP TEN CORPORATE AND SECURITIES LAW ARTICLES IN 2010



This year's list of "Top Ten Corporate and Securities Articles," based on an annual poll of corporate and securities law academics, includes six articles written or co-written by the following HLS faculty

and fellows: Professors **Lucian Bebchuk LL.M. '80 S.J.D. '84**, **Mark Roe '75**, **Holger Spamann LL.M. '01 S.J.D. '09**, **Guhan Subramanian '98 J.D./M.B.A.** and **George Triantis** and HLS Corporate Governance Senior Fellow **Leo Strine**, vice chancellor of Delaware's Court of Chancery. The top 10 articles, selected from more than 440 pieces, will be reprinted in an upcoming issue of the Corporate Practice Commentator.

## COLLABORATING WITH SCIENCES PO



Harvard Law School and Sciences Po Law School have launched a wide-ranging program that includes exchanges of faculty and students, both pre-doctoral and post-doctoral, and co-sponsorship of joint conferences on U.S. and European legal issues. Sciences Po, France's leading university for social sciences, created a law school in 2009 in order to train lawyers with an emphasis on critical thinking and creativity. Under the new partnership, faculty from each school may participate in short-term exchanges for up to two weeks. This June, HLS hosted the program's first conference, "Franco-American Legal Influences, Then & Now."

At "HLS Thinks Big" on May 23, Professor Jon Hanson argued that understanding what moves people may be the most important question for law in the future.

MARTHA STEWART

## Constitutional reform for Honduras

HLS Professor **Noah Feldman** and a team of HLS affiliates have written a report at the request of the Commission on Truth and Reconciliation of Honduras, examining the constitutionality of the actions in Honduras that resulted in the 2009 military coup that removed President Manuel Zelaya from office.

The report's co-authors include: **David Landau '04**, assistant professor at Florida State University College of Law, and **Brian Sheppard LL.M. '05**, S.J.D. candidate and associate professor at Seton Hall University School of Law. Leonidas Rosa Suazo, attorney at Bufete Rosa y Asociados in Honduras, served as the local consultant for the project. The report found that both parties—Zelaya and those who removed him from office—likely acted unconstitutionally on numerous occasions. The authors suggest a series of reforms aimed at fighting the threat of unconstitutional presidential action and the threat of military intervention.

The report will be publicly available after the commission releases its findings later this summer.

Professor Noah Feldman



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## THINKING BIG

*Six Harvard Law School professors with six ideas worth spreading in 60 minutes*

"HLS Thinks Big," inspired by the global TED (Technology Entertainment and Design) talks and modeled after the college's "Harvard Thinks Big" event, was held at Harvard Law School on May 23 in Austin North.

The event, moderated by Dean **Martha Minow**, featured topics ranging from risk analysis in constitutional design to understanding what moves people.

Over the course of one hour, Clinical Professor **Deborah Anker LL.M. '84** examined legal assistance for undocumented students, while Professor **Randall L. Kennedy** stressed the importance of not turning only to the justice system but also

to the other branches of government to glean insight into race relations

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 Web link: <http://hvrld.me/ThkBig>

in law. Professors **John Manning '85** and **Adrian Vermeule '93** discussed the difference between "mind-numbingly precise phrases" and "breath-takingly open-ended phrases" in statutes. Professor **Jon Hanson** discussed social psychology and Professor **Mark Roe '75** introduced the audience to the ideas of chaos, path dependence and punctuated equilibrium.

"Establishing the rule of law ... is critical to the kind of sound governance that will enable an enduring transition of security responsibility to Afghan forces."  
**MARK MARTINS '90**



CHRISTOPHER DYDYK

### RULE OF LAW IN AFGHANISTAN IS CRITICAL TO AN ENDURING TRANSITION, SAYS BRIG. GEN. MARK MARTINS '90

Army Brig. Gen. **Mark Martins '90** accepted the Medal of Freedom, the highest honor conferred by Harvard Law School, and gave the Dean's Distinguished Lecture on April 18 at HLS.

Established to honor the achievements of individuals who have worked to uphold the legal system's fundamental commitment to freedom, justice and equality, the medal has been awarded to the *Brown v. Board of Education* litigation team, Chief Justice of Pakistan Iftikhar Chaudhry and South African President Nelson Mandela.

In September 2009, Martins was assigned as interim commander of the Joint Task Force 435, in Afghanistan. One year later, he assumed

command of the newly established Rule of Law Field Force-Afghanistan, which provides essential field capabilities, liaisons, and security in partnership with Afghan and coalition civil-military rule-of-law project teams.

In these roles, Martins has led the effort to reform U.S. detention operations, and he has repeatedly stressed that continued progress in Afghanistan depends not only on strengthening the democratic process but also on building the rule of law, particularly in dealing with counter-insurgents.

"[Afghanistan's] lack of governance ... is accompanied by a lack of confidence in the government's ability to deliver justice, resolve civil disputes and address a perceived culture of impunity among the powerful," he said. "Establishing the rule of law in these districts is critical to the

kind of sound governance that will enable an enduring transition of security responsibility to Afghan forces and deny that rugged country as a sanctuary for global threats."

He highlighted examples of U.S. strategy for the development of the rule of law in Iraq and Afghanistan, and discussed possibilities for moving forward.

"Rule of law in Iraq and Afghanistan remains mostly just a goal, but also an indispensable one, [and] the challenges are very practical ones," he said.

Commissioned in the infantry after graduating first in his class from the United States Military Academy, Martins was a Rhodes scholar at Oxford in 1985 and earned his J.D. from HLS in 1990. He holds an LL.M. in military law and a master's degree in national security strategy.

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 Web link: <http://hvrld.me/genmarkmartins>



MARTHA STEWART

**"RACE AND JUSTICE: THE WIRE:"** Using lessons that come not from a law book but from the television series "The Wire," a celebrated portrayal of street gangs in inner-city Baltimore and the institutions that have failed its residents, Professor **Charles Ogletree '78** has established a new class with a curriculum that includes readings and discussions on drug policy, police practices and legal tactics. Ogletree supplemented the class with a speaker series featuring community activists and the show's cast members and creators. Pictured above: Fran Boyd Andrews and Donnie Andrews, who served as real-life inspirations for characters on "The Wire."

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 Web link: <http://hvrld.me/raceandjustice>

Professor Lawrence Lessig



PHIL FARNSWORTH

Brandon J. Winston '12



The Berkman Center released a briefing book with papers examining the challenges that stem from digital technology.



Ben Folds and an all-star team of musicians collaborated to write, record and release six original songs over the course of the event.

## GIVING BACK THROUGH MUSIC

The Berkman Center for Internet & Society at Harvard helped shape the agenda of Rethink Music, a conference that brought together legal, business, and academic experts to discuss new business models for creating and distributing music. Presented by the Berklee College of Music and MIDEM, in association with Harvard's law and business schools, the event took place in Boston on April 25-27.

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 Web link: <http://hvrld.me/rethinkmusic>

## FIVE NEW GRADUATES AND where they're headed

IN HER COMMENCEMENT address to the Class of 2011 on May 26, Dean Martha Minow praised students' accomplishments at HLS and their vast array of skills and achievements.

As they prepared to receive their diplomas, she urged them to cherish their talent for asking good questions: **"Indeed, the questions asked by Harvard Law School's Class of 2011, now and in the future, will define law and leadership in the years to come. Your influence reflects what Harvard Law School is and who you are and who you will become. I simply ask you to use your influence to better your communities and the world."** Here, five members of the class reflect on influences during their educational journey and how they intend to use their educations to influence others.



HERATCH PHOTOGRAPHY

### Humu-Annie Seini LL.M.

WHAT CAN GHANA LEARN from the disastrous BP oil spill in the Gulf of Mexico last year? How to more effectively regulate its own emerging oil and gas industry, says Humu-Annie Seini LL.M. '11, an attorney formerly with the Environmental Protection Agency in Ghana, who spent this year concentrating in environmental law as a graduate student at HLS.

"I think we need to strengthen regulation and enforcement, and should monitor oil companies more," said Seini. Her nation also faces environmental challenges related to the mining industry and from telecommunications companies seeking to place cell towers where communities may not want them. The opportunity to study the environmental regulatory system in the U.S. is what drew her to HLS.

When she matriculated last fall, Seini already had one LL.M., from Leibniz University in Germany, as well as an LL.B. from the University of Ghana and eight years of experience at the EPA. Still, she says this year was "extremely intensive" with reading assignments, research papers and clinical work. "Studying was hard," she said, but the graduate program "was very good in spite of all the difficulties I had to go through."

She especially enjoyed Climate and Energy Law and Policy, taught by Professor Jody Freeman LL.M. '91 S.J.D. '95, director of the HLS Environmental Law Program. The course approaches climate change as a national security issue as well as an environmental and economic issue, and covers such topics as greenhouse gas regulation in the U.S. under the Clean Air Act, renewable energy development and siting, offshore drilling, nuclear energy and "clean coal" technologies.

"I didn't know much about energy law, only about oil and gas, and I learned a lot about climate change," said Seini.

In the Emmett Environmental Law and Policy Clinic, she helped draft a guide for property owners who are considering signing leases with companies seeking to extract natural gas through hydraulic fracturing. Seini also worked at the Massachusetts Department of Environmental Protection, doing research projects for a group of administrative law judges.

Seini plans to sit for the New York bar this summer and may be returning to HLS next year for an S.J.D.

3 "I think we need to strengthen regulation and enforcement, and should monitor oil companies more."

### Ben Hoffman

IT TOOK ABOUT AN hour and a half for Ben Hoffman '11 to get hooked. There he was, a prospective student, sitting on a faded blue couch in HLS's Human Rights Program listening to a student talk about how he helped bring a case against the former president of Bolivia. And that's when it occurred to Hoffman: This is definitely what I should be doing at law school.

The grandson of labor activists and Holocaust survivors, he knew from his family about the ugly parts of life. But he was also raised with hope, and the belief that society could—and should—do better.

By all accounts, at HLS, he did more than his part.

Early on, Hoffman dug into human rights work, first through HLS Advocates for Human Rights, and later in HRP's International Human Rights Clinic. He spent endless weekend hours in HRP's "war room," hashing out legal arguments with students and supervisors. Mostly, he focused on corporate Alien Tort Statute litigation, claims brought against companies for their alleged participation in human rights violations abroad. Interviewing survivors of apartheid-era abuse in South Africa was a turning point for him.

"I don't think the meaning of my work really hit home until I had the chance to meet with some of our clients, and ground the legal struggles I'd been working on for semesters in the actual experience of communities on the ground," Hoffman said.

At times, the work was intimidating. Most law students feel it at some point or another, he said—the fear of affecting someone else's life for the worse.

"Depending on how you choose to deal with that fear, it can either be crippling, or it can be a source of incredible motivation to do really good work," he said.

For Hoffman, it was the latter. He pushed himself—and others—hard. He constantly asked questions: What is the role of the lawyer? How can we best help the community? How can we keep it their fight, not ours?

Next year he'll explore those questions in Peru, funded by a Sheldon Traveling Fellowship and a Henigson Fellowship to work for EarthRights

International, an organization focused on human rights and environmental issues.

3 "I don't think the meaning of my work really hit home until I had the chance to meet with some of our clients."



AYNSLEY FLOYD



HERATCH PHOTOGRAPHY

## Gabriel Davis

IN SEPTEMBER, Gabriel Davis '11 will start a three-year stint working for the Manhattan District Attorney's Office. Yet not so long ago, work as a criminal prosecutor was just about the last line of legal work he wanted to pursue.

Davis grew up in Cincinnati the son of a police officer, and the close perspective he got on the criminal justice system made him want to steer clear. His dad's stories were "thrilling to listen to, but also very sobering and disheartening, especially given the racial dynamics of some of those issues," Davis said. During his junior high and high school years, tensions between the police department and the city's black population were high, culminating in race riots after an unarmed black man with outstanding traffic warrants was shot and killed by a white police officer. "Those events left me with an underlying sense that criminal justice was too explosive of an area for me, and that it touched on societal issues that were too intractable or difficult to solve," Davis said.

Yet, influenced by four years his family spent in Jamaica creating a school for children who didn't have access to quality education, Davis knew he wanted to go into public service.

A summer job as a community organizer in Cincinnati—where he organized health fairs and built strategic relationships between elected officials and nonprofits—helped focus his thinking on the criminal justice system, as he came to realize how difficult it is to improve health care, education and housing in neighborhoods where residents don't feel safe. "I walked away with a great understanding of the ways in which crime can impact communities and make it hard for them to thrive," he said.

At HLS, an evidence course with Assistant Clinical Professor Alex Whiting was particularly influential in his decision to become a prosecutor. As Davis prepares to enter the criminal-justice system, he does so with a sense of "balanced optimism"—aware of the system's imperfections, and of its power to do good: "I have a healthy respect for the criminal justice system but also knowledge of where that system needs to be improved and held accountable. As a prosecutor, you're part of the system. But there's a unique ability to hold people accountable."

3 "I walked away with a great understanding of the ways in which crime can impact communities and make it hard for them to thrive."

## Elizabeth Benton

ALMOST EVERY WEEKEND for the past two years, Elizabeth "Libby" Benton '11—a student lawyer in the Harvard Legal Aid Bureau and chair of HLS's comprehensive anti-foreclosure task force—has gone door to door in Dorchester and other low-income neighborhoods, urging people whose homes are in foreclosure not to move out. She's invited them to weekly meetings where she and other HLS students informed them of their legal rights; she's helped them fill out legal paperwork; she's represented homeowners and tenants in court.

Working 40 to 50 hours a week on anti-foreclosure efforts, including the innovative neighborhood canvassing project No One Leaves, launched three years ago by students determined to keep people in their homes, has been the highlight of Benton's law school career. "I felt No One Leaves was a great way to draw a connection between what I was doing in law school and helping the community in Boston," said Benton, who tallied 2,300-plus hours of pro bono legal service while at HLS.

Now that she has graduated, Benton will continue her anti-foreclosure work. For the next two years, she'll be working on housing cases at HLS's WilmerHale Legal Services Center as a Skadden Fellow.

Growing up outside Flint, Mich., where the collapse of the auto industry created soaring unemployment, Benton was exposed early to the devastating social consequences of a sour economy. "I wanted to think about using the law to remedy that," said Benton. After graduating from the University of Michigan in 2006, she worked on the re-election campaign of Gov. Jennifer Granholm '87 and the congressional campaign of Sandy Levin '57. Benton went to work for Levin in Washington, D.C., eventually becoming a legislative assistant, where her work on veterans' issues was particularly gratifying. "What piqued my interest in law school was seeing how our office helped individual vets navigate a big federal bureaucracy," she said. As a 1L, Benton volunteered doing intake at a homeless veterans shelter.

The anti-foreclosure work at HLS has forged her career plans. Said Benton, "I'm committed to a lifetime of public service and public interest law."



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3 Benton tallied 2,300-plus hours of pro bono legal service while at HLS, breaking her class's record and winning her the Andrew L. Kaufman Pro Bono Service Award.



HERATCH PHOTOGRAPHY

## Kevin Cooper

IT'S NOT SURPRISING that Kevin Cooper '11 would use a football analogy when describing the appeal of working in mergers and acquisitions. After all, he played the game in college. But whereas in football he was one of the burly linemen who block for the signal caller, in corporate law he is seeking to score the touchdown.

"As a lawyer, you're really helping, especially in a friendly acquisition, to create value," he said. "You're getting to act like the quarterback of the deal."

Cooper, who played guard at Fresno State (his linemate Logan Mankins now plays for the New England Patriots) before his playing career ended due to injury, is heading to Wachtell Lipton in New York City as a corporate associate in mergers and acquisitions. After graduating with a B.S. in business administration, he went on to earn an M.B.A. at Fresno's business school. Before enrolling in law school, he worked for a municipal consulting company, which itself was acquired, giving him his first practical experience working on the issue. As a summer associate at Wachtell Lipton, he worked on a merger of pharmaceutical companies and analyzed possible antitrust issues of a potential acquisition.

He points to a corporations class taught by Guhan Subramanian J.D./M.B.A. '98 and an M&A workshop taught by Lecturer on Law and Wachtell Lipton partner Mark Gordon '94 as highlights of his classroom experience at HLS, providing him with a different perspective from the one he got at business school, he said.

"One thing you learn is a different way of thinking, a very structured way of thinking, considering a lot of alternatives and weighing the costs and the benefits and the risks," said Cooper.

But something he found missing at law school was a journal devoted exclusively to business law. So, along with two classmates, he created the Harvard Business Law Review, which garnered participation from many students and faculty members.

His own interest in those subjects helped propel him to top academic achievement, including winning the Sears Prize for one of the top two grades during his 2L year. Students who enter HLS should likewise follow their passion, and success will follow, he said.

"Anyone who comes here, I think, will do well if they're honest with themselves and they're taking what they're truly interested in and what they want to do."

3 "One thing you learn is a different way of thinking, a very structured way of thinking."

## Five new faculty appointments

*New expertise across a broad spectrum of legal fields, from environm*

### RICHARD LAZARUS, PROFESSOR OF LAW

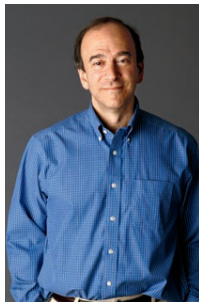
RICHARD J. LAZARUS '79, one of the nation's foremost experts on environmental law and a leading practitioner in the U.S. Supreme Court, joined the Harvard Law School faculty this summer as a tenured professor.

Lazarus most recently was the Justice William J. Brennan, Jr. Professor of Law and faculty co-director of the Supreme Court Institute at Georgetown University Law Center, where he taught since 1996. He received the Frank Flegal Award for Excellence in Teaching in 2002. He also served as executive director of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, appointed by President Barack Obama '91.

Prior to Georgetown, he was a member of the faculty at Indiana University Bloomington and at Washington University, where law students honored him with their "best teacher" award, and he was a visiting professor at several law schools, including HLS, where he most recently taught during the winter 2010 term.

Lazarus has co-taught summer programs nationally and internationally on the history of the Supreme Court with Chief Justice of the United States John G. Roberts Jr. '79.

He previously worked for the U.S. Department of Justice, in the Environment and Natural Resources Division and in the



Solicitor General's Office, where he was assistant to the solicitor general. He has represented the United States, state and local governments, and environmental groups in the U.S. Supreme Court in approximately 40 cases.

Lazarus' 2004 publication, "The Making of Environmental Law" (University of Chicago Press), is widely hailed as the definitive history of the emergence and evolution of modern environmental law in the United States. He is the principal author of "Deep Water: The Gulf Oil Disaster and the Future

of Offshore Drilling" (2011).

He has a forthcoming article in the University of Illinois Law Review, and recently published articles in the Cornell Law Review, Yale Law Journal Online, and San Diego Journal of Climate and Energy Law. Environmental law professors selected his 2009 Cornell Law Review article as one of the best published that year—an award he has received for many of his publications.

Lazarus holds a B.S. in chemistry and a B.A. in economics from the University of Illinois (Urbana-Champaign), in addition to a J.D. from HLS. He also attended Massachusetts Institute of Technology, where he was a special student in economics and an advisee of Professor Robert Solow, the Nobel Prize-winning economist.

### HOLGER SPAMANN, ASSISTANT PROFESSOR OF LAW

HOLGER SPAMANN LL.M. '01 S.J.D. '09, an expert in corporate governance and finance, joined the faculty in July as an assistant professor. He is a former co-executive director of HLS's Program on Corporate Governance, he co-taught Corporate and Securities Law Policy with Professor Lucian Bebchuk LL.M. '80 S.J.D. '84 in 2009, and he is a former corporate governance research fellow.

Spamann's primary teaching interests include corporations, corporate finance and bankruptcy. His research has also involved securities regulation, law and economics, civil procedure, conflict of laws, comparative law, EU law and international

economic law.

Prior to entering the S.J.D. program at HLS, Spamann was a trainee ("Referendar") under the direction of the Court of Appeals for the State of Hamburg in Germany. He also has worked in private equity M&A as an associate at Debevoise & Plimpton in New York City, and as a junior researcher for the Max-Planck-Institute for Foreign and Private International Law in Hamburg.

Spamann has written and co-written articles in the Reviews of Financial Studies, the BYU Law Review, the Yale Journal on Regulation, the Georgetown Law Journal, the American Journal of Comparative Law, the Review of International Economics

and the journals of Legal Analysis, Institutional Economics, and World Trade.

As an LL.M. and S.J.D. student at HLS, Spamann won a number of writing

accolades, including two Brudney Prizes for Best Corporate Law Paper, two Olin Prizes for Best Law & Economics Paper, and

the Addison Brown Prize for Best Private International Law Paper.

He earned an A.M. in economics from Harvard and expects to earn his Ph.D. in economics this year. He holds a B.Sc. from the London School of Economics as well as a German law degree from the University of Hamburg and a French law degree from the University of Paris.



### MIHIR A. DESAI, PROFESSOR OF LAW

MIHIR A. DESAI has accepted a joint appointment to the faculty of Harvard Law School as a tenured professor. He currently serves at Harvard Business School as the Mizuho Financial Group Professor of Finance, the senior associate dean for planning and university affairs, and the chair of doctoral programs.

An expert in tax policy, international finance and



corporate finance, Desai was a visiting professor at HLS in 2009.

A recipient of the Student Association Award for teaching excellence from the HBS Class of 2001, he will continue to teach in the General Management Program and Executive Education Program at HBS.

Desai's scholarship has appeared in leading publications on economics, finance and public economics, and he wrote "International Finance: A Casebook."

A research associate at the National Bureau of Economic Research in the Public Economics and Corporate Finance programs, Desai is on the advisory board of

the International Tax Policy Forum and the NCAER-Brookings India Policy Reform. He also has served as an economic adviser for the ABA Task Force on International Tax Reform; an international research fellow for the Oxford University Centre for Business Taxation; an associate editor for the American Economic Journal: Economic Policy; and a referee for numerous economics and financial journals.

He worked at CS First Boston and McKinsey & Co. He has a B.A. in history and economics from Brown and a Ph.D. in political economy and an M.B.A. from Harvard. He was also a Fulbright Scholar to India.

### ROBERT GREENWALD, CLINICAL PROFESSOR OF LAW

ROBERT GREENWALD, director of Harvard Law School's Health Law and Policy Clinic, has been promoted to full clinical professor.

Greenwald has taught at HLS since 1989. He is currently a senior clinical instructor, a lecturer on law, and managing director of the WilmerHale Legal Services Center in Jamaica Plain.

He founded the Health Law and Policy Clinic in 1987 as the nation's first law school-based AIDS law clinic. Under Greenwald's leadership, the clinic is at the forefront of health law



and policy issues, and it was actively engaged in the design and passage of 2010 federal health reform legislation that expands Medicaid coverage to more than 15 million low-income, uninsured Americans. The clinic remains very active in implementation of federal health care reform.

In February, Greenwald was awarded a Positive Leadership Award for the third year in a row from the

**VICKI C. JACKSON,  
PROFESSOR OF LAW**

Vicki C. Jackson, a leading expert on U.S. constitutional law, comparative constitutional law and federal courts, joined the faculty this summer as a tenured professor. She is the school's first Thurgood Marshall Professor of Constitutional Law.

Most recently the Carmack Waterhouse Professor of Constitutional Law at the Georgetown University Law Center, she has taught courses on constitutional law, comparative constitutional



law, gender equality, federal courts and the Supreme Court. She joined the Georgetown faculty in 1985.

Jackson was a visiting professor at HLS and at

Columbia Law School.

At Georgetown, she served as associate dean for Transnational Legal Studies, for Research, and for Research and Academic Programs. She also chaired the appointments and academic standards committees. She was a co-recipient of Georgetown's Frank Flegal Award for Excellence in Teaching.

Jackson was a deputy assistant attorney general in the Justice Department's Office of Legal Counsel, and she has been a board member of the International Association of Constitutional

Law since 1999. She also served as co-chair of the Special Committee on Gender of the D.C. Circuit Task Force on Gender, Race and Ethnic Bias.

Earlier in her career, she was a partner at Rogovin, Huge & Lenzner in Washington, D.C. She served as a law clerk to U.S. Supreme Court Justice Thurgood Marshall; to Judge Murray Gurfein, U.S. Court of Appeals, 2nd Circuit; and to Judge Morris Lasker, U.S. District Court, Southern District of New York. She has written five books, including two with HLS Professor Mark Tushnet: "Comparative Constitutional Law" and "Defining the Field of Comparative Constitutional Law," an edited collection of essays.

She holds a B.A. in history, summa cum laude, from Yale. She earned her J.D. from Yale, where she was an editor of the Yale Law Journal.

**Anti-discrimination law**

continued from page 1



MARTHA STEWART

"[T]here were many interesting debates with resonances on both sides of the Atlantic. We thought this workshop would provide an opportunity for us to learn from each other."

HLS professor Grainne de Burca

Christopher McCrudden, professor of law at the University of Oxford, said of the British Equality and Human Rights Commission: "They are doing some litigation, but they have no strategy. They're reacting mostly to public pressure and what's going to make them look good in the papers the next day."

David B. Oppenheimer '78, a clinical professor at the University of California Berkeley School of Law, said the same kind of meekness has struck American anti-discrimination institutions. He said, "There were long periods of time when the [Equal Employment Opportunity Commission] only submitted briefs in the U.S. Supreme Court in which they supported the employer."

"These U.S. agencies are heavily politicized agencies because this is a heavily politicized issue," he said. "It's hard for a regulatory agency to avoid political capture unless it's doing something that everyone regards as very boring—and this isn't boring."

This kind of political reality, which exists to different degrees on both continents, prompted participants to examine alternative anti-discrimination strategies that rely less on legal institutions. These include private initiatives within corporations and broader strategies launched by public and private institutions including universities.

Yale Law School Professor Reva Siegel said the legal challenge in the fight against discrimination will be to identify new methods and new tools, moving beyond courts. "There's a deep way in which the U.S. story is about unlearning a certain mystification of the role of courts in the redress of discrimination," she said. "It's not about abandoning courts, but about launching a much deeper inquiry into the multiple forms of law used in the service of social change."

questions."

A recurring theme throughout the discussions was a sense of disillusionment among U.S.-based participants with the role that legal institutions have come to play in tackling inequity and discrimination.

Elizabeth Bartholet '65, Morris Wasserstein Public Interest Professor of Law at HLS, spoke of the broad advent of anti-discrimination law in the U.S., in the '60s and '70s, as "a very powerful time in terms of how courts and law could function to create the synthesis of judicial and proactive policy." She said that a theory of "disparate impact" quickly took root—meaning that employers could be held liable if their practices had an adverse impact on various minority groups in the absence of the employer showing they were required by business necessity.

Large groups of poor and minority workers were able to get representation in court through class actions, she said. Today, however, "the courts have essentially destroyed impact theory," she said, and have also destroyed the class action device.

European participants described the state of anti-discrimination law there

somewhat more optimistically—perhaps because it is considerably younger and has not yet generated the kind of social and political backlash seen in the U.S.

Bruno de Witte, professor of EU law at Maastricht University in The Netherlands, pointed out that prior to the EU's Racial Equality Directive of 2000, only a few European nations had any kind of equality institutions. The directive mandated their creation by EU member states and today more than 30 European countries

have them, he said.

In terms of effectiveness, however, "we don't yet know whether equality institutions have actually realized effective legal change," he said. "Thus far we have mainly anecdotal evidence."

De Witte and others singled out the French equality institution HALDE as effective, but the performance of other European equality institutions has been mixed, participants said.

"We're seeing how vulnerable they are to political winds," said Mark Bell, a professor at the University of Leicester School of Law in the U.K.

European participants described the state of anti-discrimination law there somewhat more optimistically—perhaps because it is considerably younger.

National Association of People with AIDS. He has also received awards recognizing the importance of his work from HLS Lambda and the Harvard Civil Rights-Civil Liberties Law Review, Gay and Lesbian Advocates and Defenders, and the cities of Boston and Cambridge.

He is a member of the Presidential Advisory Council on HIV/AIDS, the co-chair of the HIV Health Care Access Working Group, and a board member of the the Bessie Tartt Wilson Initiative for Children and the Technical Assistance Collaborative for housing.

He holds a B.A. from Vassar College and a J.D. from Northeastern.

COMMENCEMENT

# Celebrating the Class of 2011

**H**ARVARD LAW SCHOOL graduation festivities began on Class Day, Wednesday, May 25, and continued through Commencement on Thursday, May 26. This year, the law school conferred a total of 790 degrees—585 J.D.s, 195 LL.M.s and 10 S.J.D.s. The Class of 2011 surpassed the HLS record for pro bono hours, performing a total of 366,204 hours, an average of 628 hours per J.D. student. Elizabeth “Libby” Benton ’11 received the 2011 Andrew L. Kaufman Pro Bono Service Award, after performing more than 2,300 hours of free legal services while at HLS.

➔ Web link: <http://hvrld.me/HLSCommence2011>



↑ Class Day Speaker and award-winning actor Alec Baldwin told the Class of 2011 that if he could do it all over again, he would choose differently. “I would trade places with you,” he said. “There is truly no limit to what each of you can do in order to change the quality of people’s lives.”

↓ The inaugural William J. Stuntz Memorial Award for Justice, Human Dignity and Compassion, created in honor of the late Professor William J. Stuntz, was awarded to Sarah Min ’11 for her compassionate work throughout the world.



← Dean Martha Minow addressed the graduating class on May 26.

↑ 2011 Class Marshals, [L-R] Sameer Birring, Sakisha Jackson, Megan Jeans and Paul Ray, led the class to Harvard Yard.

“No matter what got you to this point, you are now graduates of Harvard Law School: brilliant, talented, aware, young, potent and poised for greatness. This world needs you.”

HLS PROFESSOR JON HANSON



JON CHASE

↑ The graduating class chose Professor Jon Hanson as this year’s recipient of the Albert M. Sacks-Paul A. Freund Award for Teaching Excellence.



JON CHASE

