

John M. Olin Center for Law, Economics, and Business
2006-2007 Annual Report

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Part One: Report of Activities

A. Summary of Academic Year: 2006-2007

Introduction

The Olin Center's primary mission is to advance the economic approach to the analysis of law. Under this approach, we seek to determine how legal rules affect the behavior of individuals, firms, and markets, and whether these rules can be improved to achieve a greater social good. The ability to predict the consequences of legal rules is an important prerequisite for making better legal policy recommendations for the future. The Center is dedicated to educating students, training academics, and supporting research. It has established strong programs that further these objectives, and Harvard Law School is now recognized as one of the nation's preeminent institutions for the study of economic analysis of law.

The activities of the Center during the past academic year are presented in this report. (Please visit the John M. Olin Center web site at http://www.law.harvard.edu/programs/olin_center/ for more detailed information.)

A.1. Research and Scholarship

The Center promotes research and scholarship by lending support to a number of activities, including the following:

Summer Faculty Research Program. Faculty research in law and economics is supported by making available grants for student research assistance and by awarding faculty research grants of approximately one month of salary support during the summer, provided that a faculty member already has been awarded one month of support under the Law School's regular summer research program and that the faculty member's proposal is sufficiently promising and is scholarly. Such support allows professors to devote the time necessary for research and writing, and results in important articles and books. We are pleased to report that two of our law and economics professors (whose names are bolded below) published three books during the past year:

Einer Elhauge & Damien Geradin, *Global Competition Law and Economics* (Hart Press, 2007)

Einer Elhauge & Damien Geradin, *Global Antitrust Law and Economics* (Foundation Press, 2007)

Curtis J. Milhaupt, **J. Mark Ramseyer** & Mark D. West, *The Japanese Legal System: Cases, Codes and Commentary* (Foundation Press, 2006)

Law and Economics Discussion Paper Series. The purpose of the series is to circulate (in pre-published form) papers on topics in law and economics. The papers benefit from a wide exposure as they are posted on the John M. Olin Center web site and the Social Science Research Network (SSRN) web site, and their abstracts are advertised in WestLaw's Law Review Abstracts Clearinghouse database, and in many of SSRN's electronic abstract journals. In addition, the Olin Center sends out its own announcement of any new papers to a worldwide email list of subscribers every two months. In September 2004, the Center established a separate series for papers written by its *John M. Olin Fellows*. During 2006-2007, a total of 37 papers were submitted to the faculty series, and 2 papers were submitted to its fellows series. The publication record of these papers is outstanding.

Program on Empirical Legal Studies. The Empirical Legal Studies Program is temporarily on hold until a new program director is found.

Program on Corporate Governance. The Center's newest program, the Program on Corporate Governance, is thriving. The program focuses on the research and scholarship of our outstanding law and economics professors at HLS who specialize in corporate law. The program's web site carries a subset of Olin discussion papers written by these and other professors who have a strong interest in corporate governance, and may be accessed through the John M. Olin Center web site at http://www.law.harvard.edu/programs/olin_center/

These professors continue to draw national attention, and their research has been noted by *The Washington Post*, *The New York Times*, *The Economist*, *The Los Angeles Times*, *USA Today*, and *The Wall Street Journal*. Two of their corporate and securities law articles have made the Top 10 List in a survey of 430 selections, the sixth year in a row in which we had multiple articles in this "Top 10" list. The articles were chosen by corporate and securities law teachers from across the nation and will be announced in an upcoming issue of the *Corporate Practice Commentator* (a legal journal).

Conferences. The Center sponsors conferences on topics in law, economics, and business, at which scholars meet with colleagues from other universities to present and discuss work-in-progress. Conferences play a key role in generating new ideas among academics and practitioners in the world of law and business. Where appropriate, we also co-sponsor conferences with other universities.

This past May, the annual meeting of the American Law and Economics Association was held at Harvard Law School. Although not necessarily sponsored by our program, Olin Center associates (Professor Oliver Hart of Harvard Economics, Karl Coleman, Administrative Director of the Olin Center, and numerous faculty and staff assistants at HLS) helped run this massive conference. Lucian Bebchuk is currently President of the ALEA and will be planning next year's conference (which will take place off-campus).

During the past year, our support also contributed to the following locally held conferences:

- Conference on Empirical Studies of Courts and Judges, run by Mark Ramseyer (Nov. 10, 2006)
- Enforcing Corporate Governance, run by Mark Roe (Mar. 30-31, 2007)

A.2. Contributions to HLS Teaching Program

The Olin Center continues to make strong contributions to the HLS teaching program in the following ways:

The Analytical Methods for Lawyers Course and Textbook. As we indicated in previous reports, the development of this course and textbook was supported by the Olin Center. Designed to teach basic business and economics concepts to first-year law students, it was soon in demand by second- and third-year students as well. The course had 172 students this year. The *Analytical Methods for Lawyers* textbook was first introduced in the spring 2004 semester. We are happy to add that Foundation Press has now published the *Preliminary Teachers Manual for Analytical Methods for Lawyers*, as well as spin-offs of the textbook subject matter; for example, Law and Economics, Decision Analysis, Contracting, and Accounting, etc. As predicted, the *Analytical Methods for Lawyers* textbook is a major success and is becoming a great boon to the study of law and economics across the nation. As of Fall 2006, the book has been adopted at 22 schools, including Cardozo, University of California-Berkeley, Columbia, Emory, Georgia, Penn, Rutgers-Camden, University of Texas, Villanova, Wake Forest, University of West Virginia, Western State, and Willamette). Not including all of the orders for Fall 2007, over 1,500 copies have already been shipped. In addition, there have been 46 adoptions of the various spin-off books, with nearly 4,500 copies shipped.

Contributing Faculty with Expertise in Law and Economics. At present, at least a fifth of the School's faculty have substantial expertise in economic analysis of law. Law and Economics is represented in the curriculum both by courses whose primary purpose is to teach economic analysis and by courses in law taught by instructors who make significant use of economic analysis. The Center lends support to six seminars and six courses whose primary purpose is to teach economic analysis, as follows:

- Behavioral Law and Economics Seminar
- Empirical Methods for Legal Analysis: Research Applications: Seminar
- Law and Economics Seminar A
- Law and Economics Seminar B
- Law, Economics, and Organization Research Seminar
- Treatment of Scientific Evidence in the Courtroom Seminar

- Analytical Methods for Lawyers
- Economic Analysis of Law
- Economics of Japanese Legal Institutions
- Economics of Regulation and Antitrust
- Empirical Methods for Legal Analysis
- Law and Economics: Empirical Issues

Law and Economics Course for Spanish Law Students and Academics. For the past three years, the Olin Center and Harvard Law School faculty have hosted a successful law and economics course for Spanish law students and academics. In cooperation with the Department of Applied Economics of the Universidad Complutense de Madrid, and sponsored by the Foundation Rafael del Pino, this week-long series of classes attracted 32 attendees from Spain last year. The series included classes on new developments in law and economics, economic analysis of corporate law, and tort reform, taught by four of our core law and economics faculty—Steven Shavell, Allen Ferrell, Guhan Subramanian, and Louis Kaplow—in addition to Harvard professor Oliver Hart of the Department of Economics. This course will be repeated at Harvard Law School again this upcoming October.

Production of Academics. A major goal of the Center is to contribute to the support and education of students training to become professors. We learned during this past year that two more of our former Olin Fellows have obtained a new teaching appointments—Liza Vertinsky is now teaching at Emory Law School and Daniel Schwarcz is now teaching at the University of Minnesota Law School.

A.3. Participation of HLS Students in Program Activities

Student participation in Olin Center activities is remarkable. Graduates continually tell us that being affiliated with the Olin Center was the highlight of their time here. The Center's major student programs follow:

John M. Olin Student Fellowships (Academic Year). Law students (including J.D., LL.M. and S.J.D. students) who are selected as *John M. Olin Fellows in Law and Economics* make a significant commitment of time and effort to research and writing in the area of law and economics and produce a substantial paper by the end of the fellowship period. They also attend the weekly law and economics seminars and meet as a group with their faculty advisers and themselves for occasional meals, at which they discuss their research. During the past academic year (2006-2007), eleven students were awarded fellowships.

Terence M. Considine Fellowships (Summer). We also have a summer fellowship program. Many of our fellows are pursuing a doctorate degree and/or an academic career. The opportunity to be considered for summer support allows them more flexibility in arranging their summer schedules, so that they can maximize their research time, without the need of supplementing their summer income in other ways. Last summer, three students received these fellowships.

Terence M. Considine Graduate and Postgraduate Fellowships. The purpose of these fellowships is to contribute further to the training of individuals planning an academic career in law and economics. Fellows are chosen with this goal in mind, and candidates must exhibit high productivity and achievement. Fellows must have obtained a law degree from Harvard Law School and/or be a student in an advanced degree program at Harvard University. There were three graduate fellows and one post-graduate fellow during academic year 2006-2007.

John M. Olin Research Assistantships. This is an important program, because it fosters interaction between faculty and student, and redounds to the benefit and greater productivity of both. Sixteen students served as research assistants to our law and economics faculty and fellows this past year.

John M. Olin Prizes. John M. Olin Prizes, in the amount of \$1,000, are awarded for outstanding student papers in law and economics. Usually, one, two, or three papers receive prizes each year. Faculty may nominate papers for a prize, and students may also submit their papers for consideration. One prize was awarded for this past year.

Conferences and Special Events. Student fellows often attend the conferences we sponsor here at Harvard Law School. Also, the Center often pays the travel expenses of fellows who are presenting papers at the annual meetings of the American Law and Economics Association or other law and economics associations abroad. During the past year, we supported one student in such an endeavor. Also this past year, the program covered the membership and conference fees for all 15 of our fellows who attended the annual meeting of the American Law and Economics Association at Harvard Law School.

A.3. Participation of HLS Students in Program Activities (continued), and A.4. Collaborations with Other Schools and Departments at Harvard University

(The following activities involve both HLS students and collaborations with other Schools and Departments at Harvard University.)

Seminar: Law and Economics. These seminars are open to attendance by faculty from other Harvard departments and other universities. They are regularly attended by professors from the John F. Kennedy School at Harvard, the Harvard Business School, the Departments of Economics at Harvard, M.I.T., Boston University, and Wellesley College, and the Boston University School of Law. Thus, the seminar serves as a focal point for activity in law and economics in the Boston area. It is also worthy of notice that collaboration does not stop at attendance—professors from other universities are invited to speak at this seminar. During 2006-2007, sixteen professors from other schools presented papers here, in addition to nine of our own HLS professors.

Thursday Evening Seminar for Students. This new component of the Law and Economics Seminars gives students the opportunity to present their own work to the seminar students and to faculty. It has proved to be very popular. This past year, five current fellows and one former fellow presented.

Seminar: Law, Economics, and Organization Research. This is a joint seminar co-sponsored and co-taught by Harvard Law School and the Harvard Department of Economics. The seminar involves the presentation of work in progress in the field of law and economics, with the papers being the type written by professional economists. Presentations are made by members of various Harvard faculties as well as other faculties and by graduate students doing work in law and economics. This past year, one professor from HLS, seven professors from other universities, and seven Harvard Department of Economics professors presented papers.

Joint Degree Program. HLS has a JD/PhD program with the Harvard Department of Economics enabling the increasing number of students with interests in law and economics to obtain training in both subjects.

B. Plans for Academic Year: 2007-2008

Professors J. Mark Ramseyer and Steven Shavell are launching what will be the nation's first faculty-edited journal with a broad legal focus. It will be called the *Journal of Legal Analysis* and the first issue is expected to be published in the fall of 2008. Funding for this journal is coming from Olin and Considine funds, and other HLS faculty on the editorial board will include Louis Kaplow, Kathryn Spier, and Adrian Vermeule.

Next year we shall continue offering Terence M. Considine Fellowships in Law and Social Sciences. These fellowships are intended to support two groups of individuals: those whose goal is to enter legal academia and whose main interest is in law and social sciences; and those whose goal is to enter an academic department in the social sciences (especially in economics, business, or government), provided that their focal interest is in law. To be eligible, an individual must either be a recent Harvard Law School graduate or a student in a Harvard social science PhD program. In the past year, we had four such fellows (3 during the summer, 4 during the academic year).

In addition, we will have on board in the upcoming year two new law and economics professors: Kathryn Spier and Robert Sitkoff.

Finally, in May 2008, as president of the American Law and Economics Association, Lucian Bebchuk will be coordinating the annual meeting of the ALEA (which will take place off campus). Over 200 of the world's top economics scholars are expected to present or participate in the meeting.

Note on Faculty Participation: University guidelines for research programs and centers stress the importance of broad faculty participation. Please describe the extent of faculty participation in your program or center. In addition, please indicate which faculty member or members would be the most plausible successor as faculty director should the Law School need to find a replacement for the current director on short notice.

As already noted, over a fifth of HLS faculty are interested in law and economics and participate in Olin Center activities. For example, they either teach or attend law and economics seminars, and currently twelve or more faculty participate in our summer research program. They are also directly involved in advising students and more are beginning to coauthor papers with them.

Professor Louis Kaplow would be the most plausible successor as faculty director should the Law School need to find a replacement for the current director on short notice.

Note on Student Participation: To the extent practical, please include an estimate of the number of students that participated in your activities in the past year and the nature of that participation.

Student participation in Olin-sponsored activities is substantial. Here is a summary of their participation during 2006-2007:

Fellowships, Research Assistantships, etc.

Student Fellowships (ay): 11 Olin, 3 Considine

Student Fellowships (summer): 3 Considine

Graduate & Postgraduate Fellowships: 1 Considine

Research Assistantships: 16

Prizes: 1

Attended Courses:

Analytical Methods for Lawyers A: 68

Analytical Methods for Lawyers B: 104

Economic Analysis of Law: 43

Economics of Japanese Legal Institutions: Not offered 06-07

Economics of Regulation & Antitrust: Not offered in 06-07

Empirical Methods for Legal Analysis: Not offered in 06-07

Law & Economics: Empirical Issues: Not offered 06-07

Seminar A: Law & Economics: 23

Seminar B: Law & Economics: 19

Seminar: Behavioral Law & Economics: Not offered in 06-07

Seminar: Law, Economics & Organization Research: 8

Seminar: Treatment of Scientific Evidence in the Courtroom: Not offered in 06-07

Seminar: Empirical Methods for Legal Analysis: Research Applications: Not offered in 06-07

Presented at Seminars:

Thursday Evening Seminars: 6

Attended or Presented at Annual Meetings in USA and Abroad: 15

Fifteen fellows attended the annual ALEA meeting

One fellow presented at the International Association of Law & Economics in Madrid

Contributed to John M. Olin Discussion Paper Series: 2

Four fellows or students authored or coauthored papers in our series.

Note on Space Requirements: If your program anticipates the need for additional space, please indicate the amount of space the program will be requesting and when the space will be needed. (As with requests for additional personnel, requests for more space are subject to HLS approval and may not always be granted. We are requesting this information solely for planning purposes.)

At present, we occupy 5 offices on the 5th floor of Pound – Pound 500 (office of the Center's administrative director), Pound 508, 509, 510, and 511 (all accessible to 15 student Olin Fellows and, occasionally, to postgraduate fellows).

However, we are in the process of raising more funds for the Center, and one of the activities for which we are requesting funds is for a new fellowship program for post JDs and possibly PhD economics students who are at the Law School. We have received some funds for this purpose under the Considine Fellowship program. Ultimately, we expect to need more office space for additional fellows. Currently, we are anticipating another three offices.