

HARVARD LAW SCHOOL
PROGRAM ON THE LEGAL PROFESSION

ANNUAL REPORT – 2008

The mission of the Program on the Legal Profession is to increase understanding of the structures and norms of the legal profession and to make a genuine and substantial contribution to the modern practice of law. The Program's work is organized around three key objectives, each of which relates to and supports the other. First, it conducts world-class empirical research on some of the most difficult issues facing the profession today. Second, it examines the way in which law schools teach and prepare future lawyers – now law students – for their chosen careers and develops innovative teaching methods and materials. Third, it works to build bridges between the academy and the profession and to foster an ongoing dialogue between them.

Located at Harvard University and integrated into the teaching curriculum and intellectual life of Harvard Law School, the Program is uniquely positioned to fulfill its mission of innovation and education. It is engaged with a variety of projects seeking, proposing and implementing solutions to the key issues facing lawyers in the modern legal services environment. This includes not only research and scholarship on the rapidly-changing legal profession, but also substantive proposals for change intended to improve the day-to-day lives of lawyers and other professionals.

The Program has conducted groundbreaking research on the career paths of young lawyers, how general counsels retain, manage, and discharge outside counsel, and other important issues. It will continue to raise the bar through new empirical studies on the career paths of HLS alumni and the drivers of superior law firm performance.

Program faculty have created numerous scholarly works, professional publications, and case studies. They also have designed new courses and innovative teaching methods to prepare the next generation of lawyers to face the challenges of modern legal practice. The Program has deepened its connections to the HLS community with an updated and enhanced website (featuring a dedicated 'For Students' section), financial support for independent student research, co-sponsorship of a public interest summer workshop series in New York City, and an ongoing program of events, panel discussions, and guest speaker invitees.

The Program also made great strides toward creating an enduring open dialogue between academics and professionals. Its executive education course *Leadership in Law Firms* has been an overwhelming success. Other major events include a forthcoming conference on the globalization of the legal profession, a symposium (co-sponsored with Harvard Law Review) on the latest findings on the career paths of lawyers obtained through the *After the JD* study, and a co-hosted event at HLS with Oxford University's Clifford Chance Center for the Management of the Professional Services Firms.

This combination of innovative research and ongoing outreach to the HLS community and the legal profession has both raised the Program's profile and generated considerable momentum on a number of fronts. Going forward, we will continue to raise the bar on pragmatic scholarship and education on the legal profession in order to build additional bridges and enhance opportunities for the academy and practitioners to learn from one another.

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I. EXECUTIVE SUMMARY – FY 2008

In recent years the Program on the Legal Profession has achieved a substantial measure of success in multiple dimensions during the past fiscal year. There are four main areas in which the Program has both achieved tangible results outright and laid the foundation for even greater levels of future accomplishment.

First, the Program has conducted groundbreaking research on how general counsel at S&P 500 companies retain, discharge, and manage outside counsel, as well as other projects on the career paths of young lawyers and the outsourcing of legal work overseas. This research has led not only to numerous scholarly and professional publications, but also to the creation of new teaching materials and methods and numerous opportunities to share our knowledge and lessons learned with the wider community of legal practitioners.

Second, the Program has devoted substantial resources (in terms of time and energy as well as finances) in a comprehensive effort to build its overall capacity and to create an infrastructure that will enable it to drive forward on multiple fronts. These efforts included: (i) recruiting the human capital required to move the Program to the next level of success; (ii) obtaining physical space to support the Program's present needs and allow for some future growth; and (iii) creating a first-class website to serve as the new focal point of the Program's connections to the Harvard Law School community, other aspects of the legal academy, and the wider population of legal practitioners.

Third, the Program has continued to fulfill its commitment to legal pedagogy, and to HLS students in particular, through innovative contributions to learning in the field. In recent years the Program has contributed to numerous curricular innovations at HLS, including the modernization of the first-year curriculum, new courses for upper-class students, ongoing supervision of student research, a grant program to fund independent student research, a summer workshop in New York City for students with public interest internships, and the production of case studies for law school use.

Fourth, as a critical part of the Program's efforts to bring the legal academy closer to the profession, it has offered innovative executive education courses to help the leaders of high-quality professional service providers learn to manage the large, complex business institutions that law firms and in-house legal departments have become. Since 2007, the Program has offered *Leadership in Law Firms*, which brings together high-level managing partners and practice group leaders from law firms worldwide for five intensive days of learning about business strategy, organizational culture, the changing needs of the marketplace, and recruitment and staff development. Program faculty currently are developing a course for high-level in-house lawyers entitled *Leadership in Corporate Counsel*, as well as a shorter program entitled *Charting Your Course* on managing the challenging return to professional life after extended time out of the workplace.

The Program is poised to begin the next exciting phase of its development – to embark upon new research initiatives, develop additional curricular contributions, and create new and better connections to the community of practicing lawyers and other professionals that will enable the Program to continue to work toward solving some of the most pressing problems faced by the legal profession today.

II. THE PROGRAM ON THE LEGAL PROFESSION

The Program on the Legal Profession is the only academic enterprise of its kind in the country devoted to the empirical study of both lawyers and professional service providers. It has conducted groundbreaking research on the career paths of young lawyers, the outsourcing of legal work overseas, and how general counsels hire, fire and manage outside counsel. This research has led not only to numerous scholarly and professional publications, but also to the creation of new teaching materials and methods and numerous opportunities to share knowledge and lessons learned with academic peers and legal practitioners.

In order to accomplish these goals, and to lay the groundwork for even higher levels of future success, it was essential for the Program to build capacity in two important areas: personnel and infrastructure. This effort included recruiting talented new faculty affiliates, the Program's first Executive Director, gifted academic researchers, and top-notch administrative staff. It also was necessary for the Program to obtain new physical space that would both support its present needs and allow for some future growth, as well as to create a first-class website to serve as the new focal point for the Program's growing connections to the HLS community, the legal academy, and the profession.

A. *Faculty and Fellows*

The Program's human capital investments offer substantial depth and ensure the Program's ability to drive forward on its administrative priorities, research projects, and curricular innovations.

Faculty Director

David B. Wilkins is the Kirkland & Ellis Professor of Law at Harvard Law School and the Program's Faculty Director. He is also a Visiting Senior Research Fellow of the American Bar Foundation and a Faculty Associate of the Harvard University Edmond J. Safra Foundation Center for Ethics.

Professor Wilkins has published over 50 articles on the legal profession in leading scholarly journals and the popular press. He co-authored (with HLS colleague Andrew Kaufman) one of the leading casebooks in the field. His current scholarly projects on the profession include the *After the JD* study and the Program's Corporate Purchasing Project. He also instructs at the Center's Executive Education courses.

His other research projects include empirical research on the development of "ethical infrastructure" in large law firms based on a series of focus groups with leading practitioners and regulators and over 200 in-depth interviews conducted in connection with a forthcoming book on the development of the black corporate bar, which will be published by Oxford University Press.

Professor Wilkins teaches several courses on lawyers and other related professionals, including the country's only four credit course on the Legal Profession. He also teaches a seminar on The Future(s) of the Large Law Firm, as well as an introductory lecture for all first year students on the legal profession and careers. He is also heavily

involved in curricular reform at HLS and the creation of a new course for first-year students entitled *Problem Solving*. Professor Wilkins is a frequent speaker at academic conferences, law firms, other professional service providers, and bar organizations, both within the United States and around the world. He is the Order of the Coif Distinguished visitor for 2008 and is a member of Harvard University's Task Force on Professional Schools.

Executive Director

David Nersessian is the Program's first Executive Director. He earned his D Phil (PhD) in Law from Oxford University, where his research concentrated on international law. He earned his JD magna cum laude from Boston University School of Law in 1995.

Prior to completing his doctoral work, Dr. Nersessian practiced for a number of years as a litigation attorney with several national and regional law firms, concentrating in complex commercial and insurance coverage disputes throughout the United States. He also served for many years as the Vice President and General Counsel of an international nonprofit educational foundation. From 2005-06, Dr. Nersessian served as a Supreme Court Fellow at the United States Supreme Court, where he worked in the Office of the Administrative Assistant to the Chief Justice (who is the Chief Justice's chief of staff). He provided research and other support to Supreme Court Justices, delivered formal diplomatic briefings to over 900 visiting dignitaries representing some 96 countries, and attended meetings of the US Judicial Conference and high-level international judicial exchanges.

Dr. Nersessian has taught as an adjunct faculty member at Boston University School of Law since 2003. He previously taught English criminal law at St. Benet's Hall and St. Edmund Hall at Oxford University. He writes and speaks extensively in the fields of international criminal law, public international law, human rights, and the legal profession. His book *Rethinking Genocide* is forthcoming from Cameron May Press in 2008. He also is authoring a manual for the federal judiciary on human rights litigation and teaches on behalf of the Federal Judicial Program at judicial education programs.

Faculty Chair of Executive Education

Ashish Nanda is the Research Director of the Program and Professor of Practice at Harvard Law School. Before joining the Law School, Professor Nanda was a Harvard Business School faculty member for 13 years. He taught *Professional Services* in the MBA program and the HBS executive education program *Leading Professional Service Firms*. He teaches a course entitled *Professional Services* at Harvard Law School.

Professor Nanda also serves as Faculty Chair of Executive Education. With his dual functions, Professor Nanda is an integral part of the Program's research and educational priorities. As Research Director, he will continue to play a key role in bringing our existing projects to a successful conclusion, moving new research priorities forward, and disseminating the results of those analyses – both to law students and professionals already in practice. In his role as Faculty Chair of Executive Education, Professor Nanda will be responsible for further developing and administering *Leadership in Law Firms*, creating new courses entitled *Leadership in Corporate Counsel* and *Charting Your Course*, and

overseeing the creation of new case studies for these executive education offerings and for the law school curriculum.

HLS Faculty

John C. Coates IV joined the HLS faculty in 1997 after private practice with the New York law firm of Wachtell, Lipton, Rosen & Katz, where he was a partner specializing in mergers and acquisitions, corporate and securities law, and the regulation of financial institutions. He teaches courses on Mergers & Acquisitions, Financial Institutions Regulation, Contracts, Corporations, and the History of Capitalist Institutions. He was promoted to Professor in 2001 and was named the John F. Cogan Jr. Professor of Law and Economics in 2006. He is a frequent panelist and speaker on M&A and is a consultant to the SEC, law firms, mutual funds, hedge funds, and other participants in the M&A and capital markets.

Professor Coates also is a member of the Legal Advisory Committee of the New York Stock Exchange. He has written numerous articles on corporate, securities, and financial institution law, and for seven years co-authored the leading annual survey of developments in financial institution M&A. His current research at Harvard includes empirical studies of the causes and consequences of the completion or failure of M&A transactions, including management buyouts, and of the effects of CEO tenure and option compensation on M&A in the 1990s.

Guhan Subramanian holds dual appointments as the Joseph Flom Professor of Law and Business at Harvard Law School and the H. Douglas Weaver Professor of Business Law at Harvard Business School. He teaches courses related to the Program's work, including a seminar on law and business problems and a negotiation workshop on deal design and implementation. His research interests concentrate in the empirical analysis of deal-making and corporate law and corporate governance issues.

Affiliated Faculty

Robert L. Nelson is an affiliated faculty member with the Program. He is a Professor of Sociology at Northwestern University and Director of the American Bar Foundation. Professor Nelson has performed extensive research on the changing legal profession and award-winning work on discrimination and the law.

Professor Nelson is a former chair of Northwestern University's sociology department and the founding director of the American Bar Foundation's Center for Legal Studies. His book "Legalizing Gender Equality: U.S. Courts, Markets and Unequal Pay for Women," which he co-authored with William Bridges, received the Distinguished Publication Award from the American Sociological Association for best book in sociology. He has served on the Council of the American Sociological Association's Section on the Sociology of Law, the Board of Trustees of the Law and Society Association, and is a member of the Editorial Board of the Law and Society Review.

Sean Williams is an affiliated faculty member of the Program. He is currently an Assistant Professor of Law at The University

as a Research Fellow from 2007-08 following two years as a Climenko Fellow at Harvard Law School.

As part of the research team on the Corporate Purchasing Project, Prof. Williams interviewed general counsels at S&P 500 pharmaceutical companies to ascertain how they hire, fire, and manage outside counsel. He also managed the Program's efforts to survey S&P 500 General Counsel on how they manage outside counsel relationships and how they share confidential information in the context of public relations issues. Prior to attending law school at the University of Chicago, he worked as a statistical programmer for The Urban Institute and the National Institutes of Health.

Senior Distinguished Fellow

Ben W. Heineman, Jr. serves on the Program's advisory board and is its first Senior Distinguished Practitioner Fellow. He also holds a senior fellowship at the Belfer Center for Science and International Affairs at Harvard's Kennedy School of Government and is senior counsel to WilmerHale. He is a former Rhodes scholar, editor-in-chief of the Yale Law Journal, and law clerk to Supreme Court Justice Potter Stewart. He practiced law in Washington, D.C., before serving at the Department of Health, Education, and Welfare from 1977 to 1980, ending his tenure there as assistant secretary for planning and evaluation. Mr. Heineman then was managing partner of the Washington office of Sidley & Austin, focusing on Supreme Court and test case litigation. In 1987, he became senior vice president, general counsel, and secretary of the General Electric Company (GE), located in Fairfield, Connecticut. In 2004, he was named GE's senior vice president for law and public affairs and served in that position until his retirement from GE at the end of 2005.

Mr. Heineman is a fellow of the American Academy of Arts and Sciences, member of the National Academy of Sciences Committee on Science, Technology and the Law, a member of the Board of Managers and Overseers of Memorial Sloan Kettering Cancer Center; a member of the Board of Transparency International-USA; a member of the Council on Foreign Relations; and a member of the Board of CSIS. He is the author of books on British race relations and the American presidency. His latest book, *High Performance with High Integrity*, was published by Harvard Business Press in 2008.

Research Fellows

Michele Beardslee, a magna cum laude graduate of Harvard Law School and the Program's former Associate Research Director, is a Climenko teaching fellow at Harvard Law School. She has retained her affiliation with the Program as a Research Fellow in order to continue her research on the intersection of public relations and high stakes litigation.

Young-Kyu Kim received his PhD from the University Of Chicago Graduate School Of Business in 2008. During his doctoral work, Young-Kyu examined the issue of social status and organizational identity in various empirical settings, such as the venture capital industry and legal/financial advisory services in the mergers and acquisitions markets. His current research involves the application of his theoretical work to the law firm context. During his fellowship, he will work on the Program's Corporate Purchasing Project,

investigate the role of social networks in lawyers' career mobility, and explore the issue of social status in the legal service industry.

Prior to his doctoral study, Young-Kyu studied information system management at Carnegie Mellon University and worked for the Korea Information Society Development Institute, where he actively participated in various legislative reform projects in the telecommunication and postal sectors in Korea. His recent publication, *Why Pseudonyms? Deception as Identity Preservation among Jazz Record Companies, 1920 – 1929* (with Professor Damon J. Phillips at the University of Chicago) is forthcoming in *Organization Science*

Gabriele Plickert is a Research Fellow with the Program and a Research Social Scientist at the American Bar Foundation. She earned her PhD in Sociology from the University of Toronto. Gabriele's current research focuses on the career trajectories of legal professionals. Her expertise in career studies and comparative survey experience complement the Program's efforts to analytically study lawyers and their careers in order to expand and deepen the overall understanding of the legal profession.

During her residence as a Research Fellow, Gabriele will serve as a lead researcher on the HLS Career Study, which involves four cohorts of HLS graduates between 1975 and 2000. Important issues the study will evaluate include patterns of strenuous investments in work at various stages of legal careers and whether (and why) personal and professional transition patterns vary for women and men. At the ABF, Ms. Plickert also is a co-principal investigator on a comparative study of the post-graduation careers of lawyers in German and U.S. cities. This comparative study seeks to mark out a parallel international track of joined study that will expand our understanding of lawyer's lives in an era of globalized social and economic relations.

Galit Sarfaty is a Research Fellow at the Program. She holds a JD from Yale Law School and earned her AB summa cum laude from Harvard College. She is completing her PhD in Anthropology at the University of Chicago. She expands the Program's research focus by bringing a public interest and human rights dimension to its research agenda. She currently is writing up her ethnographic research on human rights at the World Bank based on field work conducted at the institution over a four year period.

B. Infrastructure and Logistical Support

The Program has office space on the Harvard Law School campus that serves as an ideal platform for it both to continue to enhance the student experience at Harvard Law School and launch new teaching and curricular initiatives. It has additional office space close to the Harvard campus to house its Executive Education personnel, which will facilitate the future development and expansion of those programs and their critical connection to the legal profession.

The Program has ensured smooth logistical operations going forward through the strategic acquisition of key administrative staff. The Program is supported by a seasoned part-time Administrative Director with many years of experience at Harvard Law School, as well as a program administrator for executive education, two full-time administrative staff assistants, and a number of student helpers that provide research assistance and

administrative support. The lean staffing structure, together with the Program's policy to hire only on an as-needed basis, ensures that the Program's faculty and executive leadership can operate at their full potential while simultaneously exercising fiscal discipline and controlling operational costs.

C. The Program's Website

The Program's redesigned website: <http://www.law.harvard.edu/programs/plp/>, went live in early September 2007. Since its launch one year ago, our website has become the focal point for significant interest in the Program's research, events, student initiatives, and other offerings. The Program has received enquiries about its work from faculty, students, and researchers around the world.

It was particularly important to ensure that the website redesign would create meaningful opportunities to deepen the Program's connections with the HLS community. It was specifically designed to prominently feature a new section devoted entirely to the needs and interests of law students. The "For Students" section includes a comprehensive (and growing) compendium of articles and publications related to the legal profession, advice and resources on career management, and information on scholarships, awards, and writing competitions. It also offers a detailed clearinghouse of bar admission information for both domestic and international students, links to a variety of topical information on other websites, and research opportunities with the Program. The "For Students" section is highly popular among users and accounts for over 10% of all website activity to date (with traffic evenly divided between the sub-pages on legal careers and awards noted above).

Going forward, the website will continue to serve as an excellent resource for law students and lawyers alike. It also will function as the Program's primary tool for disseminating the findings of its ground-breaking research projects and scholarship on the legal profession. The Program has committed to continuously updating, expanding and revising its website content and has adjusted its administrative staffing structure to dedicate resources to this important endeavor. In the coming months, we will expand the research material and papers available on the site, add functionality to distribute content through new channels such as RSS feeds and a new HLS blog on the legal profession, and continue to populate the site with new links, topical materials, and other information about the legal profession.

III. ORIGINAL RESEARCH PROJECTS

The Program is deeply committed to ensuring that its research projects will make a genuine contribution to the profession itself as well as a significant impact on legal scholarship and the academy. Two of the Program's current research initiatives – the *After the JD* study and the Corporate Purchasing Project – hold particularly high promise in this regard.

A. After the JD

In 1997, Professor Wilkins and an interdisciplinary team of researchers from several other institutions launched the *After the JD* research project, which is the first empirical study of a nationally-representative cohort of new lawyers. The study is a unique and

productive collaboration between academics from a number of research institutions, including Harvard Law School, the American Bar Foundation, the University of Denver, and organizations such as the National Association of Law Placement and its Foundation, the Law School Admission Council, the Access Group, and the National Conference of Bar Examiners.

Designed as a longitudinal study of lawyer careers, AJD tracks the professional lives of more than 4,500 lawyers during their first ten years after law school. Project researchers seek to understand how legal careers are launched, the environmental and skill-related factors that help lawyers succeed, and the ways in which characteristics such as race, ethnicity and gender impact a lawyer's professional experiences.

The Program continues to play an important ongoing role in the AJD Project. Professors Wilkins and Nelson have continued to mine the data from the first round of surveys and to draw additional conclusions about the profession from it. Publications based upon this analysis include:

- A revised version of our initial preliminary report using weighted data;
- An article in the *Law & Society Review* on lawyer satisfaction; and
- A symposium issue of the *Southwestern Law Review* on the graduates of "urban" law schools, which includes an article by Professor Wilkins comparing urban and elite law school graduates who begin their careers at large law firms.

Professor Wilkins and other Program faculty members also reported on AJD findings in the Executive Education course *Leadership in Law Firms*, in other lectures and courses at Harvard Law School, and in other academic and professional settings.

Professors Nelson and Wilkins have completed work on survey design and data collection for Wave II of the AJD Study and sent questionnaires into the field in May 2007. Data collection was completed in May 2008. Analysis, publication and presentation of the implications of the new data is underway and will culminate in a major conference to be held at Harvard Law School in May 2009. The conference, which will be co-sponsored by the Harvard Law Review, will bring together leading scholars and practitioners from the US and abroad to discuss our preliminary findings on lawyers in their 7th and 8th years of legal practice.

B. Corporate Purchasing

The Corporate Purchasing Project falls squarely within an important, yet vastly under-studied, aspect of legal practice – the purchasing decisions of sophisticated end-users of high-quality legal services. Our project is unique in a number of respects. Academic research on the delivery of professional services, which is remarkably thin to begin with, typically concentrates on consulting and investment banking. This leaves many questions specific to the legal profession – which has many unique qualities – both unexamined and unanswered. And although some academic institutions are beginning to study legal practitioners, much of the focus is upon the internal dynamics of law firms, rather than the needs and interests of law firm clients.

Apart from the Program's research, hardly any serious consideration has been paid to the ways in which corporate clients are responding to the numerous changes in law firms and the legal profession itself. Much of the research conducted to date is fragmented through a variety of unconnected disciplines and lacks a cohesive link to legal practice. Further, the bulk of quantitative data collection has focused on small and mid-sized companies, does not account for response rates, and does not control for the nature, importance or type of legal work in question. The Program's research thus fills a significant information gap and will yield considerable returns by enhancing the profession's capacity to respond to the changing needs of its highest volume clients, to the mutual benefit of industry and the legal field alike.

Through an ongoing series of qualitative interviews with general counsel and a detailed quantitative survey, the Corporate Purchasing Project will produce considerable new evidence about four specific topics that are of substantial importance but about which there is little systematic information:

- (i) How companies evaluate the quality of legal service providers;
- (ii) Under what circumstances companies terminate their relationship with law firms;
- (iii) How companies evaluate whether to follow "star" lawyers when they change law firms; and
- (iv) How companies manage the intersection between law and public relations.

We first identified 76 S&P 500 companies in four key industries as the target sample for the Project's qualitative interview phase: (1) Investment Banking; (2) Commercial Banking and Savings; (3) Pharmaceutical and Medical Manufacturing; and (4) Petroleum. This phase concentrated on administering 90+ minute, in-depth interviews with the chief legal officers of each identified company and resulted in over 45 completed interviews.

The themes developed in these qualitative interviews laid a solid foundation for the creation of a unique quantitative survey instrument. Following rigorous pre-testing and revision, the Program's quantitative survey was distributed to the chief legal officers of all S&P 500 companies. Program researchers finalized data collection during the summer of 2008 and are in the process of following up with general counsel, analyzing and coding data, and completing detailed statistical analysis and benchmarking.

The Corporate Purchasing project will lead to numerous publications discussing the results and implications of both the qualitative and quantitative studies, which will benefit both the scholarly community and practitioners in the field. Initial findings appeared in Professor Coates' talk *On Being a Corporate Lawyer*, which was presented in his acceptance of the John F. Cogan, Jr. Professor of Law and Economics chair. Several scholarly articles are currently in development, and we plan to disseminate results throughout the academic and practitioner communities through multiple publications in the coming years. An initial analysis of lessons learned also was shared with high-level managing partners and practice group leaders during the Program's Executive Education course *Leadership in Law Firms*.

IV. NEW RESEARCH PROJECTS

A. *The Harvard Law School Career Study*

The Program's newest research project analyzes the career trajectories of HLS graduates by systematically documenting and comparing the careers of alumni at various points in time. Through a detailed analysis of where, when, and how career trajectories converge and diverge, the project seeks to identify the factors most significant in generating these changes. Specifically, it will isolate and quantify the extent to which preferences, social attitudes, and institutional structures impact career choices, opportunities for advancement, quality of life issues, and myriad other factors. Ultimately the research will enable the Program to develop meaningful strategies for reform.

Overall, the project seeks to:

- (i) Develop a coherent body of empirical data on the professional trajectories of HLS graduates at different stages of their legal careers, together with comparative information on how career paths differ (or not) for graduates with different racial, gender, national, etc. characteristics;
- (ii) Compare and identify the critical factors that account for career success, upward mobility, and economic progress within the legal profession;
- (iii) Ascertain the extent to which careers are impacted by institutional biases that deny equal opportunities to compete and excel, versus being the product of freely-made personal decisions to pursue other lifestyle goals or professional ends; and
- (iv) Create a foundation for the Program to develop a comprehensive set of reform proposals and best practices, which could include matters such as curricular initiatives for law schools, professional development and career management training, and/or modifications to the institutional structures of law firms, corporate counsel offices, and other organizations.

B. *Antecedents of Law Firm Performance*

Professor Nanda and Daniel DiPietro, who is the client head of the Law Firm Group at the Citigroup Private Bank and a visiting faculty member in the Program's Executive Education Programs, have developed an exciting new project to explore the qualitative drivers of performance among law firms.

The research has begun already with the analysis of various performance metrics for 161 large law firms over a seven year period (from 2000-06). This investigation already has yielded several interesting trends and patterns. Profitability and firm size increased over the entire period. The relationship between size and profitability also increased, albeit at a decreasing (concave) rate. The relationship between size and growth rate was concave, achieving a maximum growth rate for mid-sized law firms (entities with approximately 1,000 lawyers).

The 161 firms studied formed six distinct clusters in terms of their size and profitability at the beginning of the seven year period: small firms with low profitability, large firms with middling profitability, mid-size firms with high profitability, mid-size firms with extremely high profitability, very large firms with high profitability, and extremely large firms with middling profitability. Firms in the first three clusters followed very different trajectories of growth and performance over the next seven years, whereas firms in the last three clusters followed similar trajectories.

In the next stage of the project, the researchers will design and distribute a detailed survey questionnaire to all 161 firms. They also will personally interview managing partners from firms in each cluster to identify whether differences in market footprint (scale and scope), service market strategy (practice mix, growth strategy), governance, management of professionals (recruiting, development, compensation), and culture can be correlated to differences in objective performance measures.

C. Globalization of the Legal Profession

The Program is devising a research project on the effects of globalization on the practice of law. One aspect of this project will involve further work on efforts already underway to study the off-shoring of legal services to India. Other efforts will focus on the emerging corporate bar in Asia.

V. CONNECTIONS TO THE HLS COMMUNITY

The Program is deeply committed to strengthening its presence within Harvard Law School and to expanding its connections with the student body. As noted above, this commitment is reflected visibly in the Program's website redesign, which has a new section devoted entirely to the needs and interests of students. It also is demonstrated by the Program's ongoing participation in several important efforts to modernize the JD curriculum.

Additional links to the HLS community have been established through:

- The work of several faculty members and the Program's Executive Director to supervise student research on the legal profession;
- A grant program to fund empirical research projects by HLS students on the legal profession;
- A summer workshop series, co-sponsored with OPIA, for students working in public interest positions in New York City; and
- A series of events, luncheons, panel discussions, and guest speakers intended to spark the interest of Harvard law students in their chosen profession and provide them with solid, practical advice and information.

A. Courses for JD and LLM Students

Program faculty have designed a number of new courses and innovative teaching methods to help prepare the next generation of lawyers to address the changing dynamics

of modern legal practice. In particular, Program faculty play a leading advisory role in the design of the law school's new *Problem Solving* course, which is a key component of the first revision to the law school's 1-L curriculum in over 30 years. The course, which uses case studies and simulations to teach students to analyze legal issues in specific factual and institutional contexts, will become fully integrated into the HLS curriculum in January 2010.

Program faculty also contribute to the upper class curriculum through a number of unique courses and seminars. Program-related curricular offerings at HLS during the upcoming academic year include:

- David Wilkins: Legal Profession. This course examines the organization, operation, and ideology of the legal profession. It has three major objectives. First, through materials and simulations, the course seeks to convince students that in the practice of law they often will be asked to make difficult ethical decisions. Particular attention is paid to ethical problems encountered in civil litigation and the impact of recent developments in matters such as class actions, fee shifting, prepaid legal services, and multi-jurisdictional law firms. Second, the course studies larger questions of professional structure and ideology, including recent trends in the legal services industry and the theoretical and functional implications of changes in the practice of law. Third, the course encourages students to look seriously at the public image of lawyers and challenges them to reflect critically on the profession they are about to enter and the role they wish to play in it.
- David Wilkins: Future(s) of the Large Law Firm. This seminar encourages students to become engaged in the Program's work by drawing extensively on the Program's research, including substantial new material from its After the JD and Corporate Purchasing projects. The course examines the challenges facing large law firms as they compete for clients and labor in an increasingly competitive, multidisciplinary, and globalized marketplace.
- David Wilkins: After the JD. An Introduction to the Legal Profession and Your Career. This required lecture for all first year students provides details on the results of the "After the JD" study and general information about the legal profession and career management.
- Ashish Nanda: Professional Services. This course utilizes both new and old case studies developed by Professor Nanda to teach law students about management fundamentals and principles.
- Guhan Subramanian: Negotiation Advanced: Deal Design & Implementation. This course examines the creation of value through the negotiation, design and implementation of fifteen real-world deals.

Professors Wilkins, Nanda, Coates, and Distinguished Senior Fellow Benjamin Heineman also will offer the Executive Education course *Leadership in Law Firms* in October 2008 and May 2009. They also will offer other executive education courses in 2009 entitled *Leadership in Corporate Counsel* and *Charting Your Course*.

B. Case Study Development

The Program is committed to helping law students bridge the gap between learning to “think like a lawyer” and the professional rigors they will face in their early years of legal practice. Program faculty (Professor Nanda, in particular) are key contributors to an important new initiative at Harvard Law School that seeks to use business school style case studies to teach law students to analyze legal problems from specific, context-dependant viewpoints.

Based upon data, interviews and research, case studies are written syntheses of real-life situations that push students to identify key issues and develop appropriate (and practical) strategies to resolve them. They must consider the interests and priorities of their institutional protagonists and understand the limitations imposed by their particular circumstances (such as bargaining power, legal constraints, business ramifications, ethical implications, publicity challenges, latitude for risk exposure, etc.).

Drawing upon the successful business school model, HLS plans to develop and publish a series of cases for use in a wide range of settings. This initiative will rely heavily upon the expertise of Professor Nanda, who bridges the business school and law school learning models and who himself has developed over 50 case studies.

C. Support for Student Research

Program personnel continue to work with students and to encourage them to pursue original research projects on the legal profession and the professional services industry. Under the guidance of Professor Wilkins, students have conducted award-winning research on the utility of JD/MBA programs, student satisfaction with legal education, and the career paths of the most academically successful Harvard students. Professor Nanda supervises students in the process of researching and writing case studies on the legal profession. Dr. Nersessian also oversees the work of HLS students providing research assistance on several of the Program’s research projects.

The Program has instituted a program designed to enhance and contribute to student research at Harvard Law School. It has made available a limited amount of funding to enable upper-class students to carry on independent research and writing projects that otherwise would be cost-prohibitive. Grants will help the students to cover costs of empirical research (such as survey design and administration, travel costs for site visits, field research or interviews, and other such out-of-pocket expenses). Participating students will provide copies of their final research papers for posting on the Program’s website and present their findings to the HLS community as panelists at a special Program event.

D. The Public Interest Summer Workshop

In Spring 2008, the Program launched a joint venture with the HLS Office of Public Interest Advising to create the Summer Theory Workshop, which is a 10-week series for HLS students working in public interest summer internships in New York City. During the Summer of 2008, 12 student fellows met weekly to discuss works of social and critical theory as they relate to their public interest positions. This pilot program broadened the

Program's focus beyond its traditional focus on corporate lawyers and large firms and also connects the Program to a network of future public interest leaders.

E. Events and Guest Speakers

The Program is committed to continuing to improve the learning experience of students at Harvard Law School by creating opportunities for students to interact with legal practitioners in focused discussions on specific issues facing the legal profession.

During the 2008-09 academic year, the Program will conduct a comprehensive series of events, brown-bag luncheons and round-table meetings on different aspects of the legal profession. Our plan is to hold, at a minimum, one bi-weekly event open to the HLS community during the Fall and Spring semesters. We also will continue to conduct our ongoing speaker series that features the research and other work the Program's research fellows – who are part of the next generation of legal scholars.

F. Collaborations with Other Schools and Departments

We anticipate that the Program will continue to maintain its extensive network of collaborative relationships within the Harvard University community. Program researchers collaborated extensively with faculty from the Business School and FAS on the corporate purchasing project. At the same time, Professor Wilkins has remained a fellow with the Harvard University Edmond J. Safra Foundation Program for Ethics. The Program also continued its ongoing relationship with the Belfer Program for Science and International Affairs at the Kennedy School of Government through its Senior Distinguished Practitioner Fellow Ben Heineman, who holds a joint appointment with both Programs.

VI. AN ONGOING DIALOGUE WITH THE LEGAL PROFESSION

A. Executive Education

The Program has made substantial progress on its goal of increasing the connections between legal practice and the academy through its executive education course *Leadership in Law Firms*. In May 2007 and May 2008, the Program pioneered an intensive five-day course designed to sharpen the leadership skills of the lawyers who run law firms. Participants included nearly 100 high-level managing partners and practice group leaders from law firms worldwide, more than a third of whom came from outside the United States. The course was a resounding success and will be repeated in October 2008.

Executive Education faculty currently are in the process of designing a second executive education course entitled *Leadership in Corporate Counsel* to address the needs of in-house lawyers in leadership positions in corporate counsel offices. A third program entitled *Charting Your Course* will focus on managing the challenges of returning to professional life following extended absences from the workplace

B. Collaborative Partnerships and Industry Studies

The Program contributes to the understanding of the role of lawyers and other professionals within the wider setting of the United States and global economy as a Sloan

Industry Program. “Since 1990, the Sloan Foundation’s Industry Studies program has been founded on the belief that industries are sufficiently different from one another that they individually deserve rigorous and deep academic study. The industry studies community is composed of scholars who deeply understand industries by taking a direct approach to the companies and people of each industry for data and observations.”

The Program authored a detailed analysis of the professional services industry and the legal profession. Our report forms part of a larger effort by the Sloan Foundation to develop a clearinghouse of industry resources that will assist the media in accurately addressing the modern challenges of the U.S. economy. This report will help solidify the Program’s reputation as the premier source of information about trends in the legal profession.

C. Upcoming Conferences at Harvard Law School

The Program plans to conduct three major conferences during the upcoming academic year, which are tied to larger research projects that the Program either is involved in already or which it is considering seriously.

Globalization of the Legal Profession. This conference, which we will hold at Harvard Law School on November 21, 2008, is jointly sponsored with the American Society of International Law. The one-day event will consist of a sequence of targeted panels offering the perspectives of private legal practitioners, government lawyers, academic scholars, government officials, consultants, corporate counsel, and the judiciary on the myriad challenges that globalization presents to the legal profession. These will include issues such as control over the professional qualification of lawyers on an international scale, modern needs for multi-jurisdictional legal practice, and the ability of foreign lawyers to practice within the United States. The conference also will address globalization in the institutional context, such as the challenges of creating a common legal identity within global law firms and large corporations that have thousands of lawyers practicing in geographically diverse locations and practice contexts.

After the JD: Preliminary Findings from Wave II Data Collection. This symposium, which will be held at Harvard Law School on May 1-2, 2009, is jointly sponsored with the Harvard Law Review. Its main purpose is to introduce and publicize the accumulated experience and emerging findings from the first seven years of the *After the JD Study*. This symposium will bring together domestic and international scholars and academics, practicing lawyers, and students from law and social science for a dialogue aimed at both strengthening the AJD study’s research agenda and highlighting the role of Program faculty within it.

The Clifford Chance Center Annual Conference. This conference, scheduled for July 19-21, 2009, marks the beginning of a new collaboration between the program and The Clifford Chance Center for the Study of Professional Service Firms, which is located at Oxford University’s Saïd Business School. The event will bring together an international group of academics, practitioners and policy makers to discuss cutting edge research and other new developments in the legal profession and the related professional service industry.

D. Faculty Presentations and External Events

The Program's faculty routinely address legal professionals and industry organizations. For example, in December 2007, Dr. Nersessian presented "The Academy's Perspective on Law Practice Management" to the New York City Bar Association. In February 2008, Professor Nanda presented "Research on Professional Service Firms Management" at the Northwestern University School of Law.

In March 2008, Professor Wilkins presented "Toward a Joint Venture Model of the Attorney/Client Relationship Between Corporations and their Outside Counsel" as the Annual Lecture in Current Legal Problems at the Faculty of Law, University College London, which will be published later this year by Oxford University Press.

Program personnel will continue to build bridges to the wider scholarly and professional communities throughout the 2008-09 academic year.

END.