ERIC HOLDER ’76
Ushering in a
new era at the 
Justice Department

GROWING
CONSSENSUS
Michael Gerrard
discusses the future of climate change law with Elizabeth Kolbert

WHAT’S NEXT?
Weathering the economic whirlwind—faculty experts weigh in on how to fix global finance

Summer 2009
THE APPEAL OF CHARITY

How many of us actually enjoy paying taxes as much as we enjoy giving to charity?

One of the great virtues of private philanthropy, as opposed to government programs, is that the funding is voluntary. People who give to charity actually enjoy making the gift.

Charities offer the further advantage of flexibility with a minimum of red tape. Let’s say we want to provide food to the homeless. To persuade the government to do this, we would have to lobby key legislators to appropriate the funds, and then lobby key administrators to implement the program. If we rely on charity instead, we can simply buy the food and hand it out. Charities find it easier than governments to experiment with new approaches, and to compete with each other.

Nonprofits also have access to an important source of expertise: They can rely on sophisticated donors to give advice and monitor performance. The typical nonprofit manager has deep expertise about the nonprofit’s mission, but is less comfortable crafting budgets, structuring departments, and refining communications strategies; yet these challenges are second nature to the successful entrepreneurs and for-profit managers who are significant donors to charities. Donors also have ample opportunity to evaluate the performance of the nonprofit’s programs—so they will continue to fund only programs that are working well, while cutting off programs that are not. It is hard to identify an analogous group in government with the requisite expertise, access, and incentives to play this role as effectively.

Since donors are advising and evaluating competing nonprofits in this way, the government is spared from replicating this effort. If donors have enough confidence in a program to contribute their own money, that is a strong indication that the government should do so as well, as long as the charity falls within parameters defined by the government. Our tax system enables the government to piggyback in this way. When donors deduct their charitable contributions, they route tax dollars to programs they support.

In granting this tax benefit, the government allocates money to a range of programs at low administrative cost.

Another, more familiar reason to subsidize charity is to induce more of it. Recent studies suggest that donors do indeed increase their contributions in response to tax incentives, but only modestly. To be more effective, our tax law needs to take account of a reality of charitable giving: The first dollar we give is easier than the last. As a result, the tax benefit should become more generous as we give away a larger percentage of our income. Indeed, the average American household earning more than $100,000 gives 3 percent of their income to charity. Arguably, there is no need to give any tax benefit when someone gives only 1 or 2 percent of their income, since they would probably give this amount anyway. Instead, we should save this money, and use it to offer an especially generous government match when people give, say, 5 percent or more to charity. Unfortunately, instead of having the subsidy increase in this way, our system currently does the opposite: The deduction is disallowed when people give away more than 30 percent (or, in some cases, 50 percent) of their income to charity. It would be much better, instead, to offer a credit that increases with the percentage of income given to charity.

Let’s hope the government makes this change by the time we file our taxes in 2010. Meanwhile, it is worth remembering—and, indeed, celebrating—private philanthropy’s vital position in our communal life.

David M. Schine
Table of Contents:

14  
EX POST FACTO

NEWS & EVENTS

SEE ALSO
Mary Kate Johnson, Benjamin Beaton, Tegan Brink, Max Miller

SETTING THE BAR
Corporations in Court, John C. Coffee Jr.

FACULTY FOCUS
The Housing Crisis, Edward R. Morrison

PROFILES IN SCHOLARSHIP
Jane C. Ginsburg

ALUMNI PROFILES

A NEW DIRECTION
BY CARRIE JOHNSON
U.S. Attorney General Eric Holder ’76 is well prepared for the myriad challenges he faces as the country’s chief law enforcement officer.

INTERNATIONALIZATION
BY TIM WU
If the internet looks and functions differently depending on what country you live in, does it still make sense to refer to it as the internet?

MOVING FORWARD
BY CHRISTOPHER MASON
Lynn Forester de Rothschild ’79 builds on an exceptional business career, and she can’t help being excited about what’s in store for the future.

ON CULTURAL CONFRONTATION
BY GEORGE A. BERMAN
Are there important differences between law deemed to be Americanized and law thought of as Europeanized, or are they simply two versions of the same thing?

INTERNET

AT ISSUE ESSAYS

BY IAN DALY
Fox Filmed Entertainment Chairman and CEO Tom Rothman ’80 knows a thing or two about the fine art of producing Hollywood hits.

CLASS NOTES

IN MEMORIAM

QUESTIONS PRESENTED
Brad Meltzer ’96
HIGH HOPES
INTERVIEW BY
ELIZABETH KOLBERT
The director of the Law School's new Center for Climate Change Law, Professor Michael Gerrard, discusses some of the most pressing international developments in the field. Is there hope for an effective response to the problem? And what can America learn from other nations' efforts to fight global warming?

GLOBAL POSITIONING
BY PETER COY
As the global financial system reels from an array of fundamental breakdowns, Law School scholars of varying backgrounds and perspectives are grappling with how to effectively assess and address the crisis.

LOST IN TRANSLATION
BY DAVID HECHLER
Rather than focus on how China's court system matches up with the American model, Professor Benjamin Liebman would prefer to examine what the country's courts are doing now, and where they might be headed.

CRIMINAL MASTER MIND
BY ALEXANDER ZAITCHIK
Over the course of a remarkable career, Professor George Fletcher has made an indelible mark on the field of criminal law and influenced the lives of countless students from all over the world.

HOLLYWOOD, ESQ.
BY MARC WEINGARTEN
For Columbia Law School graduates who have risen to great heights in the world of entertainment law, a day at the office can mean power lunches with movie stars or negotiations on the next Hollywood blockbuster.
Ex Post Facto

appeared on page 24
THE SUPREME COURT AND FOREIGN LAW
['I enjoyed'] Adam Liptak’s article on the Supreme Court justices’ varied attitudes toward the relevance, vel non, of foreign law. Particularly noteworthy was the way the quoted statements of the various justices in favor of and in opposition to the use of foreign legal determinations seemed to talk past one another, and the opposition totally disregarding a trenchant comment by our founding fathers advertising to “a decent respect for the opinions of mankind.”

- Joseph B. Russell ’52

It is perfectly fine for courts to cite Shakespeare’s sonnets or whatever else interests them, but foreign law connotes something of value. Hobbyists with no knowledge of foreign legal systems have been proponents of the use of foreign law . . . but foreign courts do not make law, and this would be an excellent starting point to copy from foreign legal systems. Trial by jury is available far less often outside the U.S., and the freedom of speech is restricted. Women have no privacy rights in many countries. We should be looking to change this, not copy it . . . How about protecting our own way of life? Stay home; read the Constitution. Il faut cultiver notre jardin.

- Agatha Modugno ’72

appeared on page 30
THE MERRILL-SCHIZER GASOLINE TAX
I agree that market-based solutions [to America’s dependence on gasoline] are more likely to work than those based on “policy” or other factors. My advice for those who want to bet on politicians permitting the funds to be paid to taxpayers: Take the over and give the points. 

- Dan Kelly ’76

appeared on page 34
NAACP AND THE LAW SCHOOL
As a CCNY student leader in the ’60s, I participated in the civil rights movement. Thanks for this pleasant reminder of the connection to those activities of some of my favorite Law School professors, like Jack Weinstein.

- Irwin Pronin ’67

Send comments, letters to the editor, or class notes to magazine@law.columbia.edu or comment on articles online at law.columbia.edu/magazine. Letters to the editor and class notes may be edited for length and clarity.
In late February, Columbia Law School Professor Nathaniel Persily filed an amicus brief in Northwest Austin Municipal Utility District No. 1 v. Holder, a Supreme Court case dealing with the constitutionality of Section 5 of the Voting Rights Act. The act requires states and localities with histories of discrimination (areas referred to under Section 5 as "covered jurisdictions") to obtain approval from the Justice Department before implementing any proposed adjustments to their voting processes and procedures. The case centers on the Northwest Austin Municipal Utility District in Austin, Texas, one of the Section 5–designated areas. In the past, Texas had employed a variety of tactics to discourage minority voting, which prompted the covered jurisdiction designation. But the Northwest Austin Municipal Utility District claimed that its history of voting discrimination had passed and that it did not discriminate on the basis of race. The case deals with the constitutionality of Section 5 of the Voting Rights Act, which was argued before the Supreme Court in late April. Persily, the Charles Keller Beekman Professor of Law and Political Science, presented evidence refuting the claim that Section 5 is no longer necessary. Persily analyzed the results of the 2008 presidential election and found that, while President Obama won the majority of the vote nationally due to high minority voting and an increase in the share of the white vote in non-covered jurisdictions, he won only 26 percent of the white vote in covered jurisdictions. "Obama's election was transformative and historic across several dimensions," Persily said, "but to generalize from it that racially polarized voting has diminished across all states would be a mistake."
Law School Honors Class of ’09


“Today is one of the high points of your life, a day you will always remember,” said Dean David M. Schizer in his remarks to the Law School’s 148th graduating class. “But the day is still bittersweet because you are graduating at a complicated time for the global economy and for the legal profession.”

However, Dean Schizer continued, graduating classes throughout the history of the Law School have faced, and ultimately conquered, various social, political, and economic challenges, proving that success is possible, even in times of adversity. “There is always a demand for people with extraordinary talent, like all of you.”

Among the members of the Class of 1959 who attended the graduation ceremony was Richard Goldberg ’59. His daughter, Suzanne Goldberg, a clinical professor of law and the director of the Sexuality and Gender Law Clinic at Columbia Law School, was presented with the 2009 Willis L.M. Reese Prize for Excellence in Teaching, an award each graduating class bestows on a professor for outstanding instruction. The graduates also honored Professor Olutunde Johnson, naming her the Public Interest Professor of the Year at the Social Justice Program’s Public Interest Honors Dinner, held on the eve of graduation ceremonies.

Before the graduates were individually recognized, class-elected speaker Andrew LeGrand ’09 encouraged his classmates “to usher in the dawn of a new day…. We must argue the case for a better tomorrow,” he said. “We must persuade the jury of society that the possibility exists for a better country and a better world. And our work must begin with service, because we cannot change the world if we do not serve it.”

More than 600 people descended on Roone Arledge Auditorium recently for the 17th annual “Bid for Justice” auction. The event’s record turnout allowed the Public Interest Law Foundation to raise a net total of $50,000. Those funds will support the Community Grants Program and the Law School’s guaranteed summer funding initiative, which provides financial support for students working at public interest organizations during the summer after their first year.

Among the unique prizes up for auction were two martini clinics with Professor Philip Bobbitt and a weekend getaway to the Nantucket home of Professors Robert and Elizabeth Scott, which went for $1,775—the highest bid of the evening.

PILF Auction Draws Record Crowd

HIRONOBU TAKESAKI ’71 LL.M. TO LEAD JAPAN’S SUPREME COURT

Hironobu Takesaki ’71 LL.M. recently became chief justice of the Supreme Court of Japan. An expert in criminal law, Justice Takesaki has held several positions within the Court’s General Secretariat. He served as secretary-general in 2002, and since 2007, he has been the president of the Tokyo High Court, one of eight courts with territorial jurisdiction over eight major parts of Japan.

According to Japan Today, Justice Takesaki was chosen for his current role to ensure that the Supreme Court isn’t swayed by any potential changes in government leadership.

New Chief Justice brings years of experience
Experts Debate Solutions to Global Financial Crisis

COLUMBIA LAW SCHOOL AND THE AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY RECENTLY HOSTED A CONFERENCE EXAMINING SEVERAL REGULATORY PROPOSALS THAT COULD HELP ADDRESS THE GLOBAL ECONOMIC CRISIS.

Professor John C. Coffee Jr., the Adolf A. Berle Professor of Law and Director of the Center on Corporate Governance at Columbia Law School, organized the event and opened the day’s first panel with a question: “What can be done?”

Among the experts and scholars on hand to offer answers was Joel Seligman, the president of the University of Rochester and one of the nation’s leading experts in securities law. “We have unlearned lessons of the past,” he said. To regain economic stability, Seligman called for greater transparency, as well as uniformity in regulation and oversight.

Professor Merritt B. Fox, the Michael E. Patterson Professor of Law and the NASDAQ Professor for Law and Economics of Capital Markets, moderated the event’s second panel, titled “Legislative Changes on the Horizon.” During that session, Nell Minow, whom Businessweek.com called “the queen of good corporate governance,” raised the issue of culpability. “Executive compensation is at the absolute core of everything that’s gone wrong,” Minow said. New York City Comptroller William C. Thompson Jr. agreed. Amid a day of analyzing solutions to systemic problems, Thompson maintained a focus on what brought about perhaps the worst economic crisis since the Great Depression. “Absolute greed got us in the situation we’re in now,” Thompson said in his keynote address. He deemed the crisis “a perfect storm of financial chaos.”

In a recent lecture at Columbia Law School, visiting scholar Ye Xiaoqin presented a comprehensive plan for reforming and finally abolishing the death penalty in China. Ye, an assistant professor at Wuhan University Law School, said the death penalty in China is widely seen as a means for deterring violent crime and therefore has the support of both the general public and the government. But the error rate associated with executions is intolerable, Ye explained. “It’s inherent that some will be wrongly killed by the government under any criminal justice system,” she said. “Even strong procedural protections and high judicial costs cannot avoid error in executions.” To eliminate the death penalty in China, Ye suggests reducing the number of executions in the country and then halting the practice altogether for 10 years. At that point, if there is a reliable alternative punishment in place, Ye believes the leaders of the country might be persuaded to eradicate the death penalty entirely.
The Gender and Sexuality Law Program celebrated its inaugural symposium by honoring Martha Nussbaum, the Ernst Freund Distinguished Service Professor of Law and Ethics at the University of Chicago. Organized by Professors Katherine M. Franke and Suzanne Goldberg, the daylong symposium gathered faculty from different universities and disciplines to discuss Nussbaum’s work, which spans the fields of law, ethics, and philosophy. Panelists presented papers that examined gender and sexuality issues through Nussbaum’s writings. The honoree then addressed the papers in her keynote speech. “Professor Nussbaum challenges us to think hard about complex problems,” said Franke, “and complexly about hard problems.” •

Students organized the 35th annual conference of the Gender and Sexuality Law Program. The symposium was held on May 19 and 20.

**INAGURAL**
**Gender and Sexuality Symposium**

**SYMPOSIUM HONORS SCHOLARSHIP OF MARTHA NUSSBAUM**

PROFESSOR MATTHEW WAXMAN

For the 35th annual Wolfgang Friedmann Conference, the Columbia Society of International Law and the *Journal of Transnational Law* chose to examine one of the most complex and controversial legal issues of the day: the closing of the detention center at Guantánamo Bay, in Cuba. The daylong conference addressed the topic from a comparative international perspective and focused on how the United States should deal with detainees once held at Guantánamo.

“Columbia Law School has a very rich history in the laws of war, the laws of armed conflict,” said Paul B. Simon ’10, who organized the conference with Jantira Supawong ’10. “For us, [the conference was about] both the relevancy of the topic today, and also creating that thread with the history of Columbia.”

The event’s first panel centered on lessons the United States can learn from the detention policies of Northern Ireland, India, and the Balkans. Other countries have “an awful lot to teach us, good, bad, and otherwise,” said Professor Peter Rosenblum, the Lieff, Cabraser, Heimann & Bernstein Clinical Professor in Human Rights, who moderated the panel.

Experts participating in the day’s final panel, moderated by Professor Matthew Waxman, examined how the U.S. should handle Guantánamo detainees.

Hina Shamsi, a staff attorney with the ACLU’s National Security Project and an adjunct professor at the Law School, argued that the detainees should be tried in federal court. “If there’s evidence of wrongdoing, detainees should be charged in a federal court system,” Shamsi said. “If there is no evidence, they should be released.” To further support the call for federal prosecution of detainees, James Benjamin and Richard Zabel, both former federal prosecutors, presented evidence from their study on the effectiveness of federal courts in trying terrorism cases. They found that the system convicts terrorism suspects at a rate of about 90 percent. “That’s not to say it’s perfect, and that’s not to say that it can work in every case,” Benjamin said. “It really does depend on the evidence.” •
Students Launch New Tax Law Journal

Columbia Law School recently added the *Columbia Journal of Tax Law* to its roster of publications.

Suyash Paliwal ’10 is the force behind the journal’s genesis. “There is both a market need for, and student interest in, a tax journal like this,” said Paliwal, who has assembled a staff of more than a dozen students. “There’s no public forum that addresses the whole tax audience, and that’s what we aim to do.”

The *Columbia Journal of Tax Law*, which will appear solely online, is scheduled to publish its inaugural issue in November of 2009. Paliwal is currently accepting article submissions.

In 2003, Shaw and Levey, the executive director of the Committee for Justice, argued opposing positions before the U.S. Supreme Court in cases challenging race-based admissions practices used by the University of Michigan and the University of Michigan Law School.

This April, the two continued the debate over affirmative action during a spirited discussion held at Jerome Greene Hall. Levey opened by voicing his support for socioeconomic-based admissions policies that do not consider race. Shaw, the former director-counsel and president of the NAACP Legal Defense and Educational Fund, responded by pointing out the limitations of such plans.

“Class-based solutions are helpful, but they are not a complete substitute for race-conscious measures,” he said. “Though African-Americans and Latino-Americans are disproportionately poor, the vast majority of poor people in this country continue to be white, so . . . there’s no guarantee you’re going to reach significant numbers of people of color [using class-based admissions policies], in terms of including them in opportunities. Or at the very least, you may see a diminishment.”

As part of his presentation, Levey cited studies showing higher dropout rates and a greater likelihood of failing the bar exam for minorities who benefited from affirmative action in law school admissions.

He asserted that socioeconomic-based admissions policies will not create a significant drop in the overall number of law students of color who graduate from law school. “What you have,” Levey said, “is a cascade effect, where less [minorities] get into the top schools.”

Shaw countered this point by focusing on the benefits of an elite education. “I have a problem with the cascade effect,” he said. “Placement at these top [law schools] opens doors in ways that don’t always happen at lesser schools.” Shaw went on to conclude that “diversity is important, and I don’t think there’s a good reason to exclude race from all the other factors that constitute diversity.”
Google Settlement Draws Criticism and Praise

AT A RECENT CONFERENCE HOSTED BY COLUMBIA LAW SCHOOL’S KERNOCHAN CENTER FOR LAW, MEDIA AND THE ARTS, MORE THAN 300 PEOPLE GATHERED TO HEAR EXPERTS DISCUSS THE SETTLEMENT GOOGLE DRAFTED WITH THE AUTHORS GUILD AND THE ASSOCIATION OF AMERICAN PUBLISHERS IN OCTOBER.

From creators to publishers to librarians, all came to hear how Google’s latest pursuit could affect their operations.

The 200-page settlement was the end result of a legal battle that began when Google decided to scan more than 7 million books and create a publicly searchable electronic database. Authors and publishers sued to retain control of their intellectual property, and the parties involved eventually came to an agreement. “Our goal in organizing the conference was to provide a forum for thoughtful comment and evaluation of the settlement,” said June M. Besek, executive director of the Kernochan Center. “And thanks to our excellent speakers, and to probing questions posed by moderators and audience members, I think we were very successful.”

Besek moderated the day’s first panel, which focused on the future of books. Later in the day, Jane C. Ginsburg, the Morton L. Janklow Professor of Literary and Artistic Property Law and the director of the Kernochan Center, led a group of experts in assessing the Google settlement’s impact on authors.

Jan Constantine, general counsel for The Authors Guild, declared the agreement “an absolutely wonderful deal for authors,” before detailing the myriad benefits for writers of both in-print and out-of-print books. “Selling books and providing monetization for books that haven’t been in the marketplace has got to be a good thing,” she said.

The conference’s final panel centered on the settlement’s impact on the public. Harvard University Library Director Robert Darnton said he appreciates that Google is poised to create “the greatest digital library ever,” but he is concerned that the internet giant could impose exorbitant pricing that would cripple libraries’ access to the online collection. Google Associate General Counsel Alexander Macgillivray attempted to ease such concerns, explaining that the settlement also keeps Google’s pricing power in check.

LORD JUSTICE COLLINS ‘65 LL.M. APPOINTED TO U.K. SUPREME COURT

Queen Elizabeth II has appointed Lord Justice Lawrence A. Collins ’65 LL.M. to serve as one of the 12 inaugural members of the United Kingdom’s newly instituted Supreme Court. The court is intended to strengthen separation of powers principles in the U.K.

The justices’ main role will be to hear appeals from courts in England and Wales, Northern Ireland, and Scotland. The new court will focus on cases that raise legal issues of general public importance.

Collins served as a partner in the law firm of Herbert Smith from 1971 to 2000, where he specialized in international law. In 2000, he became the first solicitor to be appointed a High Court judge. That same year, Collins was knighted.

Indian Human Rights Legend Lectures at the Law School

In a recent lecture at Columbia Law School, P.N. Bhagwati discussed his time as a justice on the Supreme Court of India, a period of roughly 13 years during which the court handed down a series of landmark rulings supporting human rights and expanding access to justice for all Indian citizens.

Bhagwati’s court broadened the right-to-life clause in the Indian constitution to include the right to a healthy environment. It also improved access to justice for the poor by allowing individuals, social action groups, and NGOs to bring cases before the court on behalf of the impoverished.

“If we want human rights to become meaningful for the large masses of people in the country,” Bhagwati said at the lecture, “[public interest litigation] is the only way in which it can be done.”
Robeson Conference Draws Civil Rights Leaders

The Election of the Nation’s First African-American President Does Not Mean Racial Inequality Is a Thing of the Past, Argued Civil Rights Scholars Who Gathered in April for the Paul Robeson Social Justice Conference.

The daylong conference, held at Jerome Greene Hall, was sponsored by the Black Law Students Association and focused on the theme “Thinking Outside of Race: Are We Ready?”

“Obama’s genius was to suture ethnicity and race,” said Professor Kendall Thomas, Columbia Law School’s Nash Professor of Law and Director of the Center for the Study of Law and Culture. “But just because President Obama won the election, it doesn’t make the issue of race moot in this country.”

The election of President Obama served as director-counsel and president of the NAACP Legal Defense and Educational Fund from 2004 to 2008.

The Kernochan Center for Law, Media and the Arts at Columbia Law School devoted its fourth annual symposium to analyzing the issue of secondary liability in intellectual property law—a particularly timely topic in light of the $1 billion copyright infringement suit Viacom filed against Google.

The conference featured both academics and professionals who discussed the evolution of secondary liability in copyright, the merits and flaws of Section 512 of U.S. copyright law, and the legal and practical implications of filtering infringing content.

A highlight of the event came when keynote speaker Chief Judge Alex Kozinski of the 9th Circuit Court of Appeals discussed his dissent in Perfect 10 v. Visa, a case involving the credit card company’s facilitation of payment for pirated online pornography. Kozinski noted that the law should not be afraid of technology. Instead, he said, the two should operate together.

The Kernochan Center for Law, Media and the Arts at Columbia Law School

Television character Jack Donaghy, played by Alec Baldwin, name-dropped Columbia Law School in a recent episode of NBC’s critically acclaimed show 30 Rock. Donaghy announced to Frank Rossitano, a writer and Fordham Law dropout on the show played by Judah Friedlander: “I made some phone calls, and you can resume your law studies at Columbia—this semester, full scholarship, no strings attached.”

Rossitano’s character doesn’t end up coming to the Law School, but he shows a good grasp of lawyer humor. When Donaghy asks for the “seven most important words in the American judicial system,” Rossitano immediately replies, “My client has no memory of that.”

Accepted to 30 Rock

Judge Alex Kozinski

VIEW MORE

Watch the episode. law.columbia.edu/mag/30rock
More Law Alumni Tapped for Top D.C. Posts

IN ADDITION TO ERIC H. HOLDER JR. ’76 AND SEVERAL OTHER ALUMNI, PRESIDENT BARACK OBAMA’S ADMINISTRATION HAS RECRUITED 10 MORE COLUMBIA LAW SCHOOL GRADUATES TO FILL KEY GOVERNMENT POSITIONS.

Among the most recent group of appointees, George Madison ’80 was selected to serve as general counsel of the U.S. Treasury Department. “I have great confidence that [he] will be a valuable and effective addition to our team as we tackle our nation’s economic challenges,” said President Obama in a written statement announcing the move. Previously, Madison was the executive vice president and general counsel at TIAA-CREF.

In addition to Madison, Donald Verrilli ’83, a former partner at Jenner & Block, has also accepted a new position within the administration. He will serve as associate deputy attorney general and said he is “very excited to have the opportunity for public service at this important moment in our history.” Joining Verrilli at the Justice Department is his Jenner & Block colleague Ginger Anders ’02, who will become the assistant to the solicitor general. Meanwhile, Lewis Yellin ’00 will leave the Justice Department, where he worked for many years on cases involving foreign relations and national security, for the State Department. In his new role, Yellin will assist the legal adviser in counseling Secretary of State Hillary Clinton. Timothy Reif ’85 will join the Office of the U.S. Trade Representative as general counsel for international trade. And David M. Becker ’79 will lead the Securities and Exchange Commission’s effort to reform the financial services sector as the SEC’s general counsel and senior policy director.

Drawing from the world of academia, the administration has tapped Georgetown University Law Professor David C. Vladeck ’76 to serve as the director of the Federal Trade Commission’s Bureau of Consumer Protection. And University of Colorado Law School Professor Nestor Davidson ’97 has accepted an appointment as principal deputy general counsel at the U.S. Department of Housing and Urban Development.

Finally, two Law School alumni will fill key positions within the Federal Deposit Insurance Corporation. Joseph A. Jiampietro ’92 will serve as FDIC Chairwoman Sheila Bair’s senior adviser for markets. And Michael Bradfield ’59, formerly of counsel in the Washington, D.C., office of Jones Day, will join the FDIC as its general counsel.

James E.C. Perry ’72
JOINS FLORIDA SUPREME COURT

Florida Governor Charlie Crist recently appointed James E.C. Perry ’72 to serve as a justice on the Florida Supreme Court. “I am confident Judge Perry will rule with restraint, fairness, and humility,” Crist said. “He has shown throughout his personal and professional life the ability to balance justice with humanity.” Perry was in private legal practice for 21 years before he was appointed in 2000 to Florida’s 18th Circuit Court, which serves Seminole and Brevard counties. He was the 18th Circuit’s first African-American judge, and he will be the fourth African-American to serve on Florida’s highest court.

Doyle Elected to American Philosophical Society

Professor Michael W. Doyle, the Harold Brown Professor of International and Public Affairs, of Law, and of Political Science, was recently elected to the American Philosophical Society, the nation’s oldest learned society. With his election, Doyle joins the society’s more than 900 members, 200 of whom have received the Nobel Prize.

“Being invited to join the American Philosophical Society is an exceptional honor, primarily due to the distinguished company one joins, beginning with the founder, Benjamin Franklin, and including current Columbia colleagues,” Doyle said. “In its conferences and publications, it is also one of the few academic societies that not only tries but succeeds in speaking across the disciplines.” Doyle specializes in international relations theory, international security, and international organizations. Prior to joining the Law School, he served as assistant secretary-general and special adviser to United Nations Secretary-General Kofi Annan.
MYRA BRADWELL DINNER FOCUSES ON GENDER AND THE LAW

At the annual Myra Bradwell Dinner hosted by the Columbia Law Women’s Association, veteran public interest attorney Susan Lindenauer ’64 reflected on her career accomplishments as she discussed the progress women lawyers have made over the past 40 years. Lindenauer, a vice president of the New York State Bar Association and the retired general counsel of the Legal Aid Society in New York City, was the keynote speaker at the event, which honors Myra Bradwell, a lawyer who was denied admission to the Illinois bar in 1872.

When Lindenauer came to Columbia Law School, she was one of only 11 women in her graduating class, and the Law School faculty was a group comprised solely of men. Now, there are a growing number of female graduates each year, she said, and many women have served as Law School professors, including Professor Barbara Aronstein Black, who became the Law School’s first female dean in 1986.

Despite such advances, Lindenauer acknowledged that more work remains to improve gender parity in the law. In the words of Robert Frost, Lindenauer concluded: “We have miles to go before we sleep.”

STUDENTS SPEND SPRING BREAK WORKING ON PRO BONO CASES

In March, about 60 Law School students completed pro bono work in cities from San Juan to Seattle for the Spring Break Caravans program. The students, who were selected from hundreds of applicants, assisted practicing lawyers in cases involving everything from indigent public defense to death penalty litigation. A subset of participants also joined the Student Hurricane Network to help Gulf Coast communities.

The Spring Break Caravans program is sponsored by Simpson Thacher & Bartlett and organized by the Law School’s Criminal Justice Action Network.

Professor Goldschmidt Pushes for New Regulatory Body

AS A RESULT OF THE CURRENT FINANCIAL CLIMATE, POLITICIANS, EXPERTS, AND EVERYDAY CITIZENS HAVE BEEN CLAMORING FOR AN OVERHAUL OF THE NATION’S ECONOMIC REGULATORY SYSTEM.

Harvey J. Goldschmid, Columbia Law School’s Dwight Professor of Law and a former general counsel of the Securities and Exchange Commission, is one such expert calling for change. He advocates the creation of a systemic risk agency, separate from existing regulatory bodies, that will have far-reaching authority in the financial sector.

“We need one centralized regulator that can pull together information on what’s going on [in the economy] and then have the power to do things about it,” he said in a recent interview at the Law School.

To illustrate his point, Goldschmid cited the disastrous effects of credit default swaps. The frequency and irresponsibility with which many of these swaps were issued degraded their original purpose and forced banks to suffer dramatic losses, Goldschmid said. If someone had noticed, that could have mitigated the problem.

The ideal composition of such a systemic risk agency is very complicated, Goldschmid added. Although some talk about instilling such authority in the Federal Reserve, he is not certain that is the best idea. “Giving them this new systemic risk authority puts too much responsibility in one place,” Goldschmid said.

“I think a new kind of council or institution, perhaps growing out of something called the President’s Financial Working Group, would be the answer to the ‘who’ issue.” The financial working group is comprised of the Treasury secretary, as well as the chairmen of the Federal Reserve, the SEC, and the Commodities Futures Trading Commission.

In addition to a core group of key financial players, a systemic risk agency would also need the capacity to contain troublesome situations, Goldschmid said. “Some ability to wind things up at a stage where the financial institution is in trouble but not yet gone, not yet in bankruptcy, would be very helpful, and Tim Geithner, the secretary of the Treasury, has pointed in that direction.”
Mary Kate Johnson

THE NATURAL

Ever since she was a young girl, Mary Kate Johnson ’10 has viewed her father as the go-to problem solver for her entire family. “He is a retired lawyer and loved what he did,” says Johnson, who hopes to continue the family tradition of skillful and considered problem solving. “[His example] really paved the way for me going into law.”

Last year, Johnson’s desire to tackle notable problems led her to Romania. As a human rights intern for Professor Jack Greenberg, she gathered information from nongovernmental organizations about the integration problems and successes experienced by the often-disenfranchised Roma population. “There was not a lot of collected data on the Roma,” Johnson explains. “In Romania, whatever nationality you claim for yourself, you can be, so many people deny being Roma once they achieve a certain degree of success. Then that reinforces the notion that Roma are poor and uneducated.” Greenberg is currently using Johnson’s research in a seminar he’s teaching.

Johnson, who is serving as a summer associate at Sidley Austin, came away from the trip with a distinct sense of accomplishment. “The experience gave me the chance to problem solve in a real way,” she says. That sense of pragmatism has driven her interest in project finance law, a field Johnson is considering for the future. “Large infrastructure projects can really make a difference,” she says. “Something like creating toll roads can help people on a very real level.”
In Paducah, Ky., where Benjamin J. Beaton ’09 was born and raised, exceedingly smart children usually grow up to be one of two things: lawyers or doctors. Beaton initially thought he would practice medicine. Then, one semester during college, he paired his organic chemistry class with a course on civil liberties. “That’s when I realized I much preferred arguing about cases than thinking about the formation of chemical compounds,” Beaton says.

After graduation, he spent three years working in state and federal government. “I thought law school would be a lot more valuable if I had some experience beforehand,” he says. And Beaton was right: The work inspired him to pursue a future as a government lawyer.

While at the Law School, Beaton has engaged in a myriad of activities, from joining the Federalist Society to serving as a research assistant for three professors. He competed in the Deans’ Cup basketball game and worked at both the U.S. Attorney’s Office for the Southern District of New York and at Davis Polk & Wardwell. He also served as articles editor for the Columbia Law Review.

After three years in Morningside Heights, Beaton is now heading to Washington, D.C., where, in August, he will begin a clerkship with Judge A. Raymond Randolph of the U.S. Court of Appeals for the District of Columbia Circuit. The move will put the future government lawyer exactly where he wants to be.
Tegan Brink
TRADING UP

Tegan Brink ’09 L.L.M. speaks with the pacing of a seasoned diplomat used to the rapid exchange of ideas. Often leaning forward and gesturing with her hands, the Australian native becomes highly animated as she explains her interest in international trade law.

“I believe in the importance of trade and economic development as a vehicle for political change,” Brink says. “It’s a younger field of law, so it’s exciting because new law is being created every day.”

Brink hopes to contribute to the development and interpretation of international economic law, “whether on the policy side or through the dispute settlement process,” she says. “I’m interested in how trade law can respond to international challenges, including [environmental issues].” She notes, for example, that despite popular critiques of the international trading system, subsidies and tariffs can be more environmentally damaging than carbon emissions from shipping food.

Before coming to the Law School, Brink, who is a Fulbright Scholar, spent three years in Geneva as a representative for the Australian Department of Foreign Affairs and Trade. “People tend to think diplomats are always at cocktail parties drinking champagne and eating canapés,” she says. “While there is some of that, it’s really thrilling to go into a room with representatives from 150 other countries and negotiate treaties. It’s really international relations at work.”
Max Miller
GETTING RESULTS

When Max M. Miller ’09 became treasurer of the Columbia Law School Student Senate last year, he knew the position would present challenges. His first order of business: digging the organization out of $30,000 in debt.

To do that, the Iowa native needed to make drastic cuts while learning to say no to the slew of student groups requesting cash. At the end of last year, “I got us out of debt,” he says with a smile. “Actually, I left us with a $6,000 surplus.”

Miller later ran for Student Senate president—and won. Among his achievements as president was the circulation of a comprehensive student survey asking for suggestions on how to improve the Law School. It was the first time the Student Senate had attempted such a collection of student opinion, and 830 of the roughly 1,500 students at the Law School responded. Miller says he hopes the information can be used to benefit future classes.

“I’ve been working with some of the most intelligent and capable future leaders of America,” he says. “Of course, one of the hardest things is finding consensus among future lawyers.”

Miller’s leadership experiences at the Law School have taught him how to forge compromise amid strong personalities and conflicting opinions. After graduation, he hopes to put those skills to good use in the litigation department of Skadden, Arps, Slate, Meagher & Flom in Chicago.
Charting a New Course

WITH THE HELP OF SOME OF THE COUNTRY’S FOREMOST JUDGES AND ATTORNEYS, PROFESSOR JOHN COFFEE HAS DEVISED A BOLD NEW APPROACH FOR TEACHING LAW STUDENTS THE SUBTLE ART OF LITIGATION STRATEGY

BY PETER KIEFER

DOES LAW SCHOOL turn a blind eye to the critical decision-making in major litigation? Professor John C. Coffee Jr. has devised a new seminar with Justice Jack Jacobs of the Delaware Supreme Court that starts from the premise that civil procedure courses often suffer from a hindsight bias, leading students to assume the actual case outcome was inevitable and foreseeable. In fact, both sides make key decisions under high uncertainty, says Coffee, the Adolf A. Berle Professor of Law. To correct for this bias, his new seminar with Justice Jacobs brings into each class a judge and the litigators from major cases in the Delaware Chancery Court or the Southern District of New York and asks the students to read their briefs—not the decision. The parties and the judge then discuss what they thought were their key choices in framing, trying, writing, and appealing their cases.

“We are drawing back the veil, similar to what was done in The Wizard of Oz, to see the off-stage actors behind the screen—insurers, clients, and others—who often make or veto the critical decisions,” Coffee told students in one of the first meetings of the seminar.

In some cases, students found that the more important conflicts were among the defendants themselves: Could they stay united, or did they split and settle individually? In other cases, plaintiffs’ counsel competed vigorously for control of the action. Each week, students were transported back to critical moments in important corporate trials and were provided with a looking glass into the minds of the key players at key junctures.

What role, for example, did intense media scrutiny play during the lengthy trial of In Re The Walt Disney Company Derivative Litigation? Were the expert witnesses effective in the United Rentals, Inc. v. RAM Holdings, Inc. case? How close was a settlement before someone—the insurers, fellow defendants, or the client’s board—intervened to reject it?

The point, says Coffee, is to show students that litigation often resembles a series of decision trees, with each new decision changing the odds and reshaping the playing field. Often, the key decision is when to settle, and for what. “Even the best litigators have to deal with the cards that they are dealt,” he says. “And it is the foolish litigator who does not consider settlement at many points.”

When the cases are dissected, the class has sometimes heard that the litigators’ advice was rejected by a client who adopted an unwise “damn-the-torpedoes, full-speed-ahead” strategy. “That’s the real world,” Coffee adds, “where the lawyer needs to be as persuasive with the client as with the judge.”

Students were sometimes surprised to hear judges discuss candidly how they protected their decisions from appellate reversal through elaborate fact finding. Other times, the judges were as surprised as the students to learn that cases had provisionally settled, or that defendants were involved in heated discussions with each other.

“To hear the judges say what they were thinking when they wrote their decisions is a really unique opportunity,” says student Adam Ross ’09, who called Coffee’s seminar the best one he has taken at Columbia Law School.

PETER KIEFER is a New York–based writer who has written for the Rome bureau of The New York Times.

See multimedia from the class. law.columbia.edu/mag/corp-court

ILLUSTRATION BY KEN ORVIDAS
PROFESSOR EDWARD R. MORRISON never envisioned himself as a policy wonk, carefully crafting the minute details of legislative proposals. He’s a tried-and-true academic. He spends his time writing about bankruptcy laws, primarily for other academics.

But after the financial and housing markets collapsed last year, Morrison began doing something he had never done before: drafting a bill for Congress, one that could help stop the rising tide of home foreclosures. He did it with the help of two real estate experts from Columbia Business School, Christopher Mayer and Tomasz Piskorski.

It was the group’s first project together, though Morrison and Mayer had known each other for years. “My interest in bankruptcy and his interest in real estate collided,” Morrison says.

Soon they asked Piskorski to join them, and the professors, along with some of their students, spent the winter holidays pouring over databases and analyzing statistics. They realized the central problem fueling America’s financial crisis was the rising number of home foreclosures.

About 2.25 million foreclosures were started last year, and at least 1.7 million more are expected in 2009. Mortgages that were sliced up and sold in pieces, or securitized, were the core of the problem. They make up more than half of all foreclosures, the professors found, and many of them could have been avoided.

“Everybody would be better off if [loan servicers] just renegotiated,” Morrison says. “But they aren’t negotiating. We wondered if there were economic conditions or legal rules that prevent win-win situations.”

Their answer was yes, so Morrison and his co-authors addressed those barriers in a January paper titled “A New Proposal for Loan Modifications.” The paper showed that loan servicers spend more to renegotiate a mortgage than to foreclose on a home, and that legal restrictions make it difficult to renegotiate securitized mortgages. Also, people who invested in securitized mortgages can often sue if any modifications reduce the value of their investments.

To encourage mortgage renegotiation, Morrison says, the federal government should increase the fees servicers are paid for renegotiating, using funds from the Troubled Asset Relief Program. Furthermore, Congress should override provisions in securitization agreements that make it difficult to modify mortgages, while also protecting loan servicers from lawsuits. The authors say their plan would stop nearly a million foreclosures over the next three years and cost $10.7 billion, a fraction of the $75 billion housing relief plan proposed by President Obama.

The professors have already met with congressional staffers and testified before Congress. They remain hopeful that some of their suggestions will soon be signed into law. They are also excited by the collaborative process that brought their ideas into focus and believe that this kind of collaboration is an effective way to translate academic work into policy impact.

“This project has made it crystal clear that interdisciplinary work can lead to ideas that are really innovative,” Morrison says. “An interdisciplinary focus produced something that was greater than the sum of its parts.”

AMY MILLER is a staff reporter at Corporate Counsel and The American Lawyer magazines.

THE PROPOSAL WOULD STOP NEARLY A MILLION FORECLOSURES OVER THE NEXT THREE YEARS AND COST $10.7 BILLION, A FRACTION OF THE $75 BILLION HOUSING RELIEF PLAN PROPOSED BY PRESIDENT OBAMA.
The Real Deal

SHE MAY HAVE GONE INTO THE FAMILY BUSINESS, BUT INTELLECTUAL PROPERTY LAW EXPERT JANE GINSBURG HAS CHOSEN A PATH ALL HER OWN

by Mary Johnson

Ginsburg’s office is a veritable toy chest for the IP-inclined. She pulls scarves and chocolate and wine bottles from a corner cabinet and traces her fingers over each legally suspect detail.

before joining the Columbia Law School faculty in 1987, Ginsburg has taught courses in IP and comparative law, as well as classes in legal methods. She also serves as director of the Law School’s Kernochan Center for Law, Media and the Arts, which studies and endeavors to reform how the law bears on creators and their works.

In a recent article published in the Sesquicentennial Essays of the Faculty of Columbia Law School (Columbia Law School: 2008), a longer version of which is forthcoming in the Willamette Law Review, Ginsburg discusses how copyright infringement has exploded along with technological advancement. Previously, the universe of entities that could infringe copyright was limited to professional, private, and commercial intermediaries. “Now to that equation you have to add everyone on the internet who has the means to infringe copyright on a grand scale,” she says. “I suppose if I have a bias—and I admit that I probably do—it is to see that the copyright law protects the authors, the creators.”

This past spring, Ginsburg took a sabbatical from the Law School, during which she conducted research for a copyright history project at the American Academy in Rome. The trip indulged her intellectual curiosity and her love for travel. It also allowed her to escape the void left by her youngest child, who is now a freshman at the University of Chicago. “One way to cope with an empty nest,” Ginsburg says with a laugh, “is to fly the coop, too.”

Above the door to Professor Jane C. Ginsburg’s office in Jerome Greene Hall is a poster featuring a line of men wearing police helmets, and little else, under the heading: Ladies’ Night. “What does that remind you of?” asks Ginsburg, the Morton L. Janklow Professor of Literary and Artistic Property Law. The poster’s image looks strikingly similar to advertisements for the British film The Full Monty. And the similarity, Ginsburg explains, is not a coincidence: In fact, it prompted the creators of the play Ladies’ Night to seek more than $260 million in damages from the film’s producers for allegedly stealing their plot about a group of unemployed men who turn to stripping.

The poster is among countless examples of intellectual property law infringement that turn Ginsburg’s office into a veritable toy chest for the IP-inclined. Pulling scarves and chocolate and wine bottles out of a corner cabinet, Ginsburg traces her fingers over each legally suspect detail. “A lot of my stuff is from former students who travel the world,” she says. Ginsburg’s passion for her chosen field, it seems, can be contagious.

Some might assume that such legal fervor would be a given for a woman like Ginsburg, whose father is a tax lawyer and whose mother is Supreme Court Justice Ruth Bader Ginsburg ’59. But their daughter at first resisted the family profession. She earned her master’s in Italian Renaissance cultural history from the University of Chicago and briefly contemplated a career as a professor. At the time, however, there weren’t many teaching jobs in the liberal arts. So Ginsburg decided on law school.

Following her graduation and a clerkship with 3rd Circuit Court Judge John J. Gibbons, Ginsburg spent three years at a New York law firm and two more in Paris working toward an advanced degree before joining the Columbia Law School faculty in 1987. Ginsburg has taught courses in IP and comparative law, as well as classes in legal methods. She also serves as director of the Law School’s Kernochan Center for Law, Media and the Arts, which studies and endeavors to reform how the law bears on creators and their works.

In a recent article published in the Sesquicentennial Essays of the Faculty of Columbia Law School (Columbia Law School: 2008), a longer version of which is forthcoming in the Willamette Law Review, Ginsburg discusses how copyright infringement has exploded along with technological advancement. Previously, the universe of entities that could infringe copyright was limited to professional, private, and commercial intermediaries. “Now to that equation you have to add everyone on the internet who has the means to infringe copyright on a grand scale,” she says. “I suppose if I have a bias—and I admit that I probably do—it is to see that the copyright law protects the authors, the creators.”

This past spring, Ginsburg took a sabbatical from the Law School, during which she conducted research for a copyright history project at the American Academy in Rome. The trip indulged her intellectual curiosity and her love for travel. It also allowed her to escape the void left by her youngest child, who is now a freshman at the University of Chicago. “One way to cope with an empty nest,” Ginsburg says with a laugh, “is to fly the coop, too.”

Ginsburg’s office is a veritable toy chest for the IP-inclined. She pulls scarves and chocolate and wine bottles from a corner cabinet and traces her fingers over each legally suspect detail.

This past spring, Ginsburg took a sabbatical from the Law School, during which she conducted research for a copyright history project at the American Academy in Rome. The trip indulged her intellectual curiosity and her love for travel. It also allowed her to escape the void left by her youngest child, who is now a freshman at the University of Chicago. “One way to cope with an empty nest,” Ginsburg says with a laugh, “is to fly the coop, too.”
An Excellent Return for a Worthy Investment

$100,000

IRA Gifts Extended Through 2009

Congress has temporarily extended legislation allowing some donors to make tax-free gifts from IRA Accounts.

If you are 70 1/2 or older, you can transfer these contributions to Columbia Law School from your traditional or Roth IRA.*

Tax-free IRA gifts are a simple way of leaving a legacy that fits your philanthropic goals.

Extended IRA Benefits—Qualified Charitable Distributions

• Can total up to $100,000 in each tax year for each IRA account held by you and your spouse;
• Can be excluded from your gross income for federal income tax purposes on line 15a of Form 1040;
• Are not subject to limitations on your itemized deductions.

*Congress has temporarily waived minimum required distribution for tax year 2009, however the asset may become subject to multiple levels of taxation later.

Please contact Heather Malin, 212-854-9860, to learn more about Columbia Law School’s planned giving opportunities.
Back in January, when Michael B. Gerrard joined the Law School faculty as the head of its Center for Climate Change Law, the veteran environmental lawyer realized he was diving headfirst into a maelstrom of extremely complicated and important legal problems. In truth, that was the point. “What I was learning about climate change was quite alarming,” he says. “I felt an obligation to devote myself to the issue, to the extent I could.” Fast forward six months, and Gerrard is working at the helm...
Gerrard recently sat down with climate change specialist and award-winning New Yorker writer Elizabeth Kolbert for a conversation on some important international developments in the field. He discusses the prospects for a meaningful international agreement on climate change and previews the international climate negotiations that will be held in Copenhagen in December. Whether those negotiations can produce a treaty, he says, may well depend on whether the United States can enact legislation this year creating a domestic “cap-and-trade” system—whereby the government sets an overall limit on greenhouse gas emissions and then divvies up permits among polluters. (Those who exceed their permits have to purchase more, while those who come in under their allowances can sell their credits.) Kolbert and Gerrard also talk about what American legislators can learn from European nations that have experimented with cap-and-trade systems, the utility of cutting-edge environmental lawsuits brought against multinational corporations in foreign courts, and the extent to which developed nations might need to subsidize climate change efforts in less prosperous countries to bring about global change. An edited version of their conversation follows.

Elizabeth Kolbert: Nationally and internationally, this is obviously a very big year going into international climate talks. I’m sure this is an issue that you’ve thought about. Going into Copenhagen, what do you think an effective treaty might look like?

Michael Gerrard: I have talked about that some in the class I teach on climate change law. The central issue in any international climate agreement is the role of the rapidly developing countries that are responsible for almost all of the recent growth in greenhouse gas emissions—primarily China, followed by India, and then several others. They consistently say it’s unfair and unacceptable to require them to limit their emissions and thus slow their peoples’ climb out of deep poverty when the Western countries grew rich as a result of dumping huge quantities of greenhouse gases into the atmosphere without restraint—gases that will stay there for decades or centuries. Finding a solution that both the developed and the developing world can live with is devilishly difficult.

There are other realities that make finding a solution terrifyingly challenging. I’ll name three: First, much of the world’s emissions come from deforestation in Indonesia and Brazil, something that is not easily regulated. Second, the production of livestock is another major contributor to climate change, but most people like to eat meat. Third, in many countries, the most abundant, most reliable, and least expensive source of energy is coal, which is also just about the dirtiest. An international agreement will probably deal with deforestation, will almost certainly dodge the livestock issue, and will come up with complicated means to reduce the incentives to burn coal—though under any scenario, a great deal of coal will continue to be used for decades, at least.

Any plausible solution will clearly involve a massive transfer of technology from the West to the East.

EK: And one of the things there seems to be a lot of resistance to in this country is the notion that we’re going to have to do technology transfer, and even cash transfers—that we can’t expect the developing world to just suddenly adopt the most advanced energy technologies without help from the developed world. The Europeans seem to be on board for that idea, while Americans seem to consistently resist it. But it seems virtually impossible to get an international treaty without that. How can we convince Americans that this is in our best interest?

MG: I don’t see any alternatives to a massive transfer of technology and resources. But I
think the central thought of an international cap-and-trade system is that you find the lowest-cost methods of achieving greenhouse gas reduction. Those are typically in the developing world. So, ultimately, it will be cheaper for U.S. companies to devote a lot of resources in China rather than in the U.S. Certainly in the long-term, the costs are far lower.

EK: A lot of people think international talks aren’t going to go anywhere without something happening on a domestic level in the U.S. What seems to be on the horizon there?

MG: There is now some hope that there will be a piece of U.S. legislation by the end of 2009, before Copenhagen. I wouldn’t say to be definitive.

EK: So if you were advising Barack Obama right now [on climate change], what would you tell him?

MG: I think that he’s off to an extraordinary start on this issue. And I would continue to press for action in 2009.

EK: The Europeans have set up a cap-and-trade system under the Kyoto Protocol. It’s been fairly widely considered a failure. What can we learn from that experience?

MG: I don’t know that it’s the only opportunity, but I think that there’s an opportunity for action in 2009. And the problem is of such urgency that it’s very much worth the effort. The prospects this year in the House are much better than in the Senate.

EK: The Europeans have set up a cap-and-trade system. What do you mean by that?

MG: That if you increase the price on carbon, it’s very unclear how much behavioral change will result in—how much that will drive down energy use.

EK: What lessons are there for the design of a U.S. system?

MG: Stand fast against demands for a lot of free [permit] allowances. And, of course, that’s a battle that’s playing out on a micro scale in New York with RGGI [the Regional Greenhouse Gas Initiative, pronounced “Reggie”].

EK: That’s right. That’s a very fascinating development. Could you talk a little bit about RGGI, and what we can learn from it?

MG: RGGI is an effort by 10 Northeastern and Mid-Atlantic states to impose a cap on carbon dioxide emissions from power plants, and to require the plants to pay for the privilege of emitting each ton of CO₂. It’s the first mandatory cap-and-trade system for carbon dioxide in the United States, and it is almost a proxy war for what is about to happen nationally. Companies that would be hurt [by having to pay to emit] are trying to do a political end run around the overall system. And the first signs are not encouraging.

**Emissions Statistics By Country**

From the industrialized to the emerging, countries around the world continue to emit tremendous amounts of CO₂ into the atmosphere. This list identifies the 10 worst offenders when it comes to carbon dioxide emissions from the consumption of petroleum, natural gas, and coal, and the flaring of natural gas.

<table>
<thead>
<tr>
<th>Country</th>
<th>CO₂ Emissions in Million Metric Tons</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 China</td>
<td>6,017.69</td>
</tr>
<tr>
<td>2 United States</td>
<td>5,902.75</td>
</tr>
<tr>
<td>3 Russia</td>
<td>1,704.36</td>
</tr>
<tr>
<td>4 India</td>
<td>1,293.17</td>
</tr>
<tr>
<td>5 Japan</td>
<td>1,246.76</td>
</tr>
<tr>
<td>6 Germany</td>
<td>857.60</td>
</tr>
<tr>
<td>7 Canada</td>
<td>614.33</td>
</tr>
<tr>
<td>8 United Kingdom</td>
<td>585.71</td>
</tr>
<tr>
<td>9 South Korea</td>
<td>514.53</td>
</tr>
<tr>
<td>10 Iran</td>
<td>471.48</td>
</tr>
</tbody>
</table>

*Data as of 2007 courtesy of the Energy Information Administration (eia.doe.gov).*
For instance, New York State adopted regulations after a very long formal rulemaking process to say that virtually 100 percent of the [permit] allowances—that is, the ability to emit CO₂—must be purchased. After those regulations were adopted, the independent power industry went to Governor Paterson and apparently persuaded him that some of their members should receive free allowances because they have long-term contracts to sell all of their electricity at a fixed price, and therefore can’t pass the cost on to their customers.

**EK:** That seems to really get to the heart of the matter, which is: You can write the best regulations that you want, but if the political system is then going to do an end run around them, how are we ever going to effectively deal with this problem?

**MG:** Exactly. And if the theory is that we’ll have regulation… provided it’s painless … we’ll never get anywhere.

**EK:** And that gets us to the question that looks like it’s going to be a huge fight: If we’re going to do a cap-and-trade system, do we auction off the permits, or do we give them away? Obama has proposed a 100 percent auction, but there seems to be a lot of concern that that’s going to just get chipped away.

**MG:** Right. And, of course, that was the problem with the European system. They gave away so many of the allowances.

**EK:** And the cost of permits was nothing, virtually.

**MG:** It became a wonderful windfall for the utilities with the free allowances, and they could sell them.

**EK:** Considering New York’s experience with RGGI, and watching what’s happening on Capitol Hill, what do you see as the prospects for effective federal legislation?

**MG:** I think that we will have federal legislation. I think that it will not be as strong as many of us had hoped, but it will be a foundation. One of the real possibilities is that Congress will do what the California legislation did and what the New Jersey legislature did: That is to just punt many of the important decisions to the administration.

**EK:** But maybe that would be good.

**MG:** Yes, if you have an administration that is strong and resolute.

**EK:** One of the points that people sometimes make is that this is our only shot. The scientific community would say time is very, very short, or maybe gone. And one of the points the political community might make is that you don’t get another shot at this legislation. You pass this legislation, and you’re going to live with it for a long time. Do you agree with that? I mean, that puts a lot of weight on what happens in the next couple of years.

**MG:** Yes—well, certainly on the scientific part of it; I’m not going to argue about that. I mean, you know better than I. It’s fundamentally frightening. But we have had incrementalism in energy legislation. There were important energy bills passed in 2005 and 2007, and the stimulus package of 2009. And we may have another one later this year or in 2010. Each of them adds to renewables and efficiency and so forth. So I don’t necessarily go along with the thought that this is our only shot at it. But it’s our best shot, and there certainly is a concern that once Congress passes a greenhouse gas law, it won’t want to look at it again for several years. It will want to grapple with health care and lots of other problems. So it’s certainly worth every effort to get as strong a law as you can now.

**EK:** This goes beyond the scope of law into national psychology, but why has it taken us so long—and we’re still not there—to grapple with this problem? You’ve been involved in a lot of environmental issues. Why has this one taken so long? Or is this a timetable that all environmental legislation seems to follow?

**MG:** It has been a long time since there was a sense of national shared sacrifice. The aura of World War II is a very long time ago, and the psychology of the nation has been that we can have it all. And most of the major federal environmental statutes fell hot on the heels of environmental disasters. Exxon Valdez led to the Oil Pollution Act. The Torrey Canyon and Santa Barbara disasters led to the Clean Water Act. Love Canal led to Superfund. And although there are many climate disasters, they haven’t been noticed to the extent they should be. And the causation isn’t as stark.

There’s also a disturbingly lingering respectability to climate skepticism. The Wall Street Journal editorial page has much more influence than the Journal of Geophysical Research. And that has provided excuses for members of Congress not to act differently. I still hear very sophisticated business people ask whether sunspots are behind it all.

**EK:** Do you want to put that one to rest in the pages of this magazine?

**MG:** [Laughs] That’s not my discipline. But all the scientists I have talked to say that they have looked at all the natural causes, and none of them can account for the trends in temperature we’ve been seeing. Columbia University has some of the world’s leading scientists studying climate, and they are utterly uniform in saying that humans are causing catastrophic climate change.

**EK:** Getting back to your point—and I think that it’s such a crucial point; many politicians have made it to me, as well—that legislation usually follows a crisis. The problem here is that once we get to a crisis, we can’t rectify it, and also that we’re ensuring a crisis for future generations. So it does seem to be a situation that almost defies our conventional politics.

**MG:** But it is very encouraging to see so many young people take this up as the cause of their generation. When I was 20, the Vietnam War was the cause of our generation, and many of us looked at everything...
I have real doubts about the effectiveness of tort litigation as a strategy to fight climate change, especially given the potentially enormous numbers of defendants, as well as plaintiffs; the impossibility of linking a particular plaintiff’s injury to a particular defendant’s actions; and the central role of government policy in shaping private companies’ energy practices. But the climate change problem is so large that every imaginable legal theory will be thrown at it, and some of them might stick.

EK: Considering some of the litigation you’ve been involved in—some of the really major landmark cases of the last 30 years or so—that experience must inform you. Looking forward at climate change, what lessons did you learn that might be brought to bear on this issue?

MG: That enormous patience is required…because some of these cases take a decade. But they are also effective ways to uncover and marshal evidence and to bring pressure to bear on several different fronts. So it’s an important element of the mix. But in none of the big cases that I’ve been involved with was it the law alone that did the trick. It’s always the law in combination with political, economic, and social forces.

EK: You must have gotten a lot of responses from people about [deciding to lead the Center for Climate Change Law]. Do you feel that people in the legal community, in the world, are increasingly concerned about climate change?

MG: Oh, yes. I received very positive reactions. People felt that after doing one thing [practicing environmental law in the private sector] for 30 years, it’s interesting to do something else, and also that my new venture is quite important. I’m also seeing wonderful student reaction. When I first signed up to teach the course on climate change, the registrar’s office suggested putting me in a classroom that would accommodate 20 or 30 people. I said that I might have more than that. So they gave me a classroom that accommodates 60 people, and I have 60 students—45 law students and 15 from other graduate schools at the University. These students are eager to become involved in the work of the center, which makes me optimistic that we will achieve both our goals of developing new legal tools and training future leaders.

EK: Look five years down the road: What do you think/hope will have occurred by 2014?

MG: I hope that we will be well into the implementation of a federal regulatory program and that the country will be well on the way toward transforming its energy economy to one that’s far more efficient and uses less fossil fuels. And I’m also hopeful that this energy revolution will have carried over to China and India and other rapidly developing countries.
Lost in TRANSLATION

Fixating on how China’s court system matches up with the American model, or those of other Western nations, only serves to overshadow more important issues. During a time of unprecedented, swift development within the Chinese judiciary, Professor Benjamin Liebman would much rather focus on what the country’s courts are doing now, and where they might be headed.

By David Hechler

Professor Benjamin L. Liebman spends most of his waking hours researching, teaching, and writing about China’s courts. His timing could not be better: Most experts, including Liebman, believe no judiciary in history has developed as quickly as China’s has over the past 30 years. But the subject has been particularly hot during the past year for a different reason. Some observers and media outlets seem convinced that a backlash is afoot.

They point foremost to Wang Shengjun, who was named president of the Supreme People’s Court (China’s highest) in 2008. Unlike his predecessor, who spent a decade prodding judges to raise professional standards, Wang isn’t trained in the law. He ascended to the position after a career as a Communist Party official.

In one of his first big speeches, Wang laid out guidelines for courts to follow: First they should consider the needs of the Party, then the needs of society, and finally the requirements of the law. The pronouncement elicited a great deal of chatter from those who follow judicial developments in China.

O P P O S I T E P A G E: The interests of the people, as exhibited in protests and petitions, hold unique authority in the Chinese legal system. Professor Benjamin Liebman’s research shows that such displays of public opinion can directly impact judges’ decisions.
“Populism in China isn’t just about ensuring courts are controlled by the Party. It’s an effort by courts to make themselves more responsive and accessible to the people.” —PROFESSOR BENJAMIN LIEBMAN

Then, in March, government officials told the National People’s Congress that they would never adopt a Western model with an independent judiciary.

Many academics paint these developments as a speed bump on the road to courts that will one day function like ours. Not Liebman, who directs the Law School’s Center for Chinese Legal Studies. To believe that, he would have to buy the premise that China’s courts are on a path to the Western model. And he doesn’t.

“We assume they want to be us,” Liebman says. And, to be sure, China has established professional standards that have moved its judiciary in our direction. Since 2002, Liebman notes, new judges have been required to hold undergraduate degrees—though not necessarily in the law—and to pass a national bar exam. (If that sounds like a low standard, it’s worth noting that up until 1994, no qualifications at all were required.)

Yet China’s courts are as deeply committed to populism as they are to professionalism. If Chinese judges decide to ignore a law in order to preserve thousands of jobs, they aren’t violating a sacred legal precept. “They’re supposed to take into account popular interests,” Liebman explains. “Populism in China isn’t just about ensuring courts are controlled by the Party. It’s an effort by courts to make themselves more responsive and accessible to the people. Professionalism hasn’t given courts more authority; the question is whether populism will.”

Lately, Chinese media and legal circles have been buzzing about efforts by the courts to improve their populist credentials. In February of this year, the president of the Henan province High People’s Court called on judges to cast aside their gavels and robes and to become less removed from the experiences of ordinary people. Meanwhile, practical initiatives have focused on reducing filing fees, clarifying legal procedures for litigants, and additional steps aimed at making it easier for ordinary people to use the courts. Among the goals, Liebman says, is raising the courts’ popular image, and perhaps also their authority.

In a forthcoming work, “A Return to Populist Legality? Historical Legacies and Legal Reform,” Liebman argues that many legal reforms in China that appear to import Western practices have been possible in part because of their resonance with China’s revolutionary legal tradition, which emphasized popular input and flexibility in the legal system. The development of legal aid and experiments with public hearings, for example, may look like they come out of the traditional Western-backed legal reform playbook, but they succeeded in China largely because they are consistent with traditional Communist ideology.

In another recent work relating to populism in China, Liebman examines the impact of protesting and petitioning on the courts—noting that such efforts often directly affect judges’ decisions. “Courts are afraid of instability,” he says, “even more so than of getting the law wrong.” Liebman documents numerous cases in which courts either changed opinions or paid off protesters in order to achieve harmony. In addition, he notes that many Chinese judges are evaluated in part on whether there are complaints from litigants about their decisions—regardless of the merits of such complaints. “Part of the job of a judge in China is to see that litigants accept court decisions,” he says. “So judges who decide cases correctly but fail to persuade litigants of the correctness of the decision have not done their job. They are supposed to decide the case and resolve the matter—not just decide the case.”

WHEN LIEBMAN ARRIVED at Columbia Law School seven years ago, he inherited one of the strongest Chinese legal studies programs in the country. He is quick to credit Professor Emeritus R. Randle Edwards, who essentially created the program after he came to the Law School in 1973. A decade later, Edwards founded the Center for Chinese Legal Studies, which he led as director until his retirement in 2002.

It is hard to overstate Edwards’ contribution. He was one of the pioneers who managed to open a dialogue with the Chinese government as it emerged from the Cultural Revolution in the late ’70s. He helped create and then led a consortium of U.S. law schools that supported legal education in China, and invited Chinese scholars to visit the U.S. to study and share their knowledge with American law students.

Liebman’s personal history with the country dates back to the 1980s. His public high school in Newton, Mass., was the first in the country to initiate an exchange program with China. So in 1986, the gangly high school senior took an intensive six-week language course and moved in with a Beijing family for four months. “I was drawn to China,” he recalls, “because it was as different as possible from Newton, Mass.”

VIEW MORE See video clips of scholars discussing the Chinese court system. law.columbia.edu/mag/china-courts
He came home hooked. “There was no question in my mind when I came back that China would be an important part of my life.” He even delivered Chinese food for an area restaurant in order to practice his Chinese. Locals were probably startled, he muses, to see a 6-foot-4-inch American delivering egg rolls.

These days, the 39-year-old professor travels to China about three times a year. His research is grounded in interviews with lawyers, judges, law professors, and journalists. He also believes it is important to present the results of his research in both the U.S. and China, so he frequently gives talks when he is there.

The fascination for Liebman is in watching Chinese courts advance—or lurch—in one direction or the other. Recently, he tracked the influence of the internet and the media on the judiciary. In some ways, he found, those entities further the rule of law; in others, they reinforce the primacy of the Party and popular opinion. “Part of the uniqueness of China,” he says, “is that it’s a single-party state in which the courts are playing a very important role. There are very few comparable examples.”

Liebman’s job, as he sees it, isn’t to advocate for one model or another. It is to observe and understand “the nuance of how the Chinese legal system is developing” and render a “balanced assessment.”

According to William Alford, a professor at Harvard Law School and director of Harvard’s East Asian Legal Studies program, Liebman is doing that, and more. Alford calls Liebman’s work on Chinese courts “superb.” Much of its strength derives from Liebman’s frequent trips to China, and his interviews and observations there. Alford also credits Liebman’s “absolute determination to be faithful to the complexity he finds, showing the ways in which the Chinese example is, and is not, explained by theoretical constructs grounded in the experience of this country and the West.”

**A PARTICULAR STRENGTH** of the Law School’s program is the cross-fertilization that occurs at the Center for Chinese Legal Studies. Professor Edwards launched an initiative that now brings eight to 12 Chinese scholars to the Law School each year. Many are law professors; some are judges. The program has also made it possible for increasing numbers of Chinese law students to come to Columbia to complete LL.M. and J.D. degrees. This year, 45 students from Hong Kong, Taiwan, and the mainland are enrolled.

One of the program’s many success stories is Jianwei “Jerry” Fang, who earned his LL.M. at Columbia Law School two years ago and passed the New York state bar exam shortly thereafter. Though he’s only 29, he was a law clerk and then a junior judge in Zhejiang province before coming to the Law School, where he is now completing a J.D.

With a foot in each world, Fang understands the differences between the two countries’ courts. “It’s not a mistake to compare them,” he says. “But you have to really know China” to assess the achievements of China’s judicial reform. With an optimistic view on the future Chinese courts, he is interested in reform efforts that could potentially counter corruption and encourage transparency, which, in turn, will allow for increased confidence in the court system.

According to Liebman, small cases dealing with individuals provide the best opportunity for accurately assessing the development of China’s courts. Western media, he says, tend to focus too much on unusual litigation that reporters view as groundbreaking because the cases suggest China’s courts are copying those in the West. For example, in 2003, a court in Henan province ruled that a provincial regulation was “spontaneously invalid” because it did not comport with the national Seed Law, which sets quality standards for the seed industry. The case made waves because Chinese courts do not have the power of judicial review and thus are not supposed to invalidate laws or regulations. All such questions are, at least in theory, supposed to be resolved by the National People’s Congress. Following the decision, local officials reacted by forcing the judges involved out of office. The resulting media outcry in China led to the judges getting their jobs back, and to the case being featured on the front page of *The New York Times*.

“There’s a tendency to see these isolated, radical cases—like the seed case—which often make headlines in the West, as crucial cases,” Liebman says. “But in the end, I think they are of minor importance. It’s more important to see if China’s courts can handle routine cases with competence.”

That’s the problem, he concludes, when some observers in the Western media view China’s judiciary through the filter of their own experience. “It’s the wrong paradigm,” Liebman asserts. They fail to appreciate the unprecedented progress. “And to use that framework,” he says, “is to have and create unrealistic expectations. There’s a limit to what courts can do.”

To focus only on comparisons and Western ideals, Liebman adds, “is to miss a lot of interesting things [the Chinese courts] are doing right now.”

**David Hechler** is a senior reporter for Corporate Counsel magazine.
In the midst of the worst international economic meltdown in generations, Law School scholars of varying backgrounds and perspectives are grappling with how to effectively assess and address what has become a global crisis by Peter Coy.

Like civil engineers after a bridge collapse, legal scholars are joining the inquest into the wipeout of the global financial system. The drive to build a better, more durable governance structure may be just as strong now as it was in the aftermath of the Great Depression and World War II. That was when British economist John Maynard Keynes helped create the International Monetary Fund and the World Bank, and a Tennessee lawyer named Cordell Hull—President Franklin Roosevelt’s secretary of state—spearheaded formation of the United Nations.

At Columbia Law School, fixing finance, both in the United States and worldwide, has vaulted to the top of the agendas of several faculty members, among them Katharina Pistor, Jeffrey N. Gordon, Merritt B. Fox, and John C. Coffee Jr. While sharing a common goal, the professors have different perspectives on whether the global financial system requires extreme reforms or something less—in other words, a whole new bridge or just some extra girders and better rivets.

No question, there’s plenty to think about. “We are clearly in the midst of a legal tsunami,” Thomas Hall, a partner at Chadbourne & Parke in New York, told Reuters last October.
Even many strong believers in free markets say that more regulation, or at least more effective regulation, may be required. U.S. Court of Appeals Judge Richard Posner, in a visit to Columbia Law School last November, told students, “You can have rationality, and you can have competition, and you can still have disasters.”

One of the Law School’s most active scholars in the field is Katharina Pistor, the Michael I. Sovern Professor of Law. The German-born professor thinks countries with poorly developed domestic financial systems should control inflows of capital and strictly regulate the activities of international financial institutions that operate within their borders. Pistor, who joined the Columbia Law School faculty in 2001, has made a project out of rethinking international finance with a focus on protecting vulnerable developing economies. She received her law degree in Germany and has worked in Russia, Eastern Europe, and Asia. Pistor counts as a formative experience her time researching corporate governance in Russia during the “shock therapy” of rapid privatization in the early 1990s—a botched process that led to the rise of the oligarchs.

Pistor attributes the current global crisis to a credit boom that was created by banks and abetted by politicians, who enjoyed the politically popular (though impermanent) prosperity that was engendered by abundant lending. Bank managers made imprudent loans because they feared losing business to aggressive rivals. Pistor likes to quote former Citigroup CEO Charles Prince, who in 2007 told the Financial Times, “As long as the music is playing, you’ve got to get up and dance.”

If nothing changes, says Pistor, it’s highly likely that the music will eventually restart, and the bankers will be swept up in the frenzy all over again. In an article published by the Center for Economic Policy Research's VoxEU.org website earlier this year, she wrote, “A major task for the new governance of finance is to break this cycle.”

Pistor argues that the breakdown of trust in the international financial system has left a vacuum that is being filled by private, bilateral arrangements between suppliers and consumers of capital. On the supply side are sovereign wealth funds, such as those of China, Singapore, and Kuwait. On the demand side are big Western banks, which distribute the cash by lending to consumers and businesses. She predicts these relationships will evolve over time into tight networks lending support to members and shaping the governance of global markets.

But Pistor says these ad hoc arrangements exclude nations that are too small or undeveloped to attract the interest of sovereign wealth funds or Western banks in the post-crisis world. She doesn’t favor going back to the old, one-size-fits-all international regulatory system exemplified by the IMF’s international financial architecture, which she says “leaves little room to countries for protecting themselves.” Instead, in a March 3 piece for VoxEU, she advocated “multiple, decentralized, yet interlinked, governance networks.” All nations, regardless of which network they joined, would pay into a global insurance fund that, like the International Monetary Fund, would bail out countries that got in over their heads. Her idea is that fragile countries that clamp down on volatile capital flows would expose themselves to less risk, and thus would be permitted to pay lower premiums into the insurance fund.

Pistor knows her ideas may strike some people as extreme, but she says this is a time for bold thinking. She approvingly quotes Federal Reserve Chairman Ben Bernanke, who last fall said, “There are no atheists in foxholes and no ideologues in financial crises.” Pistor is unimpressed by arguments suggesting that regulation will distort market forces that allocate capital. Regulation will “by definition” conflict with what companies want, she wrote in a VoxEU article in February, adding, “Insisting that this is market ‘distorting’ misses the very purpose of regulation.”

Pistor’s ideas are getting a favorable reception in some circles. Columbia’s Nobel Prize–winning economist Joseph Stiglitz, in a recent interview, called Pistor’s work “interesting and important,” noting that “she’s not a market fundamentalist.” Dani Rodrik, a professor of political economy at Harvard’s Kennedy School, referred to her February online article as “one of the best recent commentaries—by which I mean one that I wish I had written.”

Some of Pistor’s colleagues at the Law School favor a more cautious approach to reform; among them is Jeffrey Gordon, the Alfred W. Bressler Professor of Law. Gordon, a specialist in corporate law and governance, as well as in mergers and acquisitions, warns against making extreme changes to the framework of international finance that could have unintended consequences.

“My approach is to look at specific examples of institutional failure,” says Gordon. “I don’t think the system needs to be transformed root and branch.” Rather, he says, “there needs to be a more concerted effort to take account of the systemic effects of [financial] innovation.” Among the innovations Gordon mentions as having unintended consequences are securitization of subprime mortgages and the rise of credit default swaps, which obscured who would bear the losses from a borrower’s default while...
“I’m not looking for a new form of capitalism. I’m a fan of muddling through. I guess that’s because I think it is very hard to foresee the effect of even changes in old institutions, much less new institutions.”

Professor Jeffrey N. Gordon

at the same time revealing the market’s nervousness about the likelihood of default by critical institutions, such as big banks.

In Gordon’s view, one big step would be to empower the Treasury Department and the Federal Reserve so they can deal with crises in the future without having to ask Congress for special powers. He says the crisis got worse last fall when the Bush administration was forced to go to Congress and explain precisely how bad things were, so as to justify its request for new powers. The extreme language scared the American people, Gordon says, and, “A crisis largely confined to the financial sector broke out to the real economy and therefore became much more difficult to manage.”

Gordon, who worked for the Treasury Department in the late 1970s and early 1980s, had a front-row seat for the successful financial assistance to New York City and to Chrysler. But that did not give him any confidence in the government’s ability to fix the banking system through extreme measures like nationalization. In his paper “The Glib Nationalizers,” cited in February by The Economist, Gordon warned that it would be dangerous for the federal government to take over big, weak banks, pay off depositors, and then sell their assets for whatever the market will bear, forcing banks’ creditors to take big losses. Forcing heavy losses on creditors, he asserted, could destabilize the financial system, while the nationalization of one bank could stir fears that other banks are at risk, causing even more instability.

Gordon says he admires Pistor and doesn’t minimize the current problems, but with respect to the current institutional structure, he is quick to point out: “We didn’t do so badly. It was 75 years. A couple wars. Dramatic changes in the world economy. The Depression-era structure held up.”

While he favors trying to prevent crises, he believes that they are inevitable and thus stresses the importance of
George P. Fletcher, the Cardozo Professor of Jurisprudence, pictured in his office at Jerome Greene Hall.
HIGH ATOP A FILING CABINET IN GEORGE P. FLETCHER’S book-lined office sits an elegantly framed triptych of placards, in which the Cardozo Professor of Jurisprudence takes evident pride. The art-quality documents feature a dramatic title script set against a painting from William Blake’s *Jerusalem* series that depicts a male figure engulfed in flames, arms outstretched. At first glance, the signs would appear to announce events sponsored by a department of visual or performing arts. But they are actually artifacts from Fletcher’s 2001 New Haven lecture series, which formed the basis for his book *Romantics at War: Glory and Guilt in the Age of Terrorism*.

If the advertisements for these lectures were more colorful than typical law school fare, this is entirely appropriate. So was the lecturer.

Since abandoning the mathematician’s lab for the law library in the mid-1960s, Fletcher has earned a reputation as one of the most provocative and original living theorists of American and comparative criminal law. “Some might call me flamboyant,” he says without apology. The New Haven “Romantics at War” lectures, which challenged accepted liberal conceptions of war guilt just months after the 9/11

**CRIMINAL MASTER MIND**

For scholar and public intellectual **George Fletcher**, a career overflowing with influential contributions to the academy portends even bigger things to come.

**BY ALEXANDER ZAITCHIK**
attacks, were one representative piece of Fletcher’s lifelong project, going back nearly half a century, to broaden the scope of transatlantic theoretical legal inquiry. 

Befitting the cosmopolitanism that defines his scholarship, Fletcher has assumed a central role in mentoring Columbia’s international students and preparing them for the study of law in America. Since 2000, he has taught a three-week introductory course each fall for 200 students trained in other legal systems. “Columbia Law School allows me to be [the students’] first encounter with American law,” says Fletcher. “It’s an annual ‘boot camp’ that is great fun and intellectually very challenging.”

Another influential class developed by Fletcher is a seminar he teaches on biblical jurisprudence. Expanded in recent years beyond its original focus on the Old Testament to examine other religious texts, such as the Koran, the course—which Fletcher describes as an “intellectual happening”—has become a comparative law class dealing with ancient religious codes instead of secular legal systems. “I provoke students of all religions to think about the moral and legal implications of the biblical texts,” says Fletcher. “Many of our institutions in the law make no sense without understanding our roots in the lost paradigms of the biblical world—and the students are thrilled to find an alternative to ordinary law classes.”

Although his career has been peppered with high-profile moments in the public spotlight—from three nationally televised Fred Friendly seminars to regular appearances on CNN during the O.J. Simpson trial—Fletcher remains best known for his first academic treatise, the seminal 1978 work *Rethinking Criminal Law*, which has been the subject of symposia and is still regarded as one of the most important books on criminal law published in the past century. But Fletcher has never rested on his laurels. The California native, who speaks eight languages, has since published eight critically acclaimed books that approach legal issues from unique and
unpredictable angles. His works focus on everything from the nature of loyalty to the political philosophy of Abraham Lincoln.

At 70, Fletcher shows no signs of slowing down his creative output. Last October, he published *Tort Liability for Human Rights Abuses*, which makes the original argument that the Alien Tort Statute can and should be used to prosecute human rights cases. He is also planning two further volumes of *The Grammar of Criminal Law*, which seeks to do for criminal law what Noam Chomsky did for language.

**FLETCHER CREDITS HIS SUCCESS** to an early childhood exposure to languages. The child of Hungarian immigrants, he grew up in a multilingual home in Glendale, Calif., and began teaching himself Spanish as a boy. That was followed by intensive undergraduate study of German and Russian and, later, the acquisition of fluency in French, Hebrew, and Italian.

“You can’t know a country’s law without knowing its language,” says Fletcher. “I didn’t have a clerkship at the Supreme Court starting out. I wasn’t in the top three of my law school class. It was languages that gave me a leg up.”

After graduating from the University of Chicago Law School in 1964, Fletcher received a scholarship to study German law at the University of Freiburg. It was there that he came under the influence of Hans-Heinrich Jescheck, who stimulated his interest in comparative law. While in Freiburg, Fletcher also met the legendary economist Friedrich von Hayek, who was impressed enough by the young American to invite him to a private lunch at the posh Colombi Hotel.

“I doubt whether great personalities like Hayek could possibly realize the impact a single private conversation can have on the future of an aspiring young scholar,” says Fletcher. “That chat over lunch still influences me in the way I think about economics in the law.”

Fletcher returned to the United States enthralled with the German approach to law, which he describes as more rigorous, more systematic, and requiring more robust thinking than the American or French approaches, with their fixation on isolated precedent.

More than 10 years passed between his return from Germany and the writing of *Rethinking Criminal Law*, which occurred during an intense six-month period in 1978. Three decades later, *Rethinking* continues to reverberate on both sides of the Atlantic. The two decisions so far handed down by the International Criminal Court have cited the publication—the only text with that distinction. “The book allows you to say, ‘This is true in most legal systems.’ It crosses national boundaries,” says Fletcher.

Post-9/11, Fletcher finds his work on the legal front lines intersecting with the day’s biggest headlines—and not for the first time. In the 1970s, Fletcher, joined by Columbia Law School’s Telford Taylor, made a series of high-profile visits to Moscow, where he helped liberate dozens of Soviet Jewish prisoners on the basis of legal arguments centered on Soviet sources. In 2006, four Supreme Court justices endorsed the argument made by Fletcher in an amicus brief for the landmark case *Hamdan v. Rumsfeld*, wherein he argued conspiracy charges were not permissible under the law of war.

Fletcher is currently focused on legal questions related to terrorism, specifically the overlap between crime and war. The topic, he says, is of critical importance, and his scholarship is driven by the belief that academic legal discussions must continue to cross national boundaries, perhaps now more than ever. “There has never been a more urgent time for serious jurisprudential and comparative reflection on terrorism, international violence, and war,” says Fletcher. “Immediately after the bombing of the Twin Towers, I realized that the basic issue of the times is distinguishing between crime and war. The problem is complicated by the reciprocal ignorance of international and criminal lawyers of each other’s fields. International and criminal lawyers need to educate each other—and quickly.”

**ALEXANDER ZAITCHIK** is a New York-based freelance journalist who has written for *The San Francisco Chronicle* and *The New York Times*, among other publications.
For Law School graduates making their mark in the high-profile world of entertainment law, a day at the office can mean power lunches with movie stars and negotiations on the next Hollywood blockbuster. Peter Benedek, Katherine Kendrick, Ira Schreck, and Nina Shaw put it all into focus.
Peter Benedek photographed at the Beverly Hills restaurant Barney Greengrass.
There are two kinds of entertainment clients: the ones who want the cover of *US* magazine and worry incessantly about stardom, and the ones who are motivated by doing the best possible work they can do. I wanted to work with the latter.” —Ira Schreck
Shaw likes to think of herself as a bit of a sensei in a culture rife with yellers and chair-throwers; the harder the opposite side pushes, the more composed she gets.

tion among Law School graduates of the ’70s and ’80s was that entertainment law was something practiced on the West Coast by a small coterie of Swifty Lazar types—slick operators with expense accounts at the Polo Lounge. Now, of course, entertainment law is a growth industry on both coasts, and these four trailblazers are ideally positioned for continued success.

ew successful lawyers can boast of the meandering path that Ira Schreck trod before finding his way to entertainment law. The son of Jewish immigrants from Poland, he spent time driving a taxi in New York City and dealing blackjack in Reno before attending Columbia Law School.

Schreck’s inevitable “finding-myself” period during the mid-’70s was like something out of the Paul Newman film *The Hustler*; after receiving his undergraduate degree in philosophy from SUNY New Paltz, Schreck taught himself a computer system for beating the house at blackjack. He then drove across the country, relocated to Reno, and tried to make a living at cards.

“I didn’t have the means to really win big,” he says. “So I played daily and won small amounts and then finally got thrown out of a casino for card-counting.” So Schreck moved to the other side of the table and became a craps croupier at the Horseshoe Casino in Reno. “I loved doing it so much that I went back after my first year of law school to complete my training as a croupier,” he says.

In 1987, while he was working in business affairs at CBS/Fox Video, Schreck got a call from fellow Columbia Law School graduate Tom Rothman ’80 that changed his life. Rothman was leaving Frankfurt, Garbus, Klein & Selz for a job at Columbia Pictures and wondered if his friend might want to step in. Schreck became a partner with the firm in short order.

It was during his tenure at Frankfurt, Garbus that Schreck honed his skills as an entertainment lawyer, poring over contracts and hammering out agreements involving heavy-hitters such as Kathleen Turner, a huge star at the time. “I cut my teeth on those deals,” he says. “It was trial by fire, but that’s always been my way.” Working with Turner and other big names, such as Al Pacino, Schreck came to realize that the personal representation of creative individuals was his greatest strength.

“I made the decision very early on that I only wanted to work with creative people I liked and respected,” he says. “There are two kinds of entertainment clients: the ones who want the cover of US magazine and worry incessantly about stardom, and the ones who are motivated by doing the best possible work they can do. I wanted to work with the latter.”

Now, with him as the driving force behind Schreck Rose Dapello Adams & Hurwitz, which was founded in 1999, the firm has grown and amassed a classy clientele of industry powerhouses. “If I come back from lunch and go down the phone list, there shouldn’t be one client on that list that I don’t want to call back,” he says. “If I don’t enjoy speaking with someone, then we shouldn’t be working together.”

Nina Shaw photographed poolside at her Beverly Hills home.
Kendrick has been with DreamWorks since 1996, so she’s had the privilege of working with three titans of Hollywood: Jeffrey Katzenberg, David Geffen, and Steven Spielberg.

One of the first African-American women to forge a successful career in the field, Shaw is a forebearer for an entire generation of lawyers who followed her example. As a partner at Del, Shaw, she has negotiated some of the biggest movie deals of the past two decades for clients who include Cedric the Entertainer and Jamie Foxx.

Ina Shaw seconds Schreck’s take on client relations. Of course, Shaw has been working with many of her most famous clients for 20 years or more, ever since she started Del, Shaw, Moonves, Tanaka and Finkelstein with her partner, Ernest Del, in 1989.

Born in Harlem to parents who placed a high premium on learning, Shaw attended the Law School at a time when there were very few women in either the student body or the administration. Still, she reveled in her Columbia Law School education. And she didn’t have to be prodded into the legal profession by her parents; it’s something she had wanted to do from an early age. “I didn’t know it was going to be entertainment law necessarily,” she says. “It certainly wasn’t something that a lot of my classmates were thinking of doing.”

Shaw’s first job out of law school, as a junior associate at O’Melveny & Myers, proved to be fortuitous, as the firm handled all the legal affairs for the television company founded by the potentates of ’70s television comedy: Norman Lear and Bud Yorkin, producers of All in the Family, The Jeffersons, and Good Times, among others.

“Wow, what an education that was,” says Shaw. “Lear and Yorkin were on the cutting edge of so much that we take for granted in the business now, such as first-run syndication rights and spinoffs. I learned so much about how the business worked just by being in on all of that.”

These days, Shaw has her own monumental industry accomplishments to be proud of, and they span decades. Jamie Foxx, for instance, was an ensemble player on the comedy show In Living Color when Shaw started representing him. Laurence Fishburne used Shaw to negotiate his deal for the film What’s Love Got To Do With It? in 1993. Since then, she has negotiated Fishburne’s deals for all three Matrix films, which have been reported as totaling more than $30 million. (Shaw declined to discuss details of client deals.) “It’s amazing to watch the Matrix films and think, this is an iconic part of the culture now,” says Shaw. “It’s very gratifying to be a part of something like that.”

Much of Shaw’s time at the moment is taken up with protecting her clients from the proliferation of identity appropriation on the internet. “Digital usage compliance is a big issue,” she says. “Take someone like James Earl Jones, who is synonymous with Darth Vader. His voice can be used on a blog, or perhaps his image is replicated on some video online. I have to make sure it’s being done legally, because it’s too easy for those things to slip through the cracks.”

When it comes to negotiations, Shaw likes to think of herself as a bit of a sensei in a culture rife with yellers and chair-throwers; the harder the opposite side pushes, the more composed she gets. “I’m a calm negotiator,” she says. “It does no good at all to be a screamer, especially since you’re going to be dealing with the same people on future deals.”

At DreamWorks, Kendrick has helped orchestrate alliances involving Hewlett-Packard and Intel in connection with the company’s next generation immersive 3-D film technology. Although she spent many years working on deals involving talent for DreamWorks and Disney, Kendrick now finds large-scale corporate partnerships to be more compelling. Besides, she now has a strong team of lawyers under her to handle all the talent deals and intellectual property battles.

“You know how they say that people look like their dogs? Well, you tend to attract clients that you’re compatible with.” —Peter Benedek
“It's a very exciting time to be working for a media company,” Kendrick says. “New developments in technology present us with evolving distribution and marketing platforms and formats. It’s an ongoing intellectual challenge to find the best ways to protect this company’s IP assets while still fostering our creative spirit. The trick is finding the best opportunities and building the best framework to enable our creative team to deliver first-class entertainment to our audience.”

Whereas Schreck, Shaw, and Kendrick all came to see entertainment law as an ideal professional destination, Peter Benedek, the co-founder of United Talent Agency, used his time as an entertainment lawyer to jumpstart a related career as a talent agent. After a decade of working for top-notch entertainment firms, he began looking for a change of pace. “It wasn’t like I intended to be an agent,” he says. “I just wanted to find something else to do.”

Benedek grew up in Great Neck, Long Island, the son of a Hungarian emigre who imported textiles for a living. Like Nina Shaw, Benedek found his destiny at an impressionable age. “I read this biography of Thomas Jefferson in second grade, and I knew I wanted to become a lawyer,” he says. “There were no lawyers in my family, but I never found anything more compelling.”

Benedek enrolled in Columbia Law School in 1970 and graduated in the top 20 percent of his class before leaving New York to pursue his dreams on the West Coast.

The move to Los Angeles was traumatic for his parents—“It was like Columbus leaving for the new world,” Benedek recalls—but like an aspiring movie star, the young lawyer knew he needed to entrench himself there if he was going to make it. He secured a job with the mega-firm Kaplan, Livingston in 1977 and stayed there for a decade. In 1987, Benedek and 10 of his colleagues left the firm to co-found Weissman, Wolff, Bergman, Coleman & Schulman, which was exclusively devoted to entertainment law. Shortly thereafter, the William Morris agent Marty Bauer gave Benedek a call. “He was looking to start his own agency, and something about being an entrepreneur in that business, of being in control of your own destiny, appealed to me,” he says. Bauer-Benedek immediately became one of the top small agencies in Hollywood, with a roster that included writer-director Lawrence Kasdan and Michael J. Fox, Benedek’s former legal clients.

Bauer-Benedek morphed into the United Talent Agency when the firm merged with Leading Artists agency in 1991. Today, UTA is a powerhouse, with a client list that includes actors Johnny Depp and Gwyneth Paltrow, director Judd Apatow, and TV producers Dick Wolf and David Chase. “You know how they say that people look like their dogs?” Benedek asks. “Well, you tend to attract clients that you’re compatible with.”

United Talent was one of the first agencies to recognize the importance of the digital space as a cultural driver; to that end, UTA has a department devoted to representing online talent and has recruited A-list movie clients such as the Coen brothers (No Country for Old Men, Fargo) to develop content. Recent projects include shows primarily found online, such as MTV’s College Humor Show and the WB’s Sorority Forever.

That sort of forward-looking initiative will become all the more important as the entertainment business continues its move into the digital era. Benedek, Schreck, Shaw, and Kendrick will have to adapt, while at the same time protecting clients’ interests as best they can. It’s a vastly different landscape from the one they first encountered upon entering the entertainment law field, but they have no regrets about forsaking corporate litigation for popular culture. “I got into this business because I love movies,” says Benedek. “It’s as simple as that.”

Marc Weingarten is a Los Angeles–based freelance writer who has written for The New York Times, the Los Angeles Times, and Slate magazine.
Columbia blue is getting greener.

*Columbia Law School Magazine* is now available online. If you prefer to cancel delivery of your printed copy, please email us:

magazine@law.columbia.edu

[law.columbia.edu/magazine](http://law.columbia.edu/magazine)
in focus:
The people, personalities, and perspectives making an impact this season

Sections:

48
ALUMNI PROFILES

54
AT ISSUE ESSAYS

58
CLASS NOTES

76
IN MEMORIAM

80
QUESTIONS PRESENTED

WEB EXCLUSIVE
Read about recent faculty publications. law.columbia.edu/mag/faculty-pub
United States Attorney General Eric Holder ’76 is addressing the challenges that go hand-in-hand with being the nation’s most powerful law enforcement officer

BY CARRIE JOHNSON

Sitting at the head of the table in an ornate conference room, with a portrait of Robert F. Kennedy hanging above him, Attorney General Eric H. Holder Jr. ’76 says he’s ready to steer the Justice Department in a new direction.

Since taking office in February, he has confronted some of the most challenging problems in government—everything from how to close the military prison at Guantanamo Bay and disperse hundreds of detained terrorism suspects to policing financial malfeasance on Wall Street. Those weighty tasks, and many others, must be accomplished during a time of shrinking federal budgets, and as morale at the department remains uncertain after political hiring scandals that occurred under Holder’s predecessors.

“Nothing’s intractable,” Holder says. “This is a department that’s literally filled with people like me who work here because they want to, not because they have to. There are not any problems this department can’t solve. I wouldn’t have taken the job if I didn’t believe that to my core.”

Holder long has displayed cool amid the chaos that surrounds him, dating to his years at Columbia Law School. He says living a short walk from Harlem’s poverty and dysfunction of the early 1970s prompted him to become a public corruption prosecutor. “You especially couldn’t be a black student at Columbia in Morningside Heights and not be involved in a community that was so close,” Holder recalls.

Leading 110,000 people as the country’s chief law enforcement officer is a crowning step in Holder’s storied career. He served as a local judge in D.C., as that city’s top prosecutor, and as deputy attorney general under President Bill Clinton before charting a successful private practice at Covington & Burling.

“All this for a man who, until college, dreamed of being an NBA guard rather than a lawyer guarding the country’s security. Basketball remains a hot topic of conversation between the Stuyvesant High School sharpshooter Holder and his boss, President Obama. But the attorney general resists talking trash about who would have won a hypothetical matchup of their high school teams.”

“The ’68-’69 Stuyvesant squad may have been the only team in New York at the time that would’ve had trouble beating a team from Hawaii,” Holder admits. “Stuy was a specialized high school. We had kids who had much higher IQs than scoring averages.”

CARRIE JOHNSON covers the Justice Department for The Washington Post.
In the summer of 1976, Lynn Forester de Rothschild ’79 was planning to study law at Georgetown when Daniel Patrick Moynihan, then a first-time candidate for the U.S. Senate, decided that his bright young assistant was too valuable an asset to lose to Washington.

“The campaign was heating up, and Pat didn’t think I should leave New York,” de Rothschild recalls. “I had applied to Columbia Law School but hadn’t heard back, so he called up and suggested they inform me of a decision on my application.”

The admissions determination that came shortly thereafter pleased both de Rothschild and Moynihan, and three decades later, she remains grateful for his intervention. This past spring, she endowed a fellowship in the four-term senator’s name at Columbia Law School that will be awarded annually to a qualified law student.

Palpably dynamic and radiant at 54, de Rothschild has blazed a remarkable career in business. During a four-year stint in the early ’80s as an associate at Simpson Thacher & Bartlett, she did legal work for John Kluge, the telecommunications titan, who hired her to oversee development for his company, Metromedia. She left in 1989 to start a string of her own communications businesses across the United States, Latin America, and Western Europe. They eventually reached heights that not even de Rothschild could have imagined.

She credits the Law School for instilling a keen strategic interest in the complicated details and legal protections that can be elemental in constructing a deal. That skill set, de Rothschild says, serves her well, and it complements her entrepreneurial instincts. “There’s an indelible mark of Columbia Law School in everything I do in business,” de Rothschild says. “The most valuable thing [the Law School] taught me was how to think through a problem. It prompted me to think beyond what I see on a page or hear in a meeting and to think a lot about structure, as well as substance.”

In 1998, Henry Kissinger introduced her to Sir Evelyn de Rothschild, a scion of the English branch of the European banking family, whom she married in 2000. They live in New York and London and are partners in E.L. Rothschild, a private investment firm.

In 2004, the couple formed a joint venture in Delhi to develop and export Indian agriculture. “Our operating assumption was that there was a greater potential for value creation for private capital in India than was possible in Europe or America,” de Rothschild says. After observing the first collapse of Bear Stearns in 2007, they sensed a downward slide in the global economy and successfully liquidated their Indian holdings in June 2008. It proved to be a wise move, and they are currently reviewing new investment prospects, anticipating that the Dow will rebound in 2010.

“Frankly, I’m spending more time in America because we think there are a lot of opportunities here,” she says. “To borrow a phrase from President Obama,” she adds, “we’re in restart mode.”

Christopher Mason is a New York-based writer and a frequent contributor to The New York Times.
One could imagine a far worse sentence than having to spend a month at Hollywood’s glitzy Chateau Marmont—the hotel where James Dean auditioned for Rebel Without A Cause, and where everyone from Greta Garbo to F. Scott Fitzgerald has graced the guestbooks. “Well, not really,” says Tom Rothman ’80. “Not when you’re having a major life crisis about wanting to go home.” It was 1986, and Rothman—then a 32-year-old partner at Frankfurt, Garbus, Klein & Selz in New York City—had just moved to Tinseltown to become a producer for Columbia Pictures. “For a month I thought: ‘What the hell have I done?’” he admits. “But I stuck it out.” Now, 23 years later, Rothman practically runs this town.

As chairman and CEO of Fox Filmed Entertainment, he oversees every movie and television show the company creates. Since he joined Fox in 2000, the movie studio has seen its most profitable decade—cranking out hits such as Ice Age, X-Men, and the top grossing movie of all time: Titanic. In his office, Rothman still keeps a life jacket from that movie signed by director James Cameron. “It says: ‘To Tom—from a fellow survivor,’” Rothman notes, citing the arduous filming process. “Believe me: We didn’t think we were going to survive.” Under his watch, Fox films have been nominated for more than 100 Academy Awards and have earned more than $22 billion. The number of zeros in production budgets is greater now, but “the basic unknowable alchemy of what makes some movies great and others not,” he says, is the same as it was when he was a young attorney trying to secure funding for independent directors in his spare time. Some of those filmmakers—Spike Lee and Jim Jarmusch, for instance—have since risen to great heights in the industry. They, like Cameron, came to rely on Rothman’s peculiar mastery of a fundamental Hollywood principal: “The fault line that has always riven the movie business is the push and pull between the creative and the commercial. And that ‘San Andreas Fault’ runs right through the middle of my office.”

“IAN DALY is a senior writer at Details.
Is law deemed to be Americanized truly distinct from law thought of as Europeanized, or are they two versions of the same thing? **By George A. Bermann, Jean Monnet Professor of EU Law, Walter Gellhorn Professor of Law, and Director of the European Legal Studies Center**

In an academically cosmopolitan age, terms like the Americanization or Europeanization of law have a worryingly reductionist ring. But I nevertheless want to explore the meaning of these two notions and their interrelation, not least because Europe and the United States consciously aspire to exert legal influence throughout the world—an enterprise in which they are being joined by other polities, notably China.

What does this cultural confrontation consist of, and why does it matter? A simple form of the question might be: “Is law that is Americanized somehow distinctive from law that is Europeanized?”

Some recurring themes in American law do emerge: (a) faith in the value of continent-wide legal integration; (b) deep attachment to the nation as opposed to the international community as the unit for identifying and solving problems through law; (c) tolerance for judicial lawmaking, whether in fashioning a common law or in addressing essentially political problems; (d) a view of government more as defender of civil and political freedoms than as guarantor of social welfare; (e) greater commitment to equality of social and economic opportunity than to equity of social and economic results; (f) reliance on market mechanisms for social and economic regulation, coupled with an insistence on proof of market failure to justify regulation; (g) a cost-benefit-driven approach to legislation and regulation, with mistrust of “nonscientific” precautionary principles regarding social risks; (h) reliance on litigation and liability as instruments for ensuring individual and corporate accountability; (i) attachment to fault-based principles in the law of civil liability; and (j) individualism and party autonomy in the administration of civil justice. European law projects a different profile.

But there is another set of ways to frame the cultural confrontation, and that is in attitudes toward law’s performance of its core function, namely enabling a polity to self-govern. How do we govern ourselves through law? What determines law’s agenda? What governance outcomes tend to prevail?

**How We Govern Ourselves**

Disregarding differences in detail, Europe and the United States offer up a largely shared liberal democratic model of governance: decision-making institutions of a strong democratic and representative pedigree; a vibrant civil society supported by free and effective channels of public communication; social and economic space in which individual enterprise can flourish; and an independent judiciary ensuring the safeguard of certain core “constitutional” values. Circumstances around us all point to a general synonymy between
American and European law in all of these respects.

WHAT DETERMINES LAW’S AGENDA?
That Americanization and Europeanization of law rest on largely common governance premises does not tell the whole story. To what extent, we may ask, do today’s legal agendas (i.e., the inventory of issues brought for authoritative public resolution) reveal forces and movements with roots in American or European political, economic, and social fabric? If developments within the American sphere prove to be overwhelmingly determinative of the agenda, that alone would represent “Americanization” of law in an important sense.

The tableau here includes the commercialization of genetically modified foods; mandatory disclosure of new categories of corporate and accounting information; extraterritorial application of domestic law; the admissibility of capital punishment; and legal limitations on measures to combat terrorism. These examples reveal that the United States—and, more particularly, its economic and political features—still plays a preponderant role in shaping the content of legal agendas in both Europe and the United States, and indeed elsewhere.

Interestingly, when we examine the issues that social—as distinct from economic or political—developments have thrust on legal agendas, it seems far less clear that American developments are principally responsible for their emergence. In other words, the currents of social, as distinct from economic or political, change seem to flow in a much more complex set of directions. I doubt that the impetus for some of the key issues on domestic legal agendas—legal recognition of gay marriages or same-sex civil unions, decriminalization of euthanasia, legalization of various recreational drugs, heightened levels of consumer and environmental protection—can truly be said to have its preponderant source in American as opposed to European society. This is not so strange, for there may simply be a weaker correlation between power and the impetus for social change, on the one hand, than between power and economic and political influence, on the other.

LAW IS REFLECTED NOT ONLY IN THE CONSTELLATION OF ISSUES THAT POLITICAL, ECONOMIC, AND SOCIAL CHANGES TOSS ONTO THE LEGAL AGENDA, BUT ALSO IN THE OUTCOMES OF THE PROBLEM-SOLVING EXERCISES THAT FOLLOW.

Governance outcomes themselves
This brings me to the third aspect of Americanization and Europeanization, namely governance outcomes themselves. The point is that law is reflected not only in the constellation of issues that political, economic, and social changes toss onto the legal agenda, but also in the outcomes of the problem-solving exercises that follow. Since domestic American and European law outcomes will more or less reflect dominant value preferences in the United States and Europe, respectively, it is instructive to look at patterns of influence elsewhere, namely international fora and decisional sites in other countries. Within that theater, are Europe and the United States best viewed as collaborators on a stage or competitors within an arena? And are law and legal development encouraging the ascendancy of one or the other vision?

Were we to try systematically to gauge the resonance that the characteristic “American” positions and claims set out earlier in this essay are enjoying in this theater, we would find that attitudes and solutions characteristic of American law do not have an influence commensurate with the preponderance of the United States in producing the original legal problem-solving agenda.

Again accepting my characterization of American law, it remains to consider whether “Europeanization” of law offers a robust alternative or merely a more “civilized” version of the same. As to this, I remain cautiously optimistic that Europeanization offers more the former than the latter. Whether this turns out to be so may depend not only on the intrinsic superiority of Europe’s legal solutions (if indeed they are superior), but also on whether Europe can leverage the culture of tolerance and mutual accommodation that informs much of law at the European Union level into an influence and an advantage on the world stage.

This essay was reprinted from the recently published Sesquicentennial Essays of the Faculty of Columbia Law School. © 2008 George A. Bermann
National and commercial forces at work around the globe cause the Internet to look and function differently depending on where you live. So does it still make sense to refer to it as the Internet? **BY TIM WU, PROFESSOR OF LAW**

In Japan, the Internet is already primarily a network that serves mobile phones instead of computers. South Korea blocks North Korean sites, nations in the Middle East strive to filter blasphemy, and states like Thailand or Turkey insist on blocking speech critical of national figures.

In 2004, the Web world snickered when George Bush said, “I hear there’s rumors on the, uh, ‘Internets’ that we’re going to have a draft.” It’s the Internet, not a bunch of “internets,” right? Well, maybe. We may soon remember the days when we thought of “the Internet” as a single, truly global network, at the head of a globalization that seemed inevitable in the 1990s. Instead, as Harvard law professor Jack Goldsmith and I discuss in our 2006 book, *Who Controls the Internet?*, in its place is the growing reality of national networks—Chinese, American, French, and Russian networks—still called the Internet, and fairly similar, but whose actual connections are occasional and fleeting and whose differences outnumber similarities.

As in many things, China, separated by language, politics, and culture, is driving Internet balkanization. As recently as 2005, columnist Nicolas Kristoff went to Beijing and declared that the arrival of the American Internet was ending Communist rule. “The Chinese leadership,” he said, “is digging the Communist Party’s grave, by giving the Chinese people broadband.” But the Chinese government remains firmly in charge, and the Chinese Internet is doing more to help government than hurt it. In 2008, as Tibet use[d] the Olympics to agitate for independence, the Party use[d] the Internet to help organize anti-Tibet rally[s]. China has given the Internet the role in building nationalism that radio had in 1930s Europe. Kristoff’s mistake was to think that the Internet would change China, instead of vice versa.
Other differences abound. In Japan, the Internet is already primarily a network that serves mobile phones instead of computers. In the United States, cable and phone companies have been eager to push the Internet closer to the business models that work on television, prompting the “net neutrality” debate. South Korea blocks North Korean sites, nations in the Middle East strive to filter blasphemy, and states like Thailand or Turkey insist on blocking speech critical of national figures like the king or Ataturk.

Hulu.com launched in March 2008 as a joint venture of NBC and News Corporation. Hulu is something of old media’s answer to YouTube, offering hundreds of popular shows, like *Battlestar Galactica*, for streaming download. But if you happen to live in Europe, Asia, or Africa, you’ll notice something: Hulu doesn’t work. Hulu uses “geo-filtering”—it notices where users come from and blocks anyone who isn’t coming from the United States. The reason, presumably, is to protect the TV distribution channels that NBC and Fox use outside the United States. It’s a good example of how business realities can create an Internet that looks different in different parts of the world.

Language is doing as much as law or business. In 1996, the *New York Times* published an article titled “World, Wide, Web: Three English Words,” which said that if you “want to take full advantage of the Internet there is only one real way to do it: learn English.” That was then, when about 80 percent of online information was in English. Today, things have changed, and a majority of the world’s Web sites are no longer in English. And increasingly, the ability to type something like 吴修铭, 中国 may be the key to reaching foreign sites.

The history of radio may foretell the future of the Internet. Radio broadcasting was born in America in 1921 as a private, unpredictable, and unregulated medium. But after a decade radio had balkanized into very different forms around the world. In Britain, radio came under the control of a government corporation, the BBC, with the mission of enlightening the masses, whether they liked it or not. Here in the United States, radio was taken over by big business, and its nature dominated by advertisers and the network model pioneered by AT&T and NBC. In Nazi Germany, radio was retooled into what Joseph Goebbels called the “spiritual weapon of the totalitarian state” and a “towering herald of National Socialism.” The Nazi state even distributed radios designed to receive only German signals and forced everyone to listen to political broadcasts during “national moments.”

Similar pressures face the Internet today as governments and commerce seek to shape the media of our time into a reflection of their power and culture. Whether this is a good or bad thing can be hard to say. Why shouldn’t Russians have an Internet that speaks their language? And if the Germans, through their elected officials, want to block neo-Nazi sites, why is that wrong? In many ways an Internet that maps more to national differences may be both inevitable and helpful. But the question is whether, in the course of balkanization, something will be lost. For the past twenty years, the Net has succeeded in its original vision of an uncontrolled, unpredictable, and uncensored medium. Whether it can adapt to different nations and retain its vitality is the question for the next decade.

This essay was reprinted from the recently published *Sesquicentennial Essays of the Faculty of Columbia Law School.* © 2008 Tim Wu
Columbia Law School alumni from around the world share news of their professional and personal accomplishments

1935
LOU BENDER was inducted into the New York City Basketball Hall of Fame at the New York Athletic Club last September. Bender played the sport professionally in the 1930s for the Original Celtics in New York and, later, for the Union City Reds and the Boston Trojans of the American Basketball League, a precursor to the NBA. He finished his career with the New York Whirlwinds in 1941 and went on to practice law. Bender is currently retired and living in Longboat Key, Fla.

1957
PETER D. EHRENFHAFT became a member of the national board of Compassion & Choices, an organization seeking to legalize the prescription of lethal drugs to terminally ill patients for self-administration. Ehrenhaft continues to serve as part-time senior counsel at Harkins Cunningham in Washington, D.C.

1959
ELIAS ABELSON retired 11 years ago and continues to build violins in his spare time. He and his wife, Isobel, are involved with the Strathspey and Reel Society of New Hampshire, a Scottish dance orchestra.

SAUL Z. BRENNER, a political science professor at the University of North Carolina at Charlotte, was recently awarded the Lifetime Achievement Award by the law and courts section of the American Political Science Association. Brenner recently co-authored the book *Strategy on the United States Supreme Court,* which will be published by Cambridge University Press this year.

RALPH I. BROWN heads the Technical Assistance Corp. for Housing, a nonprofit foundation engaged in housing development in Chicago, Ill. The organization is currently building affordable rental and condominium housing for seniors.

JOSEPH ANTHONY BURTON is a visiting scholar at the University of Massachusetts Amherst’s Center for Renaissance Studies, where he also teaches community classes on Shakespearean topics.

RALPH FINERMAN is the president of RFG Financial Group, the financial consulting firm he founded in Los Angeles after practicing law for 30 years. Finerman is also a director of the Milken Family Foundation, the Milken Institute, the National Institute for Excellence in Teaching, and the Knowledge Learning Corporation. In addition, he serves as the chief financial officer, treasurer, and secretary of the Prostate Cancer Foundation.

MARIE L. GARIBALDI was the first woman to serve as an associate justice of the Supreme Court of New Jersey. Since her retirement from the court, Garibaldi has served as a director of Crown Holdings, a trustee and officer of the Hackensack University Medical Center, a chair of the Hudson Riverfront Performing Arts Center, a trustee of John Cabot University, and a director of the National Italian American Foundation.

MICHAEL A. BERCH is a professor at Arizona State University’s Sandra Day O’Connor College of Law. His daughter, Jessica J. Berch ’08, graduated from Columbia Law School last year.

ALFRED J. BOULOS is a consultant for the international oil and gas industry. He provides seminars and workshops in negotiations and international petroleum law. Boulos also teaches international petroleum law as an adjunct professor at the University of Houston Law Center.
As the city attorney for San Francisco, Louise Renne ’61 once successfully sued the R.J. Reynolds Tobacco Company to remove the cartoon character Joe Camel from cigarette advertisements. She also took on Bank of America in a case that helped San Francisco regain more than $80 million after the bank mishandled public bonds. “The job of a public attorney is not only to defend the public entity,” she explains, “but also to affirmatively protect consumers and taxpayers.”

Renne has enjoyed a long, and perhaps unlikely, career in the public sector. When she and her husband first moved to San Francisco, the legal community was governed by a hard-to-crack patriarchal network.

“There were a number of law firms that wouldn’t even give me an interview,” recalls Renne. One firm told her that a woman with two children should be at home rather than at the office.

Renne eventually broke through, and after working at a law firm, serving on the San Francisco Board of Supervisors, and working as the city attorney, she has now opened her own firm. Renne Sloan Holtzman & Sakai represents public agencies, as well as public interest clients, and is currently working to end bid-rigging and discrimination in the municipal bond industry. The subject riles Renne’s legal passion and makes the answer to the question of retirement obvious. As she says definitively, “I don’t see it on the near horizon.”

"THE JOB OF A PUBLIC ATTORNEY IS NOT ONLY TO DEFEND THE PUBLIC ENTITY, BUT ALSO TO AFFIRMATIVELY PROTECT CONSUMERS AND TAXPAYERS." —LOUISE RENNE
FELIX “BUSTER” GROSSMAN is a competitive diver who took part in the FINA World Masters Aquatic Championships in Perth, Australia, last April. Grossman has won 23 individual national championships and five world championships in both 1- and 3-meter diving. In a 2001 Sports Illustrated article featuring Grossman, the magazine noted that he was the first athlete in any sport to win a national championship with four artificial joints.

RICHARD S. VOLPERT (pictured above at third from the left) has been a partner at Munger, Tolles & Olson since 1995. Volpert is currently serving as president of the Los Angeles County Museum of Natural History board of governors and as national vice president of the American Jewish Committee. He remains actively involved in the Columbia Law School community and recently hosted a dinner for five of his fellow classmates.

1964

MICHAEL R. GRIFFINGER climbed Mount Kilimanjaro last year with one of his daughters. Griffinger continues to practice law and remains involved in the American College of Trial Lawyers, as well as the International Academy of Trial Lawyers.

MARYELLEN WEINBERG is a federal administrative law judge assigned to the Social Security Administration hearing office in Brooklyn.

1966

MICHAEL A. CARDOZO is now the longest-serving corporation counsel in New York City’s history. Cardozo has served in the position for more than seven years.

RICHARD S. KRAUT was included in the 2008 edition of The Best Lawyers in America. Kraut is an SEC enforcement defense and securities litigator in the Washington, D.C., office of Dilworth Paxson.


1968

JAY L. MARGULIES recently joined the Palo Alto, Calif., office of Nixon Peabody as a partner in the firm’s business department.

1969

ROBERT DEAN AVERY, a partner in the Chicago office of Jones Day, and his wife, Ann, started a nonprofit called Worldview Education and Care last year. The organization helps to support the Huruma Orphanage in Tanzania. The couple travels to Africa once or twice each year to visit and work with the children.
As a mergers and acquisitions attorney for a computer leasing company in 1968, Alan L. Bain ’64 often travelled to far-off destinations on the company dime. The travel part was great, but since his trips took place long before the advent of cell phones and WiFi, the U.K.-born Bain found conducting business outside the office frustrating. “I had this idea germinating,” Bain says, “that there was an opportunity for a service industry to be set up for travelling businessmen.”

Bain’s big idea blossomed in 1970 when he launched World-Wide Business Centres (WWBC), a company that provides all the comforts of an office—from furniture to assistants to phone lines—for workers on the go. The company started with one office on Park Avenue, and by 2000, WWBC was operating in 25 different countries.

After 39 years in business, WWBC’s purpose has changed along with the times. Bain’s company now offers “alternative workplace solutions.” Each of its facilities is fully furnished and provides administrative, custodial, and telecommunications services, among other conveniences. The New York office is home to roughly 100 corporate clients at any given time, a roster that includes occasional visitors, long-time lessees, and start-up companies. One early tenant was Mayor Michael Bloomberg, who launched Bloomberg LP in the WWBC offices. Three years later, the future billionaire had amassed 40 employees and secured the fiscal strength to break out on his own.

WWBC’s once cutting-edge concept has become a trend around the world, says Bain with a smile. Now, imitation is one more signal of success.

Richard M. Fairbanks is chairman of Layalina Productions, a nonprofit, private sector corporation that develops and produces Arabic language programming for licensing to satellite and cable TV networks throughout the Arab Middle East and North Africa. Layalina is currently producing Life After Death, a feature documentary that will premiere in primetime on Al Arabiya News Channel. The film is meant to serve as an indictment against Al Qaeda and its targeting of civilians.

Michael Garrett, an executive coach with Executive Coaching Group, completed a 322-mile bicycle ride from Washington, D.C., to Pittsburgh last fall.

Michael L. Perlin is a Fulbright senior specialist at the University of Haifa Faculty of Law, where he is teaching international human rights and comparative mental disability law for the school’s Global Law Program. Perlin has also begun the third edition of his treatise, Mental Disability Law: Civil and Criminal.

Michael L. Perlin is a Fulbright senior specialist at the University of Haifa Faculty of Law, where he is teaching international human rights and comparative mental disability law for the school’s Global Law Program. Perlin has also begun the third edition of his treatise, Mental Disability Law: Civil and Criminal.

John E. Rogers has opened the New York office of Strasburger & Price, a Texas-based law firm with 200 lawyers and offices in Washington, D.C., and Mexico City. Previously, Rogers headed the firm’s Mexico City office. He continues to focus his practice on Mexican and Latin American corporate and financial transactions and restructurings.

James E.C. Perry was appointed to the Florida Supreme Court, becoming
Governor Charlie Crist selected Perry for the position, which follows his service as chief judge for Florida’s 18th Judicial Circuit.

1974

THOMAS D. HALKET cofounded Halket Weitz, a law firm with offices in Westchester and New York City. The firm’s practice centers on issues related to technology and intellectual property. Previously, Halket was the partner in charge of the commercial technology practice in Bingham McCutchen’s New York office.

BARR B. POTTER started a company that creates and sells original paintings using Popeye cartoon characters.

HOWARD N. SPIEGLER is the co-chair of the art law group at Herrick, Feinstein, which handles litigation and transactional work relating to art. Most recently, the firm represented the heirs of the Soviet abstract painter Kazimir Malevich in the recovery of five paintings from the Stedelijk Museum in Amsterdam.

1976

ROGER P. JOSEPH was recently honored, along with his firm, Bingham McCutchen, with the Carolyn and Peter Lynch Award at the 19th annual Inner-City Scholarship Fund Dinner Celebration. The Catholic Schools Foundation bestowed the award, which recognizes the dedication both the firm and Joseph have shown to children in inner-city schools. Joseph is a partner in Bingham McCutchen’s Boston and New York offices.

BENITO ROMANO joined Freshfields Bruckhaus Deringer, an international law firm that is launching a litigation practice in the United States. Romano previously worked for Willkie Farr & Gallagher, where his practice focused on white-collar criminal defense, including SEC and other regulatory enforcement, and related complex civil litigation.


1977

SHEILA ABDUS-SALAAM received a gubernatorial appointment to New York’s Appellate Division, First Department. Abdus-Salaam has been a Supreme Court justice in Manhattan since 1994.

1979

BRANDON BECKER LL.M. has been named executive vice president and chief legal officer of TIAA-CREF. In that position, Becker will lead the company’s legal and compliance, government relations, and internal audit functions. Previously, Becker was a partner in the securities department at WilmerHale.
EDWARD HAYES
DAPPER DEFENDER

After meeting Edward W. Hayes ’72 one night at a party, Andy Warhol wrote in his diary of “a defense lawyer named Ed Hayes who looked like he was from Laverne and Shirley... Sort of ‘40s clothes, really crew-cut, about 29. He said, ‘I can get ya outta anything.’”

Several decades later, Hayes still dons a fedora—and still has the dedication and fierce work ethic that has made his brazen claim true more often than not. “People come to me, they hire me, and I do it,” says Hayes, whose small private practice on Madison Avenue has attracted high-profile clients such as Vogue Editor in Chief Anna Wintour and architect Daniel Libeskind.

Hayes spent several years in the homicide division of the Bronx District Attorney’s Office, before branching out on his own. His work as a criminal defender inspired author Tom Wolfe to use Hayes as the model for the character Tommy Killian in the 1987 novel The Bonfire of the Vanities.

In 2006, Hayes published the true story of his life in his memoir, Mouthpiece, which recounts his humble beginnings, as well as career highs and lows. “I think I’ve had more big cases on the front page of The New York Times than anyone,” he says. Hayes’ most recent brush with media frenzy was the result of the widely publicized “Mafia Cops” case, in which two former New York City Police detectives were accused—and ultimately convicted—of being hired informants and assassins for the mob. The evidence against them was overwhelming, but that didn’t stop Hayes from giving his all. “I really do feel strongly,” he says, “that everybody is entitled to the best possible defense.”

AT A PARTY ONE NIGHT, HAYES TOLD ANDY WARHOL: “I CAN GET YA OUTTA ANYTHING.”
MOLLY S. BOAST was appointed deputy assistant attorney general for civil matters at the U.S. Department of Justice. Boast was previously a partner with Debevoise & Plimpton, where she led the firm’s antitrust practice group.

MICHAEL P. RICHMAN joined the New York office of Patton Boggs as a partner. Richman was previously chairman of the bankruptcy and business reorganization practice at Foley & Lardner.

JUDY TINT is an entertainment attorney and consultant specializing in music-related matters and representing a wide variety of artists, writers, producers, independent labels, and radio personalities. She is also an adjunct professor in the music business program at New York University. In addition to her professional work in entertainment, Tint performs semi-regularly as a singer and percussionist and has toured several times with her longtime clients The Four Tops.

ROBERT E. HURLEY has been named legal director of Cabrini Green Legal Aid, a Chicago nonprofit organization dedicated to providing free legal representation to the city’s poorest residents. In his new position, Hurley will lead a team of eight lawyers representing indigent clients in a range of cases. Previously, Hurley was in private practice, specializing in family law and criminal defense.

BARRETT L. BRICK, a senior staff attorney in the broadband division of the Federal Communications Commission’s wireless telecommunications bureau, co-chairs the Committee on Sexual Orientation and Gender Identity of the American Bar Association’s Section of Individual Rights and Responsibilities. Brick married Antonio Ruffini in South Africa in January.

RICK L. LAWRENCE was recently elected to his second consecutive term as chairman of the board of AmericaView, a nonprofit organization and national consortium dedicated to advancing the use of satellite remote sensing technologies. Lawrence was also appointed permanent director of the Spatial Sciences Center at Montana State University and serves as a regional director for the American Society for Photogrammetry and Remote Sensing.

MARIA FOSCARINIS, the founder and executive director of the National Law Center on Homelessness & Poverty, recently published a chapter in the book Mandate for Change: Policies and Leadership for 2009 and Beyond (Lexington Books: 2009), which discusses progressive policy proposals for the new administration. Foscarinis’ chapter focuses on proposals to end and prevent homelessness. She was also recently honored by the Columbia Law School Alumni Association of Washington, D.C., for her work on behalf of poor and homeless Americans.

DAVID JOHNS recently published A New Conservation Politics: Power, Organization Building, and Effectiveness (Wiley-Blackwell: 2009), which brings together lessons from a wide range of social movements. For more than 20 years, Johns has been involved in several large-scale conservation organizations, including the Wildlands Project and the Yellowstone to Yukon Conservation Initiative.

MAUREEN W. MCCARTHY started a New York–based private practice focusing on business and commercial law. McCarthy serves as outside general counsel to emerging companies in a variety of industries, including business and financial services, media, biotech, and health services. McCarthy also recently joined the board of trustees of the Mona Bismarck Foundation, an American foundation based in Paris that promotes artistic, literary, scientific, and educational activities.
For more than 30 years, Richard H. Weisberg ’74 has been researching the legal climate in France during the Vichy regime—the period of French history in which the country went against its own history of equality by enacting roughly 200 laws that discriminated against Jewish people. “I got very curious about what happened in Vichy when my French friends refused to talk about it with me,” says Weisberg, the Walter Floersheimer Professor of Constitutional Law at Yeshiva University’s Benjamin N. Cardozo School of Law. “That really provoked my interest.”

Weisberg’s fascination eventually prompted him to write a book on the topic, *Vichy Law & the Holocaust in France*. After it was published, a group of lawyers recruited him to assist in a class-action lawsuit against banks that illegally seized assets from Jewish families in France during World War II. “These lawyers felt that if we could get a measure of justice for those whose assets were stolen, that would be good,” says Weisberg. “And we prevailed.”

In 2001, Weisberg became part of the team that established a mechanism for ensuring restitution for banking victims. His efforts on behalf of the people of France have not gone unnoticed. Weisberg was recently named to the Legion of Honor, the highest decoration given by the French Republic for outstanding service to the country. “I’m very touched by this; it connects to all my work on Vichy,” says Weisberg, who was presented with the award at the French ambassador’s Washington, D.C., residence in January. “It’s been a pretty full life.”
STEWRT C. SCHWARTZ joined the New York office of Locke Lord Bissell & Liddell as partner. Previously, Schwartz was a partner at Clifford Chance.

IVETTE R. ALVAREZ, counsel at Einhorn, Harris, Ascher, Barbarito & Frost in Denville, N.J., was recently elected vice president of membership for the Hispanic National Bar Association. She was also honored in March by the board of Latinas United for Political Empowerment at its annual “Power of Women” reception in Jersey City, N.J.

HYUN C. KIM joined Samsung Electronics as president and chief legal officer in March. Previously, Kim served as South Korea’s trade minister and United Nations ambassador.

ANDREW E. LEWIN joined the Hudson Holding Corporation, a broker-dealer, as general counsel. Lewin was previously chief legal officer of Newtek Business Services Inc.

Laurie Magid was named interim U.S. Attorney for the Eastern District of Pennsylvania, making her the first woman to hold that position. U.S. Attorney General Eric H. Holder Jr. ’76 appointed Magid to the position, which follows her service as acting U.S. Attorney for the district.

TIMOTHY M. REIF joined the Office of U.S. Trade Representative Ron Kirk as general counsel. Previously, Reif served as chief international trade counsel for the Committee on Ways and Means in the U.S. House of Representatives.

GLENN G. FULLER joined The Boeing Company as counsel to the commercial airplanes division in Seattle.

CAROLYN HOCHSTADTER DICKE received the 2008 Chancellor’s Award from the Philadelphia Volunteers for the Indigent Program. Hochstadter Dicker has also been listed on the First Judicial District of Pennsylvania’s 2008 Pro Bono Roll of Honor for her representation of homeowners in connection with Philadelphia’s residential mortgage foreclosure diversion pilot program. Hochstadter Dicker concentrates her private legal practice in the areas of business and consumer bankruptcy, creditor rights, corporate law, and commercial litigation.

PAUL H. SAINT-AUNOE, a partner at Drinker Biddle & Reath, is currently serving as a co-chair of the American Bar Association Antitrust Section’s Intellectual Property Committee. He is also a member of the board of the Public Interest Law Center of Philadelphia.

1989
PETER J. ARMSTRONG is the senior food law counsel for Campbell Soup Company in Camden, N.J. He resides in Ridgefield, Conn., with his wife, Cynthia.

JAMES C. HATHAWAY, J.S.D., is the dean and Hearn Chair in Law at Melbourne Law School. Previously, Hathaway was the director of the University of Michigan Law School’s program in refugee and asylum law. He is also a senior visiting research associate at Oxford University’s Refugee Studies Centre and president of the Universidad Internacional Menendez Pelayo’s Cuenca Colloquium on International Refugee Law.

1991
CYNTHIA S. ARATO founded Macht, Shapiro, Arato & Isserles with Alexandra Shapiro ’91 and two other partners. The firm specializes in media and entertainment litigation, white-collar criminal defense, and appellate advocacy.
As a child growing up in Morgan, Utah, Wade Leak ‘89 was an avid singer who used to save up his money to buy the latest 45-rpm records at a local music store. “There was always an inkling toward entertainment,” Leak recalls, “because I was always a bit of a showman, a bit of a ham.”

He was also a touch argumentative, which had the adults in his life accurately predicting he’d become a lawyer. He put in several years at Gibson, Dunn & Crutcher and several more at a boutique litigation firm in New York City before he realized, “Boy, I’d much rather be fighting about the lyrics to Britney Spears’ songs.”

With his passion and his profession aligned, Leak launched his music industry career at Zomba Records. He has since survived two mergers that turned Zomba into BMG Music and, ultimately, Sony Music Entertainment, where he now serves as deputy general counsel. In January, Leak celebrated his 10th year working with music industry clientele—including Spears.

Despite ample industry experience and connections, Leak doesn’t intend to express his creativity in the form of a 10-track album. His chef d’oeuvre is a screenplay, written years ago and now gathering dust in his Flatiron-area apartment. Between taking trips to Iran and Cuba with his partner, Jay Yost, and his work at Sony, he has yet to find the time to polish it up and put it out on the market. But one day, he says, “I really believe I’ll get there.”

“THERE WAS ALWAYS AN INKLING TOWARD ENTERTAINMENT, BECAUSE I WAS ALWAYS A BIT OF A SHOWMAN, A BIT OF A HAM.” —WADE LEAK
CHARLES D. CURRAN was appointed executive director and general counsel of the Network Advertising Initiative, a cooperative of online marketing and analytics companies focusing on building consumer awareness and establishing responsible business and data management practices and standards.

1992

JOSEPH A. JIAMPIETRO was appointed senior adviser for markets to FDIC Chairwoman Sheila Bair. Jiampietro previously served as managing director of the financial institutions group at J.P. Morgan in New York.

1993

ROBERT MAGNANINI, previously a partner at Boies, Schiller & Flexner, has left the firm to launch his own practice, Stone & Magnanini. The firm has offices in New York and New Jersey and specializes in complex commercial litigation, including False Claims Act cases.

MICHAEL T. STOLPER recently joined Atlantic Development Group as executive vice president and general counsel. In this position, Stolper handles all legal matters for the real estate development company. Stolper previously served as a partner in the New York office of Orrick, Herrington & Sutcliffe.

1994

ANDREW BAYERLY BIRGE is the first assistant in the U.S. Attorney’s Office for the Western District of Michigan.

DAVID BOLING, LL.M., serves as chief of staff to U.S. Congressman Vic Snyder, a Democrat who represents the Second Congressional District of Arkansas. Previously, Boling worked as an attorney at the U.S. Department of Justice, Antitrust Division, focusing on civil and criminal antitrust matters, as well as on international trade and competition policy issues related to Japan, South Korea, and Taiwan.

ELAINE M. CHIU recently received tenure as a law professor at St. John’s University School of Law. Chiu teaches criminal and family law, among other related subjects, and publishes in the areas of multiculturalism, criminal law, and domestic violence.

GENNADY MICHAEL KHAREYN recently joined Wolf Theiss, Austria’s largest law firm, as managing partner of its new Kiev office. Previously, Khareyn was in private practice in Moscow.

MULYANA MULYANA, LL.M., has been named partner at Mochtar Karwin Komar in Jakarta, Indonesia.

TINA SCOTT POLSKY recently launched North Castle Mediation, which offers mediation services for many types of civil disputes in South Florida. Polsky and her husband also continue to do nationwide legal recruiting through their company, North Castle Recruiting.

1995

GREG BLATT has been promoted to chief executive officer of Match.com. Blatt previously served as executive vice president and general counsel of IAC, which operates Match.com, in addition to more than 30 other internet businesses. In his new position, Blatt will have primary responsibility for the strategic and operational leadership of IAC’s personals businesses, including the global operations for Match.com, Chemistry.com, and DowntoEarth.com.

ANDREAN COHEN works in the office of the Mayor of New York City, where she serves as the director of health services.

BEVIN B. NEWMAN was promoted to partner in the Washington, D.C., office of Jones Day.

ALEXANDER SHAKNES joined the New York office of Winston & Strawn as a partner.

XUE HANQIN, J.S.D., was appointed to serve as the first ambassador to the Association of Southeast Asian Nations. Xue previously served as ambassador to the Netherlands and as director-general of the Foreign Ministry’s department of treaty and law.

1996

JEFFREY S. JACOBSON, a litigation partner at Debevoise & Plimpton in New York, and his wife, Janice, celebrated the birth of their second daughter, Rebecca Kacey, on January 6.
Eight years out of college, Nancy L. Sanborn ‘91 had built a solid career as a banker with J.P. Morgan and had risen to vice president of the bank’s special loan department. Sanborn was competent and capable—but she harbored an intellectual curiosity that a career in banking wouldn’t satisfy.

Sanborn had worked with lawyers in multiple bankruptcy dealings at J.P. Morgan and had grown to admire their in-depth knowledge of the intricate legal structures at play. She aspired to that level of expertise—and therefore got to thinking about law school.

“I went to law school to learn more about the law, in particular bankruptcy,” Sanborn recalls. “I wanted to be a bankruptcy lawyer.”

When she graduated from Columbia Law School, Sanborn joined Davis Polk & Wardwell, where she is now a partner. She came to the firm as a bankruptcy lawyer, but eventually transitioned into mergers and acquisitions and private equity work, orchestrating deals for mega-corporations such as Kraft and Merck & Co.

Despite a shaky economy, Sanborn says that private equity funds are still acquiring middle market companies, which has provided her with a number of M&A deals to negotiate. In addition, she has ventured back into the field of bankruptcy. Most recently, she helped BearingPoint through a Chapter 11 filing that resulted in the sale of the marketing and technology consulting firm’s various businesses.

When the financial markets begin to recover, Sanborn’s versatility will allow her to take on the work that economic stability brings.

“I’m still learning,” Sanborn says, “and I don’t know if that will ever end.”
Jacobson and his family live in Montclair, N.J.

RAY MAIELLO was recently promoted to vice president and assistant general counsel of CBS Paramount Network Television. Maiello has been a production lawyer at the CBS Paramount Network Television group since 2004, having served as production counsel on pilots and various series.

1997

HOLLY J. HOEHNER has been promoted to partner in the Syracuse, N.Y., office of Hiscock & Barclay. In her practice, Hoehner focuses on corporate, commercial, and securities matters.

1998

JAVIER BLEICHMAR was recently named partner at the firm of Labaton Sucharow in New York City.

LORENZO CORTE, LL.M., has been named partner in the London office of Skadden, Arps, Slate, Meagher & Flom, where he specializes in cross-border transactions, mergers and acquisitions, and corporate finance.

ELEONORE DAILEY, LL.M., produced and co-directed Dirt! The Movie, a documentary that analyzes where dirt comes from, how we regard—or disregard—it, how it sustains us, how it has become endangered, and what can be done about it. The film was shown at the Sundance Film Festival in January.

1999

AFRA AFSHARIPOUR is an assistant professor at the University of California Davis School of Law, where she teaches antitrust, business associations, and mergers and acquisitions. Afsharipour also conducts research in the areas of comparative corporate law, corporate governance, corporate social responsibility, and securities regulation.

BANUREKHA RAMACHANDRAN is an attorney in the commercial and appellate litigation group at Perkins Coie in Portland, Ore.

TASHA COOPER COLEMAN launched Upward Action, a branding and interactive marketing company. In her new endeavor, Coleman coaches lawyers and entrepreneurs as they build their professional brands and use interactive marketing strategies to attract their ideal clients, professional experiences, and business opportunities.

TINA V. FERNANDEZ joined the national staff of Teach For America as managing director of alumni engagement and infrastructure. In this role, Fernandez works to engage the program’s 14,000 alumni in the movement to end educational inequity.

MICHELLE A. GREENBERG-KOBEN is the dean of students at Columbia Law School, where she also teaches.

KARLYN J. HUNTER, an assistant U.S. Attorney in Miami, recently returned from Ghana, where she served as the first intermittent legal adviser to the U.S. Embassy there. In that role, Hunter designed and executed a training program for Ghanaian judges, prosecutors, law enforcement officers, and other civil service professionals on investigating and prosecuting human trafficking cases. While there, Hunter and her husband, Rashid Mayes, opened a Ghana office for their U.S.-based NGO, the Astrient Foundation, which awards fellowships and scholarships and implements educational outreach and women’s empowerment programs.

2000

CATHRINE AHLIN-HALVERSON was elected to the partnership of Maslon Edelman Borman & Brand in Minneapolis. Ahlin-Halverson is a member of the firm’s litigation and labor and employment groups. She has successfully represented clients in multiple state and federal jurisdictions.

JOSHUA M. MASUR joined Fish & Richardson in Redwood City, Calif., as of counsel last year. Masur was also elected president of the San Francisco Bay Area Intellectual Property American Inn of Court, a professional organization focused on practical skills development, mentoring, and ethics.

RANDALL G. SOMMER was promoted to partner at the Los Angeles office of Munger, Tolles & Olson.

MARTINA VANDENBERG was elected partner in the litigation department of Jenner & Block’s Washington, D.C., office. Vandenberg was a Rhodes scholar and a Truman scholar and holds a master’s degree in Russian and East European studies from the University of Oxford.

ALEX VINNITSKY has been named general counsel and vice president of DigiWorld Studios, an international film and digital technology corporation.
BRETT McGURK
THE NEGOTIATOR

Brett H. McGurk ’99 always intended to serve his country. A would-be Army officer, McGurk was kept from the service by an old high-school hockey injury. Instead of fighting on the front lines, McGurk joined the U.S. government in helping the Iraqis draft an interim constitution and ultimately end the American occupation in the embattled country.

“I had the opportunity very early to work closely with Iraqi leaders in all communities,” McGurk says. “I really got to know them, to understand their competing visions, and to think through with them how those visions could be reconciled through a political framework.”

For the Bush administration, McGurk oversaw all aspects of U.S. policy relating to the wars in both Iraq and Afghanistan. He successfully negotiated a long-term strategic framework agreement, as well as a security agreement that governs the presence of U.S. forces in Iraq and aims to restore bilateral relations between Iraq and the United States. The process of putting both agreements in place took 18 months—and earned McGurk the State Department’s Distinguished Honor Award.

When President Barack Obama took office, the new administration requested that McGurk stay on as a special adviser. McGurk has since taken part in the review of Iraq policy, which resulted in a scheduled drawdown of U.S. combat forces by the end of 2010. “So many Iraqis and Americans have lost their lives [in Iraq],” McGurk says. “I have known some of them, and I think about them often. But I believe Iraq is now on its way to a much brighter and more hopeful future.”

For the Bush administration, McGurk oversaw all aspects of U.S. policy relating to the wars in both Iraq and Afghanistan.
HAZEM Y. DERHALLI was promoted to partner in the New York office of White & Case.

ALY EL HAMAMSY left the firm of Davis Polk & Wardwell to join the National Basketball Association as managing director for the Middle East region. In this role, El Hamamsy will help start and then run the NBA’s business in the Middle East.

MANUEL E. LAUREDO was named special counsel in the New York office of Stroock & Stroock & Lavan. Lauroedo practices in all areas of commercial real estate. He recently represented a real estate investment fund in a construction loan for a residential condominium project on New York’s Upper West Side. He also represented a pension fund in the acquisition and financing of a mixed-use residential and retail development in Austin, Texas.

THOMAS R. MAKin became a partner in the New York office of Kenyon & Kenyon. Makin focuses his practice on patent litigation, both in federal court and before the International Trade Commission. He lives in Rumson, N.J., with his wife, Teresa, and their three sons.

Alekjandro Badillo recently joined the Washington, D.C., office of Jones Day as an associate. At the firm, Badillo’s practice will include mergers and acquisitions, securities offerings and compliance, venture capital transactions, fund formation, franchise, and project finance. Badillo previously worked for Dickstein Shapiro.

Lorna X. Chen was promoted to counsel in the Hong Kong office of Shearman & Sterling. In that position, Chen will specialize in asset management.

Jeffery R. Johnson was named partner in the Austin, Texas, office of Jackson Walker. Johnson works in the intellectual property practice group and has litigated copyright, trademark, and patent matters in numerous federal and state courts.

Mehrin Masud-Elias, an associate in the Philadelphia office of Duane Morris, has been appointed to the Philadelphia Bar Association’s board of governors. The city’s chapter of the South Asian Bar Association nominated Masud-Elias to the board, on which she will serve until 2010.

Jennifer Trahan, LL.M., is working on her third book for Human Rights Watch, to be titled Genocide, War Crimes, and Crimes Against Humanity: A Digest of the Case Law of the International Criminal Tribunals for Rwanda. Trahan has also been a visiting lecturer for Columbia University’s master’s program in human rights and has taught at New York University’s global affairs program, as well as at Brooklyn Law School and Fordham Law School.

Michael L. Goldman has started a social network for people with sleep apnea. The online community, found at SleepGuide.com, offers advice on how to manage the disorder from those who have the condition.

Elisa A. Abrams joined the trusts and estates group in the New York office of Skadden, Arps, Slate, Meagher & Flom. Previously, Abrams served as a clerk for Judge J.L. Edmondson, the chief judge of the 11th Circuit Court of Appeals.

Sumit K. Bisarya works for the International Development Law Organization (IDLO), which promotes development by spreading the rule of law. Bisarya spent 15 months managing an IDLO project in Afghanistan before moving to Rome to coordinate field operations.

Rodrigo Dantas, LL.M., is the general counsel of Odebrecht Oil & Gas. Dantas and his wife, Elisa Rezende ’04 LL.M., live in Brazil and recently welcomed their first child, Victoria.

Thomas M. Hall is an associate at O’Melveny & Myers in Beijing. Hall and his wife recently welcomed their first child, Aleric Stephen Hall.

David Hans is a partner at Smallman & Hans, which specializes in media and intellectual property law.

Daniel R. Kalderimis, LL.M., joined Chapman Tripp as a principal. Kalderimis was
TARA BURNS NEWELL
JUST THE BEGINNING

Tara Burns Newell ‘99 has always found the world of mergers and acquisitions fast-paced and intriguing. The field allows her to learn about new businesses, negotiate deals, and interact with a host of bright colleagues. When Newell joined Bryan Cave four years ago, M&A became one of her primary practice areas.

But with the recent downturn in global financial markets, she has watched her practice evolve. Newell, now a partner at the firm, continues to do M&A work dealing with distressed assets and bankruptcies, while also taking on as clients three start-up companies—all of which are women-run and technology-focused.

“I think it is a good opportunity now to do things if you have good ideas,” says Newell, who holds a master’s degree from the London School of Economics and Political Science. One company she’s working with has developed an application for Apple’s iPhone. Another has created a software program for green building design. And the third was the brainchild of two women in their 30s who have decided to launch a travel website catering to young, affluent women. “They’re all good ideas,” Newell explains, “and there is a need for these things.”

All the companies are in their infancy, and Newell says she is working with her clients on risk/reward assessments and general start-up processes. If the businesses succeed, Newell could one day take them public and create lifelong clients. “As a young partner,” she says, “I have to concentrate on building a practice and building my skills.”

NEWELL RECENTLY TOOK ON AS CLIENTS THREE START-UP COMPANIES—ALL OF WHICH ARE WOMEN-RUN AND TECHNOLOGY-FOCUSED.
previously a senior associate with Freshfields Bruckhaus Deringer in London.

**RAMZI KASSEM** will be joining the faculty of the City University of New York this summer as a tenure-track teacher in the Immigrant & Refugee Rights Clinic. Previously, Kassem worked with the 9/11 Clinic, as well as the Worker and Immigrant Rights Advocacy Clinic at Yale Law School as a Robert M. Cover Clinical Teaching Fellow.

**ANN OCHSENDORF LICHER** is an attorney in the Washington, D.C., office of Hogan & Hartson, where her work focuses on government contracts and grants. Licher and her husband, Erik, welcomed their second child in February.

**B. RUSSELL MARCUS**, an associate at Clifford Chance in New York, married Rian Balfour in Deerfield Beach, Fla., in March.

**ALEXANDRA D. MINKOVICH** is an associate in the tax controversy group of Dewey & LeBoeuf’s New York office. Her practice focuses on federal audits and controversies of corporate taxpayers. Minkovich is currently working toward an LL.M. in taxation from New York University School of Law.

**JASON D. MULVIHILL** is chief counsel and legislative director for Senator John Ensign of Nevada. In this capacity, Mulvihill advises the senator on all legislative matters, focusing on tax and trade. Prior to becoming Senator Ensign’s chief counsel, Mulvihill served as a senior counsel on the Senate Committee on Commerce, Science, and Transportation.

**RENE PAULA-MOLINA**, a corporate associate at Cravath, Swaine & Moore, and his wife, Heather, welcomed their first son, Mateo, in January.

**CARLOS M. RIVADULLA, LL.M.**, is an associate in the Barcelona office of Clifford Chance, where his work focuses on intellectual property and technology litigation. Rivadulla is also an inventor and has patented the Ecolpreg, a new system to save water while mopping.

**MAIA SEVILLA-SHARON** is an associate in the New York office of Arnold & Porter, where she practices general litigation. Previously, Sevilla-Sharon was an attorney at Simpson Thacher & Bartlett.

**AMY TERRY SHEEHAN** and her husband, Colin, welcomed a daughter, Lucia Helen, last July.

**DAVID ANDRE ZEKELY, LL.M.**, co-founded Greenzer, an online shopping platform for eco-friendly products. The site focuses on creating a best-in-class experience for consumers interested in green products, services, and information.

**KATHERINE ANNE WILHELM** joined Yale Law School’s China Law Center last March.

**CARA S. ELIAS** joined Brownstein Hyatt Farber Schreck as an associate in the firm’s Denver office. Elias will work in the corporate and business department, as well as with the Employee Retirement Income Security Act and employee benefits groups.

**REBECCA (LOUBRIEL) AVITIA** joined the Albuquerque office of Lewis and Roca as an associate in the firm’s litigation practice group.

**2007**

**JENNIFER LYNN BELL** joined the New York office of Blank Rome as an associate in the business tax group. Previously, Bell was a tax associate at Goodwin Procter, where she counseled public and private corporations, partnerships, tax-exempt organizations, and individuals on aspects of U.S. and international law.

**2008**

**KAITLIN CORDES** has been selected as the 2009 David W. Leebron Human Rights Fellow. As a Leebron Fellow, Cordes will address the lack of knowledge surrounding the relationship between agricultural laborers, access to land and productive resources, and the right to food. The project continues work that Cordes began in her third year at Columbia Law School.

**ELYSE F. NOVIKOFF** joined Togut, Segal & Segal as an associate. Novikoff was previously an associate at O’Melveny & Myers.

---

**PLEASE EMAIL** your news to magazine@law.columbia.edu with the heading “Class Notes Submission” in the subject line. Please be certain to include your year of graduation in the email. Photo attachments are welcomed, but due to space limitations, the magazine cannot guarantee publication of submitted photographs.

Class Notes submissions may be edited for clarity and space. Columbia Law School Magazine cannot guarantee publication of all items.
As an attorney with the Southern Center for Human Rights (SCHR), Melanie Velez ‘01 spends her working hours defending the rights of convicted felons. And that doesn’t bother the married mother of one at all.

“We represent folks that society has given up on and others that society treats as invisible,” says Velez, who came to the Atlanta-based SCHR after three years at Debevoise & Plimpton in New York. “My job is to advocate for them, to fight for some measure of equal justice in a criminal justice system that is regularly used to target poor people, African-Americans, Latinos, and, increasingly, undocumented immigrants.”

Velez’s most recent victory garnered national attention and sent an Alabama sheriff to jail. The sheriff had been feeding his inmates on less than their $1.75-a-day food stipend and pocketing the difference—to the tune of more than $200,000. And it was all in accordance with an Alabama law that Velez calls “an archaic piece of legislation that certainly doesn’t promote good governance.”

Citing ample evidence of underfed prisoners, the judge in the case sided with Velez and the SCHR. He held that the sheriff’s actions were a blatant violation of past agreements that his prisoners be properly cared for. Velez and the SCHR are now working to change the law that allowed for mass inmate malnourishment. “It feels that what we do here is really necessary,” says Velez, “and there aren’t many others that do it.”
in memoriam:

The Columbia Law School community extends its deepest sympathy to the loved ones of recently deceased alumni

Herbert L. Hutner ’31
DECEMBER 7, 2008

Herbert L. Hutner ’31 was chairman of the President’s Advisory Committee on the Arts for both Ronald Reagan and George H.W. Bush. He passed away on December 7, 2008, at the age of 99.

After graduating from Columbia Law School, Hutner eventually made his way to Wall Street. He became a partner in a brokerage firm and worked alongside Lester Osterman, who went on to become a Broadway producer and theater owner. Later, Hutner would follow Osterman’s lead, remaking his own career path to focus heavily on the arts.

In 1962, Hutner married Hungarian starlet and socialite Zsa Zsa Gabor, becoming her fourth husband. The couple divorced in 1966, and three years later, Hutner married actress Juli Reding.

Hutner presided over the President’s Advisory Committee on the Arts from 1982 to 1990. In that position, he advised and consulted with trustees of the John F. Kennedy Center for the Performing Arts in Washington, D.C., while raising funds to support the center.

Hutner is survived by his wife, Juli; his son, Jeffrey; his daughter, Lynn; his stepson, Christopher; five grandchildren; and four great-grandchildren.

Arthur H. Nighswander ’32
DECEMBER 5, 2008

Arthur H. Nighswander ’32 was a prominent attorney in New Hampshire who devoted much of his professional life to protecting civil liberties. He passed away on December 5, 2008, at the age of 100.

Nighswander practiced law in New Hampshire for more than 70 years, specializing in estate and tax law. He was also actively involved in numerous legal efforts aimed at protecting civil liberties, a cause that brought him before the U.S. Supreme Court to argue cases related to freedom of speech and assembly. His dedication to such causes earned him a distinguished service award from the New Hampshire Bar Association, as well as recognition from the New Hampshire Civil Liberties Union.

Nighswander’s commitment to community service extended to organizations outside the legal arena. He served as president of Lakes Region General Hospital, where a fund in his name, and in that of his late wife, Esther, was established to support health services for those in need. In addition, Nighswander continued to support Columbia Law School throughout his life, eventually endowing the Law School’s Arthur and Esther Nighswander Scholarship Fund. Esther joined her husband in his philanthropic pursuits until her death in 1997.

Nighswander is survived by his son, Andrew Nighswander ’64; his daughter, Mildred; seven grandchildren; and six great-grandchildren.

Seymour Epstein ’42
DECEMBER 19, 2008

Seymour Epstein ’42 was the president and CEO of Shelburne Shirt Company. He passed away on December 19, 2008, at the age of 89.

Born in Brooklyn, N.Y., Epstein studied at both Columbia College and Columbia Law School, where he was a member of the Columbia Law Review. Epstein also attended Columbia Midshipman’s School.

During World War II, he served as a naval commander in both the Atlantic and Pacific theaters. After the end of the war brought Epstein home, he took the reins of the family shirt business and turned the small
company into an international manufacturing business.

Epstein balanced his professional success with multiple philanthropic interests, including support of the United Jewish Appeal and the NYU Langone Medical Center. In order to encourage his children and grandchildren to engage in charitable work, he created a foundation that enabled his entire family to join him in giving back.

Epstein is survived by his wife of 61 years, Muriel; his children: Randy, Bob, Jane, and Susan; seven grandchildren; and his great-granddaughter.

Phyllis S. Jaffe ’49
DECEMBER 22, 2008

Phyllis S. Jaffe ’49 was an early practitioner of education labor law and one of the first female graduates of Columbia Law School. She passed away on December 22, 2008, at the age of 83.

Jaffe served in the Women’s Army Corps during World War II and received special commendation for her distinguished service. After the war, she realized she wanted to pursue her law degree. “I went to see . . . the dean of the graduate women at Columbia in 1946,” Jaffe recalled in an oral history honoring the first women admitted to Columbia Law School. “I really wanted to go to law school because maybe I could have some effect in the world.” The dean heartily agreed.

Following her Law School graduation, Jaffe worked for a small law office in the Bronx before taking several years off to raise her three sons. From 1966 to 1969, she served as president of the Ossining Board of Education. During her tenure, New York enacted the Taylor Law, which required negotiations with public employee unions and thrust Jaffe into talks between the Board of Education and school district workers. That experience inspired her to specialize in education law and public-sector labor law for the next 33 years, during which she represented 35 school districts in four counties, as well as two colleges. “I argued a case in the Appellate Division, Second Department, near the end of 1999,” Jaffe recalled in the oral history. “There were two women judges on the bench, and most of the attorneys handling criminal matters in New York City, for the district attorney in Brooklyn, were women. There was just such a change . . . I couldn’t believe it.”

Jaffe retired from the practice of law in 2002. She is survived by her three sons and four grandchildren.

Sara S. Portnoy ’49
APRIL 3, 2009

Sara S. Portnoy ’49 was a partner at Proskauer Rose Goetz & Mendelsohn in New York and one of the first women to graduate from Columbia Law School. She passed away on April 3, 2009, at the age of 83.

Portnoy attended Radcliffe College before beginning her studies at Columbia Law School. Following graduation, she joined AT&T, where she spent the next 10 years practicing labor and employment law on behalf of the company.

In 1961, Portnoy left her job at AT&T to raise her two sons, William and Lawrence. Portnoy also volunteered as a director of the Legal Aid Society of Westchester County and as a pro bono counselor to school boards and other community groups. She was a leader of the Westchester League of Women Voters and a long-serving member of the City of White Plains Human Rights Commission.

In 1974, after more than a decade out of the workforce, Portnoy joined Proskauer Rose, where she represented AT&T, NBC, Memorial Sloan-Kettering Cancer Center, The Metropolitan Opera, The New York Times, and the New York City Ballet, among other organizations and companies.

Portnoy retired from the firm in 1994. She spent her retirement years working on various pro bono activities, including service as a member of the Columbia Law School Board of Visitors. Portnoy’s husband, Alexander, passed away in 1976. She is survived by two sons and three grandchildren.

Louis Lowenstein ’53
APRIL 18, 2009

Louis Lowenstein ’53 was an eminent scholar, professor, and philanthropist who mentored generations of Columbia Law School students. He passed away on April 18, 2009, at the age of 83.

“Lou was the gold standard, a truly magnificent colleague and friend,” said David M. Schizer, Dean and the Lucy G. Moses Professor of Law. “We will miss his wisdom, insight, decency, and compassion.”
Lowenstein attended Columbia College before earning degrees from both Columbia Business School and the Law School. He then used that education as a corporate and securities lawyer in New York, eventually becoming a founding partner of Kramer Levin Naftalis & Frankel. Even after leaving the field of corporate law, Lowenstein maintained an interest in Wall Street. He dedicated much of his scholarly work to corporate financial misconduct, and, in 2004, New York Governor George E. Pataki ’70 appointed him to the Public Authority Governance Advisory Committee.

Lowenstein joined the Columbia Law School faculty in 1980 as a professor and chairman of the board of directors of the Columbia Law Review. Eighteen years later, Lowenstein and his wife, Helen, pioneered and endowed a fellowship program at the Law School to encourage and reward students who demonstrated exceptional dedication and the potential for making a substantial contribution to public interest law. The Lowenstein Fellowship program has since provided financial assistance to more than 35 students.

“Professor Lowenstein was an incredibly decent, thoughtful, and caring person,” said Myrna Pérez ’03, a past fellowship recipient. “He was generous with his insight, his support, and his affirmation. His loss will be a big one, not only to the Columbia community, but to the world of public interest law.”

Lowenstein is survived by his wife of 56 years, Helen Udell Lowenstein, three children, and 11 grandchildren.

Susan Goldberg Lamb ’57
JULY 27, 2008

Susan Goldberg Lamb ’57, the first female associate at Proskauer Rose Goetz & Mendelsohn, was a dedicated fundraiser whose efforts helped to finance the construction of many education and medical buildings in New York during the 1970s and 1980s. She passed away on July 27, 2008, at the age of 72.

Born and raised in Brooklyn, N.Y., Lamb attended Cornell University prior to beginning her legal studies at Columbia Law School. She received her J.D. at the age of 21 and joined Proskauer Rose in New York. Lamb eventually left the firm to move to London with her husband, and together the couple owned and operated a public relations firm. During that time, Lamb also served as an on-air correspondent for the British Broadcasting Corporation.

After 10 years in England, Lamb returned to New York City and embarked on a nonprofit career, devoting nearly 40 years to raising funds for institutions such as The New York Public Library, the American Ballet Theater, the Montefiore Medical Center, and Hadassah, the Women’s Zionist Organization of America, Inc.

Lamb is survived by her daughter, Fiona, and by her friend of many years Carole Potter.

David Blackstone ’63
JANUARY 18, 2009

David Blackstone ’63 was a prominent criminal defense attorney and the founder and first president of the Central Park Track Club. He passed away on January 18, 2009, at the age of 69.

Blackstone graduated cum laude from New York University before attending Columbia Law School. Following his graduation, Blackstone, who was also a Marine Corps veteran, entered the practice of law as an associate at Dammann & Heming in New York. He later joined the Legal Aid Society as a staff attorney and eventually branched out into private practice, where he specialized in criminal defense litigation in state and federal courts.

Blackstone went on to serve as the senior member of the New York County Homicide Panel and as the New York State deputy capital defender. Outside the legal realm, Blackstone distinguished himself as a long-distance running champion, placing 15th in the New York City Marathon in both 1974 and 1975. To serve avid runners like himself, he founded the Central Park Track Club, which promotes health and physical fitness and helps prepare athletes for long-distance competitions.

Blackstone is survived by his wife, Lynn, and his sons, David T. Blackstone and U.S. Army Captain Ian T. Blackstone.

Barbara Schwartz Bromberg ’65
JANUARY 30, 2009

Barbara Schwartz Bromberg ’65 was a partner at Dinsmore & Shohl in Cincinnati and was once ranked among that city’s top 50 attorneys by Cincinnati Magazine. She passed away on January 30, 2009, at the age of 67.

Born in Newark, N.J., Bromberg attended the University at Buffalo before pursuing her legal studies at Columbia Law School, from which she graduated magna cum laude. Bromberg later married fellow Columbia Law School alumnus Robert S. Bromberg ’59, who passed away in 2006.

After a brief stint as an associate at Rosenman Colin Kaye Petschek Freund & Emil in New York, Bromberg moved to Cincinnati, where she worked for several firms before settling at Dinsmore & Shohl. The firm recalled that she was a gifted attorney who enjoyed a national reputation for legal excellence and represented all types of tax-exempt organizations, including museums, private foundations, public charities, national trade associations, and think tanks, as well as national fraternal organizations and their related entities. Bromberg was also the author of a regular tax column published in Fraternal Law.

Bromberg received numerous awards and honors throughout her legal career and was a member of the Internal Revenue Service Commissioner’s Exempt Organizations Advisory Group, as well as a past president of the Cincinnati Bar Foundation.

Roger C. Kline ’69
MARCH 18, 2009

Roger C. Kline ’69 was a longtime leader at McKinsey & Company, a global management consulting firm. He passed away on March 18, 2009.

Kline attended Dartmouth College before earning his J.D.
Francis Gates
MARCH 25, 2009

Francis Gates was a professor and a librarian at Columbia Law School, among other institutions. He passed away on March 25, 2009.

Gates received both his bachelor’s degree and his master of library science degree from the University of California, Berkeley, in the early 1950s. After spending six years as a reference librarian at UC Berkeley, Gates enrolled at San Francisco Law School. He earned his J.D. in 1963, and over the next three decades, he put his legal and library science specializations to use in positions across the country.

In his first job out of law school, Gates served as both a librarian and a research attorney for the California Continuing Education of the Bar. Later, he transitioned to teaching, serving as a law professor and a librarian at the University of Southern California’s law school before coming to Columbia Law School. After six years at the Law School, Gates returned to California and soon became the librarian for the 9th Circuit Court of Appeals. He retired in 1991.

Throughout his career, Gates remained active in the American Association of Law Libraries (AALL), serving on the organization’s executive board and as AALL president. In honor of his lengthy and prestigious career, AALL recognized him with its Marian Gould Gallagher Distinguished Service Award in 2001. In an article announcing Gates as the recipient of the award, a former honoree said, “Francis was an ‘out-of-the-box’ thinker long before the phrase was coined or law librarians thought about innovation.”

Gates is survived by his partner, Charles Stewart, and his son, David.

ROBERT E. FRIOU ‘40
February 26, 2009

HOWARD BURR KELSEY ‘40
January 14, 2009

WILLIAM B. WEISSELL ‘40
March 3, 2009

JANE ROBERTS GARVEY ‘41
February 8, 2009

EDWIN H. HASTINGS ‘41
December 3, 2008

ROBERT KONOYE ‘42
April 5, 2008

MORTON BARROW ‘47
September 24, 2008

ROBERT S. BLANC JR. ‘47
October 1, 2006

A. DAVID KAGON ‘47
December 20, 2008

ROBERT M. KELLY ‘47
November 19, 2008

EUGENE L. BONDY JR. ‘48
December 13, 2008

JOHN P. CAMPBELL ‘49
March 10, 2009

SEYMOUR M. WALDMAN ‘50
January 10, 2009

GEORGE H.R. DWIGHT ‘52
February 27, 2009

JOHN J. TURVEY ‘52
January 13, 2009

LOUIS LAUER ‘53
April 26, 2009

JOHN B. MCCUBBIN ‘53
December 20, 2008

FRANCIS G. GATES
May 18, 2009

Francis Gates was a professor and a librarian at Columbia Law School, among other institutions. He passed away on March 25, 2009.

Gates received both his bachelor’s degree and his master of library science degree from the University of California, Berkeley, in the early 1950s. After spending six years as a reference librarian at UC Berkeley, Gates enrolled at San Francisco Law School. He earned his J.D. in 1963, and over the next three decades, he put his legal and library science specializations to use in positions across the country.

In his first job out of law school, Gates served as both a librarian and a research attorney for the California Continuing Education of the Bar. Later, he transitioned to teaching, serving as a law professor and a librarian at the University of Southern California’s law school before coming to Columbia Law School. After six years at the Law School, Gates returned to California and soon became the librarian for the 9th Circuit Court of Appeals. He retired in 1991.

Throughout his career, Gates remained active in the American Association of Law Libraries (AALL), serving on the organization’s executive board and as AALL president. In honor of his lengthy and prestigious career, AALL recognized him with its Marian Gould Gallagher Distinguished Service Award in 2001. In an article announcing Gates as the recipient of the award, a former honoree said, “Francis was an ‘out-of-the-box’ thinker long before the phrase was coined or law librarians thought about innovation.”

Gates is survived by his partner, Charles Stewart, and his son, David.

ROBERT E. FRIOU ‘40
February 26, 2009

HOWARD BURR KELSEY ‘40
January 14, 2009

WILLIAM B. WEISSELL ‘40
March 3, 2009

JANE ROBERTS GARVEY ‘41
February 8, 2009

EDWIN H. HASTINGS ‘41
December 3, 2008

ROBERT KONOYE ‘42
April 5, 2008

MORTON BARROW ‘47
September 24, 2008

ROBERT S. BLANC JR. ‘47
October 1, 2006

A. DAVID KAGON ‘47
December 20, 2008

ROBERT M. KELLY ‘47
November 19, 2008

EUGENE L. BONDY JR. ‘48
December 13, 2008

JOHN P. CAMPBELL ‘49
March 10, 2009

SEYMOUR M. WALDMAN ‘50
January 10, 2009

GEORGE H.R. DWIGHT ‘52
February 27, 2009

JOHN J. TURVEY ‘52
January 13, 2009

LOUIS LAUER ‘53
April 26, 2009

JOHN B. MCCUBBIN ‘53
December 20, 2008

PETER E. COUGHLIN III ‘56
December 5, 2008

JOHN CHAMBERLAIN ‘57
December 4, 2008

M. HOLT MEYER ‘57
February 9, 2009

HAROLD L. ROSENTHAL ‘58
February 24, 2009

JOHN C. BARNEY ‘64
October 8, 2008

HENRY E. KORDES ‘64
May 27, 2008

MICHAEL FRANCIS O’HARA ‘64
December 18, 2008

MICHAE. A. GREENSPAN ‘65
January 22, 2009

ISAAC JOE JR. ‘71
February 7, 2009

DIRK K. BARRETT JR. ‘74
April 18, 2007

ROZETTA DARBY MCDOWELL ‘74
December 19, 2008

GERALDINE P. WALDORF ‘78
January 28, 2009

ANNE LOCKSLEY ‘80
May 11, 2008

PLEASE EMAIL In Memoriam notifications to magazine@law.columbia.edu with the heading “In Memoriam” in the subject line.

As part of this email, please be certain to include the full name of the deceased, the year of graduation from the Law School, and the approximate date of death.
Brad Meltzer is a bestselling author with seven novels to his credit—all thrillers that have centered on everything from politics to the law. Last year, Meltzer released *The Book of Lies*, which unites the biblical murder of Cain with the real-life killing of *Superman* creator Jerry Siegel.

**WHO HAS BEEN YOUR GREATEST INSPIRATION?**  
My mom. When sales of my second novel didn’t meet the publisher’s expectations, I felt like I was watching my career deteriorate. I’ll never forget my mom on the phone—she said to me, “I’d love you if you were a garbage man.”

**HOW DO YOU DEFINE SUCCESS?**  
When my son tells me, “Mom’s way smarter than you.”

**WHY DID YOU GO TO LAW SCHOOL?**  
Columbia Law School accepted me. I know I’m supposed to act far cooler than this, but it was—and still is—one of the proudest moments of my professional life.

**WHO IS YOUR FAVORITE LAWYER OF ALL TIME (REAL OR FICTIONAL)?**  
Professor Kellis Parker, who gave me law school credit for writing my first novel and, in the process, was one of the first to take my dream seriously.

**FINISH THIS SENTENCE: YOU WOULDN’T CATCH ME DEAD WITHOUT...**  
A copy of Nixon’s enemies list (to supplement my own).

**ONE THING YOU ABSOLUTELY MUST DO BEFORE YOU DIE?**  
Speak at Columbia Law School graduation (hint, hint).

**THING FOR WHICH YOU ARE MOST THANKFUL?**  
My kids.