

SALT EQUALIZER

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SALT EQUALIZER

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Unfortunate History is Repeating Itself

Erwin Chemerinsky, Visiting Professor, Duke Law School, Sydney M. Irmas Professor of Public Interest Law, Legal Ethics, and Political Science, University of Southern California



Editor's note: This is a summary of Prof. Chernerinsky's Keynote Address at the SALT Teaching Conference held at Fordham Law School in October. Further Conference coverage begins on page six.

Throughout American history, whenever there has been a serious crisis the response has been repression. In hindsight, it is clear that the loss of rights did nothing to make the country safer. In the 20th century, during World War I, laws were enacted that essentially made criticism of the war and the draft unconstitutional. People went to prison for long terms for mild, ineffectual speech. During World War II, 120,000 Japanese-Americans, aliens, and citizens (and 70,000 were citizens), were uprooted from their lifelong homes and placed in what President Franklin Roosevelt called concentration camps. Not one Japanese-American ever was accused, indicted, or convicted of espionage or any crime against the country. During the McCarthy era, people were imprisoned and others stripped of their jobs for the groups they belonged to or the things that they said. In each of these instances, basic rights were sacrificed, but nothing was gained.

Tragically, since September 11, history is repeating itself. The government has engaged in numerous repressive measures that violate rights, but do not enhance security. For example,

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Co-Presidents' Column

Paula C. Johnson, Syracuse University
Michael Rooke-Ley, Eugene, OR



Dear SALT
colleagues,
Greetings
from Eugene,
Oregon, and
Syracuse, New

York! We hope that your fall semester has proved to be productive and enjoyable and that you've been able to keep your head above water. Those of us in the progressive community find it difficult to recall any other period in our lifetime when the

values we hold dear have been threatened on so many fronts. The challenges are daunting, but we are reassured and inspired by the commitment of the SALT community to all the important work at hand.

For the past 30 years, SALT has been the voice of progressives in legal education and, without losing its cutting edge, has become the largest membership organization of law professors in the nation. With so many urgent battles to wage, SALT's agenda is necessarily wide-ranging and ambitious and can feel overwhelming on any given day. With 22 committees and

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Teaching to the Whole Class

*A note by Devon Carbado,
UCLA School of Law*

Last year four members of UCLA's class of 2001 made a presentation to the UCLA faculty on identity and student dynamics in the classroom. That same year, I was asked by SALT to participate in a New Teacher's Workshop, part of whose project it was to discuss what it might mean to teach to the whole class. What I said at that workshop was very much informed by what the students said to the UCLA faculty. Thus, rather than rehearse the comments I made at the workshop, I thought I would give the students (now graduates) the space to present you with some of what my colleagues and I were fortunate enough to hear and engage.

The Law School Classroom and Community

Annette Almazon (UCLA Law, 2002), Lena Hines (UCLA Law, 2002), Alda Leu (UCLA Law, 2002), and Celeste Drake (UCLA Law, 2002).

On Monday, September 10, 2001, student representatives of the Task Force on the Law School Community presented a colloquium to the UCLA School of Law (UCLAW) faculty entitled, "Maximizing the Classroom Experience." Before articulating the substance of that presentation, we set forth the backdrop against which the presentation was made.

In the fall of 1999, UCLAW created the task force in response to the "Great Debate." The Asian Pacific Islander Law Students Association had hosted the debate in the spring of 1999. The participants, UCLAW Professors Jerry Kang and Eugene Volokh debated the advantages and disadvantages of affirmative action and Proposition 209. Student response, across ideological orientation, was overwhelmingly positive.

The following year was marked by other politically charged controversies: affirmative action protests, rallies, sit ins, and several first-year "fractionalisms," many of them engendered by one of the first-year section's viewing of pornography through classroom Internet connections. Comprised of faculty, staff and three student representatives appointed by the SBA, the task force was assembled to address these forms of law school community issues.

It occurred to us—the student members of the task force—that faculty were not always in tune with dynamics both inside and outside the classroom that were negatively structuring the law school climate. We raised this issue at one of our meetings, and the task force decided that the student representatives should present, at a faculty colloquium, our sense of students' concern. Given time constraints, the presentation was limited to a discussion about the ways in which professors could improve the classroom environment, particularly for women and students of color, and consequently improve UCLAW's overall environment.

The task force agreed on several basic principles. The classroom is where law students build friendships and get to know their peers. Law students should learn how to think critically about contrary views rather than allowing competitiveness to limit the field of ideas discussed or to diminish students' ability to communicate and collaborate with one another. The structure of first-year instruction in law school makes the classroom a common space within which students can learn to relate to one another and address practical issues that will arise in practice, including

issues of race, class, gender, and sexual orientation. Discussion of these issues should occur in an environment where students are encouraged to be respectful towards their colleagues' views.

Driving much of what we had to say was a rather basic idea:

Professors set the tone for class interactions. What faculty do and say (and don't do and don't say) informs the nature of student discourse. And there is a structural problem as well. Because American law is based in centuries-old traditions and decisions of upper class, white Englishmen, its study in law school privileges an upper class, white, male perspective. Such an environment causes women and students of color to be reluctant to participate. Complicating matters further is the demographics of the faculty: most law professors are white and male. This, too, sends a message about the

legitimacy of nonwhite perspectives in the classroom.

And yet participation in classroom discussions is a critical component of the understanding and acquisition of legal analysis skills. Therefore, professors, responsible for the instruction of all of the students in the law school classroom, must take the initiative to structure the classroom so as to encourage the participation of students of color. This cannot happen if professor adopts a "colorblind" approach to classroom dynamics, since students are not similarly situated with respect to the perceived legitimacy of their ideas or their level of comfort in the classroom.

The presentation focused on three areas of concern: 1) classroom competitiveness,



Student commentators, clockwise from upper left, Annette Almazon, Lena Hines, Alda Leu, and Celeste Drake

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Board Approves Nomination of Maguigan and Juarez as Co-Presidents-Elect

The Nominations Committee of the SALT Board of Governors has nominated Holly Maguigan (NYU) and Roberto (Beto) Juarez (St. Mary's) for Co-Presidents-Elect. The nominations were unanimously approved by the Board of Governors at its fall meeting in New York City.

In announcing the committee's choices, Board Member and Committee co-chair Elvia Arriola said that Holly Maguigan is held in high esteem for her diligence, optimism, and wide-ranging experience on various committees over the years, observing that she will be "a wonderful teammate" to Beto Juarez. Holly brings a wealth of experience in the administration of SALT from having served on so many different committees over the years.

Of Beto, Elvia's remarks on behalf of the committee noted, "Although he may be young in experience on the Board, he has already demonstrated the kind of energy, commitment, and administrative skills needed to fulfill SALT's commitment to justice and equality in the legal academy and profession." Beto has been an outspoken voice for the progressive response to *Hopwood v. Texas* (5th Cir. 1996) which sought to abolish affirmative action in law school admissions. Board members expressed strong support for the choice of Beto because of his demonstrated contributions on the Judicial Nominations Committee so early in his tenure as a member of the Board.

The Board commended the Nominations Committee on the choice of this team of enthusiastic and qualified colleagues who will take on the challenging leadership role of Co-President in January 2004.



Co-president-elect nominee Beto Juarez and Co-President Paula C. Johnson



Holly Maguigan, nominee for co-president-elect, talks with Nancy Morawetz.

SALT's Statement on the LSAT

Jane Dolkart, SMU School of Law

The SALT Committee on the LSAT has recently drafted a statement articulating SALT's critique of the LSAT as it is presently used and presenting some alternatives to the present system. We hope to disseminate this statement widely among law school professors, law school deans, and appropriate people at the LSAC, AALS, and ABA, among others. We will also be looking for other ways to use the statement to put forth SALT's position and advocate for change in LSAT use.

The statement makes three main arguments:

1. The LSAT fails to adequately measure competence to succeed in law school or in the legal profession because the exam attempts only to forecast performance in the first year of law school,

and even there it only explains about 16 percent of the variance in grades among students. To the extent that law schools are over-relying on the LSAT, they are failing to give sufficient weight to attributes and skills which are important for the profession and the law school community.

2. The LSAT is over-relied on in admission decisions as a result of pressure from the volume of applications, the *U.S. News and World Report* rankings, and challenges to affirmative action in educational institutions. The sheer volume of applications has caused most law schools to sort candidates into presumptive admit and presumptive deny categories on the basis of their index made up of their LSAT score and UGPA (undergraduate grade point average). Currently, at 47 percent of law schools, fewer than 30 percent of applicant files are read by admission committees. Challenges to the use of affirmative action in educational institutions threaten to further emphasize

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the use of the LSAT. And, the "arms race" to improve or maintain law school ranking in the *U.S. News and World Report* has caused admission offices to search out the highest LSAT scores possible in the students admitted, since mean LSAT is an important factor in the rankings.

LSAT continued on page 10

Help Spread the Word Among Students About the “Critical Global Classroom” and the “Student Scholar Program”

Frank Valdez, Miami

Two new programs are available to law students this year. SALT members and friends may be especially interested in them because they are focused on social justice in legal education.

The first, the Critical Global Classroom, is a six-week study abroad summer program that will meet first at two cities in Chile, and then in Buenos Aires, Argentina. The second is the LatCrit Student Scholar Program, a writing forum and mentoring program designed to help students develop and publish scholarly works. Both programs are open to all law students nationally, as well as to students from other disciplines.

The application materials for the Critical Global Classroom summer program (“CGC”) will be available in January, while the application materials for the LatCrit Student Scholar Program are available now for downloading at www.latcrit.org. Additional contact information is provided below for each of the two programs.

Please let students at your school know about both of these two new programs so that, if interested, they may follow up in a timely way.

A Study-Abroad Program in Law and Social Justice: The “CGC”

The Critical Global Classroom will focus on human rights and comparative law from a critical perspective, and will include substantial study of critical legal theory in international contexts. The CGC program will offer one required course on “Comparative Law and Justice” as well as

two elective courses focused on various aspects of international law and human rights. All classes and academic events are conducted in English, and students will be housed in comfortable (four-star), centrally-located hotels throughout the program’s duration. In total, CGC students will earn eight credits toward their J.D. degrees.

The CGC’s curriculum is designed to immerse students in the local legal and social culture through varied academic events, ranging from regular class sessions



Chilean scholars Robert Rosenthal (Universidad Alberto Hurtado), Hugo Rojas (Universidad Alberto Hurtado), and Carolina Stefoni (FLACSO-Chile) will assist Miami professors Lisa Iglesias and Frank Valdes on the summer program.

to field visits, guest lectures and an optional “service component” consisting of various activities that will permit students to work with local attorneys, policymakers, or activists in social justice projects. In addition, students will attend the one-day LatCrit Colloquium on International and Comparative Law, where they will be able to interact with diverse critical scholars from different disciplines and regions. Through the program’s varied curricular menu, CGC students will be offered a first-hand experience of law and society in both countries and an opportunity to learn critical theory and international jurisprudence in the material context represented by each of these nations. CGC students will meet, and discuss contemporary issues, with leaders and activists from varied sectors of Chile

and Argentina to learn about law, policy, and politics, not only through books but also by experience. Throughout it all, the regular class sessions will provide background readings to help students achieve maximum benefit from the field visits and other academic events, as well as a venue for discussions that help “tie it all together” for the students as the program progresses.

The CGC’s menu of academic events is organized around the critical study of five substantive themes: (1) Pre-Colonial

Arrangements and Colonial Histories/Legacies; (2) Historic and Contemporary “Minority” Issues, and Inter-Group Power Relations; (3) Economic Control of Society and Wealth-Identity Distributions; (4) The Role of Constitutional and Legal Systems in Maintaining or Reforming the Status Quo; and (5) the Effects and Prospects of Globalization on the Local/Regional Political, Social, Economic and Legal Arrangements. Chile and Argentina provide extraordinarily fertile grounds for the study of these

themes from a critical and comparative perspective. As a set, these five themes are designed to provide CGC students with a contextual and critical understanding of these nations and their legal systems, and of how the present status quo in each country has been constructed through the particular histories, policies and politics that CGC students will study through the program’s varied menu of academic events.

In Santiago, the program’s first site, the field visits include the National Appellate Court, an urban torture center of the Pinochet regime, and United Nations facilities and offices serving that region of South America. Students additionally will visit indigenous sites in the area of Temuco, historically the cultural center of indigenous populations south of Santiago

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SALT Submits Statement on the Bush Administration's Proposed War on Iraq

Following is the text of a statement sent by Co-Presidents Paula C. Johnson and Michael Rooke-Ley to the President of the U.N. Security Council, the Secretary General of the U.N., and the U.S. Secretary of State Colin Powell on October 17, 2002.

Assembled in New York City, this 12th day of October, 2002, the Society of American Law Teachers (SALT), the largest membership organization of law professors in the United States with more than 800 law teachers from more than 150 law schools, deplores the Bush Administration's plan for a "preemptive" war against Iraq in violation of domestic law and tradition, the Charter of the United Nations, and customary international law.

The United States is a founding member of the United Nations, whose Charter has by treaty become part of the supreme law of this nation. Article IV of the U.N. Charter imposes an obligation on all nations to peacefully settle their disputes and requires all countries to:

First of all, seek a resolution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 51 of the United Nations Charter recognizes an inherent right of self-defense "if an armed attack occurs" against a U.N. member state before, but only until, the Security Council is able to act. Self-evidently, Article 51 does not permit a pre-emptive war on Iraq. Although modern-day terrorism and the development of weapons of mass destruction may require some reconsideration of the limitations of Article 51, the United Nations and the international community, not the Bush Administration alone, is the appropriate entity to make this determination.

Moreover, the repeated threats of aggression against the Iraqi nation by the Bush Administration violate the 1970 United Nations General Assembly's "Declaration of the Principles of International Law Concerning Friendly Relations and Cooperation among States," which

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Reflection on Trip to Iraq

Bill Quigley, Loyola New Orleans

Since space in the *Equalizer* is at a premium, I want to tell you one story from my recent trip with the Iraq Peace Team (www.iraqpeaceteam.org).

During our visit to Basra, a town of 2 million in southern Iraq, our group was approached by a man in his mid-20s. He told us that he had been trying to contact people in the United States since September 11, 2001, with no success. He asked us to carry two messages back to the United States from him. He first told us that he "offered condolences on behalf of the Iraqi people" to the people of the United States for the tragedy of September 11. Iraqi people are familiar with unearned suffering, he said. He then reached into his pocket and pulled out a color picture of a little girl with a ribbon around her head. He said this was his daughter. He gave us the picture and asked us to read what he had written on the back. "Dear U.S. administration mems. I am Sala Adil. I am 8 months. I am Iraqi. I would be very grateful if you let me live peacefully away of bombing and sanctions like all the children of



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SALT Expresses "Grave Concern" Over Estrada Nomination

October 9, 2002

RE: Statement of Society of American Law Teachers Regarding the Nomination of Judge Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit

Dear Senator Leahy,

On behalf of the Board of Governors of the Society of American Law Teachers (SALT), the largest organization of law professors in the United States, we write to express our grave concern about the nomination of Miguel Estrada to the United States Court of Appeals for the D.C. Circuit. Since its founding 30 years ago, SALT has worked to make the legal profession and the judiciary more inclusive and responsive to underserved communities, and to bring the legal system closer to its goals of equality and justice. SALT urges the Senate to reject the nomination of Mr. Estrada unless he can establish that he has the respect for Constitutional rights and commitment to progress on civil rights, women's rights, and individual liberties that is required of any federal judge. That commitment is crucial for any appointee to the Court of Appeals for the D.C. Circuit.

SALT's skepticism about Miguel Estrada's appointment is based in part on the skimpiness of the public record related to his positions. Therefore, we urge the Senate Judiciary Committee not to vote on Mr. Estrada's nomination until the Justice Department has provided the memoranda that Mr. Estrada prepared during his career as an Assistant Solicitor General. That work should provide the valuable indications of Mr. Estrada's suitability for a position on the Court of Appeals.

The disclosure of Mr. Estrada's record in the Solicitor General's office is espe-

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SALT Teaching Conference

Overview: SALT Teaching Conference Addressed Peace and War

Deborah Post, *Touro Law School*

The SALT Teaching Conference, held in October at Fordham Law School in New York City, brought together a diverse group of presenters and participants to talk about legal and political developments here and abroad since 9/11. The planning for the conference began months ago shortly after President Bush declared a War on Terrorism. The events immediately preceding the conference, including the hearings on the resolution giving Bush authority to attack Iraq, underscored the need to discuss the role of activist law professors and the relationships between law, peace, and pedagogy. There were, of course, plenaries, workshops, break-out sessions, and keynote addresses, the traditional methods law professors use to educate ourselves, share information, and come up with new or innovative ideas about teaching. This year's conference also had some unusual features as well. One was the film that we viewed on Friday afternoon.

The movie, *Promises*, was a powerful testament to the possibility of authentic peace, a glimmer of which can be seen in the hope that resides in the hearts of young children. Many in the audience were moved to laughter (the chair girl had us all in stitches) and to tears. It was a testament to the relationship between stories — real life stories — and



Conference co-organizer Deborah Waire Post (right) confers with SALT Co-President Paula C. Johnson.

other conversation was about the need to talk across differences and focused on the conflict in Israel, the West Bank, and the Gaza strip. This session was organized by Peter Margulies. We anticipated that this session might raise very strong emotions among the participants. It did. Nevertheless, it was and is our sense that no progress is made towards peace; that there can be no resolution of the conflicts that divide us and lead to violence, if we are not able to talk to one another about our differences. Certainly we cannot call ourselves peace activists if we fail to acknowledge the emotions — pain, anger, fear — that create barriers between individuals and groups.

moral imagination, and we would like to thank Abdeen Jabareen and Holly Maguigan who made it possible for us to see this film. The film will be released for sale in January or February.

The other sessions that were unusual were two "conversations." One was a discussion of strategies that peace activists can use. The highlight of this session was probably the slides Bill Quigley showed that he took while he

was in Iraq. The



William Treanor, dean of Fordham Law School, welcomed participants. Fordham provided important support for the SALT Teaching Conference.



Nancy Ehrenreich, was a conference co-organizer.

Between Law and Lawyering: Challenging the System from Within?¹

Marwan Dalal, *Staff Attorney Adalah – The Legal Center for Arab Minority Rights in Israel*

"Between law and lawyering: challenging the system from within?" The first half of this title assumes a difference between law and lawyering. This difference could provide for interested lawyers a possibility, maybe even a promise within the law. A potential to use the law against abusive practices by governments ordinarily legitimized by the law itself. Working liberally against a liberal claim for legitimacy.

But can this gap, assuming that it does contain such a promise, satisfy individuals

Dalal continued on page 8

Avenues to Authentic Peace—The Role of Progressive Law Professors

Bill Quigley,
Loyola University of New Orleans

This conversation was about the challenges of being professors struggling for peace and social justice in law school climates that are, at best, largely unconcerned with these issues. Each participant shared some of the actions they have taken for peace as well as their frustrations and hopes for the future. This summary mixes highlights of conversation points both of presenters and the rest of those in attendance.

Mari Matsuda (Georgetown), who has marched, spoken, written, and organized for peace in D.C., started the conversation off with three points: we must fight futility; we must recognize and challenge red-baiting; and we must affirm that

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Clinicians' Roundtable

Holly Maguigan, NYU School of Law

A clinicians' roundtable discussion of student work in response to and in the shadow of September 11 featured both pro bono efforts (Anthony Fletcher, New York Law School; Vanessa Merton, Pace; and Ellen Chapnick, Columbia) and work conducted through existing immigrants' rights clinics (Susan Taylor, CUNY, and Nancy Morawetz, NYU). Gemma Solimene (Fordham) described shifts in strategy in asylum claims after September 11th, and Lori Nessel (Seton Hall) said that she and her students have found themselves reconceptualizing the very meaning of "prevailing" in the representation of detainees. Sameer Ashar (Maryland) reminded the audience of the great benefits to students, faced with a situation of confusion and crisis, of having specific work to do for clients who counted on them.

Panel Places "War on Terrorism" in Historical Context

Eric M. Freedman, Hofstra Law School

Eric M. Freedman (Hofstra) introduced the session by pointing out how often in the past the country had seen the same governmental reactions to crisis that we are seeing today and suggesting that we try to benefit from these experiences to: (1) learn what legal and political responses had and had not proved effective; (2) suggest in public fora that the public should be skeptical of crackdowns that would assuredly be followed by repentance and promises never to violate rights in this fashion again; and (3) make the case in academic and advocacy settings that prior

Freedman continued on page 9

Creative and Collaborative Pedagogy in Response to Crisis

Phoebe Haddon,
Temple University School of Law
Marnie Mahoney,
Miami University School of Law

Phoebe Haddon (Temple), who planned and coordinated the plenary with Marnie Mahoney (Miami), introduced the second plenary entitled Creative and Collaborative Pedagogy in Response to Crisis. This session was designed to consider the ways that law faculty could better support individual efforts to teach students in response to the crises we are confronting and to identify practical opportunities for sharing material and ideas that can make our responses more meaningful and can more effectively bring students into the conversation. Phoebe focused attention on the teach-in as a vehicle for promoting critical thinking and talking about change. Having developed materials about using this pedagogical model for a talk

Haddon continued on page 10

The (Mis)uses of the International Law in the Palestinian-Israeli Conflict

"IL Lite and IL Leaden"

Donna Arzt,
Syracuse University College of Law

The Israeli approach to international law tends to be overly "leaden"; for instance, it claims that the 4th Geneva Convention (1949) does not apply in the Occupied Territories because they were not previously the territory of a sovereign party. Inversely, the Palestinian approach to international law tends to be overly "lite"; for instance, General Assembly Resolution 194 (1948) does not use the word "right" in reference to "return," refers to multiple governments responsible for paying compensation, and like all G.A. resolutions, is not legally binding. But the deficiencies of international law are equally to blame, such as the lack of a regional court and the failure to hold non-state actors accountable for the improper use of force against non-combatants.

Middle East Discussion at SALT Teaching Conference

Engaging Across Difference — Views of the Middle East Conflict

Margalynne Armstrong,
Santa Clara School of Law

The 2002 SALT Teaching Conference presented participants with an opportunity to engage in one of the most difficult conversations of our time in the session entitled Engaging Across Difference — Views of the Middle East Conflict. Those who entered these perilous waters witnessed

Armstrong continued on page 9

SALT Middle East Conversation

Peter Margulies,
Roger Williams School of Law

SALT made a first step at the Fordham Conference toward creating a safe space for conversation about one of the world's most volatile regions, with a program entitled Engaging Across Difference: Views of the Middle East Conflict. Panelists at the conversation, which was moderated by Devon Carbado of UCLA, included Moussa Abou Ramadan of Haifa Law School, Peter

Margulies continued on page 11

Dalal:

▼ *continued from page 6*

and groups interested in genuine social change and progressive transformation, which, no doubt, requires first and foremost, an epistemological transformation among individuals occupying posts in ruling institutions, including the courts?

I believe that Cornel West is accurate in his observation that the law has, at best, a defensive promise in the law, and only an incidental role for it in positive and genuine transformation². Incidental to social and political movement, with a clear goal and purpose, together with organized grassroots activism, which should include such actors and institutions in the public sphere as students and teachers at universities, cultural institutions, including religious ones.

Until the 1980's the Israeli legal system religiously followed the British law, benefiting from an organized court system left by colonial Britain. Between 1948–66 this system was meaningless for the native Palestinian minority who became citizens in a State built on the ruins of their people, granting for them official citizenship and imposing a strict military rule. As a rule, the courts legitimized the policies of the military rule: land confiscation, exiling activists, and illegalizing political parties. In the '80s and '90s there has been a shift in the legal system towards right rhetoric, yet still bypassing most of the rights of Palestinian citizens and all of Palestinians' under occupation.

In our work at Adalah we try to challenge racist and discriminatory laws and policies. We resort to domestic and international law. An additional argument that we invoke in our litigation is history. Too often state authorities argue the illegality of presence (trespassers to state land) against, for example, residents of villages that existed before the state did, hence, the state contends, they are not

eligible for basic services such as water, electricity, and health care. We remind the court of the too-often forgotten in Israeli remembrance: The state had displaced the same villagers from one place to another under its military rule and consequently confiscated their land.

Challenging Israeli occupation of Palestinian land in the Israeli legal system is almost impossible. Under occupation there is no rule of law, rather the rule of man: the military commander's. The Israeli courts, lead by the supreme one, excelled in legitimizing the most oppressive actions of a seemingly endless occupation over a never-yielding people.

Editors Note: Mr. Dalal's e-mail address is: marwan@adalah.org. The Web site for Adalah is www.adalah.org.

(Footnotes)

¹ This is a summary of remarks made at the SALT Teaching Conference, October 11, 2002.

² Cornel West "The Role of Law in Progressive Politics" in **The Politics of Law** (David Kairys ed.) (Basic Books, 1998) 708–717.

Quigley:

▼ *continued from page 6*

intellectual work is work. The discussion started there. History shows that every effort for social change started off with steps that others dismissed as futile. We must call people on their "lack of patriotism" labeling of dissenters and reclaim the true definition of patriotism that called people to stand against illegal and unjust governmental action. Finally, our scholarship is important, but we must labor to make it more accessible, in op-ed pieces, popular writing, and on the Internet.

Fran Ansley (Tennessee) told of her experiences at street corner anti-war vigils in Knoxville, of participating with (and dressing in solidarity with) Women in Black, of visiting elected officials, and of work with Internet peace campaigns. Concerns were raised about the silence of students and the dis-empowering atmosphere of law school culture. The rise of the right on campuses has not been met with similar institution-building by progressives.

Deborah Post (Touro) turned the conversation to signs of hope. Congress, while certainly weak, had progressed from only one vote cast opposing the bombing of Afghanistan (SALT's January 2002 Honoree Rep. Barbara Lee) to over a hundred voting against carte blanche for war on Iraq. While law students are quiet, undergraduates seem to be much more lively and thoughtful and active. Peaceful people need to be provocative in conversational opportunities and stress they are not just "anti-war" but building for social justice.

Bill Quigley (Loyola New Orleans) shared some experiences from his recent peace trip to Iraq, work with the School of Americas protests in Georgia, and handed out a flyer of 33 ways law professors can be active for peace.

Every single law professor in the room contributed comments, observations, and ideas. The result was a genuine conversation rich with ideas for action, observations about ways of keeping spirits solidly grounded, and a critical analysis of the internalized silence and control that the social and collegial community of law schools uses to muffle voices for peace. A good model for us all.

Freedman:

▼ *continued from page 7*

repressive responses were simply ineffective in their own terms, and that norms of due process and openness served accuracy as well as justice.

Carol Chomsky (Minnesota) spoke on “The Murky Origins and Erratic History of the Military Commission.” Reporting on primary historical research, she traced the institution (under various confusing names) to the occupation of Mexico under General Winfield Scott in 1847, and the need in that context to create a substitute for civilian courts. By the time of the so-called Sioux uprising in 1862, the device had become unmoored from those origins, and the substantive and procedural law employed to justify the execution of hundreds of Native Americans was so questionable that the Judge Advocate of the Army condemned such tribunals when they were proposed to be used in the context of the Civil War. This principled position, however, quickly lost out to pragmatic considerations — and the subsequent history has consistently been one of cutting corners for prosecutorial convenience, with a concomitant loss of credibility.

Frank Wu (Howard) discussed *Korematsu* and the several related cases, noting that all of them deserved a much closer reading than they customarily receive. He observed, for example, that none of the cases actually upheld the detention of a loyal American citizenship simply on the basis of group membership. Moreover, in understanding the cases we should bring to bear knowledge of their legal context, both before they were rendered (e.g. that persons of Asian origin were, as a class, virtually all statutorily ineligible for naturalization) and afterwards (e.g. the *coram nobis vacatur* of Fred Korematsu’s conviction in 1984 on the basis that the government had deceived the court). He noted that the current Chief Justice, whose recent book suggests that the

detention of the noncitizen Japanese might have been justifiable, seemed entirely ignorant of this context.

Devon Carbado (UCLA) followed with a presentation on the reactions of the Black community to the internment of the Japanese-Americans. Although there were a number of sound reasons why the Black community might have chosen to express its solidarity, it largely chose not to do so, in the apparent belief that its interests would thereby be better served. The reasoning behind and results of this course of action should provide valuable lessons today as various ethnic groups are differentially affected by governmental responses to 9/11.

Brian Glick (Fordham) presented a history of Cointelpro, a wide ranging, long-running FBI operation to disrupt the activities of domestic political dissenters. Drawing on government documents, he laid out numerous tactics, including (to name just a few) the use of forged documents, pretextual law enforcement raids, and the incitement of physical attacks on activists. He suggested that, especially in light of Attorney General Ashcroft’s lifting of the last of the limitations that had been put into place by Attorney General Levi, that we would inevitably be seeing such tactics again, and that reformers should be specifically aware of the ones that were designed to split allies by making them suspicious of each other.

Oren Gross (Minnesota) addressed “Thinking Outside the Box: Should All Responses to Violent Crises be Constitutional?” He detailed the failure of “emergency” regimes, ones which try to isolate otherwise unacceptable governmental actions by confining them to specific time periods, geographic areas, subject matters, or target groups. Inevitably, he argued, the exceptions spread and undermine the “normal” constitutional values. Perhaps, therefore, civil liberties would be better served by frankly acknowledging areas outside the constitutional order.

Armstrong:

▼ *continued from page 7*

an exchange that took a life and form of its own. In response to a panel presentation moderated By Prof. Devon Carbado (UCLA) featuring Prof. Peter Margulies (Roger Williams), Prof. Moussa Abou Ramadan (University of Haifa), and Prof. Adrien Wing (University of Iowa), an audience containing people with a true diversity of perspective about the Palestinian-Israeli conflict expressed their viewpoints.

The opinions expressed in the conversation were wrenchingly heartfelt. One audience member responded to the panelists by passionately portraying the grief and frustration of Israelis who earnestly believed that a Palestinian homeland would soon be a reality, only to see that vision blown away by suicide bombings and their government’s response to “day after day of September 11ths” (my inexact quote). The conversation clarified that a huge part of the intractability of the Palestinian-Israeli conflict resides in the political fact that there are people who work to kill peace on both sides of the conflict.

The audience and moderator took pains to ensure sure that any and all viewpoints could be expressed in this conversation. Audience members expressed their appreciation of the willingness of the participants and panelists to put themselves on the line by truthfully sharing their perspectives. Many of us left the discussion feeling optimistic that SALT could provide fora in which uninhibited discussion of the Palestinian-Israeli conflict could occur and be appreciated as teaching and learning opportunities unavailable in other contexts.

Haddon:

▼ *continued from page 7*

about the Michigan affirmative action cases at the Robert Cover Workshop at the AALS Annual Meeting, she described how the teach-in model was implemented in a program on Martin Luther King's holiday observance. That event paired faculty and students leaders of small group discussions about social inequalities in the Philadelphia school system. Among the questions she raised for the plenary small groups to consider were: What does it mean to be a progressive academic in a time of crisis? Do we have particular responsibility as legal academics to raise issues of controversy? She also asked each participant to consider: Have you wanted to respond to crises in your classroom or in other "forums"? What has stopped you if you haven't? Are there institutional pressures that stop you from responding? In what ways do issues of race and gender get subverted or submerged in these crises? In what ways do crises offer opportunities to address issues of inequality?

Barry Scheck (Cardozo) described how materials created for his course on Wrongful Convictions at Cardozo Law School generated through work with the Innocence Project, had been made available to faculty across the country. Speakers for the course were videotaped, and tapes and CD's have been used by faculty at law schools around the country to teach the course. This project has been extremely effective in helping to challenge wrongful convictions in many states. The cost of taping the speakers was substantial, however, so others may not find it easy to share course materials through this approach.

Marnie Mahoney (Miami) described the challenges for law teachers in responding to the rapid pace of political and legal developments. Her "crisis" list included the impeachment in 1998, the elections and Bush v. Gore in 2000, and, since 9/11/2001,

detentions, secret trials, the camp at Guantanamo, the PATRIOT act, and privacy issues. We also need to address with our students the threatened attack on Iraq; recent scandals and prosecution of corporate executives; racial equality in education; and problems with access to courts and to lawyers. Law teachers may find ways to respond pedagogically through courses, seminars, segments of existing course, teach-ins, panels, symposia, independent studies or clinical placements. Marnie urged that we need not invent our own materials each time but begin finding ways to work together and share ideas and material as we develop them.

Following the plenary panel, small group discussions about law teaching in response to crisis were led by Paulette Caldwell (New York University); Franklin Siegel (New York Law School); Nancy Ota (Albany); Margaret Etienne (Illinois); Len Baynes (St. John's); Reggie Oh (Appalachian); Paula Rhodes (Denver) and Hank McGee (Seattle University). All group participants then returned to meet together, and discussion turned to ways in which SALT could help law teachers respond to crisis more effectively and share materials.

Nancy Ota volunteered to begin the work of coordination. So far, nine people have indicated an interest in helping organize information around the following topics: military tribunals, post 9/11 civil liberties, war and environment, attorney/client privilege after USA Patriot, criminal law, communications law, business organizations, international/comparative law perspectives, connecting Japanese American internment to post 9/11 detainees. Nancy will be developing this work further with the goal of having a discussion forum available online by December. If SALT members who did not attend are interested in coordinating a particular topic, please contact Nancy at nota@mail.als.edu.

LSAT:

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3. The LSAT is a significant barrier to achieving diversity in our law schools and in the legal profession. LSAT scores correlate highly with students' race and class background. However, LSAT scores do not correlate at all with any meaningful concept of merit. To use a decision process that relies only on LSAT and UGPA would reduce substantially the proportion of applicants of color who are admitted to law school. In 1990-91, nearly half of the black applicants were admitted to at least one law school. Had only the LSAT and UGPA been utilized, a mere 10 percent of them are predicted to have been admitted. While most law schools do not rely entirely on the LSAT and UGPA, they are increasingly being relied on as a sole or significant component of many admission decisions. This trend, along with successful attacks on the use of affirmative action, is already affecting the admission of persons of color at those schools which can no longer use race and ethnic origin as factors in admission.

Among the alternatives to the present system, SALT urges individual faculty members to commit to scrutinizing their own admission practices and to shouldering the time-consuming responsibilities of admissions committee work.

The LSAT tests a narrow range of skills and modestly correlates only with first year grades. The over-reliance on the LSAT negatively impacts the goal of broad diversity in our law schools and ultimately in the legal profession. SALT urges law professors to begin exploring ways to decrease reliance on the LSAT and increase use of other factors in making admissions decisions.

UCLA:

▼ *continued from page 2*

2) racial tension, and 3) gender issues. The situations in which such problems arise encompass teacher-created discomfort, student-created discomfort, and student-to-student interactions. To incite discussion, we provided the faculty with hypothetical situations involving each area of concern.

Classroom competitiveness occurs as a consequence of a professor's style of teaching, the forced curve, and a professor's ability to deal with competitive situations. For example, if the professor calls on a student in class and that student fails to answer, a fellow student's catty comment such as, "Well, seems like *someone* doesn't know what they're talking about," increases tension and competitive pressure in the classroom.

Teacher-created discomfort could take place when a professor misspeaks in class and subsequently realizes that female students probably were offended by the comment or where a case implicitly invokes stereotypes of race, gender, or social class that would leave some students uneasy if the professor ignores the issues, and leave others uneasy if she directly confronts those issues. In contrast, student-created discomfort occurs when a student makes a racially charged comment to the class. And, in a third scenario, student-to-student interactions, students may begin to personally attack each other's views.

The hypotheticals resulted in active discussion about a teacher's "nonacademic" responsibilities in the classroom. Suggestions for dealing with these situations ran the spectrum from doing nothing, to having private discussions of these issues with students after class, to having comprehensive in-class discussions—and not just about the issues in political, intellectual, or moral philosophy sense, but in the sense of how they relate to the kind of professional identity we, as law students, were hoping to establish.

Margulies:

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Margulies of Roger Williams, and Adrien Wing of Iowa (currently visiting at Michigan), with contributions by Oren Gross of Minnesota. Reflecting the difficulty of the issues, the panelists offered contrasting interpretations of the present grim state of affairs. However, the conversation also offered the outlines of a consensus on a number of crucial points.

Prof. Abou Ramadan argued that an international solution was necessary. He contended that only the United Nations had the ability to establish the ground rules for a just settlement, and the means, including force, necessary to impose a settlement on the parties. Prof. Margulies analyzed the conflict from the perspective of the literature on transitions to democracy. He argued that the challenges of the Middle East conflict called for a "trilateral transition," in which Israel, the United States, and the Palestinian community each undertake positive reciprocal efforts, and acknowledge and redress the suffering experienced by the others. According to Margulies, trilateral transitions can leverage reciprocity and redress to strengthen the position of pro-peace constituencies in each camp, and disarm those calling for violence.

Prof. Wing focused on the humiliation suffered under the occupation of the West

The faculty was very engaged during the colloquium. Various professors participated in the discussion and proposed ideas and solutions that we had not thought of while preparing. Several professors sent us e-mail messages expressing their thanks for our presentation.

Our hope is that our presentation created institutional precedent for other

Bank and Gaza by the vast majority of Palestinians who seek to work to support their families, and have no role in terrorist activity. She stressed the symbolic and material importance of United States

funding for Israel, asserting that Palestinians could make progress toward a state of their own if they could "stop the money." Offering a different perspective, Prof. Gross spoke of the daily risks encountered by his fellow Israelis under the second Intifada, sharing the story of a close friend who died in



Prof. Moussa Abou Ramadan,
Haifa Law School

a terrorist attack. He argued that Palestinian targeting of Israeli civilians and the refusal of certain Palestinian groups, such as Hamas, to recognize the legitimacy of Israel's pre-1967 borders effectively distinguished this conflict from the South African experience, in which the African National Congress minimized attacks on whites, and in the process transformed American opinion.

While debate was vigorous on these issues, a consensus emerged on crucial questions. Audience members, as well as the panelists, seemed to agree that both suicide bombings by Palestinians and Israeli settlements in the West Bank and Gaza were obstacles to peace. Moreover, all present wanted the Bush Administration to be more proactive in peace efforts. SALT hopes to further dialogue built on this common ground.

such events. It is an opportunity for faculty to listen, and for students to set the agenda. We certainly don't think that we have perfect information. But often what we know, faculty don't. Bridging this information gap can make the class—and the law school as a whole—more of a community.

Announcements

SALT to Sponsor Three Public Interest Retreats

SALT continues in its tradition of bringing together public interest lawyers and interested law students in a series of retreats, to be held in late winter. The three retreats cover the two coasts and the mid-west.

Cover Retreat

The Cover Retreat will take place during the first weekend in March (February 28–March 2, 2003) at Boston University's Sargent Camp in Peterborough, N.H. This year's retreat—the 16th!!!—is being coordinated by students at Columbia Law School, with the guidance of Public Interest Dean Ellen Chapnick. Avi Soifer and Steve Wizner continue to serve as the SALT Board liaisons to the retreat organizers, with consultation from Milner Ball of the University of Georgia Law School and Danny Greenberg at the NY Legal Aid Society.

Grillo Retreat

The Fifth Annual Trina Grillo Public Interest & Social Justice Law Retreat examining poverty, wealth, status, and inequality will be held March 15 and March 16, 2003 at the WestCoast Santa Cruz Hotel in Santa Cruz, California. Keynote speaker will be Melvin Oliver, Ford Foundation.

The Trina Grillo Retreat provides a unique opportunity for public interest and social justice-oriented law students, faculty, and practitioners to forge an alliance by exchanging viewpoints, exploring career opportunities, and formulating strategies for social justice. The retreat honors the memory of Trina Grillo and includes the Ralph Abascal Memorial Lecture. For more information go to www.scu.edu/law/socialjustice or e-mail socialjustice@scu.edu.

The retreat is co-sponsored by the Society of American Law Teachers (SALT); Santa Clara University School of Law; University of San Francisco School of Law; The Boalt Hall Center for Social Justice; and the Santa Clara University School of Law Center for Social Justice and Public Service.

Amaker Retreat

The 2nd Annual Amaker Public Interest Law Retreat will be held February 28–March 2, 2003, at Bradford Woods — Indiana University's retreat and conference center located 30 minutes south of Indianapolis. The retreat is dedicated to the memory of the late Professor Norman Amaker who taught at Loyola University Chicago School of Law. This Retreat is being coordinated by students from several Midwestern law schools and is co-sponsored by the Indiana University School of Law—Indianapolis and the Minnesota Justice Foundation. The retreat coordinators encourage practitioners, faculty, and students from all over the country to participate in this event. For more information, please contact Robert Lancaster at rlancast@iupui.edu.

SALT Membership Up

Fran Ansley, Kentucky

SALT membership figures are better than ever before. As of October 7, 2002, 469 people had paid their dues for the current academic year, and close to 60 people had paid dues beyond that.

Counting those who paid dues during the last year or later would have brought the roster to over 700 law teachers, and including those who paid in the 2000–2001 academic year or later, would have boosted the total on that day to over 800.

These figures are significantly higher than previous similar tallies, and such good numbers are especially heartening at this juncture. They represent a “bounce-back” from a slight dip in SALT membership that occurred in fall 2001 after the events of September 11. Most important, they come at a time when it seems more crucial than ever that progressives should be in touch with each other and active in the world on issues of peace and justice.

SALT Banquet to Honor Lawrence, Matsuda, Bright and Stevenson

Margalynne Armstrong, Santa Clara

Circle the evening of Saturday, January 4, 2003, as the SALT event that you can't bear to miss. SALT's annual Awards Banquet will honor Professors Chuck Lawrence and Mari Matsuda, as the recipients of the 2003 SALT teaching award. Professors Lawrence and Matsuda have taught and inspired the next generation of social justice lawyers on both the eastern and western coasts of the country (including Hawaii). Steven Bright and Bryan Stevenson (NYU) will be honored as the 2003 recipients of the SALT Human Rights award. Stevenson and Bright are models of attorneys who have steadfastly labored on the frontlines of death penalty challenges.

The Awards Banquet will be held at the AALS Conference in Washington D.C., at a site soon to be announced. Please watch the SALT Web site, your e-mail and your snail mail for details about banquet details and reservations.

SALT Salary Survey

Howard A. Glickstein, *Touro Law School*

Every year at this time, we ask law school deans to provide salary data for the Annual SALT Salary Survey. The number of schools responding to our request has declined since the ABA stopped collecting salary data. Each school certainly continues to maintain such data.

There follows a list of schools that either declined to provide us with data for our last survey or failed to respond at all to our request. We urge all SALT members to encourage your deans to respond to this year's survey, which will be in the mail by late October. **(Even if your school has participated in the past, it is useful to reinforce with your dean the importance of the survey and to urge continued participation.)**

A special plea to those of you at public law schools: Your salary data should be readily available. If you have access to it, please send it to me or tell me how I can obtain it.

Alabama	Harvard	St. Mary's
American University	Hawaii	San Diego
Arizona	Hofstra	San Francisco
Baylor	Indiana (Bloomington)	Santa Clara
Boston College	JAG	South Carolina
Boston University	Kansas	Southern California
Brigham Young	Lewis & Clark	Southern Methodist
Brooklyn	Loyola (Chicago)	Southwestern
Cal Western	Loyola (Los Angeles)	Stanford
Case Western Reserve	McGeorge	SUNY Buffalo
Chicago	Mercer	Stetson
Chicago-Kent	Miami	Temple
Cincinnati	Minnesota	Thomas Jefferson
Columbia	Missouri-Columbia	UC Berkeley
Cornell	New England	UC Davis
Cumberland (Samford)	New York Law	UCLA
Denver	NYU	Utah
DePaul	North Carolina Central	Vanderbilt
Detroit-Mercy	Northwestern	Villanova
District of Columbia	Notre Dame	Virginia
Duke	Pace	Wake Forest
Duquesne	Pennsylvania	Washington and Lee
Emory	Pepperdine	Washington (St. Louis)
Florida Coastal	Quinnipiac	Western State
Fordham	Richmond	Whittier
George Mason	Roger Williams	Widener
George Washington	Rutgers-Newark	Willamette
Georgetown	St. John's	Wisconsin
	Saint Louis	Yale

Iraq Statement:

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states that "[n]o state shall . . . incite . . . armed activities directed towards the violent overthrow of the regime of another state. . ."

In the 1986 case in which the United States sought to overthrow the government of Nicaragua, the World Court declared that "no such general right of intervention, in support of opposition within another State, exists in international law." Thus, we reject the assertion by the Bush Administration that it has a right to force a "regime change" through violent means.

As a permanent member of the Security Council and as a preeminent world power, the United States must fulfill its leadership role by respectfully abiding by international law, not by behaving as a rogue nation. For these reasons, we abhor the pressure by the United States on the United Nations and its Security Council to "legalize" the proposed aggression against Iraq through resolutions authorizing the use of force in violation of the U.N. Charter and international law.

No accepted doctrine of international law, nothing in the United Nations Charter, nor any resolution passed pursuant thereto, and nothing in the law and tradition of the United States authorizes or warrants the Bush Administration's proposed first-strike tactics, nor the Administration's pressure on the United Nations to aid and abet these violations of international law.

This proposed war will needlessly cause further death, injury, and hardship to the millions of Iraqi citizens who already live under the heel of a despicable and loathsome dictator, the American soldiers who are placed in harms way, and those innocents in the United States, Israel, and elsewhere who will be victimized by retaliatory actions.

We respectfully implore the United Nations and its constituent members to reject the imperious postulates of the Bush Administration and to condemn the lawless proposition of "preemptive first-strike," including that against Iraq.

Keynote:

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the Bush Administration has claimed an unprecedented authority to detain individuals without any access to the courts. Attorney General Ashcroft has asserted that the government can label individuals as "unlawful combatants" and hold them until the war on terrorism is over. Ashcroft claims that no court can review the legality of these detentions, even if the individual is a U.S. citizen and the planned crime was to occur in the United States.

This just cannot be right. The framers of the Constitution, and especially the Bill of Rights, deeply distrusted the government. They wanted to ensure that before any person was held a neutral judge approved the arrest; a grand jury indicted the person; and a jury convicted. Under Ashcroft's view, the government can arrest any person and hold the individual forever, just by calling the person an "unlawful combatant."

Another example of the current repression is unprecedented secrecy imposed on judicial and administrative proceedings. In September 2001, the Bush Administration ordered that all immigration hearings involving those suspected of aiding terrorists be closed to the press and the public. Two federal district courts, one in Michigan and one in New Jersey, and one federal court of appeals (the Sixth Circuit) have declared this illegal, but the Third Circuit recently upheld complete secrecy in such cases. Secret proceedings deny people the right to know and risk serious abuses. The government must show a need to close particular proceedings, but should not be able to issue blanket secrecy orders.

Congress, too, has been guilty of restricting rights for little gain. Not long after September 11, Congress enacted the USA Patriot Act, a statute which gives law

enforcement substantial new powers. Enacted without a hearing on its provisions in any congressional committee, the law substantially erodes privacy. It greatly expands the ability of the government to get authority for "sneak and peek" searches, where it can search a person's home and things and never reveal it was done. The law allows the government to monitor Web sites a person visits or e-mail addresses sent to or received from just by showing a court that it is "relevant" to a criminal investigation. The statute authorizes the government to detain noncitizens for seven days on reasonable suspicion of aiding terrorism, far less than the Constitution's requirement for probable cause.

The government, of course, must take actions to ensure security and combat terrorism. For instance, the additional security measures at airports infringe privacy, but they are necessary for safety. The problem with so much that has been done since September 11 is that it takes away basic rights, but does little to enhance security.

As law professors, our challenge is to find better ways to educate and inform our students, our colleagues, and the general public. The press and the public respects law professors as experts in the law. We must use that expertise to communicate our grave concerns about the unjustified deprivations of rights.

Almost a century ago, the late Supreme Court Justice Louis Brandeis wrote that the greatest threat to liberty comes from people acting for beneficial purposes. He explained that individuals born to freedom know to resist the tyranny of despots. He said that the insidious threat to freedom comes from well meaning people of zeal with little understanding of what the Constitution is all about. There are far too many people in Washington today who fit this description.

Presidents' Column:

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resources stretched thin, we need your help if we are to attain the goals that are well within our reach but which often elude our grasp. Please read through this issue of the *Equalizer* with an eye for ways in which you can engage in SALT's work. Then drop us a line (union2757@aol.com, pcjohnso@law.syr.edu) so that we can convey to you our heartfelt thanks.

Let us briefly mention some of SALT's ongoing work, which is discussed in greater detail throughout this issue. Among the important work that we have undertaken is our anti-war activism and commitment to nonviolent resolution of domestic and international conflicts. To this end, our October teaching conference, "Teaching in Crisis, Teaching about Crisis," hosted by Fordham Law School, was a great success. We particularly thank the extraordinary efforts of co-chairpersons Deborah Post, Nancy Ehrenreich, and their committee, as well as the participation of many of you who attended the conference.

By now you should have received SALT's Statement on the Bar Exam, which was widely-circulated and very well-received thanks to primary author Andi Curcio and our Access to the Profession committee, chaired by Eileen Kaufman. In continuing this work, an important conference on revamping the bar exam is being planned for October 2003. Similarly, SALT's Statement on the LSAT is nearing completion, and we expect it to be published and circulated by year's end. In addition, given the damage being done in so many respects by the *U.S. News and World Report* rankings, we have moved the diversity survey and alternative guide for prospective law students to the front burner of our agenda. There will be many ways for you to assist in this effort.

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As you are well aware, the Bush Administration has chosen to nominate one extremist after another to the federal bench, and our hard-working Judicial Nominations committee, chaired by Bob Dinerstein, has been struggling to keep pace. As law professors, we are uniquely well-positioned to be persuasive voices on these matters, and we urge you to offer the committee your input. With regard to the Solomon Amendment, the ongoing need to promote ameliorative efforts for gay and lesbian students, and the military's renewed attempts to run rough-shod over our institutions' anti-discrimination policies, committee chair Marc Poirier has been working tirelessly under intense pressure. We are all grateful to him. With your active support, SALT will keep these anti-discriminatory priorities in the forefront.

As usual, SALT will have a strong presence at the AALS annual meeting in January in Washington, D.C. Watch for news on the Mentoring New Teachers event, the Robert Cover Study Group and, of course, our Annual Awards Dinner. Also on our horizon are our three public interest retreats in March — east, west and mid-west. Plan now to bring your students to these special opportunities to interact with others who are engaged in progressive lawyering.

As we have noted at every opportunity, the SALT Board is an extremely hard-working group—all volunteers with day jobs, families and other obligations, both personal and professional. Occasionally, Board members have had to resign in deference to other pressing concerns, and such is the case with Vernellia Randall and Robert Westley. We are thankful to each of them for their contributions to SALT's work, and we look forward to seeing them at future SALT events. We also look forward to seeing all of you in January and to continuing our work together.

With warm wishes,
Michael and Paula

Reflection:

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the world. Sala."

What I saw most in Iraq were children like Sala. Hundreds of girls in grade school. Dozens of boys in high school. Children shining shoes and selling boxes of tissues and bread at stop lights. Little children following people on the street and

*"There are 24 million
people in Iraq not
named Saddam
Hussein. While we met
many adults, it is the
faces of the children
like Sala that I still see
each night."*

quietly, desperately begging. Scores of sick and dying infants and older children at hospitals and clinics.

We met plenty of adults, too. We brought in \$30,000 worth of medical supplies so we met with many adults including representatives from the United Nations Food Programme and UNICEF. We toured bombing sites, hospitals, restaurants, clinics, art exhibits, grade schools, the Babylon music festival, high schools, family homes, and the law school in Baghdad.

What we saw was a country devastated by wars, a government too interested in military defense, and international sanctions. Drinking water unfit to drink. One nurse overseeing a ward of 40 hospitalized children. Sanctions prohibit importation of many medicines. Teachers make \$6 a month. There are no coins in

Iraq. Everyone uses the 250 Dinar note for everything. In 1990, the exchange rate was 3 dollars for every dinar and the 250 note was worth over \$800. It is now worth 12.5 cents and now it is 2,000 dinars for one dollar. In the law school library U.S. law reviews stopped in 1990, the Dean said the sanctions prohibit them.

The U.S. has never stopped being at war with Iraq. Bombings and sanctions have continued since 1990. Basra was bombed while we were there. Who suffers? Not the top. Everyone but the top. Especially, like in our country, the children. UNICEF says more than 500,000 children under 5 have died as a result of the sanctions, from treatable diarrhea and respiratory infections, more than 4,500 each and every month.

And how many Salas will have to die for regime change in Iraq? I know that if we in the U.S. were asked to give up our own children under 5 in exchange for regime change, regime change would never come. Should we be willing to give up other people's children?

Years ago I was present when one of my clients was executed by the State of Louisiana. Visiting Iraq felt a lot like that, in slow motion and with a lot more people, but a lot like that.

There are 24 million people in Iraq not named Saddam Hussein. While we met many adults, it is the faces of the children like Sala that I still see each night.

(Bill Quigley has a series of e-mails that he sent back to friends and family while he was in Iraq. If you want a copy, e-mail him at quigley@loyno.edu. There are pictures from Iraq available at <http://law.loyno.edu/~gwlong/IRAQPAGE.html>).

Summer Program:

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that is the program's second site. The field visits at both sites in Chile will include guest lectures as well as discussion time.

After Temuco, a four-day program break allows students to visit Patagonia, Tierra del Fuego, or other destinations on their own, after which the "CGC" program will reconvene in Buenos Aires. While in Buenos Aires, students will attend the LatCrit Colloquium on International and Comparative Law as part of their studies, as well as engage in three more varied field visits designed to enrich their local exposure and understanding, including visits to a prison, a local public interest think tank, and the law school facilities at the Universidad de Buenos Aires. In total, students will participate in nine field visits, in addition to regular class session and in-class guest lectures, and apart from the program's "service component" optional activities.

The LatCrit Colloquium on International and Comparative Law will occasion the gathering of scholars from various disciplines, together with policymakers and activists, from around the world, and will provide students with an opportunity to learn directly from the Colloquium presentations, exchanges, and discussions. Students also will participate in small-group "discussion circles" organized thematically around selected issues and facilitated by the Colloquium participants. All SALT members and other faculty are welcome to attend the Colloquium, which is scheduled to be held at the "Clase Magnum" of the law school at the Universidad de Buenos Aires on Wednesday, August 13, 2002. More information on the Colloquium program will be available in the spring on the LatCrit Web site at www.larcrit.org. For more information, please check the Web site in the spring, or write to latcrit@law.miami.edu.

During the six weeks of the CGC program, the field visits, the guest lectures, the optional service component, the LatCrit Colloquium and discussion circles, and the in-class discussions during regular class sessions will ensure a broad and balanced exposure to the host sites and societies in critical and comparative terms. CGC students will study both power and disempowerment in local, regional, and global contexts. CGC students will visit

"The LatCrit Colloquium...will occasion the gathering of scholars from various disciplines, together with policymakers and activists...and will provide students with an opportunity to learn..."

urban as well as provincial and rural sites. To learn both about law and theory—and about how they work in practice—CGC students will study not only critical texts in law, policy, and politics but also how these forces operate in society. The CGC is designed for students seriously committed to social justice education and action.

While designed to immerse students in local cultures and expose them to critical studies, the CGC offers a unique opportunity for students interested in social justice to study international and comparative law in a "safe space" and with critically minded faculty. The CGC also creates opportunities to forge relationships or build networks of likeminded individuals that will continue beyond the six weeks of the program. In addition, the program calendar is designed to commence on July

6 so that interested students may "split" their summer between the CGC and a clerkship or other summer opportunity. The CGC is sponsored by the University of Baltimore School of Law in conjunction with LatCrit scholars.

The CGC program materials and application form are in production and will be available in January for interested students to enroll in this summer's (2003) program. The application deadline will be in mid-spring semester, probably in March 2003. The CGC program materials will be circulated widely via listservs, mailings, and student publications. Please keep a lookout for the materials and mailings so that you can alert and advise interested students at your institution about application deadlines and the like. In the meantime, for more information, please contact Professor Odeanna Neal (oneal@ubmail.ubalt.edu) at the University of Baltimore School of Law.

A Writing-Mentoring Program on Race, Ethnicity and Justice: The "SSP"

The LatCrit Student Scholar Program invites students from any discipline, in good standing at any accredited institution anyplace in the world, to submit by January 10, 2003, an original, unpublished manuscript, along with a personal statement. Manuscripts, as explained in the SSP Call for Papers, should be no more 25,000 words in length and related to questions of race, ethnicity, and law. These parameters are deliberately flexible to accommodate innovative, cross-disciplinary work devoted to race, ethnicity, and social justice. All application materials may be submitted in Spanish or English, either in hard copy or via e-mail. Students currently enrolled in seminars or other classes in which they already are writing a paper should be particularly interested in the SSP; please let your colleagues and students know of this new educational opportunity during this semester so they can submit their papers and completed

continued on next page

SSP application packets by the January 10 deadline. Application materials are available at www.latcrit.org. Faculty who teach in the areas of race, ethnicity and the law also may have received e-mail or snail mail materials about this program for posting and circulation at your campuses.

After the January 10 submission deadline, a selection committee will designate up to four applicants as the inaugural Student Scholars on the basis of the paper, the statement, and the related materials in the application packet. The SSP Selection Committee consists of Elvia Arriola, Jerome Culp, Angela Harris, Berta Hernandez-Truyol, Margaret Montoya, Stephanie Wildman, and Eric Yamamoto. The Student Scholars will receive scholarships to the LatCrit Annual Conference (May 1–4, 2003 in Cleveland) to present their papers, which then also will be published in the law review symposium based on the conference proceedings. The Student Scholars also will be provided scholarships to the Critical Global Classroom summer program in Chile and Argentina. Both scholarships cover housing and all program fees, as well as up to \$1,250.00 (U.S.) to cover air transportation.

Following their participation in the LatCrit conference and in the CGC summer program, the Student Scholars will be teamed up with mentors to help them develop a follow-up scholarly paper over the course of the following year for presentation and publication in appropriate venues. To ensure maximum benefit to the Student Scholars and their professional aspirations, the Student Scholars' second papers may be devoted to any topic agreed upon between the Student Scholar and her/his mentors. SSP mentoring relationships are focused specifically on the production of scholarship on race, ethnicity and social justice to help students develop their intellectual horizons and agenda, as well as to foster critical legal scholarship and consciousness. The Student Scholar

Program is a partnership of the University of California School of Law-Berkeley and of LatCrit scholars. The program is sponsored by the University of Baltimore School of Law, the University of Florida Levin College of Law, the University of Miami School of Law, and Santa Clara University School of Law. For more information, please contact Professor Angela Harris (aharris@law.berkeley.edu) at the University of California School of Law-Berkeley, or visit the LatCrit Web site at www.latcrit.org, where students can download application packets for completion and timely submission no later than January 10, 2003.

These two new social justice programs are designed to work hand in hand. Both the CGC and the SSP are designed to operate as "lifelines" to students at law school campuses nationwide. Both programs offer new opportunities to study areas and approaches that otherwise might not be available to today's socially conscious students. Moreover, both the CGC and the SSP are intended to help cultivate critically minded students who might be interested in pursuing a teaching career in law or other disciplines. Both the CGC and the SSP are designed to work synergistically as lifelines to students *as well as* pipelines for them into the legal or other academy.

These two new programs need your help to reach students in your classes or institution who may benefit from either or both them, in particular those students who seriously are interested in a challenging and enriching social justice education while studying abroad. Please let your students know about both programs, and encourage them to follow up directly—and in a timely way—with the faculty members named above or through the LatCrit Web site at www.latcrit.org to conveniently download application packets for the SSP. Thanks for helping to spread the word among your students about these two new social justice programs in legal education.

Leahy Letter:

▼ *continued from page 5*

cially important because the few indications of Mr. Estrada's positions that do exist on the public record are deeply troubling. Mr. Estrada's leadership of and

"In addition to the obligation to protect constitutional freedoms common to every federal judge, the judges of the D.C. Circuit have enormous influence over laws related to immigration, consumer protection, labor rights, and national security."

advocacy on behalf of the Center for Community evince a commitment to reduce civil liberties, rather than to cherish and protect them. Mr. Estrada has been publicly criticized as an ideologue who has neither the temperament nor the vision required of an appellate judge.

In addition to the obligation to protect constitutional freedoms common to every federal judge, the judges of the D.C. Circuit have enormous influence over laws related to immigration, consumer protection, labor rights, and national security. Little in Miguel Estrada's record suggests that he should be entrusted with these heavy responsibilities. SALT urges that Mr. Estrada's nomination not proceed unless and until he is able to present a complete record that evidences respect for civil liberties and our fundamental principles of equality and freedom.

Sincerely,

Prof. Paula C. Johnson and Prof. Michael Rooke-Ley, Co-Presidents, SALT

Dorsen Fellowship Advances SALT's Work; More Contributions Needed

Sylvia Law, NYU



In the fall of 2001, Norman Dorsen, founding President of SALT, promised to give us \$55,000 over

five years to create an endowed Fellowship to enable SALT Presidents to hire a law student to help them with the work of the organization. Norman, ever the consummate institution builder, conditioned his

gift on a requirement that we raise equal matching funds, i.e. \$11,000 a year for five years.

The Dorsen Fellowship is already amplifying SALT's vital work. John Branam, the first Norman Dorsen Fellow, is a second-year law student at the University of Oregon, where he also serves as vice-president of the Black Law Students Association, is a Wayne Morse Fellow, and is a Derrick Bell Scholar. John worked on SALT's behalf with the Alliance for Justice organizing programs on Civil Liberties in a New America, for the First Monday in October program. Lisa Sims of the Alliance reports that this year's First Monday program was a smashing success, in part thanks to John. "He was a tremendous help and a great asset. We can't say enough good things about his work and enthusiasm."

Norman has provided us his first year gift of \$11,000 and an additional contri-

bution of \$1,500 to enable us to hire a Fellow now, before the endowment has accumulated. The rest of us together have contributed \$10,500. If every SALT member contributed, we could make our match with gifts of less than \$20 each. Fifty people have contributed, two giving a whopping \$1,000 each and an additional 10 giving \$300 or more. Although most contributions were more modest, we are tremendously thankful to Norman and to everyone who has helped in creating this Fellowship. Many of those who have contributed have also pledged to do so in future years.

Fifty people are less than 6 percent of SALT's membership. We can do a whole lot better. A pledge form is printed on this page. Please give and pledge as generously as you can.

Norman Dorsen Fellowship

PLEDGE FORM

Yes! I want to support the Norman Dorsen Fellowship. Over the next five years I promise to make the tax deductible contributions at the following level:

- ☐ Distinguished Contributor (\$1,500 total, or \$300 a year)
- ☐ Honored Contributor (\$1,000 total, or \$200 a year)
- ☐ Sustaining Contributor (\$500 total or \$100 a year)
- ☐ Contribution (other) \$ _____ per year

Or:

☐ One-Time Contribution \$ _____

Name _____ School _____

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Make your check payable to: SALT, designated to the Dorsen Fund on the notation line, and mail to: Sylvia A. Law, NYU Law School, 40 Washington Sq. So., New York, N.Y. 10012.

The contribution is tax deductible.

Norman Dorsen Fellowship Committee: David Chambers, Howard Glickstein, Phoebe Haddon, Sylvia A. Law, Charles R. Lawrence, Avi Soifer, and Wendy Webster Williams.

More Photographs from the SALT Teaching Conference



Pictured clockwise from top left: Howard Glickstein and Eileen Kaufman; Carol Chomsky and Oren Gross; Nathaniel Berman and Chantal Thomas; and Adrien Wing.



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- ☐ I am contributing \$_____ to the Stuart and Ellen Filler Fund to support public interest internships.
- ☐ I am contributing \$_____ as an additional contribution to support SALT's promotion of affirmative action.

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