

# SALT EQUALIZER

Volume 2009, Issue 2

Society of American Law Teachers

Summer 2009

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## SALT EQUALIZER

The SALT *Equalizer* is a publication of the Society of American Law Teachers.

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## Co-Presidents' Column

*Deborah Waire Post, Touro College, Jacob D. Fuchsberg Law Center, and Margaret Martin Barry, Catholic University of America, Columbus School of Law*

We began the year with two major SALT events during the AALS Annual Meeting in San Diego: our annual dinner and the Cover Workshop, both of which are described in greater detail in articles elsewhere in this issue. The Cover Workshop on January 7, 2009, offered a chance to delve into issues facing President Obama and his administration. On January 9, we were thrilled to honor Steve Wizner (Yale) with the Great Teacher Award and Rhonda Copelon (CUNY) with the Shanara Gilbert Human Rights Award. In addition to these events, SALT held a brownbag lunch discussion entitled, "The Liability of Lawyers for the President's Torture and Secret Detention Program," which is described in Marjorie Cohn's piece in this issue. This event, which had been rejected as a "Hot Topic" by



Margaret Martin Barry and Deborah Waire Post

*Co-Presidents continued on page 2*

## Executive Director's Column

*Hazel Weiser*

Everyone is beginning the new school term wondering just how austere law school budgets will be. Whether it's salary reductions or freezes, lost research or travel stipends, faculty and staff cuts, or bigger class sizes, the financial crisis will affect us all. That's why your membership in SALT is more important than ever. And remember: SALT membership dues are structured to accommodate salary ranges. There is an affordable level for everyone.

### *It's time to renew!*

And we've made everything easier with SALT's new website. The web address remains the same: [www.saltlaw.org](http://www.saltlaw.org), but the look and navigation tools have been upgraded. We've



SALT Executive Director Hazel Weiser

*Executive Director continued on page 3*



## Co-Presidents:

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AALS, was very well-attended and enthusiastically received. Margaret Barry also represented SALT on a panel on which it was asserted that SALT had considerable pull within the AALS, a proposition that was a surprise to SALT and certainly contradicted by SALT's inability even to get approval for a discussion on torture.

On January 10, the SALT Board of Governors met. Its first order of business was to welcome the new Board members: Benjamin Davis (Toledo), Olympia Du-hart (Nova Southeastern), Jackie Gardina (Vermont), and Ngai Pindell (UNLV). The Board also congratulated its Co-Presidents-Elect, Raquel Aldana (McGeorge) and Steven Bender (Oregon), and its re-elected members: Bryan Adamson (Seattle), Jane Dolkart, Avi Soifer (Dean, Hawai'i), and Kellye Testy (Dean, Washington). We then embarked on a review of the many projects SALT committees had completed and discussed what lay ahead. We celebrated the defeat of the anti-affirmative action initiatives in Colorado, Arizona and Missouri, though the similar initiative in Nebraska passed. SALT had supported the efforts of those who opposed the initiatives and will be working to forestall any further such efforts. We have already learned that Arizona will be targeted again. The reports of SALT's Issues in Legal Education Committee, Human Rights Committee, LGBT Committee, and Judicial/Governmental Nominations Committee, included in this issue, relate other SALT work in some depth.

We have a committed and hardworking Board. We also have a number of SALT members who make significant contributions to SALT projects. For example, Karla McKanders — one of five candidates for new Board positions to commence in January 2010 — worked with Board members Raquel Aldana and Beth Lyon to produce a detailed proposal on immigration for the Obama

administration; Roberto Corrada chairs our Affirmative Action Committee; and past Board member Robert Dinerstein chairs our Judicial/Governmental Nominations Committee.

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*“[W]e continue to urge action to address failed policies and ignored needs the Obama administration has inherited. SALT has supported the nominations of Judge Sotomayor, Harold Koh, and Dawn E. Johnsen, and has not shied away from the issues this administration would like to pass over. SALT has called for investigation, and prosecution where appropriate, of those who abused the law by authorizing torture. . . . [P]art of reclaiming our commitment to the rule of law is to enforce the law.*

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Not long after we left San Diego in January, returning to catch up with courses

already in progress, we joined the many in this country and throughout the world who smiled broadly and deeply during the inauguration of Barack Hussein Obama. We knew he faced an impossible task, but his very election suggested that there is no such thing. So, after the celebrations and even as we continue to smile from within, we continue to urge action to address failed policies and ignored needs the Obama administration has inherited. SALT has supported the nominations of Judge Sotomayor, Harold Koh, and Dawn E. Johnsen, and has not shied away from the issues this administration would like to pass over. SALT has called for investigation, and prosecution where appropriate, of those who abused the law by authorizing torture. The President would like to move beyond prosecutions for torture and other criminal activities of his predecessors, hoping that by doing so he will avoid losing support for his important domestic agenda. However, part of reclaiming our commitment to the rule of law is to enforce the law. If we turn away, we carry forward the burden of having ignored what we committed to stand for as a people. This is no less true as the administration punts on Don't Ask Don't Tell. SALT has urged the President not to enforce this provision and to seek its repeal. It is not legitimate; he has said as much. Yet it lingers, destroying lives and morale. Whatever is making it seem expedient not to take these actions carries the cost of losing legitimacy.

We proceed on these and other fronts to bring about the change we believe is essential, with a renewed sense of potential because the country has taken such a strong step in that direction. We are grateful for the caring and contributions of those who have joined us in these efforts through their active support and through their membership in SALT.



## Executive Director

▼ *continued from page 1*

made it easier to find everything with a site map, clearer menus, calendar listings, calls for proposals, a place for your accomplishments and publications, and job postings. ***And it's easier than ever to renew your membership in SALT, and to recruit a colleague to join SALT for the first time.***

With the ABA Council on Legal Education and Admissions to the Bar reviewing all of the Standards and Interpretations for Approval of Law Schools, we have an enormous opportunity to insist upon some of the educational objectives SALT has long stood by: a commitment to diversity within the legal profession and the academy so that outreach to traditionally underrepresented groups doesn't get put on the back burner and remains an active objective; alternative assessments so that a broader range of student skills are taught and evaluated; exciting, innovative teaching that engages students in questioning the status quo and understanding how law and policy are intertwined; scholarship that supports diversity, social justice, inclusion, and vision; and opportunities to mentor the next generation of faculty.

SALT needs your membership to continue this work, and here is our pledge to you: ***SALT will come to you this year.***

Last year we inaugurated a series of regional events. Some were social: a party to celebrate the accomplishments of SALT historian Joyce Saltalamachia and former board member Richard Chused, hosted by Dean Richard Matasar at New York Law School; informal lunches at Temple and Penn State's Dickinson School of Law; and two wine tasting parties in San Diego. Others were substantive: "Teaching in the Moment," a curriculum design workshop hosted by the University of Minnesota (described elsewhere in this issue), and "On

Becoming a Law Professor," organized by the Center for Diversity in the Legal Profession at CUNY Law School in New York and co-sponsored by SALT.

In addition, we had two social justice retreats: the Cover Retreat, held at Camp Sargent in New Hampshire, and the Grillo Retreat, hosted by Stanford Law School. And in San Diego, to coincide with the AALS Annual Meeting in 2009, SALT hosted both the Cover Workshop, a fascinating discussion about accountability for torture, and the annual dinner. (The two retreats, as well as the 2009 Cover Workshop and 2009 Annual Dinner, are also described in articles in this issue.) For two years now, SALT has been at the AALS new teachers' workshops in June, so that the new members of your faculty will get a chance to learn about our organization. We are asking you to continue those conversations with new colleagues.

This year, SALT representatives will be across the country, providing opportunities to collaborate, make new friends, and renew your own commitment to social justice, equal opportunity, and legal education. So far, SALT representatives plan to be in Seattle, New Orleans, New Hampshire, Oregon, Chicago, San Francisco, and Washington, D.C.

***Interested in becoming a law school dean?*** September 25 and 26 are the dates for the second biennial "Promoting Diversity in Law School Leadership" workshop, hosted and co-sponsored by Seattle University School of Law and SALT.

***New to the profession?*** Come to SALT's Junior Faculty Mentoring workshop before the LatCrit conference, on October 1 and 2 in Washington, D.C., hosted by American University Washington College of Law.

***Attending the AALS Annual Meeting in New Orleans?*** Then be sure to attend SALT's Cover Workshop on Thursday, January 7, and SALT's annual dinner on Saturday, January 9, when we will applaud Frank Valdés, from the law school at the University of Miami, as SALT's Great

Teacher. We are also planning a public service project in New Orleans so that everyone there has a chance to pitch in and help rebuild the city. (See Nancy Cook's article in this issue.)

***Need a social justice get-away this winter?*** The Cover Retreat will be back at Camp Sargent on February 26-28, and the Grillo Retreat, hosted this year by the University of Oregon's law school, will be held March 6-7. For those of you in the Midwest, we hope to revitalize the Amaker Retreat in Chicago.

***Want to learn how to infuse your course materials with the hottest social science, communications, and demographics involving theories of poverty?*** On March 19-20, SALT is co-sponsoring the Poverty Law Teaching Conference, hosted by Golden Gate University Law School and described in my article elsewhere in this issue. The conference will bring new scholarship to the art of teaching law, so that no matter what you teach, there will be new information to infuse into your teaching and scholarship. We are including a film and cocktail reception rather than a dinner this year to make the conference more collegial without speeches after hours.

***Have I missed your region? Have you got an idea for a program? Here is my invitation to you:*** Call me at 631-650-2310 or email me at [hweiser@saltlaw.org](mailto:hweiser@saltlaw.org). Let's talk about a program to bring together the progressive law teachers, including adjuncts and practitioners, in your city or state. SALT wants to keep our community vibrant. We need all of our members to get through these hard economic times.

***It's time to renew! Now.***



## SALT Board of Governors Elections: Meet the Candidates

Tayyab Mahmud, Seattle University School of Law

It is time for elections to fill vacancies on the SALT Board and to reelect those members whose terms will expire soon. Every year we go through this exciting process to identify and elect committed and energetic leaders from within our community to join the Board and help spearhead our vital organization in its continuing struggle for justice, diversity and academic excellence. The SALT Board, acting upon the recommendation of the Nominations Committee, has nominated ten outstanding candidates for positions on the Board for three-year terms that would commence in January 2010.

The nominees include five newcomers — Elvia Arriola (Northern Illinois), Michael Avery (Suffolk), Barbara Bernier (Florida A&M), Karla McKanders (Tennessee), and Hari Osofsky (Washington & Lee) — who were selected from among the many wonderful suggestions made by SALT members. Also up for reelection are five incumbent members of the Board: Pat Cain (Santa Clara), Ruben Garcia (California Western), Beth Lyon (Villanova), Denise Roy (William Mitchell), and Natsu Saito (Georgia State).

The SALT Board is very grateful that these wonderful colleagues have stepped forward to take on the responsibilities of leading our organization. All of them are already active on various SALT committees and have helped sustain many of our critical projects and campaigns. The candidate statements of the five nominees not yet serving on the Board appear below.

Under SALT's bylaws, the current Board solicits nominations from the membership and then selects a slate of nominees to fill anticipated vacancies. This Board-approved slate is then communicated to the membership. SALT members also have the opportunity to add candidates to this slate. To be included on the election ballot in this election cycle, any SALT member may submit a

statement of interest, along with signatures or other written support (including e-mail) from at least seven additional current SALT members. These materials must be received by Tayyab Mahmud, Chair of the Nominations Committee, by September 24, 2009.

The Board's slate of candidates has been announced on SALT's website and in e-mail messages sent to the membership. SALT members have also been advised of the opportunity to add candidates by September 24, 2009. If additional candidates are added to the ballot, the election in the fall will be a contested one. If no additional candidates have come forward, the election will be uncontested.

If you have questions about the process of the elections, please contact Hazel Weiser, Executive Director, at [hweiser@saltlaw.org](mailto:hweiser@saltlaw.org), or Tayyab Mahmud, Chair of the Nominations Committee, at [mahmud@seattleu.edu](mailto:mahmud@seattleu.edu).

### ***SALT Board of Governors Candidate Statements 2009***



#### **Elvia Arriola**

*Northern Illinois University  
School of Law*

I want to return to the SALT Board of Governors because of the inspiration I receive from other law teachers who understand the need for the critical voice in the legal academy. I can think of two major issues during my previous service where SALT played a major role in either being or supporting the voice of dissent in the academy over changes developing in the law and in public policy that threatened the core principles of equality and justice in an open society. I was proud to be on the SALT Board during the organized response to the attacks on affirmative action, leading up to the organizing and education surrounding *Grutter v. Bollinger*, and during the movement to oppose the

Solomon Amendment which threatened the cutoff of federal funds to universities who took a stance for equality on behalf of GLBT students. I would also love to be involved more closely in teaching conferences again in order to be greeting and supporting the new generation of professors who need to know that if they have a commitment to social justice teaching, they are not alone in the academy.



#### **Michael Avery**

*Suffolk University Law School*

I am honored to be nominated to the SALT Board. SALT is a critical institution in the struggle for social justice. It is exciting that in recent years it has grown and become a more powerful resource, with an office and an Executive Director. I look forward to an opportunity to contribute to that growth through participation on the Board.

The phenomenal development of the conservative legal movement and the extraordinary influence of the Federalist Society pose significant challenges for progressive scholars, law professors, students and lawyers. The Federalist Society began as an effort to challenge what its members perceived as the hegemony of liberal thought in legal academia and the profession in general. By the end of the presidency of George W. Bush, conservative lawyers dominated both the federal bench and the federal legal bureaucracy. The Federalist Society has a student chapter at every accredited law school, over 40,000 members, and had income of over \$12 million in 2008. Conservative legal theories once considered "fringe" are now well accepted in U.S. Supreme Court decisions.

Progressives must engage both in a battle of ideas and in a competition to inspire the hearts and minds of the next generation of lawyers. SALT is uniquely positioned to do both. I hope my experience of having served



as president of the National Lawyers Guild, teaching the last eleven years at Suffolk Law School, and now entering my fortieth year as a civil rights lawyer can be useful in this endeavor.



**Barbara Bernier**  
*Florida A&M University  
College of Law*

I am honored to be nominated to the SALT Board of Governors.

The progressive voice of the organization is often reflected in my own writing and teaching and provides valuable guidance as new issues arise. I have participated in many SALT programs, including the most recent Teaching Conference at Suffolk Law School and the Promoting Diversity in Law School Leadership Conference at Seattle University Law School.

My Haitian background has driven some of my earlier scholarly interests and subsequently provided me with a range of wide, yet related opportunities that include: examining the plight of Haitian sugar-cane plantation workers in the Dominican Republic, traveling to South Africa as an ABA delegate where I witnessed the aftermath of the fall of apartheid, representing an NGO at the U.N. Committee for Human Rights, and being honored with the status of Visiting Scholar at Harvard Divinity School where I studied law and women's religion.

More recently, I have incorporated a political dimension into my research by examining the relationship of law and politics in the discussion of state sovereignty relative to the current marriage debate. I am especially interested in serving on the Human Rights Committee and the Judicial/Governmental Nominations Committee.

My professional journey has offered the opportunity to affiliate with three nascent law schools where I acquired valuable institutional building skills and the accreditation process. I believe my unique perspective and experience will be helpful to the continuing development of SALT.



**Karla McKanders**  
*University of Tennessee  
College of Law*

I am extremely honored to be nominated to serve on the SALT

Board of Governors. Since my entry into legal academia, I have marveled at the forward leadership amongst SALT members. Since January 2009, I have served as a member of the Post-9/11 Human Rights Committee. During this time, I co-authored with Raquel Aldana and Beth Lyon a report to the Obama administration with extensive recommendations for immigration agency reforms.

I am currently professor at the University of Tennessee College of Law in the Advocacy Clinic. My research areas focus on civil rights, immigration and asylum law and policy. Prior to joining the University of Tennessee, I was a Reuschlein Clinical Teaching Fellow at Villanova University School of Law. During the fellowship, I focused on guiding students in representing immigrants in asylum matters before the Department of Homeland Security and immigration courts. In the spring of 2010, I will further my passion by teaching a refugee and asylum law seminar.

Entering into legal academia has permitted me to merge my passion for service through social justice issues, teaching law students, along with advocacy on behalf of immigrants and refugees. Serving on the SALT Board of Governors will allow me to continue to serve in a greater capacity focusing on SALT's goals of equality, diversity, and academic excellence. It would be a pleasure to join the Board of Governors and continue the committed work that SALT has accomplished for legal academia.



**Hari Osofsky**  
*Washington & Lee University  
School of Law*

I am honored to be nominated to the SALT Board of Governors.

I became a professor with the goal of my teaching, writing, and advocacy helping to leave the world a little better than I found

it. Over the course of my seven years thus far in academia, I have deeply appreciated being part of a community of law professors committed to advancing social justice goals inside the academy and beyond in the public policy realm. I have benefitted greatly from the junior faculty workshops co-sponsored by SALT, as well as from the much-needed encouragement by SALT members that our collective efforts can help to bring greater social justice over time.

My scholarship, teaching, and advocacy focus on climate change and on environmental justice. My recent articles and current works-in-progress provide an interdisciplinary law and geography perspective on how climate policy efforts could be more effective, on the regulatory role of climate change litigation, and on strategies for environmental rights advocacy. My environmental justice classes have helped to draft Earthjustice's annual submission to the U.N. Human Rights Commission, and my climate change litigation classes have worked with the Southern Environmental Law Center and the Western Environmental Law Center on their climate change litigation strategy. I also assisted with the Inuit's petition to the Inter-American Commission on Human Rights claiming that U.S. climate policy violated their rights. Prior to entering academia, I worked as a Fellow at the Center for the Law in the Public Interest and served as a Yale-China Legal Education Fellow and Visiting Scholar at Sun Yat-sen University School of Law, where I taught U.S. Civil Rights Law and helped the school launch its clinical legal education program. I received my B.A. and J.D. from Yale University.

If elected to the SALT Board, I would be interested in contributing to SALT's ongoing efforts to promote diversity in legal education and academia and to support innovative approaches to social justice pedagogy. I also would be excited about exploring additional avenues for bringing environmental justice concerns into SALT's work.



## Second Biennial Law School Leadership Workshop: Seattle, September 25-26

Robert Chang, Seattle University School of Law

The second biennial Workshop to Promote Diversity in Law School Leadership will take place in Seattle, Washington, on September 25-26, 2009. A joint collaboration between SALT and Seattle University School of Law, it follows on a very successful workshop held in September 2007. This year the Workshop has become a project of Seattle University's new Fred T. Korematsu Center for Law and Equality.

The Workshop is designed to provide the necessary resources to members of underrepresented groups in order to pursue deanships and other university and law school leadership positions. The Workshop will help participants:

- Determine whether they want to be deans and find the right time and place to pursue a deanship;
- Understand the nuts and bolts of the dean's role;
- Prepare themselves to be successful dean candidates;

- Learn how to negotiate the terms of an appointment and ensure a successful transition to the decanal role; and
- Determine what other forms of university and law school leadership roles may be worth seeking.

In addition to panels that emphasize how to succeed in securing a deanship, there will be three new panels this year that focus on how to succeed once one gets an appointment:

- **Session IV: Decanal Interface with Different Constituencies and Stake-Holders:** What are successful models of a balance between faculty governance and decanal authority? How do you keep the university on your side? How do you keep the alumni engaged and involved? How do you cultivate the bench and the bar? How do you interact with AALS and ABA?
- **Session V: Institutional Priorities and the Budget:** How do you identify and articulate institutional goals and priorities? How do you "put the money where the mouth is"? What is the process and structure of the budget? How do you best manage the budget allocations?

- **Section VI: Where is the Money?:** How do you secure and enhance revenue generation streams? What are the best ways to interface with the university and legislators? What are successful development strategies for different schools? What are common mistakes that should be avoided?

The workshop presents a great opportunity for networking and mentorship. Please visit [http://www.law.seattleu.edu/Centers\\_and\\_Institutes/Korematsu\\_Center.xml](http://www.law.seattleu.edu/Centers_and_Institutes/Korematsu_Center.xml) and navigate to the Deanship Workshop to find the schedule, registration information, logistics, and other resources.

## SALT-LatCrit Junior Faculty Development Workshop: Bethesda, October 1-2

Ruben Garcia, California Western School of Law

The SALT-LatCrit Junior Faculty Development Workshop (FDW) will take place on October 1-2 at the Bethesda Hyatt Regency, near Washington, D.C. This will be the fourteenth LatCrit Conference and the fourth time that SALT has co-sponsored the FDW, which takes place immediately before the LatCrit Conference. Last year's FDW was a terrific success, with panels on critical pedagogy, scholarship and activism outside the academy.

The FDW does not solely seek to develop faculty currently in tenure-track positions. The FDW will also focus on issues related to clinical professors and teaching fellows. Indeed, one of the great needs to which SALT

and LatCrit are committed is grooming the next generation of progressive legal scholars and teachers. To that end, discussions continue about how best to marshal the resources of the two organizations and like-minded partners to ensure that the playing field is level for progressive candidates on the job market.

The FDW will continue, as it did last year, to hold mock job talks. This is a crucial opportunity for new scholars. We urge all in attendance at the FDW to seek out these mock job talks and provide support to candidates on the job market.

We will also have panels on "Success Outside the Ivory Tower," "Moving (or

Thinking about Moving) to Administration," and the "Labor Law Aspects of Faculty Employment."

The FDW planning committee is chaired by me and Mario Barnes (UC-Irvine), and includes SALT Board members Adele Morrison (Wayne State), Angela Onwuachi-Willig (Iowa), and Reggie Oh (Cleveland State).

The FDW is integral to SALT's encouragement of the next generation. We hope that many of you can attend and encourage your progressive colleagues to attend. You can find information on the SALT web site, [www.saltlaw.org](http://www.saltlaw.org), or at [www.latcrit.org](http://www.latcrit.org).



## Service Day in New Orleans: January 7, 2010

Nancy Cook, University of Minnesota  
Law School

Mark your calendars!

On Thursday, January 7, 2010, SALT and the Poverty Law Section of the AALS will co-sponsor a Day of Service in New Orleans, to coincide with the AALS Annual Meeting. The day will begin at 9:00 A.M. with volunteer service coordinated by the Lower Ninth Ward Center for Sustainable Engagement and Development, the New Orleans Group of the Sierra Club, and other local organizations. Immediately following will be a lunchtime session during which local providers and advocates will educate law school participants about needs in the Gulf Coast region and work with us to devise creative responses to the continuing calls for law-related assistance. Bus trips through affected areas of New Orleans are scheduled for the afternoon, with host faculty from Louisiana law schools serving as guides.

More information about program content and logistics will be available on the SALT website. For more information, contact Nancy Cook at [nlcook@umn.edu](mailto:nlcook@umn.edu).

## 2010 SALT Annual Dinner to Honor Professor Frank Valdés

Ruben Garcia, California Western School of Law

Save the date: The 2010 SALT Annual Dinner will take place on January 9, 2010, in New Orleans, in conjunction with the AALS annual meeting. The dinner, which will feature delicious New Orleans-style cuisine with plenty of gourmet flourishes, will take place at the Hotel Monteleone. The Monteleone is ideally situated in the French Quarter, a ten-minute walk from the conference hotel and a block away from the rowdy style of Bourbon Street. It is a small, charming, full-service hotel on Royal Street with nice city views. We think everyone will enjoy the setting as much or more than the dinner in January 2009 at the Prado in San Diego.

This year we will honor Frank Valdés with our Great Teacher Award. Professor Valdés is a founder and leader of LatCrit, an intellectual movement within outsider jurisprudence. Valdés has mentored countless law students and junior faculty members within and outside of the institutions where he has taught, which include the University of Miami, California Western School of Law, and Golden Gate Law School. We believe

that Valdés represents the core values of SALT: diversity, academic excellence and justice.

The dinner's location in New Orleans allows SALT members to contribute to the local economy and also reflect on the City's cultural and artistic heritage. We plan to add local artistic highlights to the dinner to complement the fine NOLA cuisine and beverages!

In these hard economic times, we are calling on all SALT members to do what they can to support the dinner. Please encourage your colleagues and your school to attend the dinner and buy tables and ads. Keep an eye on [www.saltlaw.org](http://www.saltlaw.org) and your email for further details!

The SALT Annual Dinner Committee consists of me as chair, Bryan Adamson (Seattle), Steve Bender (Oregon), Bob Lancaster (Louisiana State), Joan Mahoney (Wayne State), and Etheldra Scoggins (Loyola New Orleans). Please contact me at [rgarcia@cwsu.edu](mailto:rgarcia@cwsu.edu) if you have any questions or suggestions.

## Poverty Law Teaching Conference: San Francisco, March 19-20, 2010

Hazel Weiser, Executive Director, SALT

Current U.S. Census data, gathered before the world financial meltdown, claimed the nation's official poverty rate in 2007 was 12.5 percent. That translates into 37.3 million people living in poverty in 2007. No annual update has yet been released that shows the real impact of the recession on poverty rates in the country.

Rachel Van Cleave, Associate Dean for Academic Affairs at Golden Gate University School of Law, secured a grant from Elfenworks Foundation and asked SALT to

co-sponsor an upcoming interdisciplinary conference: "Vulnerable Populations and Economic Realities: An Interdisciplinary Approach to Law Teaching."

Social scientists, communications experts, economists, and demographers are all engaged in scholarship that redefines poverty, its roots, its possible solutions, and how we should talk about it so that we can get people to listen and act. This conference is designed both to educate participants about the socio-legal impact of current economic

realities and to foster strategies for building alliances between the legal academy and anti-poverty advocates.

The planning committee will be circulating its call for proposals by the opening of the academic year.

For any questions, contact Michele Benedetto at Golden Gate University (415-442-6575 or [mbenedetto@ggu.edu](mailto:mbenedetto@ggu.edu)) or me (631-650-2310 or [hweiser@saltlaw.org](mailto:hweiser@saltlaw.org)).



## SALT Teaching Conference on “The Law School of the Future”: Honolulu, December 2010

*Ngai Pindell, William S. Boyd School of Law, University of Nevada, Las Vegas*

SALT will host its next teaching conference, “Teaching in a Transformative Era: The Law School of the Future,” on December 10-11, 2010. The conference will be held in Honolulu, Hawai‘i, at the William S. Richardson School of Law, University of Hawai‘i. We are also pleased to announce that the Conference of Asian Pacific American Law Professors (CAPALF) will be joining us in Honolulu.

The conference theme, “Teaching in a Transformative Era,” focuses on the challenges and opportunities that law faculties and students will encounter in the next several years. The election of President Barack Obama and the subsequent reform activity of his administration offer a real potential for meaningful change in the lives of the most vulnerable Americans. At the same time, the current economic crisis has reduced the number of employment opportunities for law graduates, increased the need for legal services for poorer clients, and changed the

structure of regulation across the globe. Law schools will need to prepare students for this evolution. Lawyers must not only respond to the crushing need for legal services this economic crisis has caused; lawyers must also be at the front of the crisis helping to shape new regulatory and economic institutions to address the root causes of the problem.

Law schools will also be affected by these economic changes. Law schools will have to do more with less, and ensure that students can obtain a legal education without amassing a crushing debt load that limits their post-graduate options. Law schools must do more to admit students from a variety of racial, economic, and social backgrounds who can bring skills and resources back to their communities. Law schools must also ensure that their faculties are able to thrive in the classroom and in the community without fear of eroding tenure rights or harmful status distinctions.

This economic crisis is not just local or

national; it is international. The conference will attract social and economic activists from around the globe who can contribute their advocacy experiences. It will provide an opportunity for American social justice advocates to learn from lawyers and activists from other countries who have faced these kinds of economic challenges for many years.

The SALT Teaching Conference committee is actively planning for the December 2010 conference and welcomes suggestions for speakers and panels. Conference participants should think about these global economic and policy issues within the context of law schools and teaching. I am the chair of the committee. The other members are Margaret Barry, Raquel Aldana, Patti Falk, Fabio Arcila, and Angela Onwuachi-Willig. Please feel free to contact me at [ngai.pindell@unlv.edu](mailto:ngai.pindell@unlv.edu), or any other member of the committee, with comments.

## SALT Sponsors Panel on Lawyer Liability for Bush Administration’s Torture Policy after AALS Refuses

*Marjorie Cohn, Thomas Jefferson School of Law*

In anticipation of the January 2009 AALS annual meeting, I approached the International Human Rights Section about sponsoring a panel on the liability of lawyers for the Bush administration’s interrogation policy. Jordan Paust, Jonathan Turley, Ben Davis and I had agreed to participate. I was told that the panel needed to have “a host of views” so I invited John Yoo, Jack Goldsmith, Philip Zelikow, John Bellinger III, David Rivkin and Matthew Waxman. They all declined. The IHR section refused to sponsor the panel.

I then applied for panel approval as a Hot Topic, since several relevant develop-

ments had occurred after the deadline for regular panel proposals. Our topic was evidently too hot, as we were refused a Hot Topic spot.

SALT then graciously agreed to sponsor the panel, and Jordan, Ben and I led a lively discussion in one of the hotel suites. These are some of the things we discussed:

On August 1, 2002, John Yoo and Jay Bybee wrote a memo that changed the U.S. definition of torture, limiting it to acts inflicting pain equivalent to that accompanying serious physical injury, such as organ failure, impairment of bodily



*Marjorie Cohn*

function, or even death. Their definition is much narrower than that in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

**Panel on Lawyer Liability**  
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## Panel on Lawyer Liability

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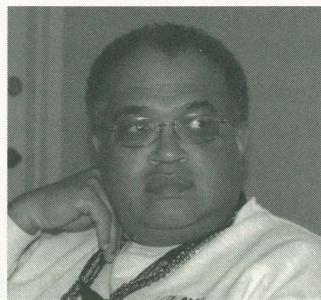
(CAT) and the Torture Statute. They also suggested defenses of military necessity and self-defense, notwithstanding CAT's absolute prohibition on torture in all circumstances.

After revelation of the atrocities at Abu Ghraib and the publication of the Yoo/Bybee memo, the Department of Justice withdrew that memo and issued a new one that rejected the Yoo/Bybee definition of torture.

There can be no two opinions on whether those who are involved in the decision to torture must be held accountable, both under the War Crimes Act and the Torture Statute. 18 U.S.C. section 2340A applies to those who conspire to commit torture. Yoo, Bybee and others who provided opinions used to justify torture are just as complicit as those who authorized and carried out the torture itself and must be held accountable.

Only two conclusions can be drawn

from the "torture memos." First, their purpose was not to give the client a full understanding of



Ben Davis

the legal issues, but to provide legal cover to an already decided upon, potentially criminal, policy. The second is that the drafters did their best to present all possible conclusions and consequences, in which case the advice given fell so far below the requisite standard of care as to constitute legal malpractice.

The memos by Yoo, Bybee and other DOJ lawyers "green-lighted" torture and abuse, and many detainees were subjected to such treatment; some 100 prisoners have died in U.S. custody, many from torture.

These lawyers knew, or should have known, that a direct result of their counsel would be the use of interrogation techniques

that would amount to torture. Or they knew it was already going on and they were doing their best to justify it. Regardless, they were



Jordan Paust

a common, unifying approach to the war on terrorism."

Lawyers cannot be permitted to hide behind the cover of fulfilling their professional responsibilities. It is impossible to believe this was the result of incompetence, leaving only the conclusion that they were

part of the conspiracy to commit torture. Yoo admitted that the coercive interrogation policies were "part of

willing participants in a conspiracy to violate the law. Professor Yoo and Judge Bybee, as well as the other lawyers who provided cover for illegal torture, are not protected by their right to free speech or academic freedom. They were not expressing their unsupportable legal opinions in scholarly journals or classrooms. They were asked to justify what the administration wanted to do and they willingly did it, knowing the inevitable results.

The issue of whether Bush's legal mercenaries should be held criminally responsible for their role in establishing the policy that led to the torture and abuse of prisoners has become part of the national discourse. There is nothing controversial about discussing the issue. It is a pity that only SALT would agree to sponsor such a critical discussion during the AALS meeting.

## 2009 Cover Workshop: Lighting "The Way Forward"

*Deborah Waire Post, Touro College, Jacob D. Fuchsberg Law Center*

In January of 2009, then President-elect Barack Obama sought to preserve the grass roots organizations that worked to elect him and to actualize his conception of an engaged citizenry. He asked people to write in to his transition website or to host community discussions and identify issues that should be among the top priorities for the new administration. The January 2009 Cover Workshop was planned long before the election but the committee was prescient when it chose as its subject: "The Way Forward: The Post-Election-2008 Progressive Agenda."

The Cover Workshop was hosted by the Thomas Jefferson School of Law on Wednesday, January 7, 2009. The moderator, Charles Ogletree, Harvard Professor and founder and Executive Director of the Charles Hamilton Houston Institute for Race and Justice at Harvard, asked panelists Bill Lan Lee, member of the Obama transition team and former Assistant Attorney General for Civil Rights in the U.S. Department of Justice under President Clinton; Lorena Gonzales, Secretary-Treasurer and CEO of the San Diego and Imperial Counties Labor Council; and Doug Colbert, Professor at Maryland Law School, to discuss the policy changes they expected or would like to see adopted by the Obama administration.

The panelists' answers to the questions posed by Professor Ogletree were informative but so were the comments and questions offered by an enthusiastic audience. The wide-ranging discussion included many suggestions for reform that were quite specific. The issues raised covered areas as diverse as criminal justice, immigration, accountability for torture and war crimes, and other aspects of foreign policy.

The Cover Workshop was followed by a reception co-sponsored by the National Lawyers Guild.



## 2009 SALT Annual Dinner: Nourishment for Our Spirits

Deborah Waire Post, Touro College, Jacob D. Fuchsberg Law Center

The 2009 SALT Annual Dinner was held in the Prado in beautiful Balboa Park on Friday, January 9, 2009. Because of the acrimony over the passage of Proposition 8 ending same-sex marriage in California and the \$125,000 donation made to support the proposition by the owner of one of the AALS conference hotels, Douglas Manchester, SALT decided to hold its dinner in a wonderful alternative location, to celebrate our victories and nourish our spirits for the struggles to come.

Balboa Park is San Diego's "Central Park," just five minutes from downtown. The Prado is a public facility that is catered by the outstanding Prado Restaurant right next door. The menu included California fare with special San Diego accents. The dinner was preceded by an outdoor reception and plenty of wine and conviviality into the night.

During the dinner, SALT honored some of the most admired members of the progressive legal movement. Yale Law School's Steve Wizner received the Great Teacher Award. Steve's contributions to the legal academy are legendary among those who care about social justice and the education of young lawyers. The letter nominating Steve expressed for all SALT members the many reasons why Steve should have received this honor from a group of progressive law professors:

"Steve is one of the founders of the modern clinical law movement that dates from the late 1960s and his commitment to issues of social justice and the lawyer's craft have been unwavering during his distinguished career. There are only a handful of legal educators in the U.S. with Steve's longevity as a clinical teacher who still go to court with their students, and who still enjoy the well-examined practice of

law well enough to want to continue to do so. For Steve, there is no greater lesson he can impart to his students than that it is in the lower courts of this country where issues of morality and justice truly play out, and where lawyers can make a difference. Steve, a long and active supporter of SALT, is the founder of the annual Cover Public Interest and Social Justice Retreat, which has provided a life-changing forum for generations of students.

"The educating Steve does stretches far beyond New Haven, and even further than his leadership with the Cover Retreat and clinical conferences. Throughout his teaching career, working with Ed Sparer and others at Columbia and then for over 30 years at Yale, Steve often has changed the specific areas and the kinds of clients that he and his students zealously represent: He has stood up for welfare recipients, children, the mentally ill at Connecticut Valley Hospital, the 'criminally insane,' and deportees, for example. In a rare form of ongoing, changing partnership, Steve and his students have confronted basic systemic problems across a strikingly broad spectrum ranging from family law and housing through immigration. Because of Steve Wizner, those he has represented and those represented by Steve's students in many realms have found the world somewhat less harsh. There is a bit more justice for those in need of solace through law. Today we may even have a better bridge between our world and what the world ought to be because of Steve Wizner and his ability to teach, to do, and to inspire."

CUNY School of Law's Rhonda Copelon was honored with the M. Shanara Gilbert

Human Rights Award. M. Shanara Gilbert, who was tragically killed in South Africa, was head of the Defender Clinic at CUNY School of Law, so this award had special significance. Rhonda Copelon has spent her entire career as a litigator and political activist working for the human rights of women. Before she entered law teaching, she spent twelve years at the Center for Constitutional Rights in New York City, where she remains a board member and volunteer attorney. There she litigated civil rights and international human rights cases with a major focus on women's rights. These cases include the landmark *Filartiga* decision, which opened federal courts to international human rights claims, as well as major United States Supreme Court cases that invalidated the firing of unwed mothers (*Drew v. Andrews*) and challenged the cut-off of Medicaid funds for abortion (*Harris v. McRae*). In 1992, she co-founded the law school's widely-acclaimed International Women's Human Rights Law Clinic (IWHR). Under her direction and guidance, IWHR enables students to participate in groundbreaking human rights litigation and advocacy in international and U.S. contexts with women's rights advocates from around the world. In addition to her work with the Center for Constitutional Rights, she is a member of Human Rights Watch's Advisory Board, Women's Rights Watch, and a founder of and legal adviser to the Women's Caucus for Gender Justice. She has published influential articles in the fields of reproductive and sexual rights and international women's human rights, and co-authored a leading text on women's rights.



## 2009 Trina Grillo Public Interest and Social Justice Retreat: “Global Social Justice Lawyering”

*Susan Feathers, Executive Director, Levin Center for Public Service and Public Interest Law, Stanford Law School*

More than 150 law students, academics, lawyers, and activists attended the 11th Annual Trina Grillo Public Interest and Social Justice Retreat at Stanford Law School on February 20 and 21, 2009. The theme of the Retreat “Global Social Justice Lawyering”; it featured a series of workshops, training sessions and panels through which par-

Service at Santa Clara Law School, reflected on the legacy of Trina Grillo, whose compassion and vision inspired a generation of lawyers and law professors. Kyong-Whan Ahn, Chairperson of the National Human Rights Commission of Korea, delivered the keynote address to a crowd of more than 100 students.



*Students at the Grillo Retreat*

ticipants explored new initiatives to apply human rights frameworks to domestic legal issues and learned about cross-border, collaborative social justice advocacy models. Many panelists discussed the innately global and interdisciplinary nature of progressive lawyering, emphasizing the importance of a transnational context in achieving economic and social justice.

The Retreat began with a panel on international human rights careers that featured Barbara Olshansky, Leah Kaplan Visiting Professor of Human Rights at Stanford Law School; Viviana Krsticevic, Executive Director of the Center for Justice and International Law; Dolores Donovan, Professor of Law at University of San Francisco Law School; Maran Turner, Executive Director, Freedom Now; and Laura Cosovanu, Affiliate of Stanford Law School's Levin Center and Freeman Spogli Institute's Program on Global Justice.

Following the opening panel, Stephanie Wildman, Professor of Law and Director of the Center for Social Justice and Public

Professor of Law and Director of International and Comparative Law Programs at Seattle University School of Law; Raven Lidman, Clinical Professor Law at Seattle University of Law; Constance de la Vega, Professor of Law and Academic Director of International Law at University of San Francisco School of Law; Martha Davis, Professor of Law at Northeastern Law School; Jill Adams, Law Students for Reproductive Justice; Tim Harstad, Rural Development Institute; and Svitlana Kravencko, Professor of Law at University of Oregon School of Law.

In addition to panels, the Retreat featured a pro bono training workshop as well as a break-out session for faculty. Freedom Now's

The following day featured a series of panels that focused on the intersection of international human rights law and criminal justice, environmental law, and reproductive rights. Speakers included Jennifer Martinez, Professor of Law at Stanford Law School; Ronald Slye, Associate

founder, Jared Genser, and executive director, Maran Turner, offered an interactive training on “Freeing Political Prisoners.” More than fifty students from eight law schools learned the basics of international human rights law, various approaches to applying political pressure on offending governments, and the most effective ways of publicizing cases. Neta Ziv, Professor of Law at Tel Aviv University, and Raquel Aldana, then Professor of Law at UNLV (now at McGeorge), also led a workshop for faculty that explored the unique institutional and pedagogical challenges of teaching international human rights law.

Feedback from participants has been overwhelmingly positive. “Inspirational, informative, and meaningful,” one commented. “Amazing and refreshing . . . probably keeping a lot of first-year students from dropping out of law school,” another said.

My conference co-planner, Diana Singleton, and I look forward to passing on the torch to next year's planning committee. Preparations are already underfoot for the 12th Annual Trina Grillo Public Interest and Social Justice Retreat, to be hosted by University of Oregon School of Law on March 6-7, 2010.



*Grillo Retreat participants*



## 2009 Robert Cover Public Interest and Social Justice Retreat: Celebrating 22 Years – and More to Come

Hazel Weiser, Executive Director, SALT

For the organizers of the twenty-second annual Robert Cover Public Interest and Social Justice Retreat, there was a tone of sentimentality in the air as people arrived at Camp Sargent, just outside of Peterborough, New Hampshire. It appeared that this would be the last year the Cover Retreat was held at Camp Sargent, due to Boston University's decision to close the facility. Throughout the weekend, time was taken to applaud the service and dedication shown to our organization by the men and women of Camp Sargent. For twenty-two years, Mark Wilson has effectively managed the facilities and kept the camp impeccable, and Victor the chef has provided us with hearty and delicious meals. At one point during the weekend, a group trekked out to find an alternative site, but more on that later.

Heidi Pushard, a student at the University of Maine School of Law, organized this year's Cover Retreat, held from February 27



2009 Cover Retreat student organizer  
Heidi Pushard

through March 1, 2009. She did a great job, helped by last year's student coordinator, Ben Smilowitz, from the University of Connecticut School of Law. More than eighty people – some from as far away as Florida – weath-

ered rumors of a looming blizzard to attend the retreat.

Friday night began with a presentation by Ben Smilowitz, founder of Disaster Accountability Project (DAP; <http://www.disasteraccountability.com>), and Rafa Cancel-Vazquez, founder of Puerto Rico's Asociacion Nacional de Derecho Ambiental (National Association of Environmental Law; <http://blog.andapr.org>). Ben and Rafa met through the Echoing Green fellows program. Echoing Green is a social entrepreneurship funding program. Ben and Rafa shared stories about how they transformed their indignation into projects that did good by organizing law school student activism. Ben worked as a Red Cross disaster relief site manager in the wake of Hurricane Katrina and was infuriated at the gaps in communications, services, and accountability. He enrolled in the University of Connecticut School of Law and started DAP while still a student. Rafa told the story of how he organized students at the University of Puerto Rico Law School into the first nonprofit environmental law firm on the Island. Both Ben and Rafa were charismatic and exciting speakers, prodding the students to make social justice the core of their life's work. After their presentation, everyone was ready to party.

Saturday morning began with a talk by Steve Wizner, one of the original founders of the Cover Retreat and a clinical professor at Yale Law School. Steve focused on the legacy of Robert Cover, and why, after Robert's untimely death, Steve, along with Danny Greenberg, Milner Ball, and Avi Soifer, began the Retreat twenty-two years ago. In addition, a bibliography of Cover's work was distributed for those in attendance. (To download a copy of the bibliography, go to [http://www.saltlaw.org/files/uploads/](http://www.saltlaw.org/files/uploads/2009Cover_Bibliography.pdf)

[2009Cover\\_Bibliography.pdf](http://www.saltlaw.org/files/uploads/2009Cover_Bibliography.pdf).)

In the words of Robert Cover: "Careers in public service work seem more exciting and worthwhile when there is a sense of movement – of common effort and common commitment." Almost to illustrate this idea that progressive law school students often feel isolated, a student from UConn admitted that she hadn't known most of the other UConn students who were attending the Cover Retreat this year. She now has a local community of like-minded friends at UConn as well as a network of colleagues attending other schools.

Danny Greenberg was the next speaker. Danny, a former President and Attorney-in-Chief of the Legal Aid Society, and currently the pro bono coordinator at Schulte Roth & Zabel, spoke about doing work as a lawyer that means something and makes a difference. Danny emphasized the importance of loving one's work, feeding the passion to keep going, and being connected to other people dedicated to the public interest. All this helps get one through the many disappointments and constant struggles that come in this line of work.

Saturday was broken up into two sets of workshops. The first set included:

- "Impact Litigation," with Zach Heiden, Legal Director, Maine Civil Liberties Union, and Ben Wizner, ACLU National Office, NYC;
- "Indians and the Roberts Court," with Ezra Rosser, Professor, American University College of Law;
- "Protecting Children from 'Friendly' Prosecutors: The Representation of Juveniles with Mental Health/Competency Issues," with Christopher Northrop, Professor, Juvenile Justice Clinic, University of Maine School of Law, and Tina Schneider, Cumberland





Cover Retreat co-founder Steve Wizner with his son Ben

appointed Dean of Yale) and his students to close Guantánamo Bay when it was used as a prison for Haitian refugees. The evening transformed once again into a party when Rafa gave salsa lessons in the Lodge.

Sunday morning began with a late breakfast and closing remarks from Steve Wizner, thanking everyone who had made twenty-two years of tradition so exceptional, and from Heidi Pushard and Maria Chvirko, from Yale Law School's clinical program. Then the last set of workshops began:

- "Public Defender Careers," with Paul Rudulf, Massachusetts Public Defender's Office;
- "Environmental Law," with William S. Eubanks, Meyer, Glitzenstein & Crystal, Washington, D.C., and Rafa Cancel-Vazquez;
- "Educational Equity in the 21st Century," with John Brittain, Lawyers' Committee for Civil Rights Under Law; and
- "Violence Against Women," with Julie Ehrlich, Women's Right's Project, and Jim Davis, Athens, Georgia.

As we packed our cars and began to depart ahead of the winter storm that blanketed the Northeast with more than fourteen inches of snow, we were reinvigorated with new connections, new ideas, and a renewed commitment to service in the public interest.

**Postscript:** Although it appeared during February's Cover Retreat that the Retreat would have to relocate, and we did find an alternative site, in June we were informed that a new operator was taking over management of Camp Sargent from Boston University, so the twenty-third annual Cover Retreat *will* be held at Camp Sargent.

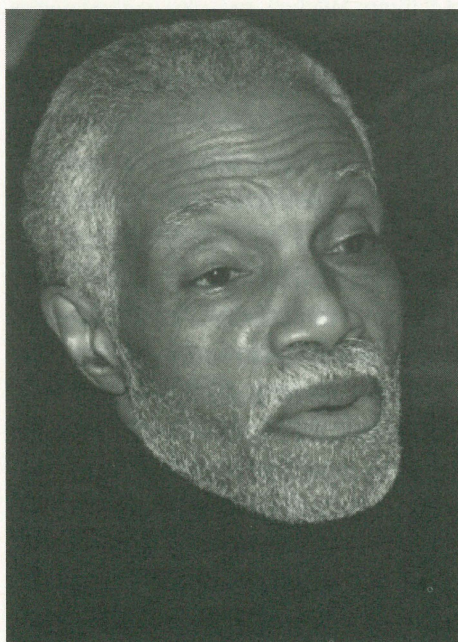
- Legal Aid Clinic, University of Maine;
- "Legal Services," with Danny Greenberg and Steve Wizner; and
- "Whistleblowing Law/Policy," with Tom Devine, Government Accountability Project.

The second set of workshops included:

- "Public Sector Workers and Collective Bargaining Rights," with Robin Alexander, United Electrical, Radio and Machine Workers of America;
- "Forty Years of Suing the Police," with Michael Avery, Suffolk Law School;
- "Don't Wait: How Law School Students Can Immediately Engage in Meaningful Work Pro Bono," with Hazel Weiser, Executive Director, SALT;
- "Disability Rights," with Linda D. Kalb, Director, California Legal Services Trust Fund Support Center Program Disability Rights Education and Defense Fund (DREDF); and
- "Disaster Accountability: Improving FEMA and Red Cross after Katrina," with Ben Smilowitz.

The lunch speaker was Ezra Rosser, American University, who added some

humor to the retreat. The afternoon was reserved for resting, hiking, cross-country skiing, and for some of us, searching for an alternative site for 2010's Cover Retreat. After dinner, Brandt Goldstein from New York Law School spoke about his book, *Storming the Court*, which details the efforts of then-Yale law professor Harold Hongju Koh (later



John Brittain, Lawyers' Committee for Civil Rights Under Law



## “Teaching in the Moment” Workshop Offers Tutorials on Using News and Current Events in the Classroom

Hazel Weiser, Executive Director, SALT

Nancy Cook, SALT board member, moved last year from Roger Williams to the University of Minnesota to become Director of the Lawyering Program there, yet she still found time to organize “Teaching in the Moment: A Workshop on Curricular Development.” On April 27, 2009, with the cooperation of all four law schools located in the Twin Cities area, the workshop attracted veteran faculty, novices, and adjuncts. The plenary session began with a panel of experienced faculty — Sara Faherty and Sue Tomkins, SUNY Buffalo; Christine Cimini, University of Denver; and Robert Lancaster, Louisiana State University — discussing how to structure courses that provide students with opportunities to perform meaningful community work and assure the disciplined acquisition of professional skills. Smaller sessions followed so that discussions might continue in subject areas: Constitutional/Global Crises; National Emergency, Local Imperatives; and idea generation for new teachers and adjuncts.

Lunch, too, afforded participants an opportunity to discuss potential projects, as



Robert Lancaster and Christine Cimini

did afternoon break-out sessions and a closing plenary that focused on local program models for “Teaching in the Moment.” Ann Juergens of William Mitchell spoke about how she introduced the Office of Legal Counsel “torture” memos into a Professional Responsibility class. Diane Dube, also of William Mitchell, reviewed methodologies that can be used in the classroom to incorporate relevant, newsworthy issues. Nekima Levy-Pounds and Artika Tyner of St. Thomas described their clinic, which uses a community empowerment model. Each semester they respond to specific needs expressed by a particular organization, usually with significant race- and class-based challenges for their students. Rather than take on individual cases, the students work to empower organizations to propose policy changes and legislative solutions to problems identified by the residents of the community. Mary Jo Hunter of Hamline discussed the risks and challenges of being in the moment. She described Hamline’s efforts to confront the needs for third-party representation in

custody proceedings. Her efforts included staffing self-help stations and taking on only test cases. Lisa Stratton of the University of Minnesota weighed the balance required when teaching “in motion:” addressing the fluidity of curriculum design when the needs of the community, and its resources, are constantly shifting, while assuring that course work is manageable and pedagogically sound for students.

SALT hosted a reception at the close of the day. We thank each of the deans for their generous support for this exciting regional meeting: Eric Janus, William Mitchell; Don Lewis, Hamline; Thomas Mengler, St. Thomas; and David Wippman, Minnesota.



Nekima Pounds-Levy



## SALT's LGBT Committee Works for Passage of New Legislation

Jane Dolkart

The past few months have turned a spotlight on the Obama administration's performance in actively supporting and advancing legislative efforts on behalf of the LGBT community. During his election campaign, President Obama made clear his support for ending Don't Ask Don't Tell and for the repeal of DOMA. Additionally, he indicated support for a hate crimes bill that includes sexual orientation and gender identity, and for passage of the Employment Non-Discrimination Act (ENDA). The LGBT community had reason to believe its legislative agenda would find success with the new administration and changes in Congress.

However, as President, Obama has not to date exercised strong leadership on LGBT issues. The national LGBT organizations have begun exerting more pressure on the administration to speak out on their issues. One of the top priorities on that legislative agenda is the repeal of Don't Ask Don't Tell

through the passage of the Military Readiness Enhancement Act, which would repeal the present policy and legislate non-discrimination in the armed services. The Servicemembers Legal Defense Fund has taken the lead in lobbying for repeal of Don't Ask Don't Tell. Our own SALT Board member, Jackie Gardina, is on the board of SLDF. Through Jackie's efforts, SALT sent a letter to President Obama urging him to exercise a leadership role in the repeal of Don't Ask Don't Tell. In July, Representative Patrick Murphy, the only Iraq (and Afghanistan) veteran in Congress, became the leader of the legislation. There are presently 165 members of Congress who have signed on to support the bill, and SLDN has begun an intensive lobbying effort to attract more signatories.

The House and Senate have each recently passed hate crimes legislation that includes sexual orientation and gender identity. The bills are attached to the Defense

Appropriations Bill, which is presently being considered in conference. This long-sought legislation will almost certainly reach the President's desk in the near future. Other top-priority legislation includes ENDA and the repeal of DOMA. SALT's LGBT Committee is determining how it can play a unique role in the passage of legislation important to the LGBT community. We have determined that the ability to mobilize law students to lobby on behalf of legislation would be an important contribution to the passage of legislation and a good learning experience for law schools. The Committee is exploring teaming up with Lambda Legal Defense and Education Fund to set up a network of professors who would be willing to pass on lobbying information to student LGBT groups. Lambda is beginning a project to set up Lambda groups at law schools. SALT and Lambda would mutually benefit from such collaboration.

## SALT's Human Rights Committee: SALT Recommends Immigration Agency Reforms

Deborah Waire Post, Touro College, Jacob D. Fuchsberg Law Center

In keeping with its history of advocacy for the human rights of immigrants, on June 16, 2009, SALT released a policy paper making a series of recommendations to the Obama administration for agency-level reforms. SALT Board member and Co-President-Elect Raquel Aldana (McGeorge), Board member Beth Lyon (Villanova), and Board nominee Karla McKanders (Tennessee) co-authored the recommendations, working within the SALT Human Rights Committee. Each of the authors has for many years served immigrant communities and observed firsthand how current regulations and enforcement break families, abuse refugees, and facilitate the exploitation of workers. The policy paper is based on the premise that a great deal of immigration re-

form could take place without legislative action. The position statement makes detailed recommendations in eight issue areas:

- Stop the criminalization of immigrants;
- Reform federal immigration enforcement inside the border;
- Eliminate local police enforcement of federal immigration laws;
- Recognize the right of immigration detainees to fair treatment, and include attention to the needs of children in immigration custody;
- Treat asylum seekers fairly and respectfully;
- End the practice of ideological exclusion;
- Address the impact of workers' rights issues on immigration patterns through national and international

initiatives; and

- Streamline the framework for combating human trafficking.

The full policy statement, entitled "SALT Recommendations to the Administration for Immigration Agency Reforms," is available at [http://www.saltlaw.org/files/uploads/immigrationpolicystatement\\_16\\_june\\_09\\_final-1.pdf](http://www.saltlaw.org/files/uploads/immigrationpolicystatement_16_june_09_final-1.pdf).

According to statement co-author Aldana, "in a system where life or death cases — for asylum seekers, for example — are decided via video-teleconferenced hearings and through stripped-down administrative review procedures, and unac-

**Human Rights Committee Report,**  
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## SALT's Judicial/Governmental Nominations Committee Lends Support to Obama Nominees

With the change in administration, the Judicial/Governmental Nominations Committee became active again after a hiatus at the close of the Bush administration, when the Senate was no longer performing its advise and consent function. When opposition launched against the nomination of Dawn E. Johnsen to serve as the next director of the infamous Office of Legal Counsel (OLC), the locus of the “torture memos,” the Committee took action, drafting a statement, and circulating it for board approval.

SALT issued its unequivocal support for Professor Johnsen in an April 16 statement that read, in part, as follows:

“[F]ew, if any, past nominees are more qualified than Professor Johnsen to serve President Obama and the people of the United States as director of OLC.

“First, Professor Johnsen is an expert on Constitutional Law with an impressive resume of scholarship that illustrates the depth of her understanding of American jurisprudence. Professor Johnsen has won a university teaching award as a Professor of Constitutional Law and holds a fellowship in recognition of her contributions to the field. Moreover, Professor Johnsen’s scholarship includes a history of OLC and the role it has played in guiding presidents and the executive branch of government as well as other contemporary constitutional issues.

“Second, Professor Johnsen has already served with distinction in OLC. Professor Johnsen was Deputy Assistant Attorney General in OLC from 1993-96 and Acting Assistant Attorney General, in charge of OLC, from 1997-98 during the Clinton Administration. At that time, she received high praise from agencies she advised, even when her opinions concluded that the Constitution and laws of the United States did not permit the agency’s proposed action. She brings extensive knowledge of the issues OLC faces,

together with managerial experience, to an office whose mission was severely diverted during the Bush administration.

“One of the strong virtues that Professor Johnsen will bring to OLC is her position on more limited Executive war powers. Her evaluation of the role of OLC, as demonstrated by her scholarly articles and her tenure at OLC, properly disavows the view that the Executive Branch may wield absolute power.”

SALT’s statement was widely distributed to members of the Senate Judiciary Committee, the media, and of course, to members. At the time of this writing, her nomination has not yet been confirmed.

On April 20, the Committee issued another statement, this time endorsing the nomination of Harold Hongju Koh, Dean of Yale Law School, to serve as Legal Adviser to the State Department:

“If confirmed, Dean Koh, a distinguished academic with an impressive record of public service, would bring his brilliance, expertise, and sound judgment to a position of undeniable importance in this increasingly complex diplomatic world.

“Dean Koh’s academic background — graduate of Harvard College and Oxford University; law degree from Harvard; M.A. from Oxford; clerkship for Supreme Court Justice Harry Blackmun — belies any possible claim that he does not have the educational background for this position. His professional experience — associate at Covington & Burling; attorney advisor in the Department of Justice Office of Legal Counsel (1983-85); professor at Yale Law School since 1985; Assistant Secretary of State, Democracy, Human Rights and Labor (1998-2001); and Dean of Yale Law School (2004-09) — further belies any possible claim that he does not have the professional and administrative background for this position. His extensive academic scholarship in the area of public

and private international law establishes him as one of the pre-eminent scholars in the United States in these areas of law. Dean Koh is one of this country’s most prominent public intellectuals. It is difficult to imagine an individual more qualified for the position of Legal Adviser.”

Once again, the SALT statement was distributed to members of the Senate Foreign Relations Committee, the media, and membership. His nomination was confirmed on June 25, 2009.

Lastly, when opposition to Judge Sonia Sotomayor’s nomination to the U.S. Supreme Court began appearing, the Committee drafted a third statement, also endorsing her nomination:

“We believe that Judge Sotomayor’s judicial record reflects sound legal analysis, appropriate caution, and the highest integrity. . . . Judge Sotomayor will bring a breadth of trial court experience that will well serve today’s Court. As an assistant district attorney in New York City, she spent her days in the courtroom and tried dozens of criminal cases involving the very difficult and dangerous matters affecting life in our urban centers, an environment all-too-familiar to one who had been raised by a single mother in a South Bronx public housing project. Later in her career, she was appointed to the federal district court bench by President George H. W. Bush, and she served in that capacity for six years until President Clinton elevated her to the Court of Appeals for the Second Circuit. If confirmed, Judge Sotomayor would be the only member of the Supreme Court with any significant trial court experience, either as a litigator or as a judge. Based on her experience as both, she knows and appreciates the real-world implications of appellate court rulings.”

***Judicial/Governmental Comm. Report,***  
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## SALT's Issues in Legal Education Committee: SALT Speaks Out on Diversity, Job Security

Deborah Waire Post, Touro College, Jacob D. Fuchsberg Law Center

Last year, SALT was concerned when Gail Heriott and Abigail Thernstrom used their positions on the U.S. Commission on Civil Rights (CCR) and the National Scholars Association to lobby for the removal of institutional commitment and structural support or incentives for diversity in law schools. They asked Secretary of Education Margaret Spellings to decertify the ABA as the accrediting body for law schools unless it removed or eliminated the accreditation standard that requires "concrete steps" to create a diverse faculty and student body.

SALT spoke out at the accreditation hearings defending the diversity standard, and SALT representatives met with members of the House and Senate to inform them of the attempts by the CCR and the Secretary to eliminate the diversity standard or to discourage enforcement of the standard by the ABA. Fortunately, even before the election in November, Congress minimized the threat

from the Department of Education when it enacted the Higher Education Opportunity Act of 2008, limiting the power of the Secretary of Education to select the members of the advisory board for accreditation of educational institutions, the National Advisory Committee on Institutional Quality and Integrity; removing the existing members; and stipulating that replacements could not be selected until January 2009. The immediate and direct political threat to diversity in legal education was ended, but there was barely time to take a deep breath before other issues came to the fore.

The ABA is now reviewing all of the standards for law school accreditation and considering ways in which the standards might be revised to measure outcomes. Last spring, the American Law Deans Association renewed its demand for more flexibility in accreditation standards. A letter from the president of Northwestern University, Henry

S. Bienen, to the presidents of other universities with law deans who are members of ALDA, put it most succinctly: "I believe that it is important for external groups — those of us who have a major stake in the accreditation process — to make our views known. I believe that it is time for the ABA Council to remove those standards that require terms and conditions of employment for faculty and staff and to focus instead on the quality of the programs our law schools offer to our students."

What the President of Northwestern did not mention is the context in which this demand is being made: 68% of the faculty at colleges and universities are now non-tenure track or non-tenured and 48% of the faculty are part-time. This has pernicious consequences for all of higher education, as the AAUP has recognized: "Excessive use of, and inadequate compensation and professional support for, faculty exploits these colleagues and undermines academic freedom, academic quality, and professional standards."

SALT agrees that there can be nothing more detrimental to the quality of legal education, especially with regard to issues of pedagogy and curriculum, than the silencing of those who work with students inside and outside of the classroom.

As an affiliate of the ABA, SALT sends representatives to meetings of the ABA Council and the Standards Review Committee. This year, SALT and other affiliates were invited to submit materials for consideration by the Council at a retreat that preceded its meeting in Indianapolis in June. The retreat was devoted to a discussion of whether the Standards should be relaxed to give schools more flexibility in dealing with the current economic recession. SALT is aware that endowments have declined in value.

**Legal Education Committee Report,**  
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### Human Rights Comm. Report

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compained minors are held in detention facilities for extended periods of time, we feel it is incumbent upon the legal academy to urge and monitor these relatively simple one-branch reforms."

Since releasing the statement, SALT continues to monitor these issues through targeted letters to the administration. Any SALT member interested in working on this project or with contacts in the administration should notify a member of the committee. The members are Co-Chairs Aldana ([Raquel.Aldana@unlv.edu](mailto:Raquel.Aldana@unlv.edu)) and Ben Davis ([bdavis8@utnet.utoledo.edu](mailto:bdavis8@utnet.utoledo.edu)), along with Marjorie Cohn, Nancy Ehrenreich, Lynne Henderson, Beth Lyon, Karla McKanders, Amy Garcia Uhrig, and Rick Wilson. Com-

mittee members are also happy to present on the recommendations in academic and advocacy settings.

### Judicial/Gov. Comm. Report

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That statement also was widely distributed. At the time of this writing, it appeared that her nomination was likely to be confirmed.

The Judicial/Governmental Nominations Committee requests that you please contact Robert Dinerstein, Committee Chair, at 202-274-4141 or [rdiners@wcl.american.edu](mailto:rdiners@wcl.american.edu), when you believe that issues pertaining to federal nominations in your region warrant SALT's endorsement or opposition.



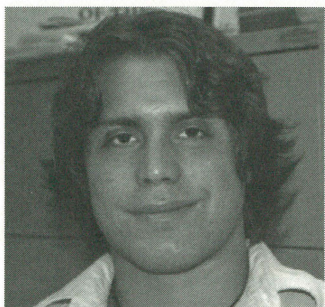
## SALT Staff News: Welcome Elizabeth Luzzi, Daniel Wilkens, and Kevin Lee!

Hazel Weiser, Executive Director, SALT

Elizabeth Luzzi joined the staff at the SALT national office as a part-time bookkeeper last summer and became a full-time assistant to the executive director in March 2009. She brings to SALT experience as a bookkeeper, an interest in financial management with real precision, and an enthusiasm for the mission of our organization.



Elizabeth Luzzi, Assistant to SALT's Executive Director

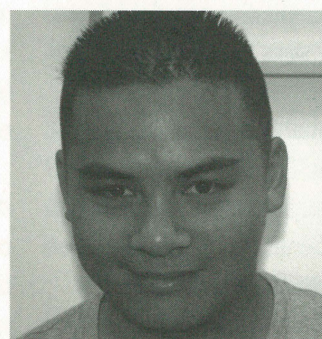


Daniel Wilkens, Touro Berg Public Interest Fellow

Daniel Wilkens, a 3L at Touro Law Center, served as a full-time summer intern, paid through a Touro Public Interest Berg Fellowship, and then added to his hours with a week of pro bono service. Dan's writing skills were a real asset to the organization. Dan worked on several important projects involving immigration, human rights, preparing SALT for compliance with the new IRS form 990 for nonprofit organizations, and briefings for the judicial nominations committee.

Kevin Lee, another 3L at Touro Law Center, served as this summer's Dorsen Fellow. Kevin brought to SALT his sophisticated research skills and enormous patience. He worked with SALT Co-President Deborah Post on bylaws revisions, and on several additional projects: enlarging SALT's distribution lists to include more Congressional offices and more civil rights, immigration, and LGBT organizations; and researching potential keynote speakers for the upcoming Poverty Law Conference, co-sponsored by the law school at Golden Gate University and SALT.

We thank Elizabeth, Dan, and Kevin for their service to SALT.



Kevin Lee, SALT Dorsen Fellow

### Legal Ed. Committee Report

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Universities are demanding a larger portion of the tuition from law schools. Many faculty members are experiencing the consequences of cutbacks as our schools restrict travel and freeze wages or even reduce salaries. These cutbacks continue even though the demand for admission is predictably higher than in recent years and many schools are enrolling more students. The consequences for students are more debt and fewer job opportunities or lower wages as beginning lawyers.

In the end, most speakers at the retreat concluded that there is already considerable flexibility in the Standards and that there is no evidence that the Standards are driving up costs. The position that SALT endorsed is that no action should be taken that would impair the quality of legal education, and that diversity is a core value that cannot be sacrificed.

The next month, the Standards Review

Committee (SRC) met and voted to recommend to the Council that the interpretations to Standard 402 be eliminated. The interpretations, which address student/faculty ratio, provide incentives for schools to give clinicians and legal writing faculty the kind of job security that will protect academic freedom and ensure participation by all faculty in the governance of law schools. The standard simply requires "sufficient full time faculty." The interpretations that were removed have not been replaced by anything that would give assurance that the full-time faculty will not be contingent and thus unable or unlikely to participate in any meaningful way in the governance of law schools.

As the SRC moves forward in its consideration of the way in which outcome measures can be incorporated into the new standards, SALT, especially its Issues in Legal Education Committee chaired by Andi Curcio, continues to produce and submit significant

reports that are commented on favorably by the members of the SRC. Our most recent submission included a hypothetical standard that would incorporate outcome measures, and an appendix that demonstrated how the standard could be used by a school. This very busy committee is also spearheading an effort to collect research and empirical data on outcome measures and working with John Garvey to promote alternatives to the bar examination, similar to the alternative adopted in New Hampshire.

The decisions made by the various committees of the ABA Section on Legal Education and Admission to the Bar have a significant impact on the quality of legal education, the policies that promote inclusion, and the need for academic freedom. We believe the Council and committees need more members from the public interest sector of the profession. If you can suggest potential nominees, please contact Hazel Weiser at 631-650-2310 or [hweiser@saltlaw.org](mailto:hweiser@saltlaw.org).



## New SALT *Equalizer* Publication Schedule:

The SALT Board of Governors recently decided to reduce the number of issues of the SALT *Equalizer* from four to three issues per calendar year. Starting in 2010, we will publish a salary survey issue in February/March, a spring issue in April/May, and a fall issue in November/December. The current issue, published in lieu of an April/May issue, is a bridge to that new publication schedule, as we have already published a salary survey issue in 2009 and will also publish a November/December issue.

## About SALT

Since 1973, the Society of American Law Teachers (SALT) has been an independent organization of law teachers, law deans, law librarians, and other legal educational professionals working to enhance the quality of legal education, make the legal profession more inclusive, and extend legal representation to under-served individuals and communities. SALT has been at the forefront of national debates about legal education and legal institutions. SALT challenges faculty, staff, and students to promote the profession's core values of equality and justice, and to oppose illegal and inequitable practices. You can learn more about SALT at [www.saltlaw.org](http://www.saltlaw.org). Please join us by registering to become a member online or with the membership application included below.

## Society of American Law Teachers

### Membership Application (or Renewal) 2009–10 Academic Year

You can register to become a member online and pay by credit card by going to [www.saltlaw.org](http://www.saltlaw.org), or you can complete and mail in this form, together with a check or credit card information.

#### Enroll me/renew my membership. I enclose:\*

- ☐ \$125 (for those earning \$125,000 or more per year)  
☐ \$90 (for those earning at least \$100,000 but less than \$125,000 per year)  
☐ \$65 (for those earning at least \$75,000 but less than \$100,000 per year)  
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☐ \$900 for lifetime membership

#### Additional contributions:

- ☐ I am contributing \$\_\_\_\_\_ to the Norman Dorsen Fund to support public interest internships with SALT.  
☐ I am contributing \$\_\_\_\_\_ to the Stuart and Ellen Filler Fund to support the work of the SALT Board.  
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\*Please pay at higher rate if dues are paid from professional funds.

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**Mail this form and your payment to: Hazel Weiser, Executive Director, SALT, Touro Law Center,  
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