



the president's message

Attacks on Clinical Programs and the Relevance of Core Values

H. Reese Hansen, Brigham Young University
J. Reuben Clark Law School

In my address at the annual meeting in New Orleans, I spoke of some of the special challenges presently facing the legal academy. Some of these stem from the economy, but others have their roots in misperceptions of faculty and of academic programs. Threats to academic freedom and faculty governance were among the issues I highlighted, urging that as we deal with these and other challenges the Association and member schools remain firmly focused on the AALS core values which do an excellent job of articulating the inter-related goals that we pursue as law teachers.

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2010 Annual Meeting Luncheon Keynote Address

The Honorable Guido Calabresi delivered an inspiring and thoughtful keynote address at the 2010 Annual Meeting Luncheon on Friday, January 8, 2010. His remarks after receiving the AALS Award for Lifetime Service to Legal Education and to the Law are below.

How can one say thank you? This is a great, great event for me. You are my colleagues, you are my friends, my mentors and my students. You have been my life. And though this is a lifetime achievement award, I hope that you will continue to be my life and that in time some may say that the award was premature.

It's particularly nice to have this happen on an occasion when so many people who are dear to me have also been honored: my student and law clerk, Risa; and my mentor in so many ways, Oscar Gray, whom the tort section honored. It's a wonderful sign of our continuity. When Fowler Harper died, Fleming James signed for me Harper's original copy of their great treatise, now in Oscar Gray's keep. And James put on it, "with that special affection that a teacher has for a student who has pushed the quest further." That's what we're all about, learning from someone and pushing the quest further. Transformative law is one of the ways we do it. As

is the set of panels that will take place immediately after this lunch. I will mention just one, which my Dean, Bobby Post, will be moderating, and which will have among its participants two of my students, Catharine MacKinnon and Richie Epstein. Now, what could be more transformative than that? A marvelous combination of people thinking about what law is and what it ought to do.

Why is the transformative role of law so important? Why is it such an important part of what we do? Why is what law does so crucial, not just in changing rules of law, but in changing underlying values? Law changes values in ways that may be awful or may be glorious or may be prosaic. But every-

thing we do in law does this. One of the reasons this is so is the blessing and curse of human beings . . . we are so adaptable. It is the secret, I think, of our survival, but it is also a secret of some of the most horrible things that have happened. If you had asked "good Germans" in



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President's Message

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While attacks on clinical programs are not a new phenomenon, a recent article in *The New York Times* by Ian Urbina, "School Law Clinics Face a Backlash," April 3, 2010, cited the growing number of challenges to law school legal clinics. The article was prompted by proposals in the Maryland legislature designed to influence the conduct of the clinics at the University of Maryland School of Law, by among other things withholding funding pending the production of information which included matters protected by the attorney-client privilege. A case brought by the school's environmental law clinic under the Clean Water Act (which alleged negative impacts on the Bay of certain chicken farming practices) seems to have drawn the ire of a poultry industry giant with considerable political clout in the State. The *Times* article also cites recent similar threats to other law school clinics in Michigan, New Jersey, and Louisiana.

Because of the importance of clinical education programs in the education of law students and the very serious adverse impacts the proposed intrusions on academic programs would have had on the Maryland law clinics, we concluded that the AALS should formally address these issues. Below is the full text of the letter we wrote to leaders of the University of Maryland outlining our very strong concerns. Executive Director Susan Prager is the primary author of the letter which I feel clearly and forcefully articulates the educational interests at stake. It appears that, for now, due to the efforts of citizens of Maryland, including many in the legislature, most of the troublesome elements of the proposal have been withdrawn. However, I believe the message of our letter provides important and useful information for faculty and deans as we all work in our schools to build strong programs and when necessary to defend them vigorously and effectively.

Dear Chancellor Kirwan and Chair Kendall:

I am writing to you in your leadership roles at the University of Maryland in the hopes of being of some help to the University in the context of recently expressed concerns about the activities of the clinical program at the University of Maryland School of Law, specifically the environmental law clinic. Before turning directly to clinical legal education, I will provide some brief background on the AALS.

The Association of American Law Schools is a non-profit voluntary association of 171 public and private law schools. Our purpose is to improve the legal profession through legal education. We also serve as the principal representative of legal education to the federal government, to national higher education organizations and to other learned societies. The University of Maryland School of Law was admitted to AALS membership in 1930 and has

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continuously been counted among our members for 80 years. Your new Dean Phoebe Haddon served as a member of the nine-person AALS Executive Committee for three years in the 1990's and has been a member of the AALS Resource Corps.¹

Since its formation in 1900, AALS membership has been regarded as a significant indicator of the quality of a law school. The core values of the AALS shape the efforts of the Association as well as define the obligations of its member schools. These core values combine to further excellence and innovation.²

Among AALS's professional development programs, is a multi-day annual conference for clinical faculty. (In fact, this year's conference which will draw more than 400 faculty from all over the country will be held in Baltimore in May.) For many decades now the AALS has been proud of the fact that through the volunteer efforts of member school faculty, it has made significant contributions to the growth, evolution and excellence of clinical education in the field of law.

Clinical education in law schools began in the United States in the late 1960's in response to a concern that while legal education did an excellent job of training students in legal analysis, it needed to act to ensure that graduates were also well-prepared for other aspects of the representational roles that they serve as lawyers. Encouraged by significant funding from the Ford Foundation, a pilot group of schools hired experienced lawyers to become full-time teachers who would experiment to craft a new component of legal education.

Borrowing the term "clinical" from medical education, the idea that the pioneering clinical faculty pursued was the use of actual legal problems and cases to train law students in the skills that they need to become effective and ethical lawyers. Under the close supervision of full-time faculty, students learn through their representation about the demands and norms of the lawyer-client relationship, the multiple ways the legal system addresses disputes (including pre-trial and trial skills, negotiation and mediation), the structuring of transactions, and the broad roles of lawyers within society. Throughout each of these, faculties and clinical pro-

grams seek to have students struggle with legal problems in the context of the ethical responsibilities of representing clients. These approaches have become well accepted and respected in legal education.

Understandably, given the role of the legal profession (in contrast, for example to the health professions) to resolve conflicts, controversy accompanied this new form of legal education. Over the decades, clinical programs, particularly those in public law schools, have been the subject of criticism based on the nature of the cases they pursued on behalf of clients. In response, over the years, the AALS has entered cases as a friend of the court in circumstances where clinical programs were misunderstood or under attack. These included, for example, a case involving the timber industry in Oregon and an environmental case pursued by the Tulane environmental clinic involving a plant siting. For each formal reported case, there are many dozens of criticisms voiced less formally. As Dean of the law school at UCLA I found myself explaining to elected public officials why one publicly supported institution (the clinical program at the law school) was participating in litigation against the County of Los Angeles over the fact that the public

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¹ The Resource Corps is a specially trained group of volunteer faculty who assist other AALS schools seeking resolution of specific institutional issues.

² The core values emphasize both excellent teaching (across a rigorous and dynamic curriculum) and scholarship, noting its relationship to the creation and dissemination of knowledge. The core values also embody inter-related commitments to a self-governing academic community, to academic freedom, and to diversity of viewpoints. Member schools commit to support all of these objectives in an environment free of discrimination and rich in diversity among faculty, staff and students. The core values are framed by the idea that institutional autonomy should be honored whenever possible because wide latitude will encourage the development of strong and effective educational programs and learning communities. The core values combine to provide an environment where students have the opportunity to study law in an intellectually vibrant institution capable of preparing them for professional lives as lawyers instilled with a sense of justice and of obligations of civic responsibility.

2010 Annual Meeting Luncheon Keynote Address

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1933 whether the first laws, the first rules against Jews would lead to the gas ovens, they would have said you were crazy. And yet in less than ten years, that society and its values had changed enough so that it all became possible.

Conversely, I remember, as do some of you, the world before *Brown v. Board of Education*. That case didn't come out of the blue. But when it came, it made a difference that has made us a different people, and made our legal system a different legal system. Of course, there is a tremendous amount still to do. And yet that decision, that ruling, because it changed our values, made possible all sorts of things that would have seemed impossible at the time.

Now, it would be nice to think that value changes were in one direction only, and only positive. In fact, it isn't that way. Law changes and goes back and forth in any number of different ways. In 1958, when I was clerking, it was inconceivable to think of capital punishment as being unconstitutional. I don't think there was a single member of the Warren court who would have been prepared to hold that at that time. Yet 20 years later, the Court came within an ace of such a holding. And if it had so held, it would have changed values in the same way that the abolition of capital punishment in parts of Europe—a movement led by political minorities—changed values enough so that now a country cannot join the European Union if it allows capital punishment. And yet it didn't quite

happen here, and so things turned back. And today, capital punishment seems to be broadly accepted. This too will change. I'm a firm believer in that and that values that I believe in will win out again. But remember: it does not move in just one direction. That means that we have to be able to say more about values.

And that isn't limited to great issues. I'm a torts teacher. Torts looks as though it is immutable at any given point and then mutates enormously. Many things evolved from the 19th century to the 20th century and back again because of value modifications, and because of the changes that alterations in law made on values. And this is very important too: it is not only one thing affecting the other. Law affects values. Values affect law. Laws affect values again. It's the same with words. It isn't that because we speak some way, the law follows. And yet, it isn't just that because the law is one way, we speak that way. What we say changes in relation to law, and that, in turn, changes law again. And so it is with values.

That means that it is essential that we speak intelligently about values. Today's lunch is not the place to go into this question deeply; it's a tremendous topic. But I do want to say something about legal scholarship and values. The critical legal scholars were correct when they criticized so much of legal scholarship for not being concerned with values. In particular, some of them criticized *The Cost of Accidents*, my book, for talking about all sorts of

wonderful things: Reduction of accidents? How boring! Reducing the sum of accident costs and the costs of their avoidance, safety costs? At best a little less boring! Even adding in all my talk of distributional, spreading, and administrative costs, I still was not talking about what they said really mattered, values. I hate to say it, but they were quite right.

The trouble is that having said that, they didn't say anything about what can be said about values. That's why they're called critical. It's easier to criticize than to suggest something constructive. Nevertheless, theirs was a very important insight.

What can we say about values? Well, first, I think we have to start out with the statement that there are values that are good and there are values that are bad. That is as important for liberals to say as it is for conservatives. Often liberals say, well, we can't say that. That's nonsense. Arthur Leff, one of the most skeptical people in the world, wrote a little article in which he said: burning babies is wrong. There are things that are simply bad. And we should start out knowing and saying that. Second, it is also the case that we can analyze values and say something about what they do and what they don't do, and use our skills as legal scholars to show why some things are preferable to others. *De gustibus non est disputandum*: about taste there is no dispute. That sounds good, but it's nonsense. We must dispute about tastes and about values, we must say something about them. Indeed, it is so possible to say

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something about them that even lawyer-economists can contribute to that debate. And it's something I mean to do next.

Let me give you an example: economists say correctly that if we have no values at all, we can't say anything about which values are better than others. That's true enough. But allow me just two wants, two very simple wants: one, we like a larger pie rather than a smaller one (an assumption economists make all the time, that a bigger pie representing greater utility is better than a smaller one); and, two, some distributional preference with respect to that pie. I don't care which one, but some distributional preference. For today I'm going to make the assumption that a given society wants a larger pie and a more equal distribution of that pie. Let me assume only these two values, and I can immediately tell you that those values that cause people to want things that are not scarce—things that are in common supply—will result in a greater joint maximization of these two values. When people want something that is rare, they either have to pay somebody to produce it or whip the person to produce it, both of which create greater inequality. If we want—if our values lead us to want—things that are common, we can have a larger and more equally distributed pie. To the extent that we prize good clean water over the finest of Burgundies; to the extent that we enjoy ordinary sex rather than wanting only sex as depicted in things that shape our values as if everybody looked like . . . oh, I don't know, what are their names—Brad

Pitt? Jennifer Lopez? Give me a break. To the extent instead we have values that cause us to be happy with ordinary, common things, then we can have a larger pie than if we only value scarce things.

Now, let me add one other value: the desire for creativity. This is something that isn't very difficult to assume people want. To the extent that we say that we are made in the image of the Almighty, whether one takes that to be truth or myth, that suggests the desire for reason, love, and creativity, all of which seem fair to put in as values. But for now let me put in only one of these: the desire to be creative. So I will assume a society that wants a larger pie that is more equally distributed, and is also one in which people desire to be creative. If you allow me just these three values, "more," "more equal," and "creativity," I can immediately tell you all sorts of secondary values that lead to a greater joint maximization of the three basic values. Anything that allows people to be creative in a non-scarce way, that allows a whole lot of people to be creative, will result in a greater joint maximization of these three fundamental desires. So handicraft, popular art, singing in the shower, if they are valued, will contribute to achieving a higher level of our more basic values. Bringing up children, which is a highly creative (if also drudge-filled) activity is one that everyone can engage in. And I'm not talking about women as against men; or, rather, I'm talking about men and women both. To the extent that our society emits laws furthering these

values, thereby prizing people who are creative in non-scarce ways, we will have a pie that is bigger and more equally distributed, by allowing more people to be creative.

I'm doing this not to propose any answers or solutions, but to say that even lawyer-economists can give insights into values. Among you are philosophers, historians, thinkers from any number of disciplines. Each of you can and must analyze values through your own approach to law. You can explain why some are more desirable than others and suggest what legal rules will help us to further them. And each of you must do that from your own point of view, with your own background. In this respect, you all can be transformative.

Let's step backwards. In thinking of the law's power to transform and further values, we should also have some respect for a group of people with whom I don't agree, the formalists, who don't want the law to be transformative. One of the things I noticed coming as a refugee from fascist Italy was that the law in Italy during the time of fascism was completely formalistic—unchangeable—and even scholars were not permitted to suggest changing the law, if they were to be scholars. *De juris condendum*—the study of the law as it ought to be—was not considered scholarship. Now, why was that? In a fascist state, formalism retained in place 19th-century law and 19th-century values. Those values were flawed in any number of ways, but they were relatively liberal or libertarian, in contrast with what

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2010 Mid-Year Meeting

June 8-12, 2010

New York, New York

The Mid-Year Meeting consists of the following professional development programs:

- The Workshop on “Post Racial” Civil Rights will be held June 8-10, 2010
- The Workshop on Civil Procedure and the Workshop on Property, will be held concurrently from June 10-12, 2010

You can register for just the Workshop on “Post Racial” Civil Rights, or the simultaneous Workshops on Civil Procedure and Property, or register for the entire Mid-Year Meeting which includes access to all programs (“Post Racial” Civil Rights and the concurrent Civil Procedure and Property Workshops) held from June 8-12. Registering for the entire Mid-Year Meeting results in approximately a 50% discount off of the first workshop registration fee.

Type of Registration	Received by May 21	Received After May 21
Workshop on “Post Racial” Civil Rights		
June 8-10, 2010		
Faculty of Member and Fee-Paid Schools	\$495	\$545
Faculty of Non Fee-Paid Law Schools	\$585	\$645
Workshops on Civil Procedure AND/OR Workshop on Property		
June 10-12, 2010		
Faculty of Member and Fee-Paid Schools	\$495	\$545
Faculty of Non Fee-Paid Law Schools	\$585	\$645
All Three Workshops		
June 8-12, 2010		
Faculty of Member and Fee-Paid Schools	\$750	\$835
Faculty of Non Fee-Paid Law Schools	\$835	\$930

2010 Mid-Year Meeting Workshop on “Post Racial” Civil Rights Law, Politics and Legal Education: New and Old Color Lines in the Age of Obama

Supported in part by a grant from the Law School Admission Council to Support Speaker Attendance

June 8-10, 2010

New York, New York

When Du Bois wrote in 1903 that “the problem of the Twentieth Century is the problem of the color line,” he was reflecting on momentous changes over the previous decades. For Du Bois, the turn of the century offered an opportunity to take stock of race, to gauge its recent past and predict its immediate future. The turn of the millennium offers us a similar backward- and forward-looking opportunity. Thus this AALS workshop on race and the law.

Planning Committee for 2010 Mid-Year Meeting Workshop on “Post Racial” Civil Rights Law, Politics and Legal Education

Devon Wayne Carbado, University of California, Los Angeles, **Chair**

Ian F. Haney Lopez, University of California, Berkeley

Audrey McFarlane, University of Baltimore

Reva B. Siegel, Yale Law School

Stephanie M. Wildman, Santa Clara University

Entitled ““Post Racial” Civil Rights law, Politics and Legal Education: New and Old Color Lines in the Age of Obama” (hereafter ““Post Racial” Civil Rights”), the aim of this workshop, broadly framed, is to mark three significant post civil rights changes to the American racial landscape and to explore the implications of those changes for the future of racial justice advocacy, organization, litigation and legal education. As will become clear, while the three developments we have in mind are not exhaustive of the shifts in U.S. racial dynamics post *Brown v. Board of Education* and the passage of the Civil Rights Act of 1964, each raises profound questions about the direction and substantive content of civil rights reform in the decades to come.

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2010 Mid-Year Meeting Workshop on “Post Racial” Civil Rights

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Change I: The installation of colorblindness as both the normative backdrop against which race is publicly discussed and a formal legal technique to adjudicate civil rights cases. This installation produces racial denials (of racism), racial prohibitions (of racial consciousness) and racial elisions (of existing racial inequalities). Colorblindness has simultaneously undermined the emancipatory potential of civil rights law and made conversations about racial justice in civic and political arenas virtually impossible. At the same time, colorblindness has enabled and legitimized a discourse of cultural difference and social responsibility that now serves as the principal explanation of and justification for existing racial hierarchies.

Change II: The shift in America’s racial demographics from a majority white nation to a majority-minority nation. There are two significant features of this shift. First, no single racially-defined group represents a majority of the population; and, second, Latinos constitute the new majority-minority. By the year 2000, these patterns were firmly established in California; they now exist in numerous other states, and many of the nation’s major cities, as well.

Change III: The momentous election of Barack Obama as the first Black President of the United States. When Obama announced his decision to run for the United States presidency, few people thought he would win the democratic nomination, let alone the White House. But win the White House is precisely what he did, changing the face of American politics in the process and facilitating the introduction of a new term in our ever-shifting racial vocabulary: post racialism. Exactly what this term will come to mean is anybody’s guess. What is clear is that post racialism has already begun to operate as “replacement labor” for the ideological work that colorblindness has traditionally performed.

Organized over three days, the “Post Racial” Civil Rights Workshop will examine what the foregoing developments portend for civil rights legal practice, education and political reform. An informal reception opens the workshop on the evening of Tuesday, June 8. The substantive sessions will begin on Wednesday, June 9, with a plenary focused the role law plays in reproducing inequality, even and perhaps especially when no formal “racial classifications” are involved. Entitled “The Legal (Re)production of Inequality,” the plenary will demonstrate some of the distinctive mechanisms through which law reproduces racial inequality in areas including: criminal justice, healthcare, housing, education, employment, immigration, and constitutional law. Small group informal breakout sessions will follow the plenary, but remain in the plenary room, forming small groups based on where they are seated and engaging the members of their group for 30 minutes around the themes the plenary presented. Group participants will then have the opportunity to draw on their group discussions to direct questions at the plenary speakers.

Lunch then follows and will feature a keynote presentation. A second plenary will launch the afternoon sessions, this one devoted to “New Paradigms of Racialization.” As mentioned above, the United States has shifted from a majority white nation to a nation within which (1) no single racial group constitutes a racial majority, (2) people of color outnumber whites, and (3) Latinos are the new minority majority. This plenary panel will explore whether these demographic changes—and social response to them—reflect new paradigms of racialization. How should we now count race? What are the frames in which we now talk about race? And what are the intersectional implications of these shifts in demographics and discourse? How do they affect our conception of whiteness? Do they have implications for relations of intimacy—shaping perceptions about childbearing and child care, or the social expression of sexuality? How do these new forms of racialization shape claims about citizenship and security, immigration and sovereignty? Staying with this theme, the second afternoon session will feature a choice among several concurrent sessions, including sessions on the census, immigration and profiling, sovereignty, race and dependency and race, family and sexuality.

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2010 Mid-Year Meeting Workshop on “Post Racial” Civil Rights

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The second day of the workshop, Thursday, June 9, will open with the plenary, “Race Across the Curriculum and Law School: Race Law 101 and Beyond.” This plenary will focus on race, legal education and law school environment. Senior, mid-level and junior professors will discuss not only the substantive content on the basic race law course, but also how if, at all, that course does or should differ from a course in critical race theory. The panelists will also consider whether identity specific courses, such as Latinos and the Law and Asian American Jurisprudence, enhance or diminish a multiracial approach to civil rights reform. Finally, because race is endogenous (and not just exogenous) to legal environments, the plenary will consider some of the ways in which—outside of the classroom—race shapes and is itself shaped by the institutional culture and life of law schools. To permit further discussion of these issues, the plenary will be followed by small group breakout sessions that, in addition to continuing the discussion of the law school environment and race-specific courses, will examine how to incorporate race into non-traditional race law classes, such as tax and the basic first year curriculum.

Lunch then follows with a keynote presentation on the Obama Administration and Civil Rights. The afternoon sessions will turn to solutions. The discussion will begin with the plenary, “Interventions: The Possibilities and Limitations of Law.” As the title suggests, this plenary will examine whether law

remains a productive vehicle with which to achieve racial reform. From antidiscrimination law to immigration law to human rights to housing and criminal justice reforms, the panelists will explore the possibilities and limitations of law—working alongside large and small scale political organizing—to effectuate progressive racial change.

The day ends with another plenary, this one structured in the form of a roundtable to maximize audience participation. Entitled, “The Future of Race, Law and Civil Rights: Asking and Answering the Hard Questions,” this plenary will press the panelists to consider some of the most difficult and controversial questions about the future of race, law and civil rights. Some of the questions will explicitly draw from, though they will not be exhausted by, the themes around which the preceding plenaries are organized. Is Obama’s presidency likely to be more symbolic than substantive? Are there progressive terms upon which assimilationist projects can be articulated? Should whiteness be more explicitly engaged in our public and political discourses about race? How should we theorize the notion of a black/white binary? Has civil rights advocacy failed meaningfully to engage class? How, if at all, should arguments based on hierarchies of oppression figure in civil rights advocacy? To what extent should our racial engagements be more globally-centered? What is the role of international law in domestic civil rights reform? These are some of the questions this plenary will take up.

Who Should Attend?

This workshop has been planned for (1) anyone interested in post civil rights changes to the American racial landscape and the implications of those changes for the future of racial justice advocacy, organization, litigation and legal education, (2) scholars and teachers in the field of race and the law and anti-discrimination law, including but not limited to those who write about or teach courses in constitutional law, employment discrimination, women and the law, sexual orientation and the law and feminist jurisprudence, and (3) law professors who teach courses that are not explicitly marked in terms of race and are interested in developing new and exciting ways to incorporate race into their courses.

When is this Workshop?

The workshop will be held at the Sheraton New York Hotel and Towers located at 811 7th Avenue at 53rd Street in New York. The workshop will begin on Tuesday, June 8, with an opening reception from 6:00 to 8:00 p.m., followed by two days (June 9 and 10) of plenary and concurrent sessions. Both June 9 and 10 will feature luncheons with keynote speakers.

Registration information is posted online at: www.aals.org/midyear/.

See page 9 for a list of topics and speakers.

Topics and Speakers at the 2010 Mid-Year Meeting Workshop on “Post Racial” Civil Rights

Topics:

- The Legal (Re)production of Inequality
- Racial Inequality Without Racists
- New Paradigms of Racialization? Race, Citizenship, Indigeneity, Immigration
- Race Across the Curriculum & Law School: Race Law IOI and Beyond
- Holding the President Accountable: What the Obama Administration is Doing
- Interventions: The Possibilities of Law
- The Future of Race, Law and Civil Rights: Asking the Hard Questions
- Concurrent Sessions
 - Whiteness and “Post Racial”ism
 - Race, Sovereignty & Political Identity
 - Immigration & Profiling
 - Race & Sexuality
 - Colorism
- Small Group Discussions: Race Across the Curriculum
 - Race and First-Year Courses: Contracts, Torts & Civil Procedure
 - Race and the Corporate Curriculum
 - Race and the Law: The Course
 - Race & First Year Courses: Criminal Law, Criminal Procedure and Property
 - Race Law Curricula, Programs and Centers
 - Race and Law School Climate

Speakers:

Bryan L. Adamson, Seattle University; Muneer I. Ahmad, Yale Law School; Raquel E. Aldana, University of the Pacific; Anthony V. Alfieri, University of Miami; Elvia R. Arriola, Northern Illinois University; Margalynne J. Armstrong, Santa Clara University; Sameer M. Ashar, City University of New York; R. Richard Banks, Stanford Law School; Taunya Lovell Banks, University of Maryland; Bethany Berger, University of Connecticut; Eduardo Bonilla-Silva, Professor of Sociology, Center for Latin American and Caribbean Studies, Duke University; Deirdre Bowen, Seattle University; Dorothy Andrea Brown, Emory University; Paul Butler, The George Washington University; Bennett Capers, Hofstra University; Robert S. Chang, Seattle University; Guy-Uriel E. Charles, Duke University; Sumi K. Cho, DePaul University; Brietta R. Clark, Loyola Law School; Frank Rudy Cooper, Suffolk University; Kimberle Crenshaw, Columbia University; Gilda Daniels, University of Baltimore; Angela J. Davis, American University; Kim Forde-Mazrui, University of Virginia; Sheila R. Foster, Fordham University; Katherine E. Franke, Columbia University; Laura E. Gomez, University of New Mexico; Neil Gotanda, Western State University; Wendy Greene, Samford University; Lani Guinier, Harvard Law School; Pratheepan Gulasekaram, Santa Clara University; Angela P. Harris, University of California, Berkeley; Cheryl I. Harris, University of California, Los Angeles; Tanya Hernandez, Fordham University; Emily M.S. Houh, University of Cincinnati; Darren Lenard Hutchinson, American University; Lisa C. Ikemoto, University of California, Davis; Osamudia R. James, University of Miami; Creola Johnson, The Ohio State University; Kevin R. Johnson, University of California, Davis; Trina Jones, Duke University and University of California, Irvine; Linda H. Krieger, University of Hawaii; Sylvia Lazos, University of Nevada, Las Vegas; Brant L. Lee, University of Akron; Ian F. Haney Lopez, University of California, Berkeley; Audrey G. McFarlane, University of Baltimore; Rachel F. Moran, University of California, Berkeley; Melissa E. Murray, University of California, Berkeley; Camille A. Nelson, Hofstra University; Nancy K. Ota, Albany Law School; Brandon Paradise, Rutgers University, Newark; Juan F. Perea, University of Florida; John A. Powell, The Ohio State University; Carla Pratt, Pennsylvania State University; Angela R. Riley, Southwestern Law School; Dorothy E. Roberts, Northwestern University; Florence Wagman Roisman, Indiana University, Indianapolis; Daria Roithmayr, University of Southern California; Addie Rolnick, University of California, Los Angeles; Ediberto Roman, Florida International University; Tom I. Romero II, Hamline University; Saul Sarabia, University of California, Los Angeles; Leticia Saucedo, University of Nevada Las Vegas; Reva B. Siegel, Yale Law School; Terry Smith, DePaul University; Dean Spade, Seattle University; Julie Su, Director of Litigation, Asian Pacific American Legal Center; Gerald Torres, The University of Texas; David D. Troutt, Rutgers University-Newark; Francisco X. Valdes, University of Miami; Rose Cuison Villazor, Hofstra University; Cheryl L. Wade, St. John's University; Deleso A. Alford Washington, Florida A&M University; Kimberle C. West-Faulcon, Loyola Law School; Robert S. Westley, Tulane University; Stephanie M. Wildman, Santa Clara University; Jennifer Wriggins, University of Maine.

2010 Mid-Year Meeting Workshop on Civil Procedure: *Charting Your Course in a Shifting Field*

New York, New York

June 10-12, 2010

Civil Procedure is a shifting field, requiring mastery of a rapidly changing subject. A new approach to pleading, elaborate litigation financing mechanisms, expanding frontiers in preclusion law, and an increasingly detailed awareness of the landscape of civil litigation all present difficult challenges to teacher and scholar alike.

This workshop will address these important issues. It will also focus on three central pedagogical challenges: teaching the hardest cases, incorporating innovative and varied classroom methodologies, and constructing a successful course in fewer credit hours.

Our speakers will include established scholars and newer voices. The program is designed to benefit Civil Procedure teachers and scholars at all levels of experience.

Registration information is posted online at:
www.aals.org/midyear/.

Topics:

The Return of Pleading: *Twombly* and *Iqbal* in Federal and State Courts; Teaching the Three Hardest Cases; Emerging Methods: Three Ideas; The Demography of Civil Litigation: What We Know; Big Topics, Shrinking Credits; Recognition and Enforcement of Foreign-Country Judgments: Domestic and Comparative Perspectives; Brave New World of Litigation Finance

Speakers:

Tom Baker, University of Pennsylvania; Marilyn J. Berger, Seattle University; Robert G. Bone, Boston University; Hannah L. Buxbaum, Indiana University, Bloomington; Paul D. Carrington, Duke University; Joe S. Cecil, Ph.D., Project Director in the Division of Research, Federal Judicial Center, Washington, D.C.; Kevin M. Clermont, Cornell Law School; Edward H. Cooper, The University of Michigan; Theodore Eisenberg, Cornell Law School; Howard M. Erichson, Fordham University; Christopher Fairman, The Ohio State University; Martha A. Field, Harvard Law School; Susan M. Gilles, Capital University; Alex Glashauser, Washburn University; Samuel Issacharoff, New York University; John P. Lenich, University of Nebraska; Ashley S. Lipson, University of La Verne; Benjamin V. Madison, III, Regent University; David W. Marcus, The University of Arizona; Arthur R. Miller, New York University; Linda S. Mullenix, University of Texas; Michael B. Mushlin, Pace University; John Schwartz, National Legal Correspondent, New York Times, New York, New York; Timothy D. Scrantom, President, Juridica Capital Management (US), Inc., New York, New York; Anthony Sebok, Yeshiva University; Linda J. Silberman, New York University; Lisa Margaret Smith, United States Magistrate, Judge, Southern District of New York, New York, New York; Angela Upchurch, Capital University; Howard M. Wasserman, Florida International University.

Planning Committee for 2010 Mid-Year Meeting Workshop on Civil Procedure

Frederic M. Bloom, Brooklyn Law School
Laura Hines, University of Kansas
Richard A. Nagareda, Vanderbilt University
Patrick Woolley, University of Texas, **Chair**
Stephen C. Yeazell, University of California, Los Angeles

2010 Mid-Year Meeting Workshop on Property

June 10-12, 2010

New York, New York

Two major crises in the last few years have exposed deep tensions and pressures on our understanding of Property Law. The foreclosure of more than 2 million homes, and the anticipated default of another 6 million mortgages have shaken common notions about the ability of consumers to understand real estate transactions and the terms of their mortgage contracts, posed stark questions about the failure of the law to limit the ability of the market to produce property transactions that created significant principal/agent costs, moral hazards, and externalities, and presented challenging questions about racial disparities in access to prime credit and in the underwriting of troublesome new mortgage products. Similarly, vigorous debates over the responsibility of industrialized countries to control global warming, the need to protect future generations from the effects of global warming, and the fair allocation of the burdens of reducing greenhouse gases similarly have posed challenging questions about the regulation of risk from activities on private property, the nature of property owners' obligations to future generations, and the failure

of regulation to control externalities from the use of property. Both crises raise serious theoretical and practical challenges to traditional notions about the comparative advantages of the free market, our ability to craft property laws that limit systematic risk without unduly discouraging innovation, and the continuing inability of the law to prevent racial discrimination, exclusion and exploitation.

The crises also have shown that property conundrums are hardest when they fall at the intersections of state and federal law; constitutional, statutory, regulatory and common law; and substantive environmental, international, financial instruments and risk regulation fields. Property law professors increasingly must come to terms with these intersections as they struggle to distinguish property from other subjects. At the same time, property law professors must master and incorporate into their scholarship and teaching the considerable insights normative theory, theories about race, gender and inequality, and scholarship on law and economics (especially behavioral law and economics) and political economy provide about property.

To address these issues, the workshop will begin substantively on Friday, June 11 with an opening plenary focused on identifying the core of property that must be taught in the introductory property course. As the credits allotted to introductory property courses shrink in schools across the country, but as the crises of the last few years show just how fundamental property law is to our legal and financial systems, senior, mid-level, and junior professors will debate what is critical to include in the basic property course. A second plenary will launch sessions on the mortgage and housing crises, focusing first on "Property in Dangerous Packages: Subprime and Skin in the Game." The luncheon keynote will feature a discussion of federal efforts to address the need for reform in the regulation of the financial and mortgage sectors.

The afternoon sessions will then feature breakout sessions on what behavioral law and economics tells us about the mortgage crisis; what norms underpin the mortgage crisis; what the crisis tells us about the regulation of risk; and what we can learn about and from the political economy of homeownership. We will then reconvene in a third plenary session to talk about inequality and the subprime market.

Planning Committee for 2010 Mid-Year Meeting Workshop on Property

Vicki L. Been, New York University, **Chair**
 Carol N. Brown, University of North Carolina
 Eduardo Moises M. Penalver, Cornell Law School
 Joseph W. Singer, Harvard Law School
 Alfred Chueh-Chin Yen, Boston College

2010 Mid-Year Meeting Workshop on Property

Continued from page 11

The morning of Saturday, June 12th will feature breakout sessions organized around works-in-progress selected through a request for proposals. A fourth plenary session will then focus on what the global warming crisis tells us about property law. Breakout sessions will follow, again to allow examination of the global warming crisis through the perspective of various normative theories and theories of equality and fairness, as well as from a political economy and risk regulation vantage point. The day will end with very early works-in-progress roundtables, at which scholars with very preliminary ideas will be given just ten minutes to outline their ideas and receive feedback on the viability of the topic.

Registration information is posted online at www.aals.org/midyear/.

Topics:

Plenary Sessions:

- The Core of Property: What is Essential in the First Year
- Property in Dangerous Packages: Subprime and Skin in the Game
- Inequality and the Subprime Mortgage Crisis
- The Global Warming Crisis: Property Law

Breakouts:

- What Does Behavioral Law and Economics Tell Us About the Mortgage Crisis
- What Are the Norms Underlying the Mortgage Crisis
- What Does the Mortgage Crisis Teach Us About Regulating Risk
- What Does the Mortgage Crisis Teach Us About the Political Economy of Home Ownership
- Global Warming
- Subprime Crisis
- Global Warming Crisis: Thinking Holistically
- The Global Warming Crisis: Fairness
- The Global Warming Crisis: Regulating Risk
- The Global Warming Crisis: Political Economy

Works-in-Progress Roundtable

Confirmed Speakers Include:

Jonathan H. Adler, Case Western Reserve University; D. Benjamin Barros, Widener University; Ray Brescia, Albany Law School; Sara Bronin, University of Connecticut; Alfred L. Brophy, University of North Carolina; Ann E. Carlson, University of California, Los Angeles; Joseph W. Dellapenna, Villanova University; Vincent Di Lorenzo, St. John's University; Lee Anne Fennell, The University of Chicago; William A. Fischel, Professor of Economics, Dartmouth College Department of Economics, Hanover, New Hampshire; Sheila R. Foster, Fordham University; Eric T. Freyfogle, University of Illinois; Michael B. Gerrard, Columbia University; Keith H. Hirokawa, Albany Law School; Robert C. Hockett, Cornell Law School; Tim Iglesias, University of San Francisco; Alex M. Johnson, Jr., University of Virginia; Emma C. Jordan, Georgetown University Law Center; Alexandra B. Klass, University of Minnesota; Douglas A. Kysar, Yale Law School; John A. Lovett, Loyola University New Orleans; Martha Mahoney, University of Miami; Patricia A. McCoy, University of Connecticut; Audrey G. McFarlane, University of Baltimore; Jonathan R. Nash, Emory University; Hari Michele Osofsky, Washington and Lee University; Jedediah S. Purdy, Duke University; Annelise Riles, Cornell Law School; Florence Wagman Roisman, Indiana University, Indianapolis; Gerald Rosenfeld, Clinical Professor, Leonard N. Stern School of Business, New York University; J.B. Ruhl, Florida State University; Erin Ryan, College of William and Mary; Mark Sagoff, Senior Research Scholar, University of Maryland School of Public Policy; Maria Savasta-Kennedy, University of North Carolina; Paige Skiba, Vanderbilt University; Henry E. Smith, Harvard Law School; Stewart E. Sterk, Yeshiva University; Stephanie M. Stern, Loyola University, Chicago; Laura S. Underkuffler, Cornell Law School; Molly Van Houwelling, University of California, Berkeley; Brent White, University of Arizona; Joshua Wright, George Mason University.

President's Message

Continued from page 3

sewer system was not in compliance with federal law, with the result that sewage would flow untreated into the Santa Monica Bay during heavy rainstorms.

But there is a clear and sound answer to those who understandably question the role of state clinical programs and that is this simple fact: The settings for law practice selected by law schools for clinical education are chosen based on their value as teaching vehicles. These settings range from small claims and landlord-tenant disputes to international human rights questions. In the environmental law field, Clean Water Act cases are among the various types selected because they provide students with hands-on experience working with a complex statute and different types of administrative materials.

One critical lesson for lawyers entering a field where they will undoubtedly face conflicts with important interests, is that they have a duty to be loyal to their clients, including the protection of all matters of confidentiality. As in all professional responsibility matters, clinics and law schools need to be able to convey the importance of the independence of lawyers from outside pressures, as compelling as those pressures may be. The Carnegie Foundation for the Advancement of Teaching in its recent important report *Educating Lawyers*, stressed the centrality of law schools' teaching students what they term professional identity and purpose so that law students can assume, with a strong sense of responsibility and without cynicism, the many critical roles they play in fostering democracy. The Carnegie Report found that clinical programs were a major site within legal education for teaching this overriding aspect of being a lawyer. State-funded law schools have a strong interest, particularly if they are to achieve national prominence, in teaching these important and often difficult aspects of the role of the legal profession in society. Universities and law schools are in a critical position to convey the importance of these long-term objectives of a high quality educational system.

The quality of a Law School's clinical program and in turn the reputation of the school will be damaged if it cannot ensure that its clinical programs can remain competitive with those of other schools around the country. Without question in the modern era, the presence of strong clinical programs enhances a law school's ability to attract good students. The opportunity for students to engage in an actual case can lead to precedent-setting decisions. For example,

as I write today, the U.S. Supreme Court is hearing an important constitutional and criminal law question that arose in the University of Houston Law Center's Immigration Clinic.

As the AALS said last year in the context of attempts to apply a public records law to a state law school's clinic:

[P]ublic law school clinical law professors and their students practicing law in a clinical setting will not be able to competently or ethically represent clients if they must reveal client confidences that other members of the bar would be required to keep. As a result, clinical education, one of the most important educational developments in law schools over the last 40 years, would not be viable in public law schools but would instead be limited only to private law schools.³

This is why Deans, University officials, organizations such as the AALS, and lawyers devoted to ensuring that ordinary legal processes are protected have been careful and effective in ensuring that clients represented by the clinical programs of state law schools are not disadvantaged, or that ordinary legal protections, such as lawyer-client confidentiality, are not impaired.

The state of Maryland, the University and all of the public officials, alumni and others who have contributed to the strength of the University of Maryland clinical programs can take pride in the excellence of your University in the field of clinical education. As I'm sure you know in rich detail in your leadership roles as Chancellor and Chair of the Regents, your law school's achievements in clinical legal education have been consistently highly regarded for their effectiveness.

If the AALS can be of assistance to you relating to the questions that have been raised about the University of Maryland School of Law's clinical program, we would like to be of help.

Sincerely,

Susan Westerberg Prager
Executive Director
Chief Executive Officer

New Law School Teachers Workshops

June 16-20, 2010

Washington, D.C.

Planning Committee for the AALS Workshop for Pretenured Minority Law School Teachers, Workshop for New Law School Teachers; Workshop for New Law School Clinical Teachers:

Randy E. Barnett, Georgetown University Law Center
 A. Mechele Dickerson, The University of Texas
 Robert D. Dinerstein, American University
 Tanya Kateri Hernandez, Fordham University
 Kellye Y. Testy, University of Washington, **Chair**
 Ronald F. Wright, Wake Forest University

Type of Registration	Received by May 19	Received After May 19
Workshop for Pretenured Minority Law School Teachers		
Faculty of Member and Fee-Paid Schools	\$255	\$305
Faculty of Non Fee-paid Law Schools	\$330	\$380
Workshop for New Law School Teachers		
Faculty of Member and Fee-Paid Schools	\$550	\$600
Faculty of Non Fee-paid Law Schools	\$600	\$650
Workshop for New Law School Clinical Teachers		
Faculty of Member and Fee-Paid Schools	\$255	\$305
Faculty of Non Fee-Paid Law Schools	\$330	\$380
Combined Workshops: New Law School Teachers and Pretenured Minority Law School Teachers or New Law School Clinical Teachers (discounted fee)		
Faculty of Member and Fee-Paid Schools	\$660	\$710
Faculty of Non Fee-Paid Law Schools	\$710	\$760
All Three Workshops (discounted fee)		
Faculty of Member and Fee-paid Schools	\$770	\$820
Faculty of Non Fee-Paid Law Schools	\$820	\$870

Workshop for Pretenured Minority Law School Teachers

June 16-17, 2010

Washington, D.C.

A grant from the Law School Admission Council is funding the Workshop's Luncheon and partial support for Speakers' Attendance.

Why Attend?

From their first day of teaching until tenure, minority law teachers face special challenges in the legal academy. At this workshop, diverse panels of experienced and successful law professors will focus on these issues as they arise in the context of scholarship, teaching, service and the tenure process. The workshop dovetails with the AALS Workshop for New Law School Teachers by providing sustained emphasis on the distinctive situations of pretenured minority law school teachers.

Who Should Attend?

The Workshop will be of interest to newly appointed minority law teachers as well as junior professors who are navigating the tenure process.

Plenary Session Topics:

Promotion and Tenure: Getting to Yes; Teaching: Strategies to Success; Service: Strategies to Success; Scholarship: Strategies to Success; You Can Do This

Speakers:

Devon Wayne Carbado, University of California, Los Angeles; A. Mechele Dickerson, University of Texas; Phoebe A Haddon, University of Maryland; Tanya Hernandez, Fordham University; Thomas W. Joo, University of California, Davis; Veryl Victoria Miles, The Catholic University of America; Camille A. Nelson, Saint Louis University; Xuan-Thao Nguyen, Southern Methodist University; Michael A. Olivas, University of Houston; Jennifer L. Rosato, Northern Illinois University; Serena M. Williams, Widener University.

Workshop for New Law School Teachers

June 17-19, 2010

Washington, D.C.

Why Attend?

At the 28th annual Workshop for New Law School Teachers, new law teachers will share their excitement, experiences and concerns with each other and with a roster of senior and junior faculty chosen for their track record of success and their diversity of scholarly and teaching approaches. These professors will pass along invaluable advice about teaching and testing techniques and tips for developing, placing and promoting one's scholarship. Speakers will also address how to manage the demands of institutional service, as well as the expectations of students and colleagues, along with special challenges that arise when confronting controversial topics.

Who Should Attend?

The Workshop will benefit newly appointed faculty members, including teachers with up to two years of teaching experience, and those with appointments as visiting assistant professors.

Plenary Sessions Topics:

Scholarship; Preparing for Your First Semester of Teaching; Biggest Triumphs and Mistakes: Junior Faculty Perspectives; Teaching to the Whole Class; Challenging Moments in the Classroom; Exam Preparation, Reading, Grading, Review and Course Evaluation; Institutional Citizenship and Politics

Concurrent Session Topics:

Choosing Subject Matter; Publication Process; Promotion/Readership Techniques

Speakers:

The Honorable Guido Calabresi, U.S. Court of Appeals, New Haven, Connecticut; G. Marcus Cole, Stanford Law School; Ronald K.L. Collins, University of Washington; Angela J. Davis, American University; Joan W. Howarth, Michigan State University; Howard Katz, Elon University; Paula Lustbader, Seattle University; Solangel Maldonado, Seton Hall University; Margaret E. Montoya, University of New Mexico; Shuyi Oei, Tulane University; R. Anthony Reese, University of California, Irvine; Jennifer L. Rosato, Northern Illinois University; Omari S. Simmons, Wake Forest University; Lawrence B. Solum, University of Illinois; Francisco X. Valdes, University of Miami; Laurie B. Zimet, University of California, Hastings

Workshop for New Law School Clinical Teachers

June 19-20, 2010

Washington, D.C.

Why Attend?

The Workshop for New Law School Clinical Teachers is designed to offer new law faculty an introduction to clinical teaching, and to the challenges of balancing the various roles that clinical teachers are expected to perform. The Workshop will address the basic tasks of the clinical teacher—setting goals for clinical courses, teaching professional skills and values, supervising students and producing scholarship—and will provide the perspective of clinicians who were recently new teachers themselves. Concurrent sessions will focus on important questions of evaluation and collaboration in a clinical context. At lunch, attendees will be able to gather with colleagues teaching in similar subject-matter areas.

Who Should Attend?

The Workshop for New Law School Clinical Teachers should be of interest to new teachers of in-house and externship clinical courses and to all new teachers interested in clinical teaching methodology.

Sessions Topics:

Goals and Future of Clinical Legal Education; Skills and Values; Scholarship; New Clinicians (Things I Wish Someone Had Told Me When I Started); Evaluation; Collaboration

Speakers:

Alicia Alvarez, The University of Michigan; Margaret Martin Barry, The Catholic University of America; Susan J. Bryant, City University of New York; Robert D. Dinerstein, American University; Deborah Epstein, Georgetown University; Phyllis Goldfarb, The George Washington University; Lisa Kelly, University of Washington; Catherine F. Klein, The Catholic University of America; Katherine R. Kruse, University of Nevada, Las Vegas; Sarah H. Paoletti, University of Pennsylvania; Ascanio Piomelli, University of California, Hastings; Jenny Roberts, American University; Ann C. Shalleck, American University

The AALS Directory of Law Teachers 2010-2011



Association of American
Law Schools

Printed for Law Teachers as a
Public Service by
West Law School Publishing and
Foundation Press

Update your 2010-2011 *Directory of Law Teachers* listing today!

The AALS *Directory of Law Teachers* is now online.

Faculty at member and fee-paid schools need to update their own profiles. This online process has replaced the hard copy forms that have to be mailed from, and returned to AALS each spring.

While hard copies of the *Directory* will continue to be mailed to all member and fee-paid schools, this new process allows faculty and schools to keep their information updated year-round, while making production of the hardcopy more streamlined and efficient.

Please visit www.aals.org/dlt/ for instructions, FAQs and to login or update your personal information.

An e-mail with instructions and your current biographical listing will be sent to full-time faculty shortly.

Call for Scholarly Papers for Presentation at the 2011 AALS Annual Meeting

To encourage and recognize excellent legal scholarship and to broaden participation by new law teachers in the Annual Meeting program, the Association is sponsoring its twenty-sixth annual *Call for Scholarly Papers*.

Those who will have been full-time law teachers at an AALS member or fee-paid school for **five years or fewer on July 1, 2010** are invited to submit a paper on a topic related to or concerning law. A committee of established scholars will review the submitted papers with the authors' identities concealed.

Rachel F. Moran (University of California Berkeley School of Law), the AALS Immediate Past President, will serve as chair of the review committee.

Papers that make a substantial contribution to legal literature may be selected for distribution and oral presentation at a special program to be held at the AALS Annual Meeting in San Francisco, California, in January 2011. Authors of the presented papers will also be recognized at the Annual Meeting Luncheon. The selection committee must determine that a paper is of sufficient quality to deserve this special recognition, and the AALS is not obligated to select any paper.

Deadline: To be considered in the competition three hard copies of the manuscript must be **postmarked no later than August 13, 2010** and sent to: Call for Scholarly Papers, Association of American Law Schools, 1201 Connecticut Avenue, N.W., Suite 800, Washington, DC 20036-2717. Also, an electronic version must be **e-mailed to scholarlypapers@aals.org no later than August 14, 2010**.

Anonymity: The manuscript should be accompanied by a cover letter with the author's name and contact information. The manuscript itself, including title page and footnotes, must not contain any references that identify the author or the author's school. The submitting author is responsible for taking any steps necessary to redact self-identifying text or footnotes.

Form and Length: The manuscript must be typed, double-spaced, on 8 1/2" by 11" paper in 12-point (or larger) type with ample (at least 1") margins on all sides and must have sequential page numbers on each page of the submitted article. Footnotes should be 10-point or

larger, single-spaced, and preferably on the same page as the referenced text. Each submission must be prepared using either Microsoft Word or otherwise submitted in rich text format. Submissions are limited to articles, essays and book chapters. **There is a maximum word limit of 30,000 words (inclusive of footnotes) for the submitted manuscripts. Manuscripts will not be returned.**

Eligibility: Faculty members of AALS member and fee-paid schools are eligible to submit papers. The competition is open to those who have been full-time law teachers for five years or fewer as of July 1, 2010 (for these purposes, one is considered a full-time faculty member while officially "on leave" from the law school). Co-authored papers are eligible for consideration, but each of the co-authors must meet the eligibility criteria established above. No one who has won the AALS Scholarly Papers Competition is eligible to compete again. Honorable Mention recipients are eligible to enter again. Professors are also restricted to submitting only one paper in the Scholarly Paper Competition.

Papers are expected to reflect original research or major developments in previously reported research. Papers are not eligible for consideration if they will have been published before February 2011. However, inclusion of a version of the paper on the Social Science Research Network (SSRN) or similar pre-publication resources does not count as "publication" for purposes of this competition. Submitted papers, whether or not selected for recognition, may be subsequently published as arranged by the authors. Papers may have been revised on the basis of review by colleagues.

Statement of Compliance: The cover letter accompanying each submission must include a statement verifying: 1) the author holds a faculty appointment at a member or fee-paid school; 2) the author has been engaged in full-time teaching for five years or fewer as of July 1, 2010; 3) all information identifying the author or author's school has been removed from the manuscript; 4) the paper has not been previously published and is not committed for publication prior to February 2011; 5) the content of the hard copy version of the paper is, in all respects, identical to the electronic version of the paper; and 6) the author must agree to notify the AALS if and as soon as s/he learns that the submitted paper will be published before February 2011.

Proposals for Professional Development Programs

In preparation for the submission of proposals on professional development programs to the Executive Committee, the Committee on Professional Development will convene at the AALS headquarters this fall. Among other things on the Agenda, the Committee will recommend the Association's professional development calendar for 2011-2012.

If your section believes that it would be an opportune time for the AALS to offer a professional development program in areas of interest to your section during 2011-2012, the Professional Development Committee invites you to submit a proposal for such a program. To ensure a comprehensive review of these proposals and facilitate the request for any additional information, the deadline for submission is **May 29, 2010**. Proposals received by then will receive preference in the selection process.

The Association's professional development programming consists primarily of one-day workshops at the Annual Meeting and two-day workshops and three-day conferences at the Mid-Year meeting. Programs need not fit any particular format, but many past conferences and workshops have fallen into one of the following categories:

(1) subject matter programs aimed at faculty who teach particular subjects or types of courses such as the 2009 Mid-Year Meeting Conference on Business Associations and 2010 Mid-Year Meeting Workshop on Civil Procedure;

(2) programs for groups with similar interests other than subject matter such as the 2010 Mid-Year Meeting Workshop on "Post Racial" Civil Rights Law, Politics, and Legal Education: New and Old Colorlines in the Age of Obama and 2003 Workshop on Taking Stock: Women of All Colors in Law School;

(3) programs that cut across subject matter lines or integrate traditional subject matter such as the 2008 Annual Meeting Workshop on Local Government at Risk: Immigration, Land Use and National Security and the Battle of Control and the 2006 Mid-Year Meeting Workshop on Integrating Transnational Legal Perspectives;

(4) programs that focus upon a type of skill or discipline as in the 2006 Mid-Year Meeting Conference on New Ideas for Law School Teachers and the 2009 Annual Meeting Workshop: Progress? The Academy, Profession, Race and Gender: Empirical Findings, Research Issues, Potential Projects and Funding Opportunities;

(5) programs dealing with matters of law school administration or legal education generally such as the 2008 Mid-Year Meeting Workshop for Law Librarians and the 2010 Annual Meeting Workshop on Pro Bono Public Service; and

(6) programs exploring the ramifications of significant developments in or affecting the law such as the 2008 Annual Meeting Workshop on Courts: Independence and Accountability.

Proposals should be as specific as possible, including a description of the areas or topics that might be covered, in as much detail as possible, and an explanation of why it would be important and timely to undertake such a program in 2011-2012. The Professional Development Committee particularly encourages proposals for programs that are sufficiently broad that they will interest more than the membership of a single AALS section. The AALS strongly encourages proposals that contemplate different or innovative types of programming or develop interdisciplinary themes. A sample of a well-developed proposal is available for review on the AALS Web site at: <http://www.aals.org/profdev/>

The Association welcomes suggestions for members of the planning committee and potential speakers, along with a brief explanation as to their particular qualifications. It is helpful to the planning committee to have as much information as possible about potential speakers in advance of its meeting. Since planning committees value diversity of all sorts, we encourage recommendations of women, minorities, those with differing viewpoints, and new teachers as speakers. Specific information regarding the potential speaker's scholarship, writings, speaking ability, and teaching methodology is particularly valuable.

Proposals are solicited from sections and those proposals are extremely valuable as a starting point for the planning committee. Planning the actual program, including the choice of specific topics and speakers, is the responsibility of the planning committee, which is appointed by the AALS President. The planning committees normally include one or more individuals who are in leadership positions in the proposing section, and other teachers in that subject area.

As indicated above, proposals should be submitted to AALS Deputy Director, Elizabeth Patterson, by **May 29, 2009**. Please send an electronic copy of your proposal by e-mail to profdev@aals.org. Deputy Director Patterson also would be pleased to discuss proposal ideas with you and to answer any questions you have about the Association's professional development programs. Please send your questions by e-mail to epatterson@aals.org.

2011 Annual Meeting Theme

AALS CORE EDUCATIONAL VALUES: *Guideposts for the Pursuit of Excellence in Challenging Times*

San Francisco, California
January 5-8, 2010

The core values of the AALS, which are articulated in Bylaw 6-1, provide critically important guidance in the Association's activities and to our member schools. The core values emphasize excellent class room teaching across a rigorous academic curriculum. They focus on the importance of faculty scholarship, academic freedom, and diversity of viewpoints. The core values also establish an expectation that member schools will value faculty governance and instill in our students commitments to justice and to public service in the legal community. All of these objectives are to be supported in an environment free of discrimination and rich in diversity among faculty, staff, and student body. These core values combine to provide an environment where students have opportunity to study law in an intellectually vibrant institution capable of preparing them for professional lives as lawyers instilled with a sense of justice and an obligation of public service.

Almost all of our member schools are dealing with extraordinary financial pressures as a result of the economic crisis in the country. Reductions in financial support from state legislatures and shrinking endowments have put unprecedented financial pressure on law schools in meeting their obligations to students and the profession. Almost all law schools are dealing with budget cuts which have produced a variety of cost saving strategies including hiring freezes, travel restrictions, program and course offering reductions, and even salary reductions and lay-offs.

Other events, including review of ABA accreditation standards relating to student learning outcomes, law school governance, and academic freedom and security of position as well as the changing nature of the legal profession which our graduates will enter, raise additional potentially challenging issues for the legal academy.

Our 2011 Annual Meeting in San Francisco provides us with an opportunity to discuss how the Association's core values guide law schools as they address the issues confronting legal education. It is precisely because law schools have pursued these values that legal education in the U.S. is the model and envy of the world. Especially in the face of daunting challenges it is important that law schools continue to be anchored in these values as we adapt to necessary changes in what we do and how we do it.

Because the core values focus on excellent teaching, a rich curriculum, high quality scholarship, academic freedom and faculty governance, nondiscrimination, and diversity, there will be much that can be highlighted. I am looking forward to meeting with you in San Francisco.

*-H. Reese Hansen,
Brigham Young University J. Reuben Clark Law School and AALS President*

Call for Scholarly Papers for Presentation at the 2011 AALS Annual Meeting

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Each author is to indicate up to four subject categories from the list below that best describe the paper. In the event that none of the categories listed captures the essence of the paper or the author feels that another category not listed below best describes the paper, then the author is permitted to write-in one topic under "other" that best describes the paper.

Subject Categories:

Administrative Law; Admiralty; Agency/Partnership; Agricultural Law; Animal Law; Antitrust; Alternative Dispute Resolution; American Indian Law; Arts and Literature; Bank and Finance; Bankruptcy and Creditor's Rights; Civil Procedure; Civil Rights; Commercial Law; Communications Law; Community Property; Comparative Law; Computer and Internet Law; Conflict of Laws; Constitutional Law; Consumer Law; Contracts; Corporations; Courts; Criminal Law; Criminal

Procedure; Critical Legal Theory; Disability Law; Dispute Resolution; Domestic Relations; Economics, Law and; Education Law; Elder Law; Employment Practice; Energy and Utilities; Environmental Law; Entertainment Law; Estate Planning and Probate; Evidence; Family Law; Federal Jurisdiction and Procedure; Foreign Relations/National Security; Gender Law; Health Law and Policy; Housing Law; Human Rights Law; Immigration Law; Insurance Law; Intellectual Property; International Law - Public; International Law - Private; Jurisprudence; Juveniles; Labor; Law and Society; Law and Technology; Law Enforcement and Corrections; Legal Analysis and Writing; Legal Education; Legal History; Legal Profession; Legislation; Local Government; Mergers and Acquisitions; Military Law; Natural Resources Law; Nonprofit Organization; Organizations; Poverty Law; Products Liability; Professional

Responsibility; Property Law; Race and the Law; Real Estate Transactions; Religion, Law and; Remedies; Securities; Sexuality and the Law; Social Justice; Social Sciences, Law and; State and Local Government Law; Taxation - Federal; Taxation - State & Local; Terrorism; Torts; Trade; Trial and Appellate Advocacy; Trusts and Estates; Workers' Compensation.

Presentation at the Annual Meeting: The author of any selected paper will present an oral summary of the paper at a special program to be held at the 2011 Annual Meeting. Copies of the paper will be made available for distribution to those attending the presentation.

Inquiries: Questions should be directed to AALS Deputy Director at the AALS national office in Washington, D.C. (telephone, 202-296-5184, or e-mail, scholarlypapers@aals.org).

Nominations for AALS Executive Committee and President-Elect

The Nominating Committee for 2011 Officers and Members of the Executive Committee, chaired by Thomas D. Morgan, George Washington University, invites suggestions for candidates for President-Elect of the Association and for two positions on the Executive Committee for a three-year term. The nominating committee will recommend candidates for these positions to the House of Representatives at the January 2011 Annual Meeting in San Francisco.

Suggestions of persons to be considered and relevant comments should be sent to Executive Director Susan Westerberg Prager, sprager@aals.org, or 1201 Connecticut Avenue, N.W., Suite 800, Washington, DC 20036-2717. To ensure full consideration please send

your recommendations by **June 30, 2010**. President H. Reese Hansen has appointed an able, informed, and representative Nominating Committee. The nominating committee would very much appreciate your help in identifying strong candidates. To be eligible, a person must have a faculty appointment at a member school.

In addition to Morgan, the members of the Nominating Committee for 2011 Officers and Members of the Executive Committee are: A. Mechele Dickerson, University of Texas School of Law; Bryant Garth, Southwestern Law School; Martha L. Minow, Harvard Law School; Donna Nagy, Indiana University Maurer School of Law; and Mildred Robinson, University of Virginia School of Law.

2010 Annual Meeting Luncheon Keynote Address

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the Italian legal sociologists (as the fascist legal scholars were sometimes pejoratively called) wanted to put in. Formalism is mighty conservative, not in a right/left sense, but in that it tends to conserve some values that are in place. It is precisely what you want, if you're scared of where transformative law may take you. And judges and scholars in fascist Italy managed to preserve all sorts of decent things because they were formalists and not transformative. Then, when World War II ended, Calamandrei and Ascarelli, who had been two great formalists in the '20s, wrote: now we can be functionalists. Now that Italy is a democracy, we can talk about transforming law. And that was wonderful. There was, however, an elderly scholar, a very distinguished anti-fascist named Furno, who asked, what about the next dictatorship? Isn't it better to stay tied to this rock and not have to worry about the next dictatorship? In a sense, formalists are people who are sufficiently scared of human reason that they would rather stay tied to a past that is bad, but that, if transformed, could be worse. So viewed, I think one can understand the appeal of formalism. That is not me. That isn't this year's theme. But be aware that the people who are formalists, who are taking that view, are not just fools. They may be worrying about the direction in which law can be transformed for plausible, but mistaken, reasons.

Now, who is going to lead this transformation? Don't count on judges too much. Learned Hand once said something about how lit-

tle judges can do, with the exception of a few notable ones. He obviously meant himself. I don't include myself among those few. But that's because I can wear a scholar's cap and can cause trouble—transform—as a scholar rather than as a judge. Judges tend to be conservative (again, not in a right/left sense). And we may want them to be conservative. It is you who have to lay the groundwork that allows judges to take a part in transformation. Don't expect the judges to take the lead. You know that old maxim of judges, "do justice though the heavens fall"? If a judge ever caused the heavens to fall, that judge wouldn't last five minutes. That judge would be out. It's the job of people of the world—including judges—to see to it that the heavens don't fall.

You scholars, instead, can write what you believe is in the interest of justice, though the heavens fall. Why can you do it? Because the heavens don't fall. Because as scholars, you are in the first instance ignored. And that is the source of your, of our authority. We are treated well. We're given tenure. We're paid reasonably well, much better than judges (and correctly so). We have all sorts of perks. And the reason for these perks is that we can look into dark places, we can say what we think is right though the heavens fall . . . and then we can be ignored by people of the world who react to our troubling ideas by saying, "oh, he never held a job," "oh, she never met payroll," and use that as an explanation for not following our transformative suggestions.

That, in fact, is the source of our freedom.

So you should never be worried or upset when people pay no attention to what you have written. They will pay attention all too soon. Paul Bator, a dear friend, wrote an article about habeas, and when the Supreme Court rejected it the next year he didn't write anything else for 20 years. I think he was wrong in his article, but in time the Supreme Court bought it. He transformed the law, eventually, by writing what he thought was the truth. So what you must do is write what you believe to be true, and you must analyze values in the way you think is right. And all too soon—though in the first instance you may be ignored—your writing will be picked up by people of the world, including judges.

My own worry as a scholar was that my work in torts might have gotten picked up too quickly by people of the world. It was right. I still think it's right, and I still think it's good. But I was writing neither as a mathematician producing pure theory nor as a policymaker saying we must do this tomorrow. I was writing to change the way we look at law, the way we think about things, with the hope that people who were in a position to do something about it might, in time, take it up. And that's what we must be about.

In the end, our job is still best described, I think, by John Stuart Mill who, when asked who were the two most transformative minds of

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The AALS Files Amicus Brief in *Christian Legal Society v. Martinez*

Continuing its long history of defending law schools from policies that undermine the core educational values that define the AALS and its member schools, the Association filed an amicus brief in *Christian Legal Society v. Martinez*, a case which challenges the constitutionality of the Hastings Law School's open access policies for membership in student organizations.

Hastings grants official recognition and the tangible benefits that accompany it only to student groups that abide by the law school's "all comers" policy, and the AALS argued that such a rule is both viewpoint neutral and reasonable. At the same time, the brief points out that "Hastings aims to avoid *participating in the conduct of discrimination* in much the same way that the federal government aimed to avoid participating in the racially discriminatory policies of universities receiving favorable tax treatment in *Bob Jones University v. United States*"

Both AALS's principles of nondiscrimination and the idea that state law schools as well as private ones should be accorded latitude to make educational judgments figured in the AALS decision to appear as amicus in the case:

"[E]ach AALS Member school undertakes to "provide equality of opportunity in legal education for all . . . enrolled students . . . without discrimination or segregation on the ground of race, color, religion, national origin, sex, age, disability, or sexual orientation." AALS Bylaw § 6-3(a). Based on their expertise in legal education and familiarity with their own learning environments, AALS Member schools take varied approaches to student organizations. Some schools do not mandate nondiscrimination rules or open-membership policies for all student organizations, while others have exercised their institutional autonomy to make a judgment of the sort embodied in the Hastings policy. A decision to constitutionalize this area of sensitive educational judgment would rigidify the policy choices of state-supported AALS member schools, and thereby undermine the principles to which the AALS and its members are committed."

"The AALS participated in this case because it represents an attack on a member school's judgment on how to best provide a legal education for its students," explained Susan Prager, Executive Director of the AALS. As the brief points out:

"Legal education is not simply a matter of classroom learning but also of learning by doing. To train lawyers for their dual role as zealous advocates and officers of the law, legal educators must have the space to make the policy judgment that students *practice*, rather than merely hear about, nondiscrimination. In making just that judgment, Hastings transgressed no constitutional boundaries."

The Association owes a great deal of gratitude to Professor Michael C. Dorf of Cornell Law School, the principal author of the AALS brief in the case, Prager noted. "Mike's generosity and his excellent work on an extremely short time frame underscore in a highly visible way the extent to which the AALS depends on volunteer faculty members." When asked what influenced his decision to serve as principal author of the brief, Dorf explained, "Some years ago I was asked by students at Columbia to help resolve a dispute that was very similar to the case now before the Supreme Court. I found the issue difficult as a policy matter and precisely for that reason I believe that Hastings and other law schools should have the institutional autonomy to decide whether to grant exemptions from their nondiscrimination rules to student organizations that claim an interest in expressive association. I still don't know what I think is the best policy for a law school to adopt with respect to student organizations that seek recognition but also claim an interest in controlling their membership. I do know that an honest reading of the Supreme Court's First Amendment precedents leaves ample room for policies of the sort adopted by Hastings."

Prager also stated that two members of the AALS Executive Committee also deserve special thanks: "Dan Rodriguez of the University of Texas and Rachel Moran of University of California, Berkeley, did the foundational work that enabled the Executive Committee to carefully assess the issue of AALS participation in the case, and then collaborated with Professor Dorf in presenting the AALS's perspective on the issues. The Association also expresses appreciation to Professor Sherry Colb of Cornell, Counsel of Record."

The AALS brief is available in its entirety on the Supreme Court's web site at <http://www.supremecourt.gov/> and on the AALS Web site at www.aals.org/advocacy/.

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the century from 1750 to 1850, named Coleridge, the poet (and how interesting that he thought that!), and, of course, Bentham, in any number of ways the great transformer of law. Mill said that Bentham approached all ideas as a stranger, that he looked at everything completely *de novo*. And if the ideas did not meet his test of utility, he dismissed them as vague generalities. But, Mill said, what Bentham did not realize was that in those vague generalities lay the whole unanalyzed wisdom and experience of the human race. That is, in those things that a *tabula rasa* approach doesn't consider is an awful lot of learning, an awful lot of things that people are not ready to give up simply because, say, someone has written *The Costs of Accidents*. But then Mill went on and said that some of that unanalyzed experience of the human race consists of centuries of exploitation, values that are wrong, things that must be overcome and things that we can, and must, improve on. When we analyze, when we do our job as scholars and show that some values should be favored, that some rules of law are better than others, our work may not be accepted immediately because our analysis may be incomplete, because what we may be missing is the whole unanalyzed wisdom and experience of the human race. But in time, that part will be sorted out along with the past exploitation and other useless values, and we will have shown the people of the world what needs to be changed.

What a job. What a wonderful task that you have, that we have. For I like to think that I still have that task, as a scholar: to look into dark places, to analyze values, and to favor justice though the heavens fall—which they won't. Thank you.

President-Elect Michael A. Olivas Seeks Recommendations for Committee Appointments

Michael A. Olivas, University of Houston Law Center, President-Elect of the Association, will begin work this summer on committee appointments for 2011. He will appoint members of the following standing committees for three-year terms: Academic Freedom and Tenure, Bar Admission and Lawyer Performance, Clinical Legal Education, Curriculum, Government Relations, Libraries and Technology, Membership Review, Professional Development, Recruitment and Retention of Minority Law Teachers, Research, Sections and Annual Meeting, and the Journal of Legal Education Editorial Board.

At your earliest convenience and no later than June 30, please send your recommendations of AALS member school faculty who should be considered for committees to Susan Westerberg Prager, Executive Director. Recommendations should be sent to sprager@aals.org with "Committee Nominations" as the subject header.

The AALS seeks committees that reflect the participation of newer as well as seasoned members of the faculty. It would be most helpful if recommenders provide insight into the suggested person's strengths in the context of committee service as well as any aspect of their background and interests that would contribute to the work of a particular committee or committees.

aalscalendar

2010 Mid-Year Meeting

June 8-12, 2010

New York, New York

- **Workshop on “Post Racial” Civil Rights Law, Politics and Legal Education: *New and Old Colorlines in the Age Of Obama***
June 8 – 10, 2010
- **Workshop on Property**
June 10-12, 2010
- **Workshop on Civil Procedure: *Charting Your Course in a Shifting Field***
June 10-12, 2010

Workshop for Pretenured Minority Law School Teachers

June 16-17, 2010

Washington, DC

Workshop for New Law School Teachers

June 17-19, 2010

Washington, DC

Workshop for New Law School Clinical Teachers

June 19-20, 2010

Washington, DC

Future Annual Meeting Dates and Locations

- January 5-8, 2011, San Francisco
- January 4-8, 2012, Washington, D.C.
- January 4-8, 2013, New Orleans

Future Faculty Recruitment Conference Dates

Washington, D.C.

- October 28-30, 2010
- October 13-15, 2011
- October 11-13, 2012
- October 17-19, 2013
- October 16-18, 2014



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