Robinson Stresses U.S.
Human Rights in Bishop Lecture

By Anne Gordon

It seems as though whenever someone says the words “human rights” at this law school, ears tend to perk up. In recent years, the massive growth in the human rights movement has increased awareness about the ability of the law to further social justice and realize global standards of decency.

Nowhere was this awareness more acute than at Mary Robinson’s speech at the William W. Bishop Jr. Lecture in International Law. As President of Ireland, UN High Commissioner for Human Rights, Professor at Columbia, and global activist, Robinson has used her experience and passion as a lawyer to strive for social change.

Robinson spoke to a packed house in Hutchins Room 100 on the topic “Advancing Economic, Social, and Cultural Rights: A Timely Debate.” Until now, many in the human rights community have focused primarily on civil and political rights, including the right to self-determination, the right to liberty and security, and the rights to be free from torture, slavery, political imprisonment and discrimination. And indeed, in the US, this is primarily the context in which the phrase “human rights” is used.

Robinson urged audience members, however, to broaden their thinking about rights to other realms, including economic, social and cultural rights. These rights were codified in the Universal Declaration of Human Rights and have often been ignored in the face of more “urgent” problems in the developing world. Robinson emphasized, however, that these rights are crucial to development, and moreover, they are not just third-world problems. She reminded attendees that these norms are part of an evolving global consciousness both in developing countries and in our own.

Lifting people out of poverty, empowering women, combating disease and growing economies are challenges faced by countries throughout the world – the poorest and the richest, Robinson said. The issue, she emphasized, is that the world community has failed to confront them as problems of injustice, instead blaming them on lack of resources or political will. In fact, it may be our own political will that is creating the problem: in recent years the United States has consistently rejected the rights to food, health and housing as basic human rights, possibly because we fear being held accountable ourselves.

Robinson then spoke about how the Western world’s response to global terrorism has highlighted the cruel disparity – and despair – in developing countries. While the western world is worrying about terrorism, Robinson pointed out, more than 800 million people are facing a different kind of terror: poverty, displacement and disease, and a lack of housing, clean water and food. As our country continues to mourn the 3,000 people killed in New York three years ago, over 30,000 children under five years old die from starvation each day. That’s the populations of the 15 largest cities in the US.

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Editorial: Win or Lose, Be Good on Game Day

By Shannon Griffin

Our story takes place on the campus of a major university in a well-known college town. It is a cold, drizzly November morning. Lively students and city-folk alike are lining the streets, filled with anticipation and hope. Enter our protagonist. She is a good natured girl with short, brown hair and a charming personality. She is properly dressed for the occasion: three long-sleeved t-shirts with a sweatshirt on top, jeans over her long-underwear, two pairs of socks and some mittens. She is attempting to fight her way through the mob of people to get to her spot. She would give her right arm to catch a glimpse of the coming attraction, but she knows, with this crowd, her chance of a good view is unlikely. She is content with watching it on the television in the back of her Chevrolet Blazer with her sister and friends. Oh, how she is cold! She wished there was more hot chocolate to go around.

All of the sudden, she hears yelling. Not the spirited shouting and hollering that she has grown accustomed to since early morning. This yelling was different. Wham! She is startled. “What was that?” she wonders. She felt something wet hit her feet. Bam! Another object flew by her, just missing her head. She is confused. It seems that someone has just thrown two wet objects at her. She wonders who would do something like that on this joyful day. She looks around anxiously to see if she can find the tortfeasor who just covered her new Reeboks in—”What a second!” she exclaims. “What is that?”

Upon further inspection she realizes...that it is beer. Someone is drinking beer at 6AM! Smack! Another can flew her way, this time only missing her by a hair’s breadth. “Get out of here!” Someone shouted in her direction. “Your kind is not welcome here!” Now she was really confused. Had she done something wrong?

She sees a guy and a girl approaching her. They are walking fast and she begins to worry that these two are up to no good. They get nearer and start yelling something, but they are still too far to make out the words. When they get about five feet away, the girl reaches back and flings a blunt object at her. It hits her square on the chest. Our protagonist reacts by deck her hard across the face. The guy tends to his fallen girlfriend, and our protagonist turns to head back toward her camp. She notices the full can of beer on the ground and realizes that was what hit her.

She reaches the point where her sister and friends are standing. It all happened so quickly that they failed to notice what had gone down. She starts filling them in on the sequence of events when sirens grow louder in the background. In minutes, she is surrounded by three patrol cars. A plump officer gets out and approaches her. He grabs her arm and quickly places her in handcuffs. Everyone is frantic. She knew it had something to do with what just happened, but she was speechless. She doesn’t know why she was being arrested.

“That girl,” the policeman said—as he points to the girl still pressing her hand against her red face—“is pressing charges.”

Her sister runs up to her aid spitting out phrases like, “You are just doing this to her because she isn’t wearing red. It was that girl who threw something at her and my sister was just defending herself. Why are you acting like she is the only one at fault? I want to press charges against that
Michigan's Proposal 2: Liberties at Risk

By Karen Lockman

For voters who think that Michigan’s Proposal 2 is about banning gay marriage or “protecting families,” it may be time to take a closer look. Liberals and conservatives agree that Michigan risks taking a major step backwards in the protection of civil rights and partner benefits if this proposal passes on November 2.

The proposed amendment states: “The union of one man and one woman in marriage shall be the only agreement recognized as marriage or similar union for any purpose.” The language presents several troubling issues which distinguish this proposal from similar amendments on ballots in 10 other states.

Supporters of the amendment generally address the issue of same-sex marriage when defending it. “Proposition 2 makes a strong statement necessitated by moral degradation and eroding values in our society,” said Shad Kidd, of the law school’s Student’s Defending Families. “The institution of marriage must be protected and revered as the fundamental building block of our society.”

Opponents, however, encourage those considering a “yes” vote to recognize the likely effects of the proposal’s vague wording. “This is not a ‘gay marriage amendment,’” urged Jay Kaplan, Staff Attorney for the Michigan ACLU Gay, Lesbian, Bisexual and Transgender Law Project. “We already have at least two laws in Michigan banning gay marriage. This should be designated the ‘unmarried couple discrimination act.’”

The Defense of Marriage Act, passed by Congress in 1996, defines marriage as between a man and a woman and says that states need not recognize marriages from other states. Michigan’s Legislature also passed a “Defense of Marriage” statute banning same-sex marriage.

“Gay marriage won’t be happening here anytime soon,” said Kaplan. “So long as Michigan has such conservative courts, no one will bring a lawsuit challenging the marriage statutes.”

While marriage among same-sex couples will be forbidden in Michigan no matter the outcome of the vote, there looms a threat of serious ramifications if the amendment passes. Those opposing Proposal 2 warn that the amendment could nullify all legal protections for both gay and straight partners and prevent them the opportunity to petition the government for these protections.

“Since Michigan already has state and federal DOMA in place, Proposal 2 is targeting civil unions and domestic partnerships,” stated Kyle Faget, the chair of Outlaws’ Political Action and Speakers Committee. “This proposal could dissolve domestic partnerships and civil unions for both gay and straight couples.”

Tens of thousands of unmarried couples are currently raising children in their homes. “By voting to strip unmarried couples of their benefits, voters will be hurting Michigan families, not protecting them,” said Kaplan. “This amendment could take away children’s access to healthcare.”

In a Proposition 2 panel discussion sponsored by Outlaws last week, Gloria Hage, the Associate Vice President and Deputy General Counsel of The University of Michigan, highlighted the consequences Proposal 2 would have on both private and public institutions. According to Hage, the amendment’s enactment would inhibit the attraction and retention of “the brightest and best” to Michigan corporations and universities. As the University of Michigan could be forced to discontinue the benefits it currently offers to graduate students, faculty and staff in domestic partnerships, a “yes” vote would likely have a direct affect on the status of Michigan Law School. As past constitutional bans in Michigan have applied to both public and private entities, corporations may also be forced to end their domestic partner benefits.

At the same discussion, Professor Sherman Clark spoke of the fallacy of “direct democracy” through ballot proposals, and Lori Watson of Eastern Michigan University discussed the activist component of defeating the amendment.

Watson encouraged gay and lesbian individuals to “personalize the harm” and for all opponents to “get the word out.” Nadine Gartner, Co-Chair of Outlaws, also urged people to speak up. “Talk to your friends and family who are voting, and inform them about what they are voting for.”

Kaplan is cautiously optimistic that Proposal 2 will be defeated. Still, a Detroit News and Free Press poll on Saturday, October 23, indicated that 57% of likely Michigan voters plan to vote “yes” on this proposal. This is clearly an opportunity for students to have a voice.

“This is about respecting individuals and their choices,” said Gartner. “As was clear in the decision of Lawrence v. Texas, same-sex couples should be given the privacy and autonomy to make their own decisions regarding their relationships and families.”

Voters can visit http://www.coalitionforafairmichigan.org to learn more from those opposing the amendment, and http://www.protectmarriageyes.org to see the viewpoints of those backing the amendment. For more information on the possible effects of the proposal, see http://www.aclumich.org/proposal2/mythsandfacts.pdf
Volunteer to Help America Vote

Submitted by Anna Baldwin & Emma Cheuse

This election day provides an opportunity for all of us at the law school to put our legal training into action. A host of new challenges—posed by new machines, new laws, and new voters—will be facing election officials as Americans go to vote on Nov. 2nd. While it’s uncertain what impact all of these variables will have on the vote, it is already clear that lawyers play a critical role in the process. Read on to learn about some of the issues, and even more importantly, about how to volunteer and make your own contribution to ensuring the integrity of this election.

In his final debate with Senator John Kerry on October 13, President George W. Bush called on America to re-elect him so that he could protect marriage from the “activist judges” who would dare to read a little bit of substantive due process or (gasp!) equal protection into the nation’s marriage laws. As the debates showed, there is a lot at stake in Tuesday’s election, including who will pick the next round of judges as seats at every level become open in the federal court system.

Unfortunately, one of the big ticket items at stake is the election itself and whether the people or “activist judges” already on the bench will decide who wins. We already know the popular vote alone doesn’t decide elections, just as the electoral college will decide the election if the popular vote is being contested by an election official. For the first time this year, though, there aren’t yet precisely defined legislative or judicial standards on how and when to count the votes.

That’s where Michigan Law students enter the picture on Tuesday. Since 2000, lawyers and law students have been mobilizing nationwide to safeguard this presidential election and prove the legitimacy of our democratic process. Thousands of lawyers, within each of the major political parties and as part of a massive nonpartisan coalition led by People for the American Way and the NAACP Legal Defense Fund, will be observing the November 2nd election to ensure local election officials follow the laws and count the votes.

Through the Michigan Election Law Project (MELP), over 15% of our Law School is already signed up to volunteer as a poll monitor on Election Day with either Democratic, Republican or nonpartisan lawyer networks. MELP has also joined with our national sister organization of law students, Just Democracy, to ask that the American Bar Association release all law students from the class hour requirements on Election Day, and declare November 2nd, 2004 a “Day of Service for Democracy.” If the ABA takes this historic step, law school deans and professors would be free to cancel or reschedule Tuesday’s classes for another day, and allow their students, faculty and staff to fully participate in the presidential election. Although this bold step would certainly create logistical problems for some law schools, if it contributed even in a small way to preventing a Bush v. Kerry case like the Supreme Court case of 2000 from deciding the election, the balance weighs strongly in favor. There is no question that the polling places that have seen voter intimidation problems and high levels of voter challenges in the past, especially in areas of Detroit and Ann Arbor with high minority and student populations, are likely to be hot spots again this year. There are concerns nationwide that local election officials won’t be able to handle the record high volume of voters who have registered for the first time and may not be adequately trained on how to use new voting equipment, such as ATM-like touch-screen machines, that will be debuting in states across the country. Either of these problems could create hours-long delays for voters in some precincts.

Even the legislative solutions to such problems create their own challenges. For example, under the new federal Help America Vote Act and a recent court decision, a new voter here in Michigan who has waited in line for an hour—past the closing time of the poll—only to be told at last that she is in the wrong precinct has the right to complete a provisional ballot. This is a “special” ballot designated for people who believe they are registered but whose names aren’t on the list or for any other voter whose eligibility to vote is being contested by an election official. For the first time this year, though, creating two classes of ballots means that at the end of the day election officials won’t just have the “normal” ballots to count, they’ll have these new ballots to deal with. Of course given their newness, there aren’t yet precisely defined legislative or judicial standards on how and when they are to be incorporated into the process of vote totaling. Some people are going to want them counted right there in the precinct. Some people are going to...

Find Out Where and How To Vote in Michigan:
www.sospublius.org
Request an Absentee Ballot from Another State:
www.dexbear.com/elecnet/sites.cfm

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Fachsimpeln (Talking Shop)
With Professor Simma

By Shari Katz and Diana Mack

Born in Germany but raised in the picturesque and charming village of Vorarlberg near Lake Constanze, International Court of Justice Judge Bruno Simma was coaxed early on by his friends to go with them to Innsbruck, Austria to study law and “have some fun.” The rest is history-he “fell in love” with international law—and in February of 2003, Simma began a 9-year term as a justice on the International Court of Justice, The Hague, The Netherlands.

His full “Werdegang” (curriculum vitae) is far too long and impressive to put into a few words in an introduction, but here are some of the important facts: Bruno Simma first came to our Law School in 1986 as a visiting professor and held a joint appointment on the faculty until 1992 while serving on the UN Committee on Economic, Social and Cultural Rights. In 1995, Simma returned as visiting professor to the Law School while also serving as a lecturer at The Hague Academy of International Law. Since 1997, he has been a member of U of M’s Affiliated Overseas Faculty, teaching courses and seminars in International Human Rights as well as Leading Cases in International Law.

A “European at heart,” Simma loves to hang out in Munich, wander through the Alps and take drives over to France and Italy to enjoy dinners a-la-carte—and then bring back literally “trunk-loads” of the finest Italian wines. While this RG edition went into print, he is on his way back to Europe but promised to return in the winter to teach.

After listening to his life-story, we were inspired by wanderlust and agreed that “Simma rocks!” If RG ever has the chance to interview this extraordinary man again, we promise to bring with us an exclusive dry red Californian wine and try to convince him to say auf wiedersehen to Muenchen and make Ann Arbor his permanent Heimat.

RG: Tell us a little bit about yourself from the beginning. We know you were born in Germany and that you went to the University of Innsbruck for both undergraduate and law school.

BS: Well, you know in Austria at this time there was no distinction. You can study law instantly which means you can graduate from law school at 22. But I first entered the military and served the Austrian army and became a second lieutenant. And then I went to the university from 1962 to 1966.

RG: So at the age of 18 you knew that you wanted to study law?

BS: Well, I have to say that my decision to study law came about just...you know...there has never been a lawyer in my family before. They were all small entrepreneurs and partly from agricultural background. So, very rural. My decision to study law was because some of my friends said: “Bruno, why don’t you come to Innsbruck with us, and we’re gonna have fun...” I had no idea what this implied but I had some fun.

RG: Is it not unusual for a German to go to Austria and study law there?

BS: Okay, I have to explain that. My father was German and my mother was Austrian. They got married in 1939. I am a German by birth but when the first bombs fell in German cities my mother took ‘little Bruno’ and went back to a little village (Vorarlberg), the western part of Austria...you know...Lake Constanze bordering Switzerland which was pretty safe compared with Germany. And my mother’s family was a very well-known family so I only saw pictures and heard noises from World War II but there was no single bomb falling where I grew up.

So it was natural to go to school in Austria and then study in Austria. But I was a German citizen all the time.

RG: So besides having fun, were there any events during your time in law school that had an impact on you?

BS: Well, in Austria law is divided into three parts...or it was at that time. The first part is pure history...you know, all Tom Greene and this kind of stuff. And I loved canon law on marriage and divorce because it was so close to real life. Then you do a first state examination after a year. And then you enter the civil law subjects like Contracts, Torts, Property, Civil Procedure, Criminal Law and Criminal Procedure. And there I really fell in love with what you call Torts. It is the general law of obligations. And I found that to be just beautiful—it is really applied logic with a great sense aesthetics and beauty. And I was so successful at the exam that my professor encouraged me to come back after law school and become an assistant. In Austria we have full-time assistants so you don’t just leave after law school and clerk or work for a firm but you work full-time with a professor, for a professor...a

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SIMMA, from Page 5

little bit like tenure track. But you don’t leave the university. So my professor said: “why don’t you become an assistant for me and we would do all the general law of obligations you like.”

And then something very interesting happened. I had no idea what international law was – this was reserved for the third part of our studies. I went to a private organization that helped you to make sure that you did not miss anything...sort of like tutoring. The teacher was very good but blind as he lost his eyesight at the end of WWII. So in the summer after my second state exam I got approached by this man and he said: “Herr Simma, could you help me. I have to write a new Horn Book on International Law.” It sounded good to me. So we spent the summer – I was perusing the books. And he said: “Look at this book...there must be something on recognition.” So I looked up the quotes and the blind guy did the typing. And I found international law so interesting...I found it fascinating...it was so different.

I am one of these lawyers who think that if I didn’t do international law I would do...let’s say...psychoanalysis or art or something. I could simply not imagine being in any other field of law, including my beloved general law of obligation. It was so...you know...the diplomacy involved, the history, politics involved that I found so incredibly fascinating. So at the end of my law school studies I went back to my civil law professor and told him that I will not come back to him: “Unfortunately, I have decided to go to international law.” He replied: “You will be very disappointed.”

“I went back to my civil law professor and told him that I will not come back to him: ‘Unfortunately, I have decided to go to international law.’ He replied: ‘You will be very disappointed.’

BS: Yes, right. I feel like watching international law from the sideline...watching the various arguments and the powers...you know...collide. For an outsider observer to see the politics of international law is fascinating. This doesn’t mean that I have never taken sides...like in human rights. But even in human rights, my position was that of a detached observer who would go along in the game, you know, and see what effect this would have. But always taking myself back and observing what happens. I was never much of an activist...I am more like a researcher in the chemistry lab observing the elements react.

RG: So what have you been most passionate about in terms of human rights and being more than just an observer?

BS: I don’t want to sound so great about myself. But I always was interested in social justice. When I look at developing countries...how people live there and how developed countries exploit developing countries. The exploitation of people by other people makes me furious. I got in the UN in the area of economic, social and cultural rights...and I worked for ten years in one of the so-called treaty bodies of the U.N. You have treaties on human rights. These are monitored over by expert bodies and I became a member of a newly created expert body overseeing implementation of economic and social rights. On the one hand it was really satisfying just to be able to do something. On the other hand it was very frightening because economic and social rights are a subject matter...(that) if you really want to understand you need to be transdisciplinary.

RG: Let us switch to your current appointment: last year you began a nine-year term as a judge on the International Court of Justice.

BS: I was elected by the general assembly of the United Nation and the Security Council simultaneously on the same morning. You need to gain the majority in both bodies. But the Permanent Five do not have a veto.

RG: What are your responsibilities in that capacity?

BS: Well, I am one of 15 – the court sits always in plenary. We don’t have chambers; it is always a collaborative effort. We decide disputes between sovereign states. In this regard we are quite an old-fashioned court; it’s not like a human right court, you know, where you have NGOs and individuals making claims. What we do is in contentious cases, it’s always between sovereign states. So it is always state to state and it is a very ritualistic, formalistic procedure before the court.

RG: When does the court sit?

BS: The courts sits permanently. The way judgments are made is a very complicated procedure. A case usually takes several years.

RG: You teach both in Munich, Germany and here at the University of Michigan? What is the difference between the German and American system as far as you can see it?

BS: German legal education is free of charge. So when something is free you take it for granted. You don’t expect high performance of all participants. Students in Germany are younger. They start at the age of 18. Usually, American law students have more life experience. Also, in Germany, there is no LSAT. You can get law students that are pretty bad and which

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have chosen law like I did saying: “Why not law?” Here, at Michigan you have about two-thirds of the students who are pretty active and well prepared. But in Germany, you have about one-fifth of the students well prepared. But the rest are passive. The students are not used to being called upon. They are afraid so you leave them alone. And there is no immediate gratification or assessment. At least until now, you end up for years without any exams. Most classes have no finals at the end. You just sit in, if the class is too early you don't. You just absorb all the stuff but the moment of truth, i.e. the exam, comes years later. Of course, this is a very unsatisfactory system. But you cannot forget that those two systems are very different and not really comparable.

In America, there are hundreds of law schools that are pretty bad and you know only the top twenty or so. In Germany, if you come back out of the German system with good grades and as good lawyers, you must be really good. It means you did not get lost among the hundred of students you have in classes. You got in touch with the professors. It presupposes a degree of intelligence and a practical side not to simply kind of fade away in this big system.

We have about 35% of the law students flunking the big exam which means maybe finding out that all they did in four years was in vain. So, the system is pretty bad. But when German LL.M.s come to places like Michigan, they are among the best of graduate students. The training is pretty good. But even the best Michigan or Harvard professor would just give up if the student-faculty ratio was one to 150.

RG: Why do you teach instead of doing “real legal work”?

BS: In 1971 I met Prof. Eric Stein at Den Haag Academy of International Law – it's a summer academy. Prof. Stein gave a lecture and there were seminars in the afternoon. I found them really tough...you know he was very Socratic. But I apparently made a good impression on him and he asked me if I would be interested to come to Michigan (I never heard of Michigan) for an L.L.M. But one year later I had already gotten my full professorship at Muenchen. I was pretty young...at 31. But in 1985 Prof. Stein spent a year at the Wissenschaftskolleg in Berlin, which is a Princeton-type institute for advanced studies. I invited him for a visiting lecture and he gave it. Then we had dinner together.

"As the average American you might go on a cruise but then you are among 2000 other Americans. But you don't get that feeling you are just one part among many other parts. I think it is very important to get that feeling that there are many other people are out there."

and then I mentioned that I had a sabbatical coming up. And he said: “Would you consider coming to Michigan? Why don't you even teach a seminar, you earn a little money and people get to know you?” So I said: “Fine!”

So I offered a seminar in International Human Rights. And then I found out that the faculty was interested in a public international lawyer because Prof. Bishop was just retiring. And they thought: “Let's have a look at Simma.” In the spring of 1987 I got an offer to come to Michigan permanently but this I wouldn't want to do because I already was entrenched in the German system and a professor in Muenchen. And Muenchen is great, I mean, I am a European. Even though I like America a lot. I like the mountains, I like the lakes...you know you have your home base. And then we negotiated the joint appointment. I came here from September to November and then went back to Germany and taught there for the rest of the year. This went on to 1992 but then it became too heavy because I did more and more work for the U.N. And in 1995 I returned again for a visiting professor and they gave me another offer. The fallback agreement was that I would come and teach in fall for six weeks. In recent years I came back twice for six weeks and now that I am on the court I cannot do any regular teaching. The reason why I am here now and will be back in the winter for four weeks is that I had to recuse myself from two cases. In recent years, I have done quite a bit of work for the German government preparing cases and now these cases are in front of the court and Simma has a little bit of time off.

RG: You mentioned that you consider yourself a European. Can you tell us some more about what it means to have a European identity?

BS: I think I feel more and more European, also even though I am a little bit skeptical about the current approach to European integration. I always felt that there should be made a greater appeal to other values besides economic values. I have never been fascinated by markets. The main selling pitch for the European Integration was the market argument. This has created a problem because the populations of European countries are hesitant towards the European Union. More arguments need to be developed beyond the purely free market, free movements of goods. People accept the market argument but doesn’t appeal to their emotions. For me, feeling as a European is also an emotional matter. It’s not just that you pay in Euro...which is great. There is still a lack of community feeling, I think.

RG: Do you play any sports?

BS: I like biking, cross-country skiing, hiking in the mountains. I like sports which don’t force me to play on teams and play at certain hours. I want to do it when I feel like it. I have a training bike

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in my office. It’s a matter of independence.

RG: What about the Wolverines? Have you ever watched them play?

BS: Yes, I watched a game with over 111,500 people present – the one against Minnesota two weeks ago. But, I have to admit that American Football is a little bit complicated if you are never informed about the precise rules. It looks like a battle. But you get the idea. However, the social phenomenon is fascinating: a crowd of the population of Ann Arbor together. What I admire is the peacefulness of that. My first game I saw was the Wolverines against Miami. Michigan lost back then. We had some Miami fans sitting in front of us and they were always kind of teased during the game. But what could happen in England, or even Germany, if your team loses you throw bottles at each other.

But here, everybody was peaceful and going home. I like that very much. So there is that excitement but it doesn’t amount to violence. So to me football is more like an experiment in social psychology.

RG: Clearly, you had a fantastic career in international law. What enabled you to succeed in international law?

BS: I was extremely fortunate. You can be extremely smart but you always need what in German we call a “Fortune,” luck. Maybe it helps if people consider you nice, not confrontational. But I was just incredibly lucky.

BS: As a German, you are so used to that international outlook. A German would never think: “I don’t need a passport” like two-thirds of Americans. You are so used to it that very close to you another country starts and the people there are different. I think this is what many experience that Americans lack because the country is so huge. As the average American you might go on a cruise but then you are among 2000 other Americans. But you don’t get that feeling you are just one part among many other parts. I think it is very important to get that feeling that there are many other people are out there.

RG: What is your favorite red wine?

BS: [Prof. Simma is a true wine connoisseur and he gave us a little “lecture” on it] So my favorite wine is a good Italian red wine.

RG: How does European wine compare to California wine?

BS: You know, I tried Californian wine, but perhaps I was not well advised. I found it too overpowering and a little bit too rich for my taste. I like to have it a little bit... well... ein bisschen trockener (drier) and less fruity. I think many Californian wines are overwhelmingly fruity.

RG: Professor, we could talk with you about your life for hours. Thank you very much for your time. It was a pleasure talking with you.

BS: [smiling] I understand, an old man telling about his life...

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Are You Losing It?:
Learn to Make Time Your Friend

By Erick Ong

As law students the demands on our time can be taxing. From worrying about catching up with reading in Contracts to spending personal time with friends, many of us seem to be at a loss for time. Margaret Leary, the Director of the Law library spoke to students in a seminar titled “Are You Pressed For Time?,” where she provided sage advice on how to use time more effectively.

In keeping with the nature of the topic, yours truly was tardy in attending this meeting and could benefit from Professor Leary’s advice. What exactly is Time? Is it something that we can grab a hold of and say, “Hey wait, stop for a while so I can catch my breath?” The answer unfortunately is no. As Benjamin Franklin once said, “Lost time is never found again,” and we cannot go backwards in time to capture moments we squandered or regret.

So what can we do about time if it is irreversible and irreplaceable? We can learn techniques that will make our use of time not only more efficient but more effective. The ultimate goal of managing time is to achieve life’s goals and ambitions to live a joyful, productive life. While we have no control over time, what we can control is ourselves. This can occur through self-management and event management.

In order to accomplish this, a little bit of introspection is required. First, one needs to determine what obstacles or barriers he/she encounters in life which hinder his/her efficient use of Time. These obstacles can include poor planning, procrastination, lack of self-discipline, and a lack of motivation. After identifying these obstacles, one can overcome these barriers by simplifying things in life. Examples include:

1. Removing mental clutter, by clarifying your major goals and setting priorities.
2. Removing physical clutter: This can include throwing away that old exercise bike you never use except as a clothes hanger, or old photos of your ex you throw darts at. Throw away items that will not make you happy or will cause you grief.
3. Turning off your cell phone during the day or studying in a remote location where no one will find you.
4. Using time creatively and efficiently: If you know you will be stuck in the DMV line for two hours, bring your flow chart of shareholder rights, or if you are driving to Chicago, consider listening to Nimmer on Copyrights on your trip.
5. Being selfish with time: As we all know time is precious, learn to say no to people, such as when asked to go on a blind double-date with your friend.
6. Considering time as a finite resource in all of your decisions. This can include where you choose to live. Living further away from the school, while it has its benefits of being quieter and possibly cheaper, will rob you of time that can be spent in group study with other law students.

After doing a few of these things you will hopefully find that more of your time is free to accomplish those lofty goals we as overachieving law students have set for ourselves. But we still need to manage that time. Here are some tips:

1. Be realistic about what you can do. If you plan to allow yourself only 15 minutes to try to understand the Rule Against Perpetuities, it’s just not realistic for most of us.
2. Focus on what you are doing when you are doing it. While we all love to try to multi-task, such as participating in a teleconference, drinking coffee, reading the morning newspaper (all while driving) the mind focuses best when it handles one task at a time.
3. Allow time for all aspects of your life and for distractions. In addition to focusing on your goals, be sure to make time for your family, significant others and other relationships which are important to you. Also allot for the situations where it may take more time to do things or adjust to the unwelcome events in life, such as a flat tire.
4. Set a weekly or daily schedule including your classes, meetings and appointments. Be sure to include your priorities and goals in life. Estimate the time you will need for each and the time you are willing to put into it. And most importantly, follow your schedule.
5. Set a semester schedule including your exams, papers due, and personal events (birthdays, anniversaries, etc.). Prioritize and try to reconcile conflicts as they arise. Set tentative dates when you hope to meet deadlines and reward yourself when you do accomplish your goals.

While everyone understands (I hope) that law school is one of your top priorities, you must take care of yourself as well. This includes eating healthy, exercising, getting enough sleep, and having relationships outside the law school circle. If you make law school your entire life and do not eat, exercise, sleep or have some down time, you will eventually be worn out.

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Supreme Court May Order Juvenile Death Penalty Executed

By Sarah Rykowski

Roger v. Simmons will sound the death knell for the juvenile death penalty as we know it in America today, Professor Victor Streib told his audience on Thursday at the Law School. "The death penalty is in its last days," Streib said. "The question is not whether it will end, but how or when."

Streib, who is a Professor of Law at Ohio Northern University, was involved with the case, now before the Supreme Court. He has been a prosecutor and a criminal defense attorney, representing criminal clients before the United States Supreme Court and several state supreme courts. As an expert on violent crime and the death penalty, he has testified before the United States Congress and seven state legislatures, and has served as an expert witness in many death penalty cases nationally.

According to Streib, American society has come a long way since 1642, when a 16-year-old was executed for having sexual intercourse with a cow and a horse, marking the first execution on U.S. soil. The annual rate of juvenile executions has fallen sharply in recent years, going from 18 juveniles in 1994, to 2 in 2003 and 2004, a statistic of great interest to the Court.

"The Court is trying to figure out if jurisdictions have left this practice behind," Streib said. "They have."

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The question to ask, according to Streib, is, "Do these states actually have a death penalty for juveniles? Some states do a lot of posturing, but haven't executed [any] in forever."

The Court will consider the number of states that allow executions for crimes committed while a juvenile. "It is very important to Justice O'Connor that over half of the 39 states that have the death penalty have forbidden juvenile executions," and "no state has lowered the age—progression is important to the Court."

It is Streib's hope that Justice Kennedy, who shows a marked interest in comparative law, will recognize the fact that the United States is now the only country in the world to allow the execution of death row inmates convicted of crimes committed while juveniles. Certainly, in other countries, illegal executions occur, and in some cases, juveniles were executed because either their age or the law was not known.

The Supreme Court already invalidated the death penalty for juveniles under the age of 16 in Thompson v. Oklahoma in 1988. "Such executions were defined as cruel and unusual punishment by 'evolving standards of decency,'" Streib said.

In Thompson the Court found a special obligation to children, due to their immaturity, impulsiveness and vulnerability, to find a "national rejection of the death penalty for 15-year-olds." Retribution, the Court stated, was "inapplicable" to 15-year-olds, who do not plan their actions.

Streib applied this argument to 16 and 17-year-olds, stating "Sixteen and 17-year-olds don't either. They just think they are immortal. Kids don't die—they are shocked when it happens."

In Stanford v. Kentucky, the Court refused to invalidate executions of 16 and 17-year-old juveniles, finding "no national rejection of the death penalty" for that age group. Because of the vote in that case (4-1-4), with O'Connor providing the concurring vote, Streib and his colleagues focused on O'Connor and Kennedy in their oral arguments. In that case, the Court refused to consider the arguments of professional organizations or public opinion, and considered the laws of other countries irrelevant in its analysis, Streib said.

However, in 2002, the Supreme Court invalidated the death penalty for mentally retarded individuals in Atkins v. Virginia, using some arguments Streib believes apply to 16- and 17-year-old juveniles. The Court found a national consensus against the practice, and found that such individuals lacked ability in reasoning, judgment and impulse control, and were "childlike."

But Stanford, which returned to the Court in 2002 as a habeas petition, leaves Streib the most hopeful. Although the Court refused to grant certiorari and hear the case, four justices, Stevens, Breyer, Ginsburg and Souter, wrote a dissent in which they asked to revisit the issue so they could invalidate the death penalty for 16and 17-year-olds. Stanford's death sentence was subsequently commuted by the governor to life without parole.

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Shutting Down: Eulogy to My Laptop

By Sarah Rykowski

Two weeks ago, I sat down, plunked my books on the table in front of me, took my laptop out of its case, and put it on the table, all the while talking to my seatmates, next to and behind me, of all things about how Dell had recalled some of its chargers because they got so hot they'd caught fire.

I nonchalantly flipped open my laptop and pressed the on switch, all the while flapping my gums. All of a sudden, my roommate, who sits on my right, remarked on the smell. She told me to look at my computer—smoke was coming out the vent on the back. I snapped it shut, flipped it over, and popped out my battery, the surefire way to shut it off when it malfunctioned.

This is my farewell.

I remember the day I came home and my dad told me he'd ordered you as a graduation/law school gift. When I first saw you, I fell in love with your shiny silver cover—scuffed and scratched though you became. I remember your huge screen—great for watching DVDs and checking out pictures—able to show so many windows at once when I had a project or an outline to do.

Your lighting speed, seamless startup procedure—even the virus you had briefly. Your clear and resonant sound system. The fits you pulled occasionally were mere days without you, I felt. You traveled to and from school, to and from my parents', and to St. Louis and back this summer—adapting perfectly to your new surroundings.

As I faced what I originally thought would be mere days without you, I felt lost and alone. My favorite pictures would not open on startup; my notes and files were out of reach; the internet was more than a mere click away.

I made some phone calls, finally deciding to take you to Computer Medic. They thought you might only require a transplant—perhaps a new processor, since that had been an area affected by extreme heat in the past, had seemed to malfunction in the last few months, and was located near where the smoke had emerged.

I left you in their capable hands, confident that anything could be done to save you, they could do it. On Tuesday, again in Trusts & Estates, they called, and I got the news of your untimely demise when I checked my messages after class.

You'd suffered an electrical short, followed by a massive fire in your internal circuits. Your CPU, processor, and motherboard were damaged beyond affordable repair. I called my dad with the news, and I must admit I was moved to tears at the time. When I went to pick up your remains, even my computer case, which reeked of smoke, reminded me that you would be waiting to assist me, click by click, type by type, no more.

I made the difficult decision to replace you—and went with a different manufacturer since I'd only gotten a limited warranty when I bought you. I mused that the computer I chose had the stuff you had that I'd used or liked—and none of the quirks I didn't, but quirks or not, I miss you, my clunky, eclectic, one of a kind Aspire.

I missed you so much that I'm keeping parts of you—like the files that we created or downloaded together. You'll always be a part of my law school memories—from the time you froze (and you only did it once) in the middle of my Crim Justice: Admin of Police Practice exam; or the time we went through an electrical storm together this summer. Most of all, I will remember your gallant and self-sacrificial attempt to get me out of class.

Your sacrifice, however, has cost me more pain than gain. My notes were a week in the regaining, I missed class while frantically trying to revive and diagnose you, and being deprived of the Internet nearly did me in. Plus, I have to learn all about my new computer—which though swifter and more than adequate for my needs, isn't the same temperamental, entertaining piece of electronics I got used to lugging around.

Every time I go to my parents', it hits me all over again—as I walk into the house and see you lifeless, lying in state on my parents' piano bench, and realize that our relationship is over. And I am turning into a neurotic mess—if you see me sniffing my new computer suspiciously, it's because I smell something strange and worry that it might also be suffering from the same strange malady that took you away from me. Or the terrible thought strikes—perhaps you were not being heroic that Monday—perhaps you were trying to get away from me? Perhaps you were unhappy in our partnership? It frightens me. I'm not that scary, am I?

My dear Aspire, I have used these lines to preserve your memory for posterity—as the only laptop I know of that spontaneously combusted in an attempt to get its owner out of class. (Incidentally, I actually like T &E, so don't get any ideas, my new little G40). Out of respect for your long years of faithful service, I will speculate no further as to your motives for leaving me so suddenly that terrible day, save that you Aspired to greatness, and expired in the attempt. In short, I bid you, my faithful companion, a fond and tearful farewell. (Sniff).

Sarah Rykowski is a 3L. E-mail comments about this article to ry@umich.edu.
The Liberal Law School?

By Jessie Grodstein-Kennedy

Every Monday and Thursday at 2:05 I watch the Gallup Poll's Daily Briefing. In front of me sits the President of the New York Young Democrats Association. To the left, a woman is wearing a rainbow ribbon in protest over the Solomon Amendment. As the familiar voice of Frank Newport, Editor-in-Chief of the Gallup Poll (and University of Michigan PhD) sums up Americans' perceptions of the presidential candidates, I can't help but look around the room and wonder who are these 51% who approve of George Bush's presidency?

While I have no reason to doubt Mr. Newport's analysis, one thing is for certain - none of these fabled Bush fans have enrolled in Contemporary Issues in Law and Politics at NYU.

So let's talk about diversity, shall we?

By some accounts, at least 80% of the faculty members at the top 100 law schools identify themselves as liberal. The cause, asserts Professor Stephen Bainbridge, a corporate law professor at UCLA, is at least partly due to a deliberate bias in faculty hiring. In his Internet blog on the subject, Bainbridge explains "the latest left-leaning prodigy from Harvard or Yale has a mentor at one of those [top law] schools who makes calls to his/her buddies and ideological soul-mates at other law schools."

Under this framework, Bainbridge believes that a self-perpetuating liberal bias is built into the system. To use familiar lawyerly language, this process creates a "disparate impact" even if there is no deliberate bias on the hiring committees.

Yet liberal leanings at a law school are difficult to measure. Erwin Chemerinsky, whose hornbook has guided many of us through the perils of Con.Law, thinks that the whining of conservative professors is an intentional tactic enabling its perpetrators to appear victimized. After all, everyone sympathizes with the underdog. (Go Sox!)

So are law schools really spitting out lefty lawyers? Given the number of conservative judges lining President Bush's wish list, the dominance of the liberal ideology in the legal landscape might be hard to image. But my experience at NYU makes me wonder.

When discussing the legality of gay marriage, not one student dared defend the position of its opponents. Campaign finance reform? Undoubtedly a boon to the Republican Party.

As a Michigan student, however, I encountered several adherents of conservative views. I knew of, and admired, many members of the Federalist Society. At NYU I am not even certain that this organization exists. While I have no data on which to base these beliefs, I nonetheless think that Michigan retains a stronger core of "diverse" political thought.

Growing up in Northern New Jersey and later attending college in New York City fostered a one-sided perspective of this country's politics. But going to law school at Michigan taught me to see things in a more nuanced way. I am not joking when I say that I had never before met - and actually conversed with - a person who identified with the right-to-life movement. I had never fully understood what a libertarian stood for, why social welfare programs might not be advantageous, or why the manufacturing sector deserves respect. In confessing my ignorance, I don't mean to suggest that I hadn't read or talked or heard of such ideas, but rather I had never met those who espoused them. Putting a face to an idea, personalizing its believers, helped me understand that American political issues are not nearly as clear-cut as I previously assumed.

I dare not suggest that Ann Arbor is a bastion of conservative thought. It isn't. A random walk down State Street, with its splattering of Greenpeace sales reps and anti-Bush signs, confirms this. But because its roots stretch throughout the state of Michigan and the surrounding Midwest, Ann Arbor attracts a wider range of political viewpoints than does New York City. In fact, in my New York circles, the political debate does not go very far unless someone attempts to play "Devil's Advocate" - taking on a role for the thrill of debate rather than arguing from the heart. But this is not the way to truly test the validity of one's beliefs. To do so requires robust debate and a level of diversity that extends beyond the racial makeup of the classroom.

For someone who grew up on the East Coast, Michigan offered me this opportunity. I finally saw the political landscape without my rose - or should I say blue - tinted glasses.

Jessie Grodstein Kennedy is a Michigan 3L studying at NYU as a guest student. E-mail comments about this article to rg@umich.edu.

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If you find yourself in such a situation or find that you need help to manage your time, please make an appointment with our Assistant Deans David Baum or Charlotte Johnson. For other services you may also wish to contact the Counseling and Psychological Services (CAPS) office at 3100 Michigan Union, (734) 764-8312.

CORRECTION

In the October 12, 2004 issue the byline for the "40 Years in the Making: Professor Kahn Talks Tax, Teaching" article should have read: "By Lisa Blackburn and Shari Katz."
Trick or Treatise: 
Halloween as a 3L Parent

By Liz Seger

They say that to have a child is to have a piece of your heart walking around outside your body. It’s the kind of thing that makes you cry when you’re pregnant and you read it in some insipid parenting magazine in the obstetrician’s waiting room — but, then, what doesn’t make you cry when you’re pregnant? I tried to Google that quote for a source, but I just got a bunch of gaming hints for Legend of Zelda. Downright practical. Which brings us to the present day: I’m measured in my emotional flourishes, if not jaded. I prefer intellectual stimulation to heart-on-your-sleeve schmaltz, most of the time. I do not take hundreds of pictures of my children and scrapbook them with stickers and fancy borders. Not that there’s anything wrong with that... it just isn’t me. I don’t throw lavish birthday parties, I don’t bronze their baby teeth. I try to keep it simple.

The one exception? Hallowe’en. I am a sucker for it. I adore it. To the extent that I’ll arm-wrestle you if you think there isn’t supposed to be an apostrophe in it. To the extent that if you ask to see pictures of my kids, you’re less likely to see this year’s school pictures than to see my son when he was one and a half, dressed as a puffy, striped body to the tulle wings to the darling antennae. We stepped out into the night with a flashlight and a plastic pumpkin; we returned two hours later with a trash bag full of candy. The next year? A Dalmatian, and his little sister was the bee. Then? A lion. A bear. Not just any bear: when my daughter was four, she went as “Mister Bear,” which is what she calls her teddy. The living room was filled with tufts of fake fur and stray pieces of thread for two weeks. The next year? A princess. A firefighter. (Ever tried to sew vinyl? Onto vinyl? With clear nylon thread? Don’t. Start with something easier, like The Birth of Venus in crewel.) I poured my heart into making my children the perfect incarnations of whatever struck their fancy. I have spent more time playing up their joy than to see my son on a birthday party. I have spent more time making costumes than I have bragging about my kids. Hallowe’en is where I show my love in the silliest, most over-the-top way I can. It’s the one night of the year when I’m the best mommy on Earth.

That is, until I came to law school. My first year, I was so overwhelmed that I barely noticed The Holiday creeping up. With a week left, I dragged the kids to the fabric store and scoured the pattern books, looking for something compelling and fast. Nothing. My son said, “Mommy, it’s okay, we can just buy a costume.” I didn’t even know where to look. Finally, we found some pretty decent ones at Target. A “deluxe” Harry Potter cloak, glasses, a wand, and the best Cinderella they had. I put my daughter’s hair in a bun, I dug my son’s tie out of the bottom of his sock drawer, and we were good to go. I sent them to school on Hallowe’en feeling like I’d let them down terribly. Store-bought costumes! What’s next, Taco Bell for dinner every night? Turns out it didn’t make the slightest bit of difference to them. They had fun, and the candy haul was as good as ever.

And that’s how it is with most of the “important” things in the current culture of childhood, or rather, the culture of parenting. Your baby doesn’t care that he’s wearing a hand-stitched European sweater or that you’ve worn out the Baby Mozart CD. Your eight-year-old doesn’t care that you handed out party favor bags that cost more than the average present the guests brought, or that you took his entire third-grade class to a Tigers game. It doesn’t make any difference at all. Your kids will be just as happy to wear their favorite, well-worn clothes, and to eat hot dogs on the back porch with their best friends. Ultimately, nobody is going to think you love your kids more just because you did everything the hard way, the expensive way, the rare and trendy way. Especially not your kids. They’d rather you were spending your money buying them books and taking them out for pizza, and spending your time throwing the football around or doing their fingernails. (You may make your own assumptions about which of my children prefers which pastime. I believe in gender-neutral parenting.)

The other night, my son hit the Skeeball jackpot by himself for the first time. He did a little touchdown dance, and everyone at Chuck E. Cheese started clapping. He was wearing his beloved Zack Mills jersey, which he’s worn four times since the last time it was washed. I text messaged everybody I know. I called his dad and we shared one of those post-divorce moments of perfect mutual pride. We wouldn’t have had time to even be there under my old regime; I’d have been at home sewing his costume. This Friday, he’ll dress up like Anakin Skywalker, from Episode Two (but no light saber — the school has a “no connotation of violence” policy, oy vey). His sister will be an elegant Arwen in her internet-bought costume, complete with official Evenstar pendant. She’ll look just like Liv Tyler. But shorter. And I will feel no guilt whatsoever for not spending eight sleepless nights sewing sequins onto chiffon. Nor for stealing their candy when they aren’t looking.

Liz Seger is a 3L. E-mail comments about this article to rg@umich.edu.
Taking a Step Back

By Matt Nolan

Sunday night cram sessions for Monday are no fun. Starting class at 9 A.M. Tuesday and not finishing studying until 1:30 A.M. isn’t fun, either. Law school exams? Definitely not easy or fun. Whether it’s classes, moot court, law review, a journal, a student organization, a job, or a combination of the above, law students generally seem to find a way to never have as much “free time” as many of our friends and families have. I’ve lamented that point before, as many of you have.

This week I’m going to take a step back to think about that lamentation, however, and both remind myself (as I try to do once every couple months) and share my thoughts with you about how damned good we really have it.

It’s pretty easy to forget how lucky we are in the midst of what we go through on a daily basis. Each morning we walk into Hutchins Hall to test our wits and push our mental limits with some of the smartest minds of our generation—literally. That’s pretty heavy to think about, and can be daunting...which is why many of us spend countless hours studying, researching fine points, and worrying about being “behind” everyone else much more than necessary. We shouldn’t worry.

We are literally surrounded on a daily basis with some of the most brilliant people of our generation, people who are going to go on to become CEOs, Congressmen, managing partners, prominent professors, and the like all across the globe. Rather than being intimidated by that fact, we should be waking up with a huge grin every morning realizing how rare it is to have the opportunity to interact with each other and improve ourselves on a level that most Americans never realize even exists.

I grew up in Muskegon, a community of about 40,000 people in West Michigan. My parents divorced when I was seven, my father was a high school principal, and my mother has sold everything from mobile phones to radio advertising to skin care products out of her home. I lived in a mobile home community for 11 years. I went to a high school where only about 20% of the graduating seniors went on to four-year colleges.

In Muskegon my high school was considered pretty good, but when I tell most UM law students that we had a 20% college rate, they’re shocked by how low the number is. I’m shocked to hear how high some schools’ rates are.

I point these things out because we should recognize how good we have it — how truly fortunate all of us have been to get to where we are, and how much potential we really have. Being a Michigan Law student means we have risen to the top of the crop in high school, the ACT/SAT, college, the LSAT, and then the UM admissions process. We are a subset of a subset of a subset of people, and the number of doors that are open to us is truly phenomenal compared to the opportunities that most people have in their lives. Yes, we’ve worked extremely hard to get here and deserve each and every one of these benefits and opportunities, but we also should recognize how fortunate we are to have them.

Last week I was at an event with Michigan Attorney General Mike Cox, and one of my friends back home asked me, “Did you get his autograph?” I had never thought of him as someone whose autograph would be sought — we truly live in a different world than a lot of people do.

I told my friends at other law schools about the number of OCI firms that came to campus and the number of interviews people had; they were floored. Other law students, even at other top 25 law schools, are stunned that we have so much opportunity.

So why do I rant and rave about this, preaching from on high about how good we have it? I do so because I feel strongly that this opportunity creates in us a strong moral obligation to use it, and that’s my appeal to my fellow classmates today.

Look, let’s be honest: none of us are going to go poor except by choice, and most of us could go to most cities in the United States, get a great job, and have an amazingly happy life without much more effort than we’ve already exerted. I don’t think that’s enough. I think we have an obligation to reach higher, to think about what we CAN do with our education rather than what we’re allowed to do with our degrees and skill sets, and to ask a little more of ourselves.

I get sick and tired of watching people who have worked their way up in life getting to the top and forgetting how it was they got there, how that one opportunity at that one right moment taught them something that helped them get there. For the last five years I’ve worked at my high school’s band camp in the summer teaching marching fundamentals and leadership skills, because I look back and realize that the lessons that were taught to me in that situation have been part of what’s allowed me to succeed since. If people like us aren’t willing to give back with our time or money, and to reach for the highest standards in all we do, who can we count on to do so?

The law is a profession that is largely self-regulated, and I fundamentally believe that we have a larger role than most in setting the tone of discourse for the professional world and the political exchange in America. We advise businesses on how to act, and we interpret and play with the laws that legislators draft. Our role is as counselor, a definition which specifically implies an obligation to teach others the “right way” of doing things. If we don’t raise the level of discourse and expect more out of each other and our—

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Briefs, Suits and Trash Talk: 
Inside The Life of A Moot Attorney

By Mike Murphy

Nobody ever told me there’d be days like these.

I am living the life of the world-weary journalist: tired, behind on my bills and household chores, up late drinking coffee with angry messages in my inbox from editors who are demanding things that were due yesterday. Thing is, I’m not world-weary. I haven’t left Ann Arbor for more than a night or two in several months, sadly enough. And don’t let our low-print-run, high-interest publication fool you - I’m not a professional journalist.

I am, however, a Moot Attorney, about to rock a case in front of Moot Supreme Court. And man, I don’t know why I even agree to this stuff. I didn’t have time for this before I entered the competition, and now that I’m in it, I barely have time to bathe. (But I do bathe. I smell great! Smell me sometime.)

Moot court is making people act a little strange and unusual (even for here, and that’s saying an awful lot). I saw my roommate in the snack bar and walked over to say hi or make some dumb joke or something, and she dove on top of her notes and laptop and looked at me with a guilty expression, like she was checking out porn or something.

"Um, what the hell?" I said. "Wait, is that porn?"

"Moot court," she said. "It’s against the rules."

"Porn’s against the rules? When?!"

It is. In addition to porn, sharing any kind of information whatsoever about your moot court assignment, with any living creature, is verboten. Moot court is like Fight Club: the First Rule of Moot Court is: You Don’t Talk About Moot Court. The Second Rule of Moot Court? You Don’t Talk. About Moot Court. It’s turned friends into the functional equivalent of cheating spouses.

Me: Dude, I was up so late last night, I feel how Keith Richards looks.

My Friend: Yeah, me too. What were you doing?

Me: Nothing! I mean, nobody! I mean, shut up! What were you doing?

My Friend: Oh, I don’t remember.

Me: Oooh, that’s good.

It’s like finals – one of those things that a lot of people do, that takes up a lot of time, that nobody talks about because they’re extremely tired of talking about it. If you’re one of those people who’s so sick of Moot Court that you cannot possibly stand talking about it, then I am honored and somewhat perplexed that you’ve made it this far into the column.

Presumably, if you do talk about Moot Court, you get held in Contempt of Moot Court, and you may be possibly Censured. And then maybe sent to Mootsimum Security Prison. If so, that meant have to finish this brief? ‘Cause it’s late! And this is hard! And I’m hungry! And these constitutional lawyers I have working on my brief keep wanting more money! (Note to moot court committee – I’m just kidding. They’re appellate court judges. Like I’d trust my brief to lawyers.)

They say taking on moot court is like adding a four-credit class onto your schedule. Well if that’s true, then I’m skipping it every time because I’m out dressed up like my favorite childhood clown, Spanky McPassFail. Okay, that’s a lie. I’m putting forth as much of an effort as I can with the time I have, for personal pride and out of the respect I have for the somewhat staggering amount of hard work the Moot Court Board puts in to putting this thing on (you guys, seriously, have no idea).

I’m looking forward to rearing back, 8 Mile B-Rabbit style, and taking some fools out in freestyle oral argument competition. (By ‘fools’, of course, I mean my fellow classmates and moot court competitors, who under any other context whatsoever I would never take out).

And whatever machismo movie analogy you want to make, this is certainly an exciting time. It’s refreshing to have competition among classmates that doesn’t involve sitting in class or reading an outline. And even though it really seems like no one has time for it, I think we’ll all feel satisfied about our performances, at least a little bit.

And that’s my aim – a little satisfied. I won’t be able to give it my absolute best – one of those checks my ability to commit wrote that my Outlook calendar can’t cash – but I’ll do okay. I’m going to have to rely on sheer attitude, style over substance. So to the people out there pulling for my moot court victory – I’m sorry in advance. And to my future oral argument opponents, whoever they may be – I’m sorry in advance, but you’re going down like Leon Spinks in the first round, baby! It may not look like I’m doing much work on this, but an object at rest cannot be stopped! The pain train is coming! Woo Woo! You CANNOT stop the train, baby! NOBODY. CAN STOP. THE TRAIN.

Did that sound convincing? Crap. I’m going to need some more coffee.

Mike Murphy is is a 2L and the Editor-in-Chief of Res Gestae. E-mail Mike at murphym@umich.edu
Antics Isn't Interpol's Finest Shenanigan

By Steve Boender

I wanted so badly to like this record, I really did. After all, I flew in the face of critical convention and...gasp...actually liked the Strokes' sophomore effort, Room on Fire. It's so cliché to take a breakout band's second album and tear it to shreds. We're critics, that's what we do. Take a band no one's ever heard of, tout them as the second coming, and then once the band gets some recognition from the plebeian masses, hate on them like nobody's business.

But see, I want to avoid that - it's too easy. It's too easy to say that Interpol got lucky with Turn on the Bright Lights: the timing was right, few bands had a similar sound, the cultural climate was shifting, blah blah blah. It's too easy to say that Paul Banks and company used up all their good ideas on their first record. It's too easy to make fun of the outfits, the hair, the international jet-setting drug-fueled DJ sets, and the lyrics (which were never all that good anyway - remember "her stories are boring and stuff, she's always calling my bluff?"). It's too easy to follow the tide and start hating on Interpol. The problem, though, is that it's too hard to really get excited about Antics.

It's not that Interpol have done a 180 on us, nor is it that they've tried to rehash stuff from their breakthrough debut to ensure fan-base placation. Antics is different from Bright Lights, but not too different. The issue is that although Banks' haunting vocals are intact and Carlos D's killer baselines still bring all the boys to the yard, Antics is just a bit too boring. Bright Lights was marked by, along with Banks and Carlos' contributions, a sort of controlled chaos. Many of the tracks had a sense of urgency in them that pushed Interpol ahead of the increasingly-crowded "we love Joy Division and Gang of Four" category of bands. And although fairly dark from start to finish, the songs on Bright Lights were catchy, memorable, and - in a sort of David Lynchian way - fun.

Antics has none of that near-catastrophic build-and-release dynamic, nor are any of the songs memorable the first time around. Certainly that's not necessarily a crime, art is allowed to be challenging and usually is better for it - most songs that instantly attract people at first listen often have a shelf-life shorter than an Elizabeth Taylor marriage. However, with Interpol, I think their key strength was that instant where you first hear them and latch onto something in the song, the chorus or whatever, and remember it an hour later. When you actually have to dig into the songs on Antics to find something to appreciate, you start to see some gaping flaws: in the lyrics, in the uninteresting guitar work, in the a-bit-too-polished production.

Part of the problem may be beyond the band's control. Contextually speaking, Interpol released Turn on the Bright Lights to a world that needed them - their sound was just unique enough to fill a niche. However, as usual, the record labels and struggling bands all decided to emulate the sound, thus Antics hits the shelves amidst The Stills, The Killers, and a slew of other clones and second-generation clones, some of which are decent bands in their own right. Thus the individuality of Interpol's sound is lost, and it's harder to get excited about them.

I'm kind of angry at myself for not liking this record. Turn on the Bright Lights remains one of my favorite releases of the past 5 years so I feel like a traitor...a sell-out. But ultimately my job isn't to make 5 dudes I've never met feel good about themselves, just as their job isn't to make music that I like. Or maybe I'm just getting old and my youthful blind loyalty to my musical heroes even in the face of decline (e.g. Oasis' Standing on the Shoulders of Giants) has left for a more time-pressed jaded aural pragmatism. Or maybe I'm just holding Interpol up to elevated standards given the quality of Bright Lights. Antics is still better than 90% of the music out there today, and if it was a first release I would be spouting my normal praises. It's just that we've seen Interpol before and know they're capable of much better.

ELECTION, from Page 4

want to hold off counting them for as long as possible.

Electoral-vote.com shows the prospective electoral vote count changing daily, with swing states moving back and forth between the red and blue columns. It doesn't even consider what will happen when these states all start trying to decide whether and how to factor in their "normal" ballot count and their "special" ballot count. Like the infamous pregnant chads from 2000, the provisional ballots may hang in limbo for quite awhile, and those who witness first hand what happened with them in a particular precinct may provide the determining factor in whether or not these votes get counted.

These questions are as complicated as they are potentially critical to the outcome of the election. That's why there will be trainings on Michigan Law's campus for interested law students tonight and tomorrow night. If you want to join in the election law fun, and play a critical role, please sign up as soon as possible, by emailing the person leading the effort you'd like to join. Nonpartisan: Dan Scripps (dscripps@umich.edu). Republicans: Brian Pandya (bpandya@umich.edu). Democrats: Emma Cheuse (eceuse@umich.edu). This election is just too important to sit out on the sidelines. Sign up today!
EDITORIAL, from Page 2

... help but be impassioned on Election Day. We have been endlessly slung, we can't equally convince about who should win. And while we might lose sleep watching in the end there can only be one winner. After a long campaign season, where late night returns, we know that some will be blue. Both sides will be analogous Ohio State fans and Michigan fans among us. Some will be in red and some will be blue. Both sides will be passionate about their "team" and equally convinced about who should win. And while we might lose sleep watching late night election returns, we know that in the end there can only be one winner. After a long campaign season, where mud has been endlessly slung, we can't help but be impassioned on Election Day. As well we should.

But we also need to remember that, despite the results, we must be respectful and people. If your team wins, go to Rick's and celebrate. If you are on the losing side, go to Rick's and celebrate that it is only four years until your next big game. Don't throw beer cans and don't get arrested. When we had our last match up four years ago, the "losing quarterback" reminded us of the remark Senator Stephen Douglas made when he lost to Abraham Lincoln, "Partisan feeling must yield to patriotism. I'm with you, Mr. President, and God bless you." What remains of partisan rancor must now be put aside.

Win or lose, red or blue, we are all on the same team.

PS. Our story has a happy ending. The arresting officer came to our protagonist's house the following day. He assured her that he did see the flying beer can. He wrote in his report that it was self-defense and the girl eventually dropped all charges.

Our protagonist lives on with a clean record and a newfound sense of freedom. She likes knowing that she can hold her own in a fight, but is mature enough now to see that fighting is not the answer. This attitude, along with not being convicted for felonious assault, enabled her entry into law school where she will learn the skills to fight for what is right and fight against what all that is wrong – including flying beer cans.

Shannon Griffin is a 1L. E-mail comments about this article to rg@umich.edu.

Feedback on 'Anatomy of a Callback'

Submitted by Eunice Rho

First, I'd like to say that I generally enjoy RG and rarely find any of the articles even borderline offensive. Not even the one from that guy who wanted a pro-life organization on campus.

So I have to ask, what was the impetus behind printing Matt Nolan's article about his callbacks? Juxtaposed against Jay Surdakowski's comments about how he wants to encourage camaraderie among the students at Michigan, Nolan's description of his callbacks was not only ironic, it was nauseating.

Considering how stressed everyone is about the whole job process, publishing an article of that nature is extremely insensitive and I have to question the judgment to a) Write such a piece and then to b) Disseminate it to the student body. In spite of OCS' cautiously optimistic portrayal of the job market, there are students who have not received a callback or a job offer. The RG would never print an article by a student drooling over his stellar grades or the greatest clerkship ever. Why foster resentment and competition?

Seriously, people were really offended by this article.

Eunice Rho

Eunice Rho is a 2L. E-mail comments about this article to rg@umich.edu.

The Office of Career Services presents:

BEYOND OCI

Searching for a job the old-fashioned way

Thursday, October 28 12:15 - 1:15 pm HH 132
Simmons v. Roper is before the Court to decide this underlying issue, but also because the Missouri Supreme Court overturned the defendant’s death sentence as a violation of the federal Constitution, stating that evolving standards had changed since Stanford, to the point that the death penalty for juvenile offenders now violates the Eighth Amendment, according to Streib. The Missouri Supreme Court refused to rule on state constitutional grounds challenging the juvenile death penalty.

But when the case arrived before the Supreme Court, “the Court gave no attention to this issue...I was surprised they did not want to deal with it,” Streib said. “The rest of the debate was whether the death penalty was constitutional for 16 and 17-year-olds.”

As to that question, Streib believes that the Court will come out 6-3 against the death penalty for juveniles. Since Stanford, the Court has relied heavily on statistics, including the number of juveniles executed annually state-by-state, the propensity of the judges or juries to sentence defendants to death, and the number of states which allow juvenile executions by statute and their minimum ages.

From 1973 to 2004, 228 death sentences were imposed in 23 states, including 58 in Texas, 32 in Florida, and 25 in Alabama, but only 22 were executed between 1985 and 2004. Seventy-two juvenile offenders remain on death row in twelve states. Of the thirty-eight states and federal system remaining on death row in twelve states. Of the thirty-eight states and federal system remain on death row in twelve states. Of them today, they may still be executed like adults.

Streib is also concerned that some on the Court are asking the wrong question. “Whether they know [their actions] are wrong isn’t the right question—the question is are they fully 100 percent culpable?”

The atrocity of the crimes committed by juveniles should also not be the cause of their execution if they are under a certain age, Streib believes. “The crime is not relevant. There is a group of people who are simply not eligible, although in each case the crimes are horrible.” According to statistics, American society may feel the same way. Streib cited the DC sniper case, where Lee Malvo was tried for murder in Virginia, and prosecutors went for the death penalty—but Malvo was sentenced to life in prison, even though according to Streib, Virginia is a “tough death penalty area.”

“The crime matters, but we are talking about a minimum age.”

Despite this hard line approach, Streib said, “The first stage of the process is getting past the facts of the cases.” In one case, Streib represented a nine-year-old, who is now serving a life sentence for the murder of a little girl.

Even if the Supreme Court does not invalidate the death penalty for juveniles, Streib asked his audience: “Which prosecutor, juror or governor wants to be the last person in the world to impose the death penalty on a juvenile offender?”

The event was sponsored by the Law School’s chapter of the ACLU, Law School Democrats and the Criminal Law Society.
Question on the Quad: What Book Should Every American Read?

"Catcher in the Rye. I think it says a lot about truthfulness of character and... wait, what else is that book about?"
Dan Ross, 3L

"Fight Club, because it makes you think about what is important."
Josh Kweller, 2L

"Everybody Poops."
Hannah Taylor, 1L

"John Stewart's America the Book. I haven't read it, but it must be good if Walmart banned it."
Timothy Wang, 1L

ROBINSON, From Page 1

dead since September 11, 2001 from a simple, and entirely preventable, lack of food. Robinson argued that security refers not only to physical security, but to economic, social and moral security. Quoting Franklin Roosevelt, she said, "Essential to peace is a decent standard of living... freedom from fear is eternally linked with freedom from want."

Robinson also took the opportunity to respond to some of the concerns of critics, who say that human rights overstates the importance of law, and fails to understand local cultures and limitations. Robinson spoke about the increasing effort of the human rights community to capacity-build within local governments while bringing in the norms and standards of human rights. To further this effort, Robinson is leading a project entitled "Realizing Rights: the Ethical Globalization Initiative."

Robinson ended her speech with a plea to US citizens to take the human rights vision more seriously: "It would be the greatest boost in the human rights agenda worldwide." To do this, she said, we all must keep informed by watching the domestic movements here in the US. For example, US medical professionals are increasingly pushing for greater recognition of the universal right to the highest attainable health standard – in the US and in the third world. For those who plan to work for international organizations, she emphasized that many such groups are becoming increasingly aware of developing norms and are linking them to their own in-country work.

We face a challenge, Robinson said, because there is a lack of awareness about human rights norms in, and by, the US. But by linking grassroots movements, international organizations, trade unions and religious groups, we can reaffirm our obligations toward international efforts and strengthen social activism and justice across the world. "The key," she said, "lies in renewing the commitment here at home to continue renewing all rights for all people."
The University of Michigan Women Law Students Association is proud to announce its first annual

**Jenny Runkles Banquet and Fall Formal**

Friday, November 12th, 6:00 - 10:00pm
at The Gandy Dancer

Keynote Speaker:
Dianne Byrum, Minority Leader, Michigan House of Representatives

Tickets are on sale now
All are welcome!

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**NOAM CHOMSKY**

*Illegal But Legitimate: A Dubious Doctrine For the Times*

Academic Freedom Lecture
Thursday, October 28
4 - 5 p.m. 100 HH

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**THE ANNUAL HALLOWEEN PARTY**

hosted by the LSSS

Tickets are $15, on sale this week outside 100HH

*There are only 280 tickets, so get yours before they sell out!*

About the party...

**When:** Friday, October 29th, 9pm – Midnight

**Where:** The Links at Whitmore Lake

**What:** Awesome Halloween party, DJ, costume contests, bus transportation provided, and prizes for section representation!

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**EMALSA presents:**

**JOHN SLOSS**

October 29
Lunchtime Talk
12:15 - 1:25 pm
HH 132

Movie Screening
1:30 - 3:30 pm
“Tell Them Who You Are.”
150 HH

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**LAW SCHOOL DATE AUCTION!**

Thursday, October 28
Doors open at 7:30

Tickets on Sale
October 25-28
100 HH