



Photos by Murad Kalam

Israel Soong '01 examined the role of military commanders in Haitian war crimes.

Students work to bring justice in Haiti

by Mike Wiser

For the thousands of victims of Haiti's military regime, D. Austin Hare '02 and Israel Soong's '01 clinical project wasn't academic, it was about justice. The two spent part of the fall and winter terms helping lawyers hold the leaders of Haiti's military coup accountable for the rapes and other crimes that human rights groups said were used to terrorize political opponents.

Soong and Hare assisted the three-lawyer Bureau des Avocats Internationaux in Haiti in laying the legal foundations for a prosecution of crimes committed during the military regime's rule of the country between 1991 and 1994. They spent the fall term examining principles of international law that would allow them to prosecute the offenders for crimes against humanity in a domestic court and to hold military commanders responsible for the actions of their troops. The project culminated in a three-week visit to Haiti in which they interviewed victims and crafted a complaint explaining why an investigating magistrate should begin proceedings against the military rulers.

The prosecutions stem out of the December 1990 military coup that ousted



D. Austin Hare '02 spent three weeks researching and writing a complaint against Haiti's former military leaders.

ed Jean-Bertrande Aristide and installed a military regime, fronted by Émile Jonassaint, until October 1994 when international pressure led to the end of the military government. Human rights groups and the Bureau have reported widespread violations of human rights under the regime. In addition to other crimes, they have alleged that there was a widespread

and systematic practice of raping women. "Basically, they used gang rape by soldiers and para-militaries to terrorize people and to suppress political dissent," Soong said.

According to Hare, the extent of the crimes is still not known, but he said that the rapes were a frequent and daily occurrence under the military regime. He described a typical incident: "What would normally occur is that you'd have a family sleeping in a home or just enjoying a night of privacy in their home and there would be a knock on the door. And there would be a group of soldiers or paramilitary standing outside who would demand to see someone ... Regardless of whether the person was there, they would enter and they would incapacitate, detain [or] restrain various members of the family and then proceed to rape the women and the girls of the house."

Working some of the time in the offices of the Greater Boston Legal Services, Hare spent the fall examining how international laws relating to crimes against humanity could be applied in Haitian courts. In his final memorandum for the project, he exam-

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From corporate practice to murder and intrigue: Novelist alum gave up lawyering to pursue dream

by Zachary Price

Did nothing at the World of Law panels strike your fancy? Do both corporate law and public interest leave you cold? Maybe there's a possibility you haven't considered: You could be a novelist.

Take the example of Amy Gutman '93. After a four-year stint as a corporate attorney, Gutman quit her job and wrote a novel. Her book, "Equivocal Death," which Gutman described to the RECORD as both a "thriller" and an exploration of "deeper themes" relating to career and lifestyle choices, including the "issues women encounter at work,"

was released last month. It has already become a regional best-seller in the Cleveland area and received positive reviews from major writers. Nelson DeMille, author of "The General's Daughter" and "The Lion's Game," has called it "a smart and powerful novel of suspense from a gifted new writer."

Gutman will be reading from her book, signing copies and answering questions at the Harvard Square



Amy Gutman '93

COOP on Tuesday, Feb. 20, at 7 p.m.

If you have any doubts about corporate legal work, Gutman's novel may give you more. The protagonist of the novel is a young associate who discovers that the partner she has been assigned to work with on a high-profile sexual harassment case has been murdered. In addition to murder-mystery suspense, the book offers a portrait of life in a high-powered law firm.

Gutman explained: "The term 'equivocal death' is a term of art that's used in homicide investigation that refers to a crime-scene

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New crop of leaders chosen to take reins at Law Review, BSA

Hellman '02 aims to whip up Gannett House miracles

by RECORD Staff

Starting this week, there are some new faces at the helm of HLS's most selective student organizations. The Harvard Law Review and the Board of Student Advisors have announced the election of new officers for the 2001-2002 school year.

The *Harvard Law Review* elected second-year student Matthew Hellman '02 as its 115th president. Hellman, 24, was elected from a slate of seven candidates after eleven hours of debate.

"I am thrilled for Matthew and for the *Law Review*," said Anne Small '01, the outgoing president. "Matthew is a very respected member of the *Law Review*. His intellectual vision and dedication to the *Law Review* will ensure an exciting and productive year for the organization."

Hellman, a native of Hillsboro, Ore., graduated with highest honors from Swarthmore College in 1998. He has accepted a clerkship with the Honorable Michael Boudin of the United States Court of Appeals for the First Circuit's 2002-2003 term.

Hellman immediately began to take over the day-to-day management responsibilities of the organization.

"This is an extraordinary opportunity to work with an incredibly talented and dedicated group of editors on the *Law Review*," Hellman said. "The next year will surely be a challenging one, but I am confident that our editors will live up to the high standards that the *Law Review*'s 114 years of tradition have established."

On February 7, the BSA elected Erin Hoffman '02 to replace outgoing President Jahan Sagafi-Nahad '01. David Ware '02 will take over the position of former BSA Vice-President Sheldon Pollock '01.

Hoffman said that BSA's unique functions — both teaching and serving the HLS community — set it apart from others. "This is an exciting

Please see **ELECT**, p. 7

RAP panel discusses uncertain future of hip-hop

by Trevor Gardner

Distinguished members of the hip-hop community gathered at Ames Courtroom on Monday, Feb. 12, to discuss the potential derailing of the social movement within hip-hop music. The dialogue, entitled "A Panel Discussion on Ownership and Social Movements in Hip-hop," focused on the uncertain future of the genre, as well as hip-hop's progression from a rebellious and revolutionary art form to a commodity packaged by executives in the recording industry.

The panel discussion and concert were organized by the Harvard Undergraduate Council Concert Commission and the Harvard Law School Recording Artists' Project (RAP). HLS students established RAP to serve the legal needs of unsigned artists in the Boston area. Rahsaan Sales '03, co-director of the organization, says that RAP benefits both



Photo by Rashawn Duvall

Conference attendees (L to R) Leonard Hubbard, bassist of The Roots; Quest Love; Will I Am of the Black Eyed Peas; and Toure from Rolling Stone Magazine.

artists and students, especially since students can get an education in the entertainment business without being obligated to spend a summer serving coffee.

In order to attract clients, RAP advertises its hotline on Boston

radio stations. The directors then select clients who have requested help based primarily on the artist's financial situation and professional legitimacy. The RAP

Please see **RAP**, p. 2

'60 Minutes' co-editor goes off the record

by Juan Pablo Alban

The Harvard Law School Forum hosted Steve Kroft, co-editor of the popular television program "60 Minutes," last Wednesday for an "Off the Record" discussion. The discussion turned into a live example of its title, as Kroft carefully set the ground rules for such holding a conversation.

"If I'm not behind the podium but sitting on the table, you cannot quote me on anything I say," he said.

Fortunately for the inquiring HLS mind, plenty of captivating material from the experienced journalist came from behind the podium.

Kroft said he likes the idea of speaking off the record as a journalist because it can "clear the mind and conscience." You can freely tell your version of the truth without having your name associated with it, he remarked. At times, such an association could subject a reporter to public humiliation or end a career. As for cinema hit "The Insider," Kroft described it as "pretty good" and "more accurate than [he] expected," yet "unabashedly twisted" for the purpose of entertainment with regard to minor facts.

Kroft finds being a journalist fascinating, but that excitement comes at a cost. On the one hand, Kroft has witnessed famines, wars and natural disasters; he has "hung out" with movie stars and played golf with Clint Eastwood; and he has interviewed presidents and terrorists. On the other hand, Kroft spends about 120 days of the year on the road away from his family, with a significant amount of that time in airplanes and hotels. As for the worst place in the world to lose your luggage? Anchorage, Alaska. "If it doesn't arrive, it is either in Tokyo or London," Kroft said.

He also complained about the unfriendly nature of working in New York City, thereby sending a warning to those heading to New York law firms. During his first day on the job, the vice president of CBS left him a phone message. Expecting a warm welcome, Kroft instead listened to a warning to not get too used to his office, because two senior correspondents wanted it.

Kroft said his favorite stories are what he calls the "secret bookcase ones" — those that one would expect to read about only in fiction, but that



Photo by Murad Kalam

Steve Kroft, co-editor of "60 Minutes," said speaking off the record allows journalists to present their version of the truth without compromising their ability to impartially gather news.

occur in everyday life, hidden from unscrupulous eyes. One such story stemmed from a lawyer, who walked into Kroft's office and described a recent case.

The lawyer had represented a family whose baby was killed by a stray bullet that flew through a wall in their El Paso motel room. The shot, as it turned out, came from an employee of a Dallas-based corporation, E-Systems, who accidentally shot off his semi-automatic weapon while cleaning it.

The employee and four others had been in El Paso "in the course of their duties" for a \$2-billion-a-year company, but neither the lawyer nor reporters could discover what the men were doing in El Paso.

E-Systems, it turned out, produces vision and listening devices that are used by secret service agencies and terrorists. Considered "the best at what it does," E-Systems is an extremely secretive company, despite its listing in the Fortune 500 and some 1600 shareholders. The CIA, DIA and NSA are known clients. Yet, the government refuses to admit that the company even exists.

Corporate information about the circumstances surrounding the shooting was deemed "classified." But when the judge allowed cameras into the court

room, E-Systems settled the lawsuit for \$4.2 million.

E-Systems had been involved in a similarly eerie lawsuit involving an air-freight business that was making covert shipments to Vietnam and Laos for the Air America Company, Kroft notes. Air America had been a CIA-front company that E-Systems purchased after a scandal broke out in 1975. At the conclusion of the Vietnam War, the shipments ceased, and a manager of the air freight business brought suit.

After the CIA "paid a visit" to the judge overseeing the case, attorneys were prohibited from making inquiries about the relationship between E-Systems and the government. Kroft called it a "secret secrecy order." Kroft told this entire story, albeit in vague terms, behind the podium and "on the record."

Kroft is in his twelfth season as co-editor of "60 Minutes" and in his twenty-first year as a correspondent for CBS News. He has twice earned the prestigious George Foster Peabody Award for "60 Minutes" reports. He has also earned seven Emmy Awards, one of which included a 1992 interview with then Gov. Bill Clinton and his wife, Hillary. The interview has been cited as one of the defining moments of that presidential election.

NOVEL

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that's ambiguous, meaning that it's unclear initially whether it's a suicide or a homicide That became integral to my plot. But the second meaning of the phrase was a metaphoric notion of, are you really living? Is this an authentic life, or are you in some ways living only a half way? Is it more akin to a sort of death?"

Gutman speaks from experience. Though before law school she worked as a journalist and was the founding director of the Mississippi Teacher Corps, a program that recruits recent college graduates to teach in rural schools, Gutman chose to work at the New York City firm Cravath, Swaine & Moore after law school.

"I'd always been intrigued by seeing new worlds," Gutman said. "For me, given my background, I interviewed at a lot of these firms on a lark. When I got an offer at Cravath — it was just, you mean, I could go there? The opportunity to be on the inside of a place like that! At that point, it wasn't that I was thinking about writing about my experience, it was more just curiosity, and just the fascination of seeing a new world."

Gutman developed the theme for her novel while working at Cravath. The firm, she said, "is quite an extreme environment, quite demanding My experiences there really fueled this novel. I'd always thought it would be great to write a novel, but I didn't know what it would be about, so that was always an obstacle. This was really the first time that I got a clear notion of what I wanted to write about, and it was this idea — the equivocal death metaphor — that informs the book."

Gutman did not commit immediately to becoming a novelist, however. After two years at Cravath, she switched to working part-time at Pacher, Hayes & Snyder, a litigation boutique with a strong entertainment practice, while beginning work on the novel. But after nine months, with her savings dwindling, Gutman had a "crisis of confidence" and switched back to full-time legal work.

Then a case she worked on convinced her to pursue the novel with more resolve. In the course of legal work for the estate of Jonathan Larson, the author of the musical "Rent," Gutman read Larson's journals from the period before his success, when he was struggling financially.

"I had this sense of having wanted to do something and not [having] finished it," Gutman said. "That was sort of uncomfortable. Also, having read through so much of Jonathan Larson's materials and heard various stories about his life, there was just this sense that if you're going to do something, do it. I told myself, too, the most important thing was simply to do it, not whether I was able to publish it."

Now, with her first book hot off the press, Gutman has already begun work on a second novel. Based on her experiences, Gutman said she would advise students that "if there's something you really want to do, [you should] value it, hold on to it."

"If you want to do something, and maybe you can't do it initially, that doesn't mean it's not something you can come back to," she added. "If you're at a really demanding job, a large firm, [don't let] it consume you to the point where you forget there are other parts to your life."

"I think it's really important — and this isn't just for law students — [to take] small steps, and not feel that everything has to be done at once," Gutman said. "For me, the novel was such a lesson in that."

RAP

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case director assigns the case to a group of two to three students who meet with the client and assess how to best satisfy the artist's legal needs. Clients include professional dancers, in addition to jazz, r&b and rap artists.

In addition to its legal clinic, RAP promotes and organizes on-campus music-related events like the hip-hop panel discussion. Panelists at the event included Questlove (Ahmir Thompson), Black Thought and Leonard Hubbard of the Grammy award winning hip-hop band The Roots, Will I Am of the Black Eyed Peas, Kierna Mayo, founder of "Honey" magazine, and Toure, a writer for Rolling Stone.

The discussion began with the question of ownership of hip-hop music — specifically, how it relates to the growing influence of hip-hop artists outside of the African-American community. Questlove commented that viewing the hip-hop community as an all-inclusive "big tent" is too simple an answer to the art form's present problems.

"I think it's PC to say that hip-hop belongs to everyone. It's right to say that hip-hop has a rebellious attitude," Questlove said. "In the '70s and '80s rock was the rebellious genre. Hip-hop took over that role, and, similar to the fate of rock n' roll, it is now being corporatized. Hip-hop basically belongs to those who want to take on the rebel cause."

Will I Am of the Black Eyed Peas shared a slightly different perspective, suggesting that although many artists are able to maintain artistic integrity, their careers are still shaped by market forces.

"The creative control at Interscope Records has been a blessing, but artists left of the mainstream are packaged, too," he said. "Though you're given freedom, you're basically given enough rope to hang yourself. If you're not living up to your vanguard status, you're in trouble."

Kierna Mayo said that female hip-hop artists face a similar problem in determining their own identity within a genre dominated by men. "There has yet to be a female artist who is 100 percent in charge of her own image," Mayo said. Mayo cited Lil' Kim as an example of the type of personality that industry executives and male hip-hop artists are most likely

to promote.

The panel also tackled the ever-changing perception of what it takes to be true to hip-hop. The panelists agreed that the culture's idea of authenticity has evolved over the past twenty years, particularly its viewpoint on materialism. Kierna Mayo explained that ten years ago hip-hop fans reacted with skepticism to wealthy artists.

"People would say, 'Chubb Rock lives in the Hamptons. Can he be real?'" she said.

The discussion eventually turned to the immediate future of hip-hop music as Leonard Hubbard, The Roots guitarist, spoke about his solo project called "jazz-hop." Hubbard, who was trained at Carnegie Mellon University, said that his hope is to bring a more formal approach to hip-hop music, offering a deeper appreciation for the art form, as well as an opportunity for the genre's development. "The goal is establishing real musicianship as it relates to hip-hop," Hubbard said, adding that through "jazz-hop" hip-hop would "be fused into a discipline of learning."

A few hours after the panel discussion, the Black Eyed Peas and The Roots performed at the Sanders Theatre of Memorial Hall.

HLS community reaches out to India earthquake victims

by Jankhana Desai

Sujata Barai's '03 uncle is a surgeon in Ahmedabad, India. He is helping to provide medical relief to the victims of one of India's worst earthquakes. Thousands of miles away, Barai is showing the same compassion.

On the morning of January 26, India was hit with an earthquake that measured 7.9 on the Richter scale and was followed by more than 80 aftershocks, several measuring up to a magnitude of 5.6. According to Reuters, the death toll has risen to more than 30,000 people. In addition, more than 1 million people have been made homeless. According to Associated Press reports, damage is estimated at \$5.5 billion.

Barai is one of many of the students from the South Asian Law Students Association (SALSA) working to raise money and awareness for victims of the quake. "Being far away, there are limits to what we can do, but being South Asian students and especially at an institute like Harvard, we have a lot of resources and power that we can leverage and channel to people who are working on the ground," Barai said. "A lot of it involves just keeping people's awareness high."

To raise funds and educate the community, SALSA has manned a table in the Hark, where students can stop, learn about the devastating effects of the quake and donate money towards relief efforts.

Jan Vild, LL.M., was one of those students. He felt as though he had to help. He is one of dozens of HLS students who have donated to the Indian earthquake relief efforts. "You see the pictures, you read the stories, and it's

just awful," Vild said.

Al Lambert '02 said he felt the same way. "A small monetary contribution is just a drop in the bucket," explained Lambert. "People who are already struggling with the basic necessities have to once again go through another disaster."

On Tuesday alone, SALSA collected nearly \$200 in donations at the table in the Hark. Balaji Srinivasan '02, vice president of SALSA, was manning the table Tuesday. He said he was inspired to help after his mother told him about other Indian organizations that got together and raised a lot of money. "The Harvard community has a history of community service and local action, so this would be an easy way to help so many people, just by contributing even \$1 or \$5," Srinivasan said.

Prashant Deshpande, LL.M., also sat at the table to collect funds. Until this past August, Deshpande has lived in India his entire life. "I identify with the cause," Deshpande said. "It is satisfying that I am doing something to help even though I am not back home."

As part of another effort by SALSA, Deshpande also collected money at the LL.M. ball on February 8. Deshpande said he was happy to see his classmates contributing so generously. "Quite a few people also e-mailed and asked me about it and expressed their sympathies," he said.

As part of its relief efforts, SALSA has many other activities also under way. Students from SALSA have solicited donations in class by passing around envelopes. According to members, SALSA also plans on reaching out to faculty and staff to raise awareness and solicit contributions. A fund-raiser

was held at the "Big Easy" on Thursday with the combined efforts of the Harvard Graduate Council, SALSA and HL Central. Part of the proceeds will go to the Share and Care Foundation for relief efforts.

Organizers also plan on having a food fair fundraiser in March. Allen Wong '03 will help with the March luncheon. Wong, one of the pioneers of the relief efforts, is a member of Direct Action, an activist organization focused on international humanitarian causes. He approached SALSA after the quake to discuss potential relief efforts.

"I have been really interested in trying to get increased awareness in international crisis issues and getting the school involved with relief of these types of occurrences," explained Wong. "I think too often our perspective gets too localized. It is nice to have a larger outlook."

Direct Action will help out with upcoming fund-raiser lunch, Wong said. Wong explained that Direct Action has done such activities in the past. "We have raised money for an orphanage in Haiti," he said.

Another HLS organization is involved with earthquake-relief efforts. The Harvard Law School Greens and its president, Cliff Ginn '03, have also been involved with fund-raising efforts. "It's not enough just to repair the damage, but to invest to mitigate future disasters," Ginn said. According to Ginn, members of the Greens have made door to door collections in the HLS dorms.

With all the efforts so far, more than \$1,300 has been raised. Sharmila Murthy '03 explained that the money will be forwarded to the Disaster

Mitigation Institute (DMI), a relief organization that is currently on-site in the devastated areas. Murthy became aware of DMI as a result of her work as a Fulbright scholar in India. She suggested the organization because of her personal knowledge of their work and because it was locally based. Murthy has spoken of the earthquake in her classes and asked for contributions.

"The response in my section has been really positive People have come up to me after class to ask me about it," Murthy said. "Some people asked me to take around envelopes and put up posters."

Because of her work in India, the earthquake raises personal concerns for Murthy.

"Having spent a year there, I have friends and colleagues that were affected by earthquake, and in particular because I was working with a women's organization that was working with poverty-stricken women," she said. "They are based in Ahmedabad and work in Kutch and rural areas."

SALSA members said they hope the relief efforts and awareness continues. "The earthquake is something that we only think about for a short amount of time, and yet the recovery is going to take years," Murthy explained.

Deshpande added: "We need all the help you can give us."

SALSA plans on having a table set up in the Hark next week. If you would like to contribute to the earthquake relief efforts, please stop by the table or contact sbarai@law.harvard.edu or smurthy@law.harvard.edu.

HAITI

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ined the development of crimes against humanity, specifically rape. Hare provided the Bureau with a legal argument for why international laws against systematic and politically motivated rape might be enforced in Haiti's domestic courts.

Hare and Soong hope to use international law as a supplement to criminal law, thereby expanding the net of who may be held responsible for the crimes. "What we are doing here is something new in that it is an attempt to use, to the extent possible, international law as a force to buttress the laws that already exist in national legislation," Hare said.

Realizing that the key to the project would be to tie the former military leaders to the actions of their troops, Soong examined the responsibility of these commanders under international legal theory. He provided the Bureau with the legal precedent in customary international law for holding defendants criminally liable for the acts of their subordinates. "These leaders had control over the soldiers and paramilitaries. They knew these rapes were occurring. They knew they were widespread and systematic. And they did nothing to stop these rapes from happening or to prosecute those responsible," Soong explained.

During three weeks in Haiti, the two saw the human toll the rapes had taken on the women and on the country. The two interviewed seven victims of the military regime to discover how their stories matched up with those reported by human rights groups. "It put faces with the stories and it was a very serious reminder of how grave the attacks were and how women were still suffering today from the violence that occurred almost ten years ago," Hare said.

Soong explained the impact on the victims. "These rapes had terrible

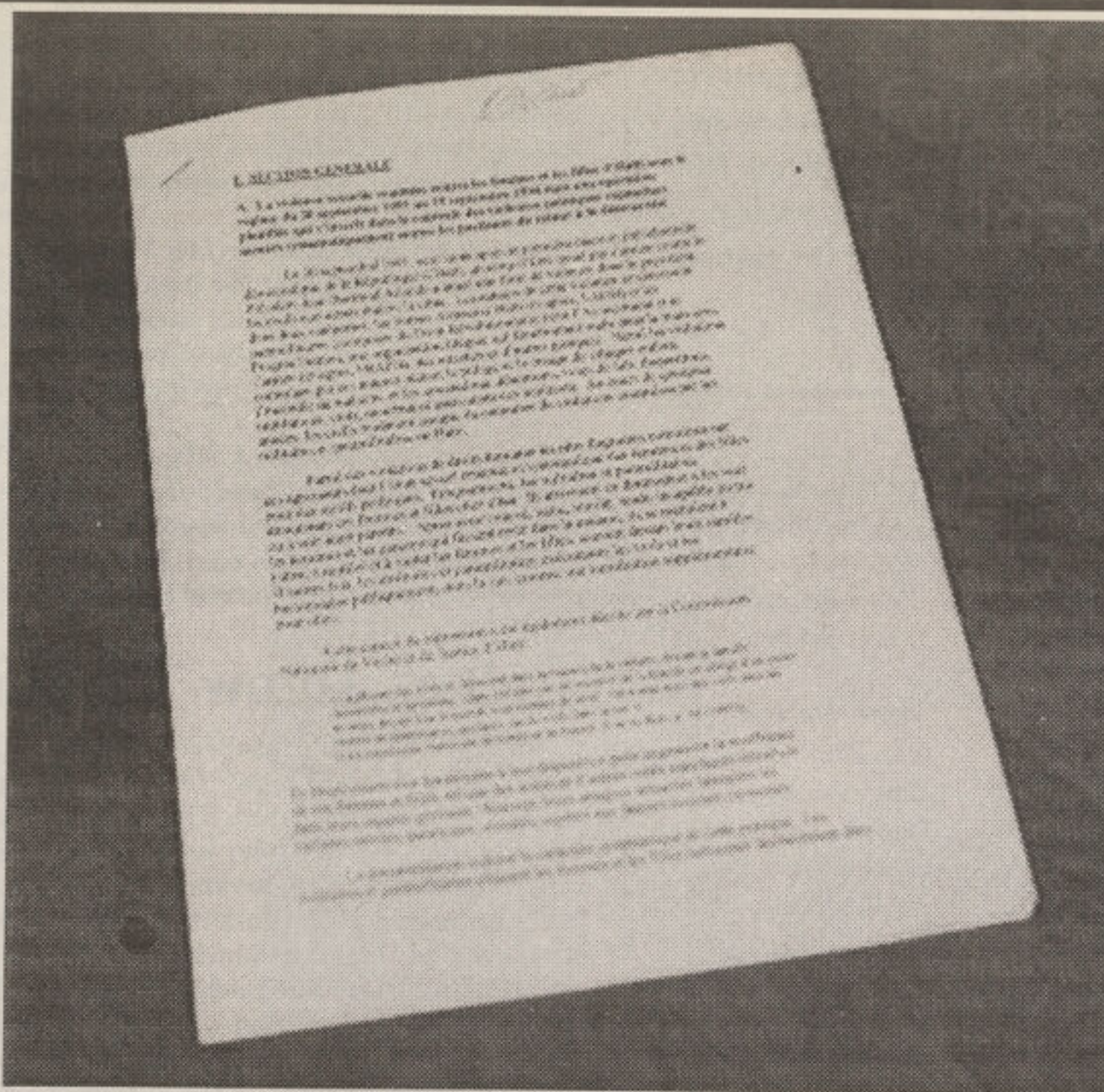


Photo by Murad Kalam

Hare and Soong's complaint detailed the systematic rapes used by military forces to frighten Haitian civilians and suppress political dissidents.

effects on the women and girls, on the victims themselves. Of course, all of them were severely traumatized psychologically, and some of them even contracted AIDS as a result of the assaults. There is a great stigma about rape in Haitian society, and these women would be ostracized by the community that knew what had happened to them. Sometimes, in some cases, even the husbands would no longer want to be with the wives," he said.

Yet the trip to Haiti was not just a chance to see the victims first hand. It was an attempt to bring them justice. In

the second part of the project, Soong and Hare focused on producing a general complaint that would be filed with the court. The complaint would initiate the proceedings of an investigating magistrate and would later be read at the beginning of a jury trial. The document, which Hare translated into French, presented the background of the incidents and explained the legal basis under the Haitian penal code and international law for bringing the perpetrators to justice.

The Bureau will work with this general complaint to insert the narratives

of specific victims, but the work is far from over. Haiti suffers from a crippled justice system and a lack of lawyers able to pursue human rights prosecutions. Additionally, the prosecutions will face other difficulties. "There is no witness protection program in Haiti, and protecting these women who come forward to say that this happened to them is going to be really difficult. Probably a lot of the assailants are walking around the streets of Port-au-Prince as we speak. And so it is not going to be an open and shut kind of a thing. Especially in these conditions, with this kind of a judicial system," Soong said.

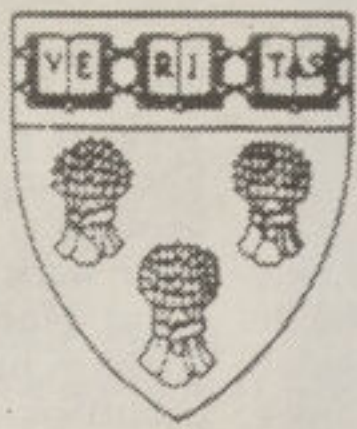
For both Soong and Hare, the program was worth all of the difficulties. "If this case goes through, it will have a lot of symbolic value for a lot of Haitians. A lot of Haitians suffered under the military dictatorship and they want to see these military dictators be held responsible for the things they have done," Soong said.

The project was first advertised at the law school by Arthur Kim '00, the former head of Direct Action, who now works for the Bureau. Their work was part of The Haiti Project, which is in turn a joint project involving the Harvard Immigration and Refugee Clinic and the Harvard Law School Human Rights Clinical. Deborah Anker, who directs the Clinic and oversaw the project with Peter Rosenblum, said that the project was "a huge success."

Hare and Soong saw it that way, too. For Hare the project was a perfect fit. Working on a joint-degree program with Princeton's Woodrow Wilson School of Public and International Affairs, he has focused on international human rights and domestic civil rights. Soong, who is also working on a joint MPA with the Kennedy School of Government, said "I'm both a Christian and a lawyer. And the God I believe in is a God of justice. And getting justice for these victims who have not gotten justice is the whole reason I'm at law school."

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The Lion's Main Strength

There is one constant to Harvard Law School. Far more perpetual than dispiriting grade reports, infinitely more unchanging than the faculty itself, it is the hand-me-down. First-year students will surrender unbridled enthusiasm to next year's admits. Second-year students will pass on interviewing tips and bundling strategies. Third-years will bestow many gifts, chief among them positions of leadership in student organizations.

It is the season for torch passing. The Law Review and BSA have new leaders. In a few weeks, the Law School Council will elect a new slate of candidates. Throughout the campus, leaders are shrugging off the mantle of responsibility and laying it on the willing shoulders of others.

Most of those giving up positions are 3Ls. They're like the grizzled lions in the pride, with ragged scars speaking of battles with the administration, other students, even members of the same organization. Thanks to the McKinsey survey and strategic planning, the current 3Ls have seen enough controversy to last an HLS lifetime, which isn't quite as short as it seems in hindsight. In essence, they're looking for a quiet retirement from campus politics and academic strife.

But there is more to be done. 3Ls have more than three months left at HLS, and they are in a better position to contribute to the school, and leave a lasting legacy, than ever. Most are just now figuring this place out. Rather than drop off and let all that knowledge go to waste, they should get involved and pass what they know on to others, leading by words and example. 3Ls with time on their hands should remain active, or get involved, in campus activities. There is no better time than the present.

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• Briefs •

Downloading fiends can turn to JZ

Napster fans worried about the fate of the embattled online music swapping service can turn to HLS Prof. Jonathan Zittrain '95 for answers to their legal questions. On the HLS website, Zittrain has posted a brief analysis of the recent ruling in the Napster case, which has been reported widely as a major blow to Napster.

The 9th Circuit Court of Appeals ruled Tuesday that Napster's service, which allows free swapping of music files among users, does constitute copyright infringement. Rather than enforce an injunction issued by the lower court,

which could have shut Napster down immediately, the Court of Appeals remanded the case for re-wording of the injunction. Zittrain interprets this move as an attempt to force Napster into some policing of copyright infringements without shutting the service down completely. Zittrain predicts much discussion and argument about exactly what form this policing must take if Napster is to continue operating.

He also notes that new pay-per-listen technology may soon make it more feasible for the recording industry to block free copying of MP3 files.

Reno '63 takes time to laugh at herself

It's been said you don't become a lawyer or politician unless you're a bit of an actor. Former United States Attorney General Janet Reno '63 has spent a career as a lawyer, but only recently did the actress within come into bloom.

On Jan. 20, 2001, Reno appeared on "Saturday Night Live." In her first scene, she burst through a fake brick wall and confronted cast member Will Ferrell, whose running Reno-gags included "my one blue dress," wearing an identical royal blue suit and pearls. Reno told The Advocate (Baton Rouge, La.) that as she drove home after the inauguration of Pres. George W. Bush, she felt as if a great weight had been

lifted. "Then another one descended like a big black cloud: I had agreed to appear on 'Saturday Night Live' ... which had made rude fun of me for so long," she said.

"My opening lines were flawless. But few people laughed. ... Not only was I out of my mind, but I was a failure, to boot," Reno told The Advocate. As the sketch went on Reno said that "the laughter became a huge roar. ... Ladies and gentlemen, at that moment, a ham was born." Reno said that the evening had a deeper lesson: "We must take time to laugh at ourselves."

The Advocate (Baton Rouge, La.) contributed to this report.

Tribe '66 sounds off on Clinton pardons

In what is quickly becoming a national political ritual, Prof. Laurence Tribe '66 has sounded off on the actions of a beleaguered Democratic politician — this time, former Pres. Bill Clinton. Tribe questioned the utility of the Congressional inquiry into Clinton's last minute pardon of financier and tax-fugitive Marc Rich.

In an interview with the Los Angeles Times, Tribe noted that the president's authority to grant pardons is virtually absolute. "This was meant to be a discretionary power, like a grant of mercy," said Tribe.

Through two terms in office, Pres. Clinton granted few pardons. That trend shifted on his final day in office, however, when he pardoned 140 people. Most experts in constitutional law

have said that Congress and the judiciary have no authority to limit a presidential pardon, let alone punish a former president for an alleged abuse of the power.

In 1891, Congress set up an Office of the Pardon Attorney in the Justice Department to review clemency pleas. The pardon attorney then recommends whether the president should grant a pardon in a given case. Nevertheless, the president is not mandated to follow this procedure.

Tribe said, however, that the Marc Rich pardon "certainly looks like an act of terrible judgment. The whole thing has the smell and the appearance of pardons for sale to the highest bidder."

The Los Angeles Times contributed to this report.

Author Turow '78 honored by bookseller

Barnes & Noble Booksellers is honoring novelist Scott Turow '78 with its Writer For Writers award. The prize is intended for authors who have helped others in the literary community. Two other authors will be similarly honored: novelist and essayist Marita Golden and the poet Cornelius Eady.

Turow, whose first book was "One L," a non-fiction account of his experience at Harvard Law School, is the author of several legal thrillers, including "Presumed Innocent" and "The Burden of Truth."

Turow graduated with high honors from Amherst College in 1970, receiving a fellowship to Stanford University

Creative Writing Center, which he attended from 1970 to 1972. From 1972 to 1975, he taught creative writing at Stanford.

In 1975, he entered Harvard Law School, graduating with honors in 1978. From 1978 to 1986, he was an Assistant United States Attorney in Chicago, where he eventually served as lead prosecutor in several high-visibility federal trials investigating corruption in the Illinois judiciary.

Today, Turow is a partner in the Chicago office of Sonnenschein, Nath & Rosenthal where his practice centers on white-collar criminal litigation.

Something on your mind? Write us a letter!

Place them in the RECORD box next to the 1L Hark boxes, e-mail them to record@law.harvard.edu or send them to:

**Harvard Law RECORD
Harvard Law School
Cambridge, MA 02138**

Obituary

Kramer '38, dean, Assistant U.S. Attorney General, scholar

Robert Kramer '38, professor, legal scholar, Dean of the George Washington University National Law Center for 18 years, and Assistant Attorney General of the United States, Office of Legal Counsel during the latter years of the Eisenhower administration, died of natural causes at his home in the Collington Episcopal Life Care Community near Washington, D.C. on Feb. 1, 2001. He was 87 years old.

Dean Kramer was born in Davenport, Iowa, on Aug. 17, 1913, son of Robert E. Kramer, merchant and broker, and Nita Mapes Kramer. He graduated from Davenport Central High School in 1931, from Harvard College *cum laude* in 1935, and from Harvard Law School *magna cum laude* in 1938, where he was Legislation Editor of the Harvard Law Review. Throughout his college and law school years, he worked summers at the law offices of Mayer, Meyer (now Mayer, Brown & Platt) in Chicago, Ill.

As a young attorney, he joined the National Labor Relations Board in its formative years (1938-40) and subsequently moved to the Anti-Trust Division of the U.S. Department of Justice (1941). From September 1940 to September 1941, and again from January 1942 to September 1945, he was legal adviser to the Chief of Ordnance in the Fiscal, Fiscal and Legal, and Legal Divisions of the Army of the United States. The Legion of Merit he received for his wartime work reads, in part: "Many of Major

Kramer's expert accomplishments were entirely original, establishing basic principles in the field of contract law." Dean Kramer retired from active service with the rank of Lieutenant Colonel.

During these same years, he met and married his wife of 52 years, the late Mary Rainey Gaston of Washington, D.C., daughter of Herbert E. Gaston, Assistant Secretary of the Treasury. Mary Gaston Kramer was then employed as an economist with the Farm Credit Administration and subsequently with the Women's Bureau of the Department of Labor. She died in 1993.

After the war, Dean Kramer and his family moved to New York, where he was an associate at Paul, Weiss, Wharton & Garrison from 1946 to 1947, before joining the faculty of the Duke University Law School (1947 to 1959). He edited *Law and Contemporary Problems* (1947 to 1956), the *Journal of Legal Education* (1948 to 1955), and was American editor of *The Business Law Review* (1952 to 1955). He also co-authored (with C.L.B. Lowndes and J. McCord) the standard treatise *Federal Estate and Gift Taxes* (West Publishing Company, 1956, 1962, 1974), in addition to many articles in diverse fields, including administrative law, conflict of laws, jurisprudence and federal taxation. His former colleague David Seidelson (Professor Emeritus, George Washington University Law School),

writing in the *George Washington University Law Review* at the time of Dean Kramer's retirement, praised him as an author and editor of "enormous intellect" and "extraordinary language facility." Professor Seidelson concluded, "That is professional versatility." He maintained an abiding curiosity and wide reading inside and outside the law, in later years re-reading all of Austen, Dickens and Trollope.

Between 1959 and 1961, Dean Kramer, a life-long Democrat, was Assistant Attorney General, Office of Legal Counsel, in the Department of Justice, in which capacity he prepared opinions for the late William P. Rogers as Attorney General and, at his own request, argued various cases for the United States before the U.S. Supreme Court, at times questioned closely by his former Harvard professor, Justice Felix Frankfurter.

In 1961 he became Professor of Law and Dean of the George Washington University National Law Center. At his retirement in 1979, GW President Lloyd H. Elliott paid tribute to Dean Kramer's achievements over nearly two decades in transforming a largely part-time service school into a law school of national standing, raising academic standards and attracting a first-rate faculty, energizing the alumni association, creating an endowment and building a new law library. His former colleague, Prof. Seidelson, wrote that Dean Kramer guided the school through the turbulent decades

of the 1960s and 1970s with "a nearly perfect amalgam of sympathetic understanding and tough-minded professionalism."

As a lawyer, scholar and educator, Dean Kramer believed that lawyers need not only analytic skills, but also a wide-ranging liberal education. In a speech at the University of Virginia in the late 1950s, Dean Kramer reflected on his own experience to urge undergraduates considering careers in law not to restrict their education to pre-professional training, but rather to study whatever interested them, in order to acquire not only "certain techniques of learning, such as the ability to read and write well and to do research," but, equally important, "knowledge and understanding of the arts and sciences, the humanities, in their broadest sense — to gain insight into man's life and industry — for law, after all, is but an adjunct to these."

Dean Kramer was a Life Member of the American Law Institute, which he was invited to join in 1948. He served on the executive committee of the Association of American Law Schools. He was also a long-time member of the Cosmos Club and of the University Club of Washington, D.C., and served on the Board of Vestry of Christ Episcopal Church, Georgetown.

He is survived by his three children, Robert G. Kramer of Annapolis, Md.; Elizabeth K. Helsinger of Chicago, Ill.; and Lucy Keefe of Boston, Mass.; and by nine grandchildren.

Obituaries

Am-Ex executive Clark '42

Howard Clark '42, a visionary executive who helped transform American Express Co. into a modern corporate giant, died Friday of cardiac arrest at his home in Greenwich, Conn. He was 84 years old.

When Clark was named president and chief executive of American Express in 1960, the company's green charge card was two years old and losing money. He rejected an offer to sell the business to Diners Club, a competitor, and chose instead to aim the American Express Card at well-heeled travelers who had just begun to take advantage of the first commercial passenger jets.

The card soon began making money, and with the famous advertising campaign in which recognizable names with not-so-recognizable faces asked, "Do you know me?", it became the company's most profitable business. A second successful advertising campaign, with the slogan "Don't leave home without it," helped increase sales of the company's traveler's checks. By the time Clark retired as chief executive in 1977, American Express had 650 offices in 108 countries and eight million cardholders.

Clark was born in 1916 in South Pasadena, Calif. After graduating from Stanford University in 1937, he attended Columbia University's business school and Harvard Law School. He served as a lieutenant in the navy during World War II and then joined American Express in 1945 as an assistant in the executive office.

The New York Times contributed to this report.

Times counsel Marsching '53

Ronald Marsching '53 of Woodbury, Conn., died Feb. 7, 2001. He was an attorney with the law firm of White & Case before becoming General Counsel and Secretary of the Timex Corporation. He retired in 1986 as Vice Chairman. He leaves his wife Marjory and daughters Christine of Paris and Jane of Boston. While at HLS, Marsching had been a member of Lincoln's Inn and the Cardozo Club.



Photos by Murad Kalam



Campus life through the lens ...

Tangled Web

by Justin Cooper '01
RECORD Columnist

RESOLVING YOUR IDENTITY CRISIS ONLINE

There is no better way to procrastinate than with a good on-line personality test. You take a half hour or so to fill the thing out, then you e-mail your results around to everyone and compare. It provides hours of entertainment. Of course, no one could catalogue all the personality tests out there on the net, but here are a few. I've also included some other interactive websites that I found amusing or noteworthy.

www.thespark.com

The first page appears to promise the kind of new-age cultiness that I long for: certain lucky individuals have "the spark" of personality, while all others are "the living dead." Unfortunately, the site turns out to be a pretty standard personality test, albeit with some funny questions. My favorite: "Do you express yourself better orally or anally?" **B**

www.wizardrealm.com/tests

This site indexes on-line tests collected from all over the Internet. Some of them are real treasures. You just can't beat the *Your Life as a Gorilla* test, which tells you which of the 19 gorillas at the Atlanta zoo you most resemble. It turns out that I am most like Kuchi, the "social butterfly" of the zoo's gorilla population. **A-**

www.emotioneric.com

Visitors to Eric's site tell him what

emotion they would like to see him express, and he obliges by taking a picture of himself acting out that emotion and posting it for all to see. This mildly amusing idea has generated a huge amount of acclaim and popularity for Eric, whose site is littered with various awards. Unfortunately, Eric is clearly an untalented ham and his pictures show it. This site would be a lot better if *Anger* looked like an angry person, not some theater-geek feigning melancholy for his high school buddies on the set of *The Pajama Game*. **C**

www.mypregnancytest.com

This site offers an on-line pregnancy test (completely fictitious, obviously) to anyone who wants one, free of charge. You just click the button at the bottom of the page, and it tells you if a baby's on the way. Next, if you so choose, it will tell you what gender it is. Finally — this is the part that cracked me up — it offers to tell you who the father is. Primitive graphics and nary a byte of content can go a long way if you've got a funny idea. **A**

www.amihot.com

www.amihotornot.com

www.amihotornot.de

All three sites — they seem to be unaffiliated — work on the same principle. People post their pictures on the site; you tell them if they're HOT or NOT. It's simple, brilliant and deeply humiliating to the participants. *ami-*

hot.com is pretty well designed and has a *Favorites* section with some real babes, but it's the slowest and has a lot of ads. *amihotornot.com* is quicker, but it's confusing to look at because the rating bar looks exactly like a banner ad. For the truly adventurous, though, it has to be *amihotornot.de*. This German site offers a unique window into the Teutonic mind: Guys with fuzzy mustaches rate highly, while curvaceous women do not. Amazing. **A**

www.emode.com

emode.com creates their own tests and interactive exercises, over 100 of them in all. If you click the *View All* link on the first page, you can see all the tests listed in one place. This is the sort of no-nonsense feature that every webpage should have, but not enough do. I've only taken a few of the tests, but I enjoyed *What Breed of Dog Are You?* (cocker spaniel) and *The Presidential Matchmaker* ("W" is my man). The site is nice to look at and it works smoothly, but there's nothing terribly adventurous or racy here. You could take the whole family to this site. **B+**

www.pencorse.freemove.co.uk

This site features the Simpsons Character Tester, which tells you which character from the TV show *The Simpsons* you most resemble. The test is admirably short, but there's just not much here to laugh at, which is a shame, because *The Simpsons* have

given us so much over the years. **B-**

www.keirsey.com

This is a great personality test website. It has no splashy graphics or frills, just tons of information. It tells you everything you ever wanted to know about the Keirsey personality test, how it came about, how to interpret your results, and so on. **A**

www.bluesapphires.net

What distinguishes this source of Web-order Russian brides from the others is all the how-to tips. It tells you how to write to your prospective Russian bride—they have pictures of the women, of course—how many letters to write, how to make cheap phone calls to Eastern Europe and so on. Best of all, they have alternative methods of payment for those who are "unable to pay by credit card." This whole thing is so pathetic that I don't think I can even give this website a grade.

Bonus Site

www.angrylittleasiangirl.com

There is nothing interactive about this site, but it's definitely worth visiting, if only to see the cartoon of the little Asian girl flipping you a double-barreled bird. The little cartoons are cute, too. I couldn't get the videos to work. I like the homemade feel of this site — it's not too polished and it doesn't show off a bunch of flashy "website awards" that no one has ever heard of. **A-**

Fenno

Fenno really needed to get laid. He'd been at Harvard Law since 1947 and had gotten his last piece sometime during the Johnson Administration, and now he was nostalgic for LBJ ... or at least the last two initials.

Frustrated as he was, Fenno couldn't wait for the Valentine's Match dance party. This could be the answer to all his problems. Sitting in his room, looking over the *Valentine's Success Stories* from last year on the *HLCentral* website, Fenno felt himself getting tingly with anticipation. One anecdote after another told of future captains of industry from HLS and HBS snatching up dainty ingénues from the Schools of Education and Public Health. *A chick from the School of Public Health would be perfect*, Fenno thought lasciviously. *They accessorize with multi-colored rubbers*. Oh yes, things were really shaping up.

Fenno was ruminating happily on the opportunities presented by the Valentine's Day dance party when he noticed his grade report sitting in the day's mail. Placing the envelope on his forehead, Johnny Carson-style, Fenno tried to guess his first-semester grades:

"Tax, B"

"Antitrust, A"

"Race Relations, B+"

Fenno hadn't understood Tax at all, but he also knew that a guy Wolfman's age wasn't going to give out bad grades and risk facing angry students, so a B was a safe bet. Antitrust was no problem; Fenno had Calvani all figured out. He had written his whole exam about the anti-competitive pricing of airfare on the San Francisco/Boston route. Race Relations was a bit less clear, since Fenno had never been to the class, but B+ seemed like a good bet.

The envelope, please ...

With a slight pitter-patter in his chest — Fenno was irritated to find that he

still got nervous about grades after all this time — he opened the envelope.

Tax, GNR

Antitrust, GNR

Race Relations, GNR

GNR doesn't lie, Fenno thought. Trying to forget the frustrations of school bureaucracy, Fenno donned his HLS cuff links and cummerbund and set out for his big night on the town.

On the way to the T, Fenno made a stop at the dreaded Hark ATM. Wrinkling his nose at the stench, Fenno hurried through his transaction. *Smells like someone just made a big deposit in here*, he thought. Having withdrawn a fat twenty, Fenno left for the decadence of downtown Boston.

The Big Easy ... you will never meet a more wretched hive of scum and villainy. When Fenno arrived, three nubile undergrads were waiting outside the bar, trying to get in with IDs from Sealand. Sniffing a chance to score, Fenno queried the bouncer, "What's the problem here, sir?"

"We don't serve their kind," the mustachioed henchman sneered, pointing to the obviously underage students.

Fenno wafted his still-pungent receipt from the Hark ATM under the bouncer's nose. "These aren't the undergrads you're looking for," Fenno whispered. The bouncer recoiled in a daze and waved them into the bar.

The undergrads ditched Fenno immediately.

Undaunted, Fenno went in search of his romantic "matches" for the evening. He was curious to see who the party organizers had thought worthy of him. There would likely be more than a few women interested in a gender-shifting alcoholic with a penchant for sexist jokes, an intolerance for the successful and an ambiguous relationship with a midget cloned from Dan Meltzer.

First up was a demure 19-year-old whiz kid from the Divinity School. Her turn-ons included Saint Augustine's "Confessions," the Baltimore Catechism and lime Jello shots. Fenno's Protestant sensibilities were offended.

Next on Fenno's match list was a 45-year-old chain-smoking divorcee pursu-

Quote of the Week

'I don't trust him as far as I can spit ... Nick is very lazy.'

—"Survivor" contestant Jeff Varner, speaking of a certain HLS 2L

ing a second Ph.D. in nineteenth century Bulgarian resistance poetry. When Fenno began drunkenly insisting that the word "bugger" came from the Latin "bulgaris," she politely excused herself.

It looked like another night of shaking hands with the unemployed when, finally, Fenno was introduced to a potential score. To the survey question asking for a three-word self description, this one had responded: "Easy, easier and easiest." Her use of superlatives titillated Fenno.

He approached casually and assumed his game face. "Hey, baby, I know Nick Brown."

Her eyebrows lifted. "Cool, wanna go back to my place?"

All right, Fenno thought, *this may be getting somewhere*. He continued, "Yeah, Nick and I go way back. In fact, we were talking just the other day ..."

"Great," she cut him off. "I'm not gonna leave here without a sham piece, so let's go."

"Jeez ... It's the weirdest thing ... I mean, like, Nick is such a nice guy ... yet so damn good looking."

She sighed with impatience. "Okay, listen, bub. At home I've got a tube of KY, a set of police-issue handcuffs, and a Dutch vibrator that runs at 220 volts. You in?"

Just as the reality of his good fortune began to pierce Fenno's veil of consciousness, he felt a tight grip on the back of his arm. "I'm your Cupid now, bitch," an elderly voice whispered into his ear.

With horror, Fenno turned from his Valentine's Day treat to stare into the yellow eyes of ... "NO! It can't be!!!" Fenno wailed, "You're that old guy from the registrar's office with the soothing manner and no power. I thought you only turned up to proctor exams."

"Special Assignment, Fenno," the man said grimly. "We've just slapped a juicy WD on your transcript, and I'm here to bring you in for further questioning."

Fenno sighed. "So I finally got a D? I didn't think it was possible."

"Not D! WD, I said! Don't play dumb with me, fruitcake. I'll have your transcript so covered with W's and D's it'll look like Bush's college transcript."

Fenno was ushered over to a waiting Harvard shuttle bus, filled with fellow victims of the school's draconian drop policy. As he ducked his head to enter, Fenno tried to protest.

"A WD? What's that? What the hell did I do?"

Casting an accusatory look at Fenno, the old man spoke robotically. "You have the right to graduate. Anything you do after graduation can and will be used to track you down and solicit money. You have the right to a six-figure salary. If you do not want one, LIPP will provide you with Ramen noodles and self-righteousness for subsistence."

What all this had to do with GNRs and WDs, Fenno couldn't tell, but the man's words had a soothing effect. *Yeah, I'm gonna be rich*, he thought as he dozed off, the van gliding up Mass. Ave.

PERSPECTIVE

by Reese Pecot '02

DISPARATE BEGINNINGS UNDERMINE MERITOCRACY

On almost the other side of the world, in South Africa, in a small town on the ocean, at the bar in an Irish pub, I recently overheard a young woman make a comment that reminded me of countless remarks made in these United States.

She was plump, perhaps 20 years old, and had just downed her first beer. Setting her glass down, she said: "I've put in job applications where I know my qualifications are better than the Blacks, but they get the job. Why should I have to give up a job because of apartheid? I didn't even know what was going on over there for all those years in the townships. It's not fair."

As I listened to her, her use of the word "fair" clashed harshly against the socio-economic realities of the South African landscape. The legacy of apartheid, the systematic residential and economic segregation of non-whites, has scarred the country deeply. Disparities in access to housing, water, electricity and education are so wide that white South Africans, constituting 13 percent of the population, enjoy some of the highest standards of living of any group in the world, while 66 percent of the black population lives below the poverty line.

The disparities are not just limited to statistics on a page; the harsh legacy of apartheid is starkly visible everywhere. One sees this legacy in posh white neighborhoods replete with swimming pools, Mercedes in driveways and fancy homes with elaborate security systems. Meanwhile, miles away, black ghettos and shantytowns fester without adequate water or electricity. Even for Blacks who don't live in ghettos, a house meant for one family may hold six or seven in its bedrooms. Black qualifications remain depressed due to years of "Bantu education," a mandated, inferior curriculum taught to black South Africans.

One likes to think that things aren't so unequal here in the United States. Here, "only" 28 percent of African-

Americans and 29 percent of Hispanics live below the poverty line, as compared to 11 percent of whites. Even if many African-Americans and Latinos still live in ghettos, nearly all, we might boast, have access to water and electricity. In terms of education, critics like Jonathan Kozol may remind us that in low-income areas, predominantly populated by people of color, per-pupil spending may be just one-sixth of the budgets spent in more affluent communities. But this is less insidious than state-ordered inferior education, we might retort. So there — America is very different.

However, listening to this young woman's words — not just her use of the word "fair," but her admonition that she *personally* had little to do with apartheid and her insistence on her own superior merit — made this writer feel like she was right at home. In fact, it might as well have been four years ago, when I sat at a lunch table debating Proposition 209, which eliminated affirmative action in California, with a co-worker. He recounted filling out college applications in his dorm room at the exclusive preparatory school, Exeter Academy: "The whole time, I just felt like, here I was working so hard to get good grades and scores so that I could get into Cal Berkeley, and some black kid from East L.A. who didn't even do as well as I did could just take it all away."

I don't think he ever realized the irony in what he said. I don't think he realized even when he stepped into the 5-series BMW his father had recently bought him and drove home that evening.

To be fair, there are Hispanic kids whose parents buy them BMWs. There are black kids who grow up with swimming pools in their back yards and go to Exeter Academy. It might, in fact, as some argue, be fairer to recast affirmative action to help economic classes rather than as a race-based initiative. But aside from those points, what makes my former co-worker and the

woman from the South African pub alike is their adherence to a mythology firmly embedded into the American ethos — the mythology of meritocracy.

American meritocracy makes some basic and familiar assumptions: Individuals should be judged according to their accomplishments, not their characteristics. Thus, grades and test scores should figure centrally in educational admissions (pretending for a moment that legacy admissions do not exist). Work history and performance should largely determine who gets what job and who gets promoted (ignoring nepotism and ol' boys clubs). Meritocracy rhetoric allows those admitted into prestigious institutions or who are hired for competitive jobs to pat ourselves on the back and say, "I deserve this!"

But meritocracy rhetoric does more than make us feel good about ourselves; it makes us feel good about American society. When we look at the slum kid who scratches and claws his way up to Harvard University, or the Oprah Winfreys and Bill Clintons of America who overcame poverty, racism and/or both to ascend to positions of power, we say to ourselves: "Ah, with hard work, integrity and smarts, *anyone* can make it!" The myth of meritocracy sounds like a principle. It comports with the notion of an idyllic system of justice that plays by the rules. It's rational. Best of all, it's *fair*.

Or is it? Our notion of meritocracy has two insidious aspects: First, it erases history and blinds us to the notion that sometimes true justice is collective and not individual. Our South African friend benefited from the effects of apartheid in her own lifetime. Her superior resume directly benefited from racist employment policies. Yet she refuses to see reparatory action as "fair" given her *personal* merit. Given that a young woman



could so easily dismiss the scourge of apartheid only nine years after its end, it's no surprise that many Americans, often white males like my Exeter friend, see themselves as victims when they are assessed by anything other than their hard earned "merit."

The second insidious aspect of American meritocracy is that, within the framework, "merit" is often seen as an equal opportunity commodity. We might acknowledge the steep spending differentials experienced by low-income students and those of color. We might even admit that a school campus plagued by violence, or a home life riddled by poverty can affect one's ability to achieve academically. Yet romantic notions persist. We might remind a young student whose parents cannot pay to keep the lights on that Abraham Lincoln studied by candlelight. Or, we tell ourselves, it's culture and parenting that provide the linchpin of difference, not per-pupil spending, the ability to pay for a test-prep class or having the means to hire a tutor.

Our notion of meritocracy is not accidental. Our tendency to divorce merit from history, to consider merit individually rather than collectively, to separate it from economic opportunity, and to correlate it with numerical scores has deep roots in American society. Hell, it has deep roots in Harvard University. The Educational Testing Service (that notorious little outfit that brought you the SAT) was developed by a former dean of Harvard, with the university's president, James Bryant Conant, acting as patron. They had a vision of segregating society along intellectual lines to identify those who should be the leaders of American society. Unfortunately, this vision was devoid of history, discrimination and the effect of inequity on "merit."

For the sake of that country 10,000 miles away, one hopes its people prove themselves wiser than we have been in their quest to understand and define "merit."

LSC update

All-School Party/Dean's Foosball Challenge — On Thursday, Feb. 22, starting at 5:30 p.m. in the Hark, please join the Law School Council, the Social Activities Council and Dean Clark for an all-school party to celebrate the successful completion of the Student Life Initiative and the new Hark and dorm amenities. We'll have free pizza, beer, pop, smoothies from The Wrap and a live band. Dean Clark is looking forward to taking on student challengers in foosball, promising to "beat the pants off" his opponents. Direct questions to LSC Pres. Jay Munir (jmunir) and SAC Pres. Sarah Brackney.

Post-Strategic Planning Process — The LSC is working with professors and administrators on the implementation stage of the strategic planning process. We will be representing student opinion to the faculty on implementation issues, such as the form that 1L "colleges" should take. If you want to get involved, please contact LSC Academic Affairs Chairman Jeremy Paris (jparis).

Student Concerns Committee — Every month, the LSC president and student advocate meet with administrators such as the administrative dean, the dean of students, the registrar, librarian and dormitory officers to discuss students' concerns with administrative services. Please direct concerns to Student Advocate Michael French (mfrench) or post a notice on the Sound-Off Board in the Hark.

Graduate Student Movie Night — The LSC LL.M. reps and the GSAC have been running a highly successful movie night series for members of our community, showing films from all over the world. If you are interested or need more information, please contact LSC LL.M. Reps. Gustavo Oliveira (goliveir) and Scott Hirst (shirst).

Macs in Hark — The new I-Macs have been installed by ITS. Enjoy!

New LSC Reps — The LSC has approved the following appointments to second semester vacancies by President Jay Munir: Nick Brown (nbrown) as 2L Rep and Gary Slossberg (gslossbe) as 1L Rep.

ELECT

Continued from page 1

and challenging time for the BSA; since the LRA program is going to change significantly over the next year, we have an incredible opportunity to help shape and improve the first year writing program at HLS," Hoffman said.

Hoffman noted that teaching and advising first year students would remain BSA's top priority. "In addition to working with the administration and faculty to revise the old LRA program, Dave and I also hope that the new 7 section system will give us an opportunity to improve advising in a variety of ways," she said.

"Next year I hope that Erin and I can ensure that the members of the BSA have a positive experience, that they are a positive resource for the 1Ls as teachers and mentors and that the organization remains strong," Ware said.

Ware's interest in the BSA position came from his own positive experiences with the organization. "I think BSA gives me a chance to be involved at HLS other than just as a student and to meet people in a different setting," Ware said. "The people in the group are great and have made law school much more enriching than it would have been otherwise."

The Harvard Law School Office of Communications partially contributed to this story.

The Lighter Side

BEFORE THE LAW

AND NOW, HERE ARE THE FOUR FAVORED CONTESTANTS FOR THE ULTIMATE SURVIVOR...
#4: A HARDENED CORRECTIONS OFFICER WHO RIDES MOTORBIKES FOR FUN.



#2: AN ARMY INTELLIGENCE OFFICER, WHO WAS RESPONSIBLE FOR MAINTAINING PEACE IN BOSNIA.

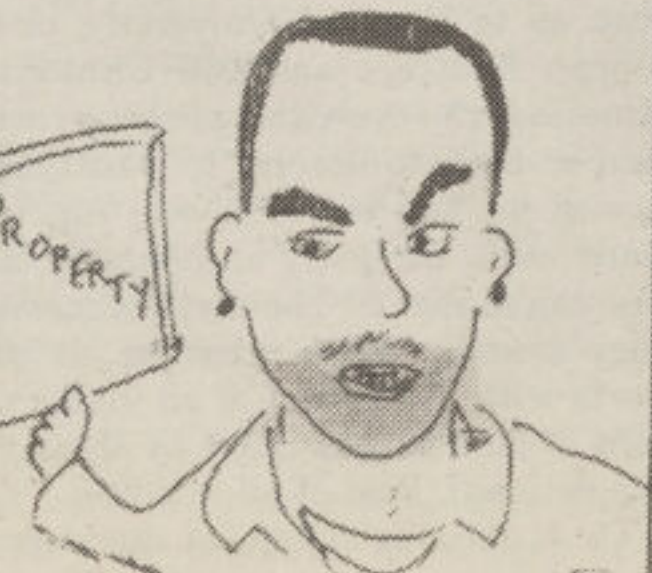


BY DEREK WINDHAM

#3: A PROFESSIONAL BODYBUILDER AND TRAINER.



AND **#1:** A STUDENT WHO SURVIVED THE RULE AGAINST PERPETUITIES...



Crossword 101

Simple Math

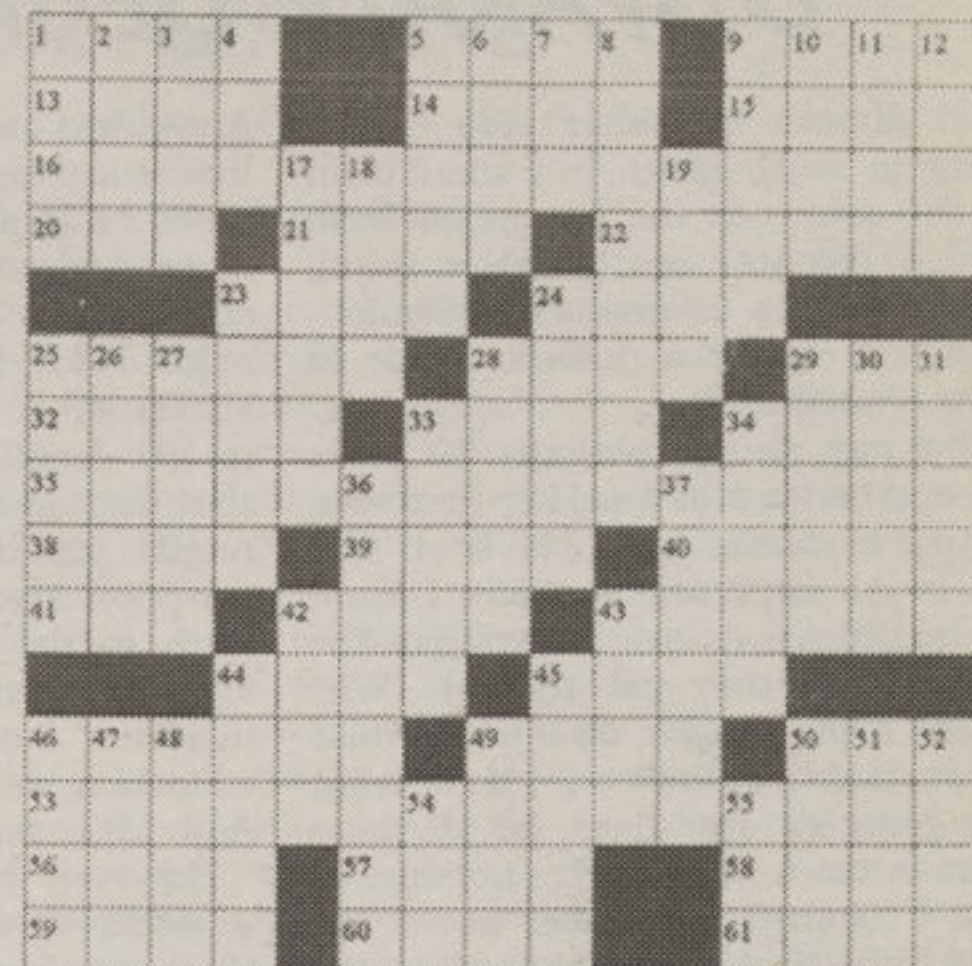
By Ed Canty

ACROSS

- 1 Helps
- 5 Watering places
- 9 Courtly Arthur
- 13 Had on
- 14 Buck, e.g.
- 15 Twofold
- 16 Vegas fixtures
- 20 Stripling
- 21 Lampreys
- 22 Churn
- 23 Tiff
- 24 British title
- 25 Sheep stew
- 28 Affectionate
- 29 Bikini part
- 32 Celebes oxen
- 33 Frat party wear
- 34 Foot parts
- 35 Ag. schools at times
- 38 Vietnam New Year Pl
- 39 Notes
- 40 Usable
- 41 Begley and Asner
- 42 Hit sign?
- 43 Female monster?
- 44 Arctic dweller
- 45 Greek portico
- 46 Arctic dweller
- 49 Six: Spanish
- 50 Runners' org.
- 53 Barnum's creation
- 56 Mint
- 57 Musical group
- 58 & & &
- 59 Rudolph, war criminal
- 60 Weakens gloss
- 26 Single
- 27 Blows the horn
- 28 Ford m
- 61 Golda

DOWN

- 1 Truant



- 2 New Rochelle college
- 3 Scott
- 4 Ocean
- 5 Fish
- 6 Lodgings: Slang
- 7 Priestly vestment
- 8 Kind of worker
- 9 Totaled
- 10 Heart, e.g.
- 11 "What God joined together"
- 12 Different
- 17 Tranquility
- 18 Cruel
- 19 Misfit
- 23 Remains
- 24 Trademarks
- 25 Free from odel
- 29 Hepburn's costar
- 30 Staggers
- 31 Donkeys
- 33 Scout group
- 34 Colorful fish
- 36 O'Hare and others

- 37 Actor Bela
- 42 Identical
- 43 Relating to the ear
- 44 Security interests
- 45 Edible lily bulbs
- 46 Engrave
- 47 Kind of box
- 48 Kristofferson, actor
- 49 Clip
- 50 Teen's problem
- 51 German car
- 52 Russia, formerly
- 54 Tax maneuver
- 55 St. Louis player

Quotable Quote

"I have hardly ever known a mathematician who was capable of reasoning."

... Plato

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SURVIVOR

UPDATE

Nick awoke on Day 7 to a Kucha Tribe in turmoil. Living on gummy rice and fish chunks was taking its toll — Mike was talking about spearing pigs to supplement their meager diet.

The two tribes came together during the "Reward Challenge" in order to compete for a fishing kit. Kucha selected Mike to bear a pole which was loaded with water delivered by other members. Leaving Kucha stalwarts like Kimmi and Elisabeth to the difficult task of lugging the water, Nick stayed on the beach and loaded the water bearers. Now that's the Crimson spirit — Harvard Law students don't do water transport, man! Even Rodger, the 55-year-old in a septugenarian's body, was closer to the action than Nick ... alas, the tribe faltered and lost.



Nick Brown '02

During a foray for some firewood, Jeff and Alicia brought up Nick. His plan to lay low has not fooled these two. Listen to them rip on Nick ... all he does is build a kitchen! The Survivor cameramen, not to be deterred, assist the conspiracy by shooting several seconds of Nick lounging on a handsome mahogany bench. Watching Nick, wearing nothing but a light blue Kucha bandana and a smug self-assured slouch, the nation can come to only one conclusion: He ain't lazy, he just needs motivation.

This much is clear — Nick needs to do some serious bonding, and quick, with Rodger, Elisabeth and Mike.

Doonesbury

BY GARRY TRUDEAU

