



Christine DeLallo helps Scott Goodreau '96 make an appointment under the revised HLS Health Services scheduling system.

Rape Widespread in Haiti, HLS Group Tells Commission

Anker, Green and Kelly Ask OAS to Take Specific Steps

By Greg Stohr

HLS Lecturer Deborah Anker, Human Rights Program Director Jennie Green, clinical instructor Nancy Kelly, and a coalition of lawyers and human rights activists this week presented the Organization of American States with evidence of widespread rape and other violence against women in Haiti.

The coalition called on the OAS to hold the three leaders of the Haitian military regime personally responsible for the atrocities and to recognize rape as a form of torture.

Much of the evidence presented to the OAS's Inter-American Commission on Human Rights on Monday was documented here — by students and lawyers working through the Law School's Human Rights Program and the Women's Refugee Project at Cambridge & Somerville Legal Services.

The coalition submitted affidavits describing scores of rapes, beatings, and other violent crimes that have occurred in Haiti since the military coup in 1991. In some cases, the victims themselves described the incidents; in others, lawyers, activists or other individuals related victim accounts secondhand.

Kelly, who gathered much

of the evidence through the Women's Refugee Project, said the documents represent about 80 instances of brutality — only a small portion of the violence against women that has occurred in Haiti over the last three years. The coalition also presented the commission with a separate volume of more than 60 news reports describing human rights abuses in Haiti.

"I sort of feel like what we hit was just the tip of the iceberg," Kelly said.

The documents submitted to the commission include graphic descriptions of brutal violence. Many of the affidavits describe women being raped in front of their children, parents or husbands. In one case, a woman said she went into hiding after hearing that her husband had been killed and her five-year-old daughter raped. In another instance, an American human rights activist reported that a Haitian man was forced to rape his mother.

Anker and Green appeared before the commission on Monday with a woman who testified that she had been hacked repeatedly with a machete and left for dead by armed men last October.

"She was mutilated beyond belief," Anker said. "They hacked her arms, her back, her

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Campus Health Center Limits Walk-In Services

By Hope Yen

Heavy crowds have swamped the HLS Health Services clinic during walk-in periods and have prompted health officials to scrap that system except for emergencies.

Students now must call to see a doctor immediately for non-emergencies, such as severe colds, flu or cuts.

Appointments will then be given to students based on the nature and urgency of the medical trouble and the backlog of health services staff that day.

Faculty and student complaints in the past about long

waits for walk-in service — especially during the class breaks — spurred the change this summer, said Christine DeLallo of HLS Health Services.

Walk-in service in the past was available between 10 a.m. and 11:30 a.m. and 1:30 p.m. to 3:30 p.m., with allowance for emergency cases. But typically students would crowd the clinic right before lunch and in the late afternoon — forcing long waits.

"With the walk-in service, sometimes there would really be a heavy influx of people, like during the breaks when they would all try to come in at once," DeLallo said. "Sometimes we would have 20 to 30 people waiting in a 1 1/2

hour period."

The rush often forced the HLS Health Services five-member staff — three doctors, one nurse practitioner and one nurse — to work overtime into their lunch break or more than an hour past the 5 p.m. closing time, DeLallo said.

Previously, each medical practitioner was allotted three hours daily to handle walk-in cases, with the rest of the time spent on appointments made weeks beforehand for routine medical examinations.

Three to four hours for each medical examiner will now be

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Tribe In Court, Out of Court

Suit Against Prof. Dismissed

By David S. Clancy

A federal court has dismissed a breach of contract claim against Prof. Laurence Tribe '66, characterizing the suit as "extortionate and frivolous."

New York litigator Steven Kramer had accused Tribe of mishandling the appeal of a case Kramer had won at trial, by handing the work over to inexperienced subordinates as he lobbied for a top legal post in the Clinton administration.

Kramer won a \$61.5 million jury award on behalf of Lightning Lube, Inc., which accused chemical giant Witco Corp. of running it out of business. The trial judge subsequently threw out \$50 million in punitive damages because

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Wins One, Loses One as Advocate

By David S. Clancy

While the lawsuit against him by lawyer Steven Kramer was being dismissed, Prof. Laurence Tribe '66 was also busy in his customary role — as counsel in two high-profile cases this summer.

Tribe was on the losing side of a U.S. Supreme Court decision that struck down an Oregon law limiting appellate court discretion to review and reduce or set aside punitive damages. But in a clear victory for Tribe, a three-judge panel of the Ninth Circuit unanimously upheld a \$7.2 million judgment against leading breast-implant manufacturer Dow-Corning.

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Police: Neighborhood Mostly Safe Despite Recent Gunshots

By Maria Politis

If you heard rumors of gunshots being fired on the corner of Oxford and Forest Streets on the border of Cambridge and Somerville last week, you heard right. If you heard of a mugging occurring on that same corner in that same week, you also heard right.

But if you've come to the conclusion that the area is no longer generally safe . . . well, then, your conclusion is wrong, police officials say.

Police sources in both Cambridge and Somerville report that the parts of Cambridge and Somerville running along and between Mass. Avenue, Beacon Street, and Somerville Avenue from Harvard Square toward Porter Square, and to some extent, toward Inman Square, are for the most part safe.

"That area is generally quiet," said Cambridge Police

Department Public Information Officer Frank Pasquarello.

But David Schwimmer '96, who lives on Oxford Street near Forest Street, said he and his housemates were awakened shortly before 4 a.m. about two weeks ago by what sounded like gunfire. He said he looked out the window and saw a number of men gathered around a car. Police and an ambulance arrived shortly thereafter, Schwimmer said.

Pasquarello says the department received a report that shots had been fired that night. Although police investigators were unable to find any spent shells, he said that police had little doubt that a shooting had occurred.

Nonetheless, Pasquarello said, "shootings are not at all common" in that part of Cambridge.

Assaults and street robberies are also relatively rare, according to police statistics.

Senior Crime Analyst Richard Sevieri of the Cambridge Police Department said in the first six months of 1994, two breaking-and-enterings of houses, two street robberies, 13 auto thefts, nine larcenies from autos, and no drug arrests were reported within that area. A notice posted on the corner of Oxford and Forest — the same area as the shooting — said that a resident was mugged recently.

Although Somerville typically has more crime than Cambridge, people there are usually safe from attacks to their person, said Captain James Tatosky of the Somerville Police Department. Only two assaults have been reported in the last six months, and they may have been domestic violence incidents, he said.

Frequently occurring on the Somerville side, however,

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Distinguished Public Interest Lawyers Exhort the Road Less Traveled

By April Rockstead

Without any arm-twisting by the Office of Public Interest Advising, 12 of the best and brightest public interest lawyers are coming to the Law School this year to counsel students interested in following their footsteps.

In fact, competition was characteristically stiff for applicants for this year's Morris Wasserstein Public Interest Fellowships, said Jill P. Martyn, an OPIA assistant.

"It is a very prestigious position," Martyn said. "Certainly, there are a lot more people who apply than are accepted."

"Some people actually apply two or three times before they — if at all — become Wasserstein Fellows."

This year's fellows are accordingly some of the most accomplished and highly-respected in their fields. One successful applicant's file includes a recommendation letter from none other than U.S. Attorney General Janet Reno '63.

Those selected for the 1994-5 full fellowships are: Aaron Bayer '80, deputy attorney general of Connecticut; James R. Gomes '79, CEO of the Environmental League of Massachusetts; Caroline Heck '79, senior litigation counsel at the U.S. Attorney's Office for the Southern District of Florida; Ruth Jones, staff attorney at the National Organization for Women Legal Defense and Education Fund; Leo F. Orenstein '80, assistant chief litigation counsel at the U.S. Securities and Exchange Commission, Enforcement Division; and Alan L. Schlosser '67, managing attorney and staff counsel at the American Civil Liberties Union of Northern California.

In addition to the full fellows, who

will spend two or three days at the Law School, there is one fellow-in-residence who will spend one day a week at the Law School for the fall semester, and five one-day fellows. This year's fellow-in-residence is Nadine Cohen, staff counsel at the Fair Housing Project of the Lawyers' Committee for Civil Rights.

The 1994-95 one-day fellows are: Robin Alexander, director of international labor affairs for the United Electrical, Radio & Machine Workers of America in Pittsburgh; Susan Beck '78, general counsel at the Massachusetts Executive Office for Administration and Finance; Bern Johnson '87, executive director and former staff attorney of Environmental Law Alliance Worldwide; Daniel L. Skoler '52, associate commissioner of hearing and appeal for the Social Security Administration; and Sharon M. Slotnick, director of the Clinton administration's new National Service/AmeriCorps Program.

The paths the fellows have taken to assume their places among that distinguished roster have varied. Although some fellows pursued public interest jobs immediately after graduating from law school, several first went to big firms — demonstrating that it is possible to leave the lucrative lure of the partnership track.

How did they do it?

"I got out early, before I was giving up a whole lot," said Schlosser, who left Paul, Weiss as a second-year associate to set up a community law office in California.

Adds Johnson, who also worked for a private firm, "If you do go to work in a private firm for a while, don't let your lifestyle swell up to meet your income."

"The money really becomes the key," Johnson said. "There's an enormous

temptation to spend money on things you haven't always had. But if from the first day you are there, you are living a comfortable lifestyle — I'm not talking about Ebenezer Scrooge — but saving money, that money becomes a statement of your commitment to public interest work."

In the meantime, newly-graduated lawyers can gain training from the private firm experience that will benefit them in public interest positions, Johnson said.

"The important thing is to find something that you do right out of law school that doesn't compromise your ability to serve the public interest," he said.

Those who do want to start their careers by public interest work upon graduation face both good and bad news in the current market, especially for government positions, said Skoler.

"At this very moment, it's kind of tough," he said, pointing to the Clinton administration's resolve to cut back on the number of federal employees. "But if they're going to be hiring, it's going to be young attorneys."

Even though most public interest employers only hire one or two attorneys, there are enough employers — between government, professional organizations, and legal service positions and advocacy groups, among others — to provide opportunities for those who are looking seriously, Skoler said.

"If you're there at the right time, you'll be picked up," he said.

Fellows agreed that the benefits to pursuing public interest work have, for them, outweighed financial sacrifices.

"Public interest work is very rewarding," said Johnson. "Gandhi was a lawyer, and he didn't work in a big firm representing boring corporations."

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Both Victories and Losses for Tribe

continued from SUIT, page 1

of errors made by Kramer at trial, according to Tribe. On appeal to the Third Circuit, Tribe failed to reinstate the punitive damages.

Kramer's suit, alleging that Tribe improperly delegated work to colleagues and thereby broke his fee contract, was dismissed by a federal judge on May 11. The judge ruled that Kramer lacked standing to sue Tribe as third party beneficiary of Tribe's fee contract. "Nowhere in the agreement is Kramer vested with any rights on which to base a cause of action for breach of contract," wrote U.S. District Judge William Bassler.

The judge also held that the case

"The holding was a thorough vindication," said Tribe.

would have been dismissed even if Kramer had standing to sue because the suit was brought in bad faith, said Tribe.

"Anything negative you could say about a complaint, the judge said," Tribe said. "The holding was a thorough vindication."

The vindication may become even more thorough, however. The U.S. attorney's office in New York is reportedly considering action against Kramer for attempting "interstate extortion," by damaging Tribe's reputation in order to force him to give up his fees.

continued from CASES, page 1

In the Supreme Court case, Tribe argued pro bono for plaintiff Ken Oberg, who was hurt while driving a Honda all-terrain vehicle. Oberg was awarded \$5 million in punitive damages. Honda, seeking to reduce the award, challenged the Oregon law limiting appellate review of the award, arguing that due process entitles a defendant to a more significant degree of appellate review than that permitted in Oregon. Before the Supreme Court, Tribe characterized Honda's position as demanding a "13th juror standard" not mandated by the Constitution, and compared Honda's position with that of the Viennese aristocrat in the movie "Amadeus," who accuses a piece of music as having "too many notes."

"How much is too much?" asked Tribe.

But in a 7-2 vote, the Supreme Court struck down the law as violative of due process rights. "Punitive damages pose an acute danger of arbitrary deprivation of property," Justice Stevens wrote. "Oregon has removed that safeguard without providing any substitute procedure."

Despite this largely adverse holding, Tribe said that he is "reasonably pleased" with the result because the Supreme Court did not agree fully with Honda's original position — that due process requires appellate courts to act as "13th jurors," performing an in-depth reweighing of evidence to determine if it supports the award. Instead, the court held merely that some level of review is required under the Constitution, said Tribe.

In the breast implant case, the Ninth Circuit upheld a 1991 jury award to Tribe's client Mariann Hopkins. The court said that Dow marketed the prod-

uct despite laboratory tests that showed significant potential dangers. Dow claimed that some of the evidence introduced in court was inadmissible because it wasn't "scientifically valid," and that the damage award was "grossly excessive."

Tribe called the decision "quite gratifying," and "possibly the first of the significant money judgments against the makers of breast implants." The decision is also seen as important because it may encourage more women to opt out of class-action settlements with the makers of breast-implants, and to pursue potentially more lucrative cases independently. "This decision has to give them some basis for thinking that going it on their own must make sense," said Tribe.

Dow-Corning may seek certiorari to the Supreme Court on the issue of admissibility of scientific evidence, according to Tribe.

Tribe has also been vocal in the Paula Jones sexual harassment suit against President Clinton, although the HLS professor is not directly involved in the case.

"There is a strong case that whenever a civil suit is brought against a sitting president the suit should be put on hold until the president is out of office, unless a need is shown for immediate relief," said Tribe. "It is implicit in the Constitution that the president be protected from the potentially endless distractions caused by civil suits."

Tribe notes, however, that his view is not completely consistent with that advanced by Clinton's legal team, which argues that even Paula Jones' suit against Arkansas State Trooper and Clinton confidante Danny Ferguson should be barred. "I see no justification for that," said Tribe.



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BRIEFS



Business School First-Years Fail Writing Exam

About 80 percent of this year's entering Business School class flunked a mandatory writing test administered during orientation, according to Business School officials. Of those who failed the test, about 80 percent were native English speakers, officials said.

The test lasted two hours and included reading and analysis of a Wall Street Journal article. Students were to write a six-page recommendation based on the reading. Professional writers were hired to grade the results.

Officials said students who failed the test will be required to attend writing workshops led by the writers who graded the examinations. The workshops require students to succeed on a final assessment in order to pass.

"These assessments confirm our commitment to helping students develop core competencies to their fullest potential," Janice McCormick, director of individual skills for the MBA program told the Harbus-News last week.

-From the Harvard Crimson

Student Injured in Wyeth Accident

A Law School student received minor injuries last Saturday afternoon when his Wyeth dorm window fell on his thumb, trapping his hand, according to reports. The window broke during the student's initially unsuccessful attempt to extricate himself, but the glass was replaced on Monday, according to Dan Murphy, HLS dormitory operations officer.

The student, who was able to escape only after other Wyeth residents responded to calls for help, declined to comment on the incident.

Undergraduate Club Refuses to Admit Women

An undergraduate "final club" at Harvard College decided Sunday night it would not admit women this fall, despite the club's earlier preliminary decision to become the first co-ed organization of its kind.

Although some undergraduate members of the Fly Club supported admitting women this fall, the club failed to reach a consensus. A statement issued by the club stated that the members voted to postpone the decision. Last September, the undergraduate Fly members voted 28-0 with one abstention to admit women.

Robert M. Carlock, the group's president, said that by its actions the club "took a step back for the good of the club and the good of the community," and he questioned whether women would want to belong to the club while the members were "mixed about their presence."

But in a letter to the editors of the Harvard Crimson, another group of undergraduates called the club's decision "an embarrassment to the student body and the alumni of Harvard-Radcliffe." The Fly Club decision could retard integration among other gender-restricted clubs, according to Sarah E. Winters, president of Women Appealing for Change.

"It makes them not have to deal with the issue at all," Winters said. "They are content to sit back and be all-male. They were waiting to see what the Fly did."

-From the Harvard Crimson

CR-CL To Mark Anniversary With Symposium

The Harvard Civil Rights-Civil Liberties Law Review will hold five round-table discussions this year featuring issues of economic justice in America, in commemoration of the journal's 30th anniversary. The discussions will pertain to articles that are to appear in the review's symposium issue in the summer of 1995.

Possible topics for the symposium and discussion series include issues affecting immigrant communities, housing and homelessness, education, welfare, and community development. According to CR-CL Editor Brad Sears '95, the discussions should "provide an innovative forum for dialogue and debate exploring strategies for addressing the economic inequalities which lie at the roots of our urban dilemmas."

NH Professor Gets Free Speech Injunction

In a case that could have implications for HLS's proposed sexual harassment policy, a U.S. district court in New Hampshire granted a preliminary injunction against the University of New Hampshire this month and directed UNH to reinstate Prof. J. Donald Silva to his tenured teaching position, pending a determination of Silva's constitutional claims.

Silva, who teaches technical writing, was suspended from teaching after students complained about his use of offensive sexual language in the classroom. Silva had compared the process of achieving focus in writing to sex, and had used as an example of good metaphor a comparison of belly dancing to "jello on a plate with a vibrator under the plate." Silva has filed civil rights and breach of contract claims against UNH.

Walk-In Policy Changed

continued from HEALTH, page 1 restricted to a certain time length. Consequently, patients often came in for quick medical treatment of colds or the flu, but then seized the opportunity to seek additional help on more routine health problems.

devoted to accommodate students calling in with urgent medical problems who need "rapid access." Such appointments will generally be within 24 hours of the call and limited to 15 minutes.

Students with ailments requiring lengthier examinations will be given longer appointments or asked to return when health officials are less backlogged, health services officials said.

DeLallo said a common problem with the walk-in service was that it was not

DeLallo said one problem with the service was that it was not restricted to a certain time length.

is available at the Holyoke Center's After Hours Urgent Care Clinic at 495-5711.

The HLS Health Services is open Monday-Friday from about 9 a.m. to 5 p.m.; appointments may be made by calling 495-4414.

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NO MSG!

A Powerful Return to Innocence



By Kendra Lee & Jeff Simes '96

WHILE the 1950s may seem like the Stone Age to the average law student, that decade shares at least one distinctive feature with the 1990s: people were slavishly devoted to their televisions, and they watched mind-numbing quantities of it. Then, unlike now however, television had the pure aura of truth. To the TV virgins of the '50s, the images that unfolded on their screens were as real as their own lives. "Quiz Show," directed by Robert Redford, brings the viewer back to that last moment of television innocence — to the eve of the great quiz show scandal.

Ralph Fiennes (psycho Nazi from "Schindler's List") is Charles Van Doren, a patrician Columbia professor who becomes America's Golden Boy. Rob Morrow (Joel Fleischman of "Northern Exposure") plays HLS grad and government investigator Richard Goodwin, and John Turturro plays Herbert Stempel, the nerdy ex-champ from Queens. Supporting performances include Paul Scofield as Van Doren's father, and David Paymer and Hank Azaria as sleazy NBC execs who orchestrate the scandal. Cameos by Martin Scorsese (the Geritol exec) and Ethan Hawke (geeky student) keep you squinting at the extras.

Kendra and Jeff agree: "Quiz Show" brings the viewer back to that last moment of television innocence — to the eve of the great quiz show scandal.

J.S.: Well, it wasn't a high-tech kill-the-aliens sort of flick, nor a bloodthirsty renege-cop movie, but I thoroughly enjoyed it. Frankly, I'm surprised.

K.L.: I really enjoyed it, too. I liked the basic premise: ambivalent Fiennes taking answers to the quiz show questions, while neurotic Turturro screams foul and driven Morrow homes in on the truth. The characters all explore their inner conflict between personal advancement and ethics: sort of an epic balance.

J.S.: Still, I couldn't get over the fact that I was watching a movie about television. I guess this means that the entertainment industry has sucked the marrow out of every conceivable plot line and is now dredging up its own past. Soon we'll be watching movies like "The Making of Who's The Boss."

K.L.: But it was the character development that really dragged you in. And the tension between fame and honor made the characters so identifiable. Behind Fiennes' professorial charm, you feel the ghost of his family's intellectual achievements haunting him to become something he isn't. A great performance.

J.S.: It never became one-dimensional, though. I loved the thing between Van Doren and his father. For some reason, it seemed so touching — this bizarre family of Pulitzer prize-winning WASPs who obviously care deeply for each other but can't communicate their feelings of inadequacy because of the pressure they feel from the family's accomplishments.

K.L.: What about Stempel, the hyper Jewish guy who competed before Van Doren and was ordered to take a dive to let the more telegenic Van Doren sell more Geritol. It was so sad — here was a highly intelligent if whiny nobody with a desperate need to be somebody.

J.S.: Turturro almost went over the edge with this guy. I know he's supposed to be super-neurotic and unappealing, but he almost became cartoonish. What I did like was the attention to television's perpetuation of anti-Semitism, replacing guys like Stempel with Gentiles like Charles Van Doren. And I loved how Turturro's character, despite all his flaws, shows genuine concern, even humanity, towards Van Doren.

K.L.: Then there's Rob Morrow. I still can't get beyond his obnoxious New Yorker role in "Northern Exposure." His accent in this movie was horrendous. He sounded like he had adenoid problems.

J.S.: And the movie overemphasized the fact that he was number one in his class at HLS, and that he turned down a prestigious Wall Street job for his dumpy but honorable bureaucrat position. But I did like the relationship between Morrow and Fiennes, two deeply intelligent guys with a natural affinity for each other despite their cultural differences. And yet you sense all along, as if in a Greek tragedy, that the relationship must end with the scandal being revealed.

K.L.: My biggest problem was that there were no strong female characters. Women watched as much TV as their husbands, and certainly the wives of these characters would have been more involved in the scandal than the movie suggested.

J.S.: I agree totally. Just because it's a movie about the '50s, it doesn't have to act like a movie from the '50s. It was just a bunch of white guys.

K.L.: I liked the overall message of the movie, though: television cannot be trusted. And it consumes innocent people. In a way it's a monster, and if we couldn't kill it in the fifties when it was young and we were strong, then it's all over by now.

J.S.: But in the end, it was just a quiz show. This whole fall from innocence thing is a bit much; television was always an industry, and if they thought otherwise in the fifties, it's probably because they had too many three-martini lunches.

K.L.: But television was still so new. TV was an escape from a long day of work. People wanted and needed the entertainment. Maybe they just didn't want to believe that the box in their homes was lying to them. In any case, I think it was an important moment in our cultural history — the moment people became skeptical of the new medium.

J.S.: But so what? If the message of "Quiz Show" is simply not to trust TV, it's too late. But if it's about the tension in people's lives between the need for fame and respect and the inherent desire to do what is morally right, then I think the movie was pretty powerful. That is something we still work through today, even here at HLS.

K.L.: The bottom line: Go see it.

J.S.: Ditto.

FOOD - O - RAMA

Meat and Fiberglass

By Ted Cohen '95 and Jonathan Goldstein '95



This is the second in an occasional series highlighting the gastronomic landmarks of historic Route One.

"IT wasn't always this big," the waitress said as she slid two pounds of beef in front of us. She didn't mean the steaks. She was talking about the gargantuan Hilltop Steak House itself. Come back with us now to yesteryear. . . . It's 1951 and Frank Giuffrida has decided to start frying up steaks behind the bar of his roadhouse. The stench of burning fat fills the joint as he serves 'em up with two pieces of Wonder bread and a quarter stick of butter. You sip the foam off your Schaefer and bite into a slab of cow. . . .

Flash forward. It's 1994. The Hilltop is the largest grossing restaurant in America. \$32 million last year. Seating around 30,000 carnivores a week. (For those with a head for figures: your average half-ton steer yields 465 pounds of cuts, but since only 75 pounds of that is steak for broiling, the Hilltop goes through some 1200 head of cattle a week. Did someone say "Upton Sinclair?")

With success comes glitz. And the Hilltop has it in spades. Perched on the highest spot on the Saugus stretch of Route One, it stands like a monument to meat. A meat palace, if you will. Its sign, a hard-to-miss 65-foot faux-neon cactus, illuminates the hangar-sized restaurant. Out front, overlooking the seemingly endless stream of speeding cars, is an idyllic scene of bovine naturalism. A herd of mighty fiberglass steer, made lifelike with a coat of house paint, stands protectively around three delicate calves, as if they could sense the danger in the constant odor of beef fat that wafts from the Hilltop's exhaust vents. (You can imagine the uproar it caused in 1991 when some college pranksters cut the heads off these babies with a power saw.)

Inside it's no less surreal. A long hallway (clearly designed for lines) takes you to a small desk where a man hands you a disconcertingly high number and tells you to wait. Everywhere there is frenzied activity. In the Sioux City Room, a retired couple exchanges sated glances as they gulp down the last morsel of strip steak. Over in the identical Kansas City Room (identical except that there's no smoking in Kansas City), a young man shares a dripping chunk of porterhouse with his companion.

With its wood paneling, worn carpets, and general aura of mustiness, the atmosphere is familiar yet alien. Like your grandmother's rec room if your grandmother had had 3000 grandchildren. Dust and cobwebs adorn the fiberglass steer heads that gaze down from the walls as though this were a Country-style Haunted Mansion, visited by the poltergeists of countless slaughtered cows.

But put the macabre out of mind, because you're at the Hilltop for one reason only: to eat so much that you have a delicious aneurysm. We advise you to get halfway through a dry martini (rocks, three olives) before even opening the grease-slickened menu. You would do equally well with an ice-cold draught of the cheapest, yellowest beer they have.

So you open the menu: In case you didn't get the point, the meat options are smack dab in the middle. There's like a filet mignon, a sirloin tips, a chopped sirloin (with, of course, a mushroom gravy), and the monster, The Sirloin. Each cut is described only by weight and price, and each comes with two "side dishes" — such as winning mashed potatoes, and the always alluring "vegetable of the day." The Sirloin is 22 ounces. It costs \$12.99. If you're not salivating from the scent of

The Hilltop, you quickly realize, is one of those places where you're fighting to retain a shred of an appetite from the second the rolls hit the table.

flesh, you should at least have dollar signs in your eyes, because you're definitely in for some VALUE tonight.

Take, for instance, this "appetizer" of onion rings. For \$2.95, what do you think you should get? One of those little paper boats, with maybe 10 or 15 rings, right? Think again. The waitress's knees buckle under the weight of this basket. The Hilltop, you quickly realize, is one of those places where you're fighting to retain a shred of an appetite from the second the rolls hit the table. Just one misstep — one extra ring, one last bite of the enormous mayonnaise-dressed iceberg salad, which could double as a pillow once you get dizzy from meat intake (more on this later) — and your stomach will begin its soft but insistent message: Oh my God. Please stop. You're trying to destroy me, aren't you? Put that cole slaw down.

Because when the meat comes, it reawakens urges that will not be quieted. This juicy sirloin, as big as a human head, is not the best cut of meat: It's not buttery, or melt-in-your-mouth tender. It's more like: Here's the meat, guess I'd better get down to business. One member of our party summed up this reaction best when, having duked it out with Lady Sirloin (14 ounces, \$9.99, demure batting of eyelashes extra) for a silent 10 minutes, he raised his head, sighed, and said: "Man, I've got the meat sweats." It's tough work, but somebody's got to do it.

We could tell you more. About how the waitress offered us cheesecake for dessert. (Sure, just let us run a few laps around the parking lot first. . . .) About how the Tobin Bridge groaned under the weight of us on the way home. But your steak is getting cold.

RATING: ☆

Harvard Law RECORD

Founded in 1946

Greg Stohr
Editor-In-Chief

The Price of Death

Sunday's New York Times provided a chilling reminder of the price of capital punishment in America.

The Times reported the story of Joe Burrows, a man who sat on Illinois' death row for five years for the murder of an 88-year-old man. Last spring, another person — a woman who had testified against Burrows in his trial — confessed to the murder. Burrows was released on Sept. 8.

Fortunately for Burrows, who has since returned home to his wife and two young children, he had a diligent and persuasive attorney who convinced the real murderer to confess to her crime. Burrows was also fortunate that his lawyer had managed to keep his case — and him — alive even though the Illinois Supreme Court had at one point set an execution date of Sept. 16, 1992.

An October 1993 House Judiciary Committee report said that 48 innocent people had been freed from death rows nationwide since 1972. Burrows is at least the fifth person to have been freed since the report was published. No one knows how many innocent people have been executed in that time, but the risk has increased in recent years in the wake of two recent U.S. Supreme Court cases that have restricted the ability of defendants to make their case to a federal judge.

Ironically, in the same issue the Times reported that five youths convicted of rape and murder in Houston had been sentenced to die. The facts of the case are gruesome. The five were among a group of gang members who had gathered in the woods for an initiation rite. Two teen-aged girls happened upon the group. Gang members then viciously gang-raped and strangled then girls.

As much as any crime, the Houston case seems to cry out for the death penalty. But like Burrows, the Houston youths were convicted in large part on the basis of testimony of others who were in a position to have committed the murders. A key witness was convicted of taking part in the rape and sentenced to 40 years in prison. And while it seems unlikely that any of the five might have been wrongfully convicted of murder, so it seemed with Joe Burrows. Five years from now, a witness may recant, or a new piece of evidence may surface. An inherent danger of the death penalty is that this type of crucial information can come too late. The death penalty is irrevocable.

The imperfect nature of our system virtually assures that our continued reliance on capital punishment will mean that innocent people are executed. For whatever deterrent value capital punishment may have, the likelihood that another Joe Burrows will soon be executed is a steep price to pay.

- Stohr

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—First Amendment, US Constitution

• Letters •

BLSA Was Right In Opening Membership

In the past few issues of the RECORD, various columns and letters to the editor have addressed the issue of BLSA's formerly exclusionary policy. I hope this letter can dispel concerns that students may have and more fully explain why I initially raised this issue.

Late last fall, during discussions with then-BLSA President Linda Dunn '94, I was made aware of BLSA's exclusionary membership policy. Though I had heard rumors to that effect my first year, this was the first time that someone within BLSA confirmed this policy. At the same meeting, I was also told by WLA chairs Cindy Chandler '95 and Tamara Jones '95 that WLA had a similar policy. All three explained the reasoning behind their policies and their refusal to accept non-blacks and men, respectively, as members.

In early March, I approached Dean of Students Suzanne Richardson, who is listed as the Law School contact on Harvard's policy on non-discrimination. The Law School's policy states that the school "does not discriminate against any person on the basis of race, color, creed, . . . [or] sex . . . in admission to, access to treatment in, or employment in its programs and activities." Feeling that any discrimination on the basis of race or gender is wrong, I was especially bothered that student tuition was being used to fund these organizations, apparently in violation of this non-discrimination policy. Other students agreed that they should not be required to fund organizations they were not allowed to join due to their gender or color of their skin.

In conversations with Dean Richardson, she confirmed that both organizations received funding from the Student Funding Board and that she was unaware of their discriminatory policies. She did state that the current guidelines require organizations to have an open membership. She said that she would look into the situation. She

requested, and I agreed, that in the hopes of resolving this controversy peacefully, she be allowed to handle the situation without involving the press.

In April, I was approached by the RECORD for comments relating to a story on BLSA and WLA's membership policies. That evening, I received a phone call from BLSA President-elect Robert James, II '95, who questioned my motives for coming forth with this issue. I was very clear to him that I had a fundamental problem with discrimination at any level, and though private student groups can't be forced to integrate, I felt it was wrong for the Law School to fund organizations that discriminate on the basis of race or gender. I made it especially clear to Mr. James that I had no problem with BLSA or WLA as organizations, and the purpose of promoting the interests of their respective constituencies, except as to the funding issue.

The article in the April 29 RECORD stated my concerns. A WLA spokesperson denied that WLA had an exclusionary policy. Mr. James confirmed BLSA's policy, and in a related letter to the editor, questioned my motives at a racial level. He and Ms. Dunn, co-author of the letter, stated that, "anonymous non-black students have approached the dean of students," and that they were "suspicious of the motives of [those] individuals."

The May 6 RECORD contained three letters addressing the BLSA issue and my involvement with it. I found Ms. [Maryann] Gatto's attack on my character rather disturbing when she refused to discuss the issues, but rather labeled my concerns as the "white guy attack on BLSA." After these letters, I received numerous calls from students of all races and genders supporting my actions.

This fall, BLSA apparently voted to open its membership to all Law School students. I say apparently because Mr. James refused to comment on

whether BLSA would allow non-black students as members. In last week's RECORD, Markus Hartmann '96 wrote a column addressing these issues. Unfortunately, he missed the point entirely.

I agree with Mr. Hartmann that "whom we chose to associate with is inherently a discriminatory act." But unless Mr. Hartmann was born a member of the "spherical world order," his "Flat Earth Society" analogy is tragically flawed. Non-black students were discriminated against not because of their beliefs, but because of the color of their skin. I agree that "what went on formally in BLSA is no different than what goes on informally between any study group here at the Law School." The difference, though, is that Law School funds, and thus my tuition, and every other non-black student's tuition, was being used to fund this organization, without allowing these non-black students the ability to participate in the organization they were funding — very different from the study group analogy. Mr. Hartmann also asks "Who was being harmed by the exclusionary policy?" and "How were they harmed?" Every non-black student was being harmed in the same way every black student would be harmed if any racially based group were to form an exclusive, tuition-funded, and Law School-endorsed organization for academic support, networking, and job opportunities.

I was pleased to learn of BLSA's decision to open its membership to all Law School students and hope that this will lead to improved communications among students. If we at HLS cannot function in an environment where people are judged on the basis of their character and not on the color of their skin, how can we hope that others within our country can do the same?

John Bates '95
September 25, 1994

Nonsensical Theories Not Yet on the Decline

While I share Prof. Mary Ann Glendon's hope that "tomorrow's law students will be rebellious enough to debunk the debunkers" ("Professors Must Teach Technique and Ideals," RECORD, Sept. 23), I do not share her optimism that the task is already substantially underway. As a recent undergraduate English major, I can attest to the fact that interest in the "big theoretical nondebates about the nonissues of structuralism and post-structuralism and postmodernism" is not on the decline. As for Prof. Glendon's assertion that the "new postideological mood is already discernible in law schools," even a cursory look at the other pages of that issue of the RECORD reveals that this is not the case.

A favorite technique of the nonsensical literary theories Prof. Glendon so quickly relegates to obsolescence is to argue from silence, and make from that silence a voice that speaks. Only pages later, this technique may be seen in practice in Scott Wiener's "Come Out Come Out, Wherever You Are!" After first noting that the experience of homosexuals is "invisible" in the classroom, Wiener '96 concludes that this silence reflects "heterosexism and/or blatant homophobia" in the curriculum. Rather than simply acknowledging that the issue of sexual orientation may have no bearing on a discussion of affirmative easements or collateral estoppel, Wiener throws in his lot with those who regard any limitation on scope as a political exclusion.

An even more popular

technique of avant-garde literary theory is to reveal the ways in which the text subverts itself, conveying a meaning directly at odds with a facial, common sense reading. This technique can be observed in Markus Hartmann's "The Path of Least Resistance." In defending BLSA's formerly race-based membership criteria, Hartmann '96 marvels at the thickness of a student who cannot see that freedom of association necessarily entails freedom not to associate. Although this counterintuitive (and remarkably short-sighted) position is clearly at odds with desegregation case law — how else to explain the courts' refusal to recognize the freedom of schools and other institutions not to associate with minority groups? — Hartmann remains unperturbed. By employing a theory which allows him to subvert the very concept of free association, Hartmann may make of the desegregation case law what he wishes, rather than addressing its historically understood meaning head-on.

The most insidious technique of such theories, however, is to de-value any system of formal evaluation by stigmatizing its criteria as mere social constructs. This creeping form of relativism may be observed, disturbingly, in the editorial debate surrounding the recent changes in the ITL Program. The choice of Prof. [Charles] Nesson '63, Prof. [Peter] Murray '67], and the BSA to focus on the O.J. Simpson case reflects the anti-merit, and certainly anti-academic, belief

that all subject matter is created equal. As mere individuals bound by social context, their decision seems to say, who are we to suggest that "The Juice" is any less worthy of study than the U.C.C or the Federalist Papers? By phrasing its questions in such broad form, contemporary literary theory turns a legitimate debate on standards into a rationalization of mediocrity. A theory that asks one to take a hard look at the criteria behind course material selection may be enlightening. A theory which obscures the fact that the U.C.C and the Federalist Papers are reflective legal scholarship, while "The Juice" is tabloid trash meant to titillate and turn a quick buck, however, has definitely led one astray.

Although the formal language of contemporary literary theory generally issues only from the Critical Legal Studies movement, the above instances reveal that its influence — contrary to Prof. Glendon's belief — continues to permeate the Law School community at large. While not something to lie awake worrying about, this influence is a source of concern. The effect of intellectual movements is often magnified in academic environments, and can have palpable effects on students' lives.

The 1Ls who wind up at serious job interviews this February with a writing sample relating to the O.J. Simpson case will know what I mean.

John Delacourt '96
September 23, 1994

It is Time to Redraw the Map of Africa

By Makau wa Mutua

EVEN though there is some good news out of Africa, the enduring images of the continent are grisly scenes of the dead, the dying and the desperate in Rwanda and the refugee camps in Zaire. The enormity of the catastrophe is so great that if repeated elsewhere it probably would plunge Africa into prehistory. Perhaps a dozen other countries, from Nigeria to Angola, precariously dance on the precipice. The consequences of the failed postcolonial state are so destructive that radical solutions must now be contemplated to avert the wholesale destruction of groups of the African people. Certain sacred cows of international law may have to be set aside to save Africa.

Many Americans incorrectly think that Africans are incapable of governing themselves. But the current crisis of the modern African state has its roots in European and Arab expansion and their distortion of the continent's political map. With the possible exception of the Americas, there is no other continent on which European influence has been so profound. Some of the most troubled lands, such as Angola and Mozambique, were brutally colonized by the Portuguese for 300 years until the mid-1970s. The trauma of that history is evident today. For an equally long period, until early this century, Europeans and Arabs captured and sold millions of Africans as slaves. But the single most important event may have taken place in Berlin in 1885.

In that city, major European powers carved up a blank map of Africa by the strokes of a pen. They created more than 40 entirely new countries overnight without regard to existing political entities, ethnic boundaries, historical relationships and alliances and geographic and demographic variables.

Africans had to live within the new boundaries in completely alien political systems with contrived citizenry. The analogy of the colonial state as a jail is appropriate. These territorial units could not inspire loyalty because they were unnatural and forced. They dismally failed to forge new nationalistic identities. Although Africans fiercely struggled against colonialism, the postcolonial state they inherited continues to

suffer from similar deficiencies: Its structures, demographic composition and boundaries are colonial.

Since citizens lack an instinctual and nationalistic bond to the state, those who become rulers pillage it. They resort to massive human rights violations to hold power and keep their fellow citizens down. Meanwhile, the single party or the impenetrable state is cast as the guarantor of national unity and development. Those who criticize are stigmatized as unpatriotic. But soon this terrorist organization masquerading as the state is attacked or spins out of control because of its own paranoia. Inevitably, ethnic, social and economic cleavages burst open, pitting citizen against citizen. The alien state, lacking a popular base, either crumbles and disintegrates, as it did in Somalia, or prosecutes a genocidal war, as it has done in Rwanda, Liberia and Sudan.

There is little hope for Africa unless it courageously addresses the nature of the postcolonial state and reconfigures the political landscape of the continent. Setting aside the foolish and racist talk about recolonizing Africa to save it, responsible Africans must for now discard several principles of international

law better suited for Europe. The first of these fetishes is state sovereignty, a concept that allows ridiculous colonial entities, such as the Gambia, Burundi, Liberia, Malawi, Burkina Faso and Tunisia, to claim inviolability. The second

is the principle of noninterference in the internal affairs of their states. These pillars of the law of nations have allowed callous elites to swim in small ponds under the pretext of statehood.

Africans must reject these straitjackets to reverse the geographic and demographic decisions made in Berlin. Since those creations are not viable, their permanence should be repudiated. A continental organization should be formed to redraw the map of Africa to construct viable states. Perhaps the Organization of African Unity — whose raison d'être ended with the abolition of apartheid in South Africa — could justify its continued existence by making a new map for Africa. The criteria for the creation of new states should include his-

torical factors, especially the demographic contours of Africa's precolonial states and political formations, ethnic similarities and alliances based on cultural homogeneity and economic viability. The new map of Africa should hold no more than 15 states as opposed to the 50 today.

Based on these criteria, my map of Africa creates new countries by abolishing some and combining others. The new Republic of Kusini (which means "south" in the Kiswahili language) would take in South Africa, Namibia, Zimbabwe, Mozambique, Lesotho, Swaziland and Malawi — nations with shared historical, economic and ethnic interests.

The new Egypt would combine Egypt, and Arabic Sudan. Nubia, the ancient name for southern Sudan, would bring together Kenya, Uganda, Tanzania and southern Sudan.

Mali — named for an ancient empire — would swallow up Mali, Senegal, Guinea, Sierra Leone, Liberia, the Gambia, Guinea Bissau and Cape Verde.

Somalia would be beefed up by Djibouti, the Ogaden province of Ethiopia and Kenya's northern province. Both the Ogaden and the Kenyan province are inhabited by Somali ethnic groups.

Congo would combine ethnically similar people of Zaire, Congo, Burundi, the Central African Republic and Rwanda, while Ghana, another ancient kingdom, would consist of Ghana, Ivory Coast, Togo, Benin, Nigeria, Cameroon, Gabon, Equatorial Guinea, and Sao Tome and Principe.

Benin — named for a sprawling ancient kingdom — would take in Chad, Burkina Faso and Niger. Algeria and Angola remain the same, while Libya takes over Tunisia. Morocco, Western Sahara and Mauritania become Sahara. The new state of Kisiwani — which means "island" in Kiswahili — brings together Madagascar, Mauritius and the Comoros.

Few Africans owe their allegiance to the emergent state; many identify with an ethnic group — a loyalty that predates colonialism — or the pan-Africanist idea of Africa as home. The colonial state and its successor have been so alienated from the people that the development of national consciousness was not possible. Newer, larger and democratic entities — created by Africans for Africans — stand a better chance of instilling loyalty and stoking the inherent love for the motherland. This may be the only formula that will reverse Africa's disfiguration and save it from extinction.



Drawing by Bob Dehm

Certain sacred cows of international law may have to be set aside to save Africa.

Makau wa Mutua is the projects director of the HLS Human Rights Program. This piece is reprinted with permission from the author and the Boston Globe.

GIVE ANOTHER CHANCE. GIVE BLOOD.

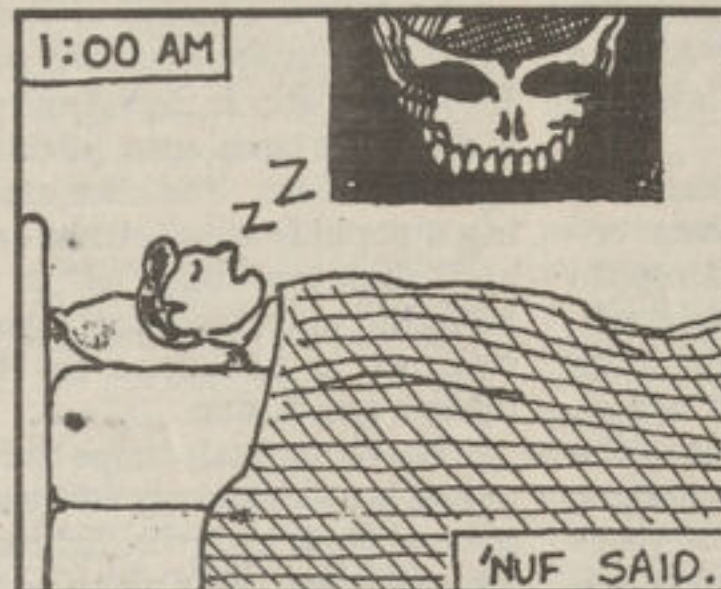
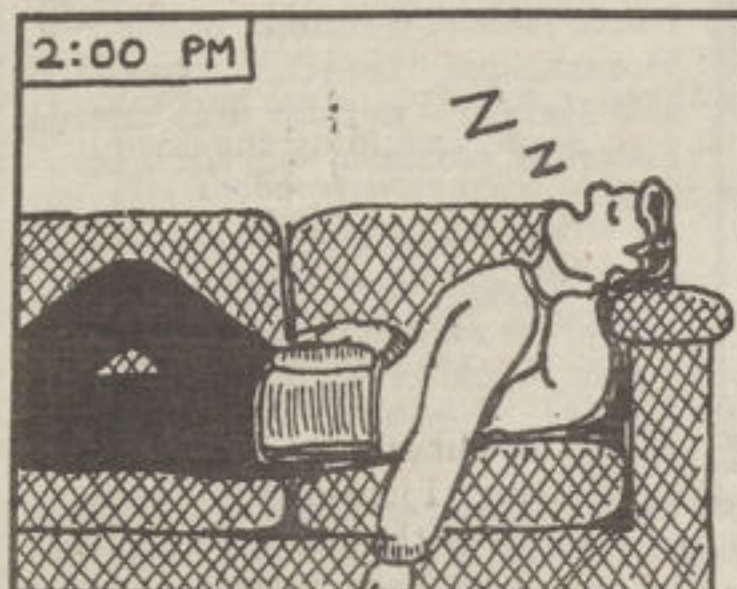
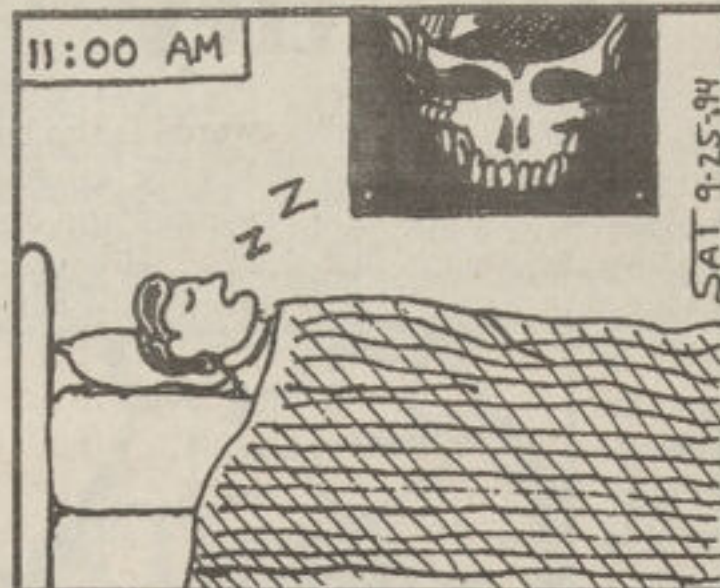
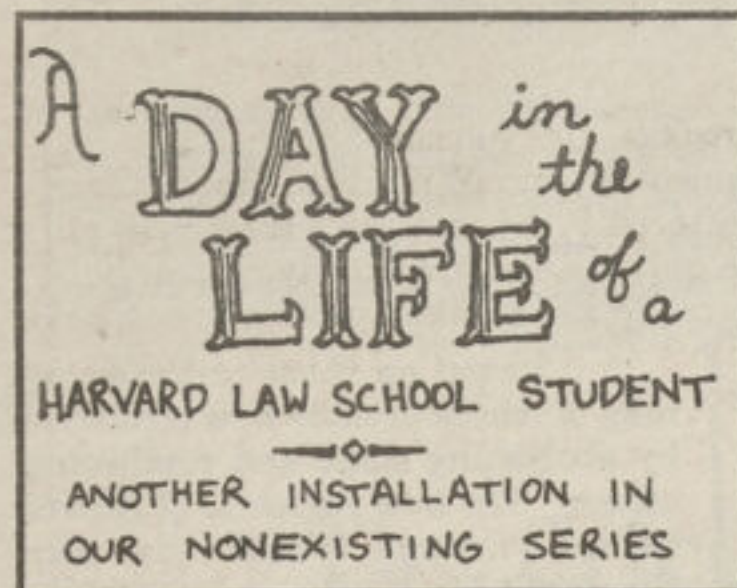


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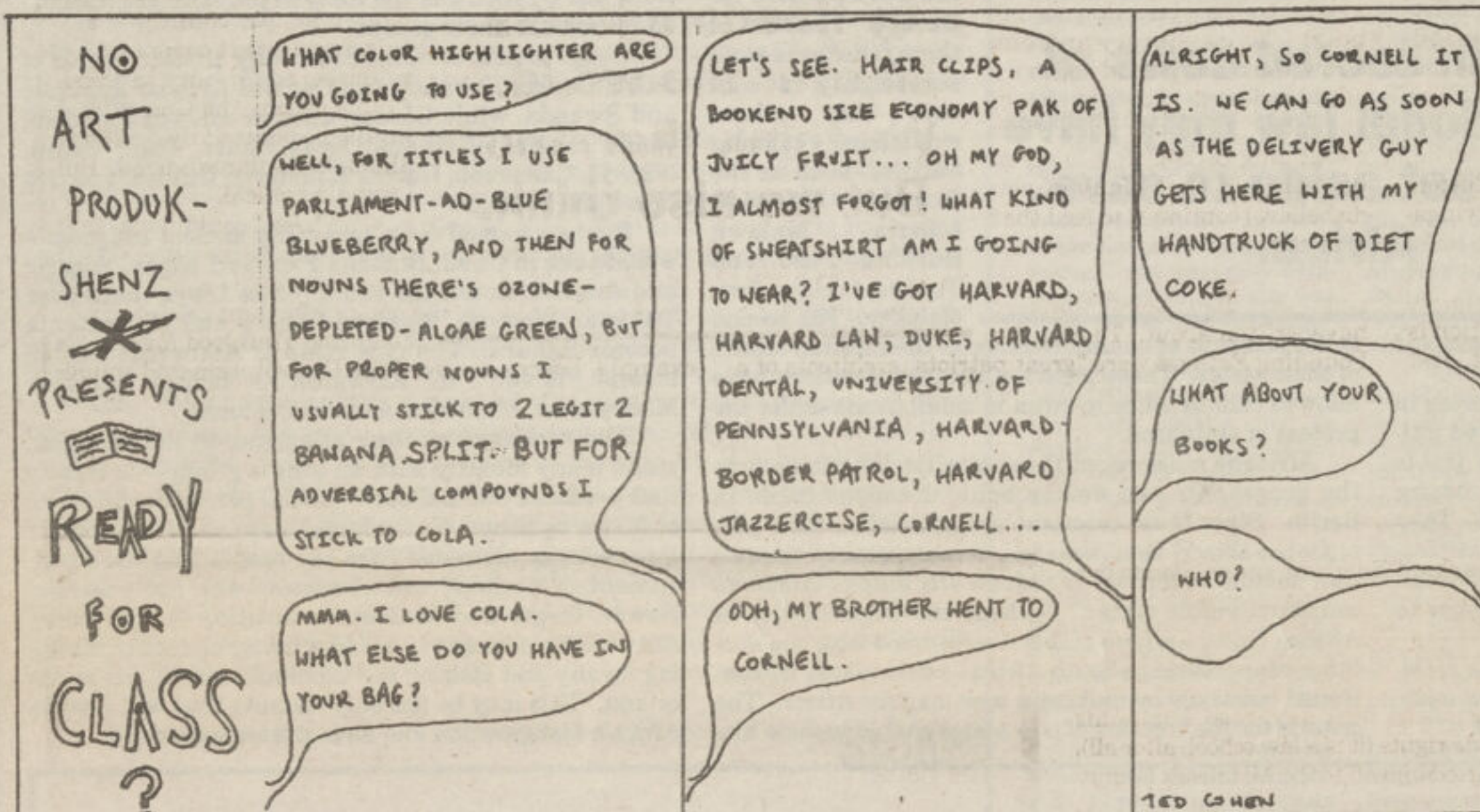
Temporary Insanity

By Sheila Tuller



Res Ipsa Loquitur

By Ted Cohen



Guide to Legal Terminology

By Sean Kanuck & Matthew Queler

	<u>Liquidated damages</u> : loss of destruction of property caused by flooding (see <u>Rylands v. Fletcher</u>)
	<u>jurisprude</u> : a sexually inhibited lawyer or law student
	<u>partial performance</u> : a play that is cancelled after the first act
	<u>floating charge</u> : special blasting device often used at sea (commonly classified as an ultrahazardous activity for purposes of tort liability)

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CALENDAR

Death Sucks.
Beer Rules

By Jeff Bucholtz

"If Metallica were still playing thrash, they'd sound like Wargasm." So speaketh Kit "Motorbreath" Ekman '95 about Boston's hometown metal heroes, who play the Rat (536-2750) on Saturday (10/1) for what promises to be the most antisocial ("chew you up, spit you out/now get the hell out of my way") show of the week, and probably the most fun, too.

Also on Saturday, just in time for Oktoberfest, the new Providence Convention Center (401-331-2211) turns into a biergarten for the Rhode Island International Beer Exposition, from 1:00 to 6:00 p.m.. Over 150 beers will be available for tasting, and live bands will get you warmed up for Wargasm.

We can't guarantee it, but if you're really, really good, maybe the Spudmonsters will be there to regale you with their brand-new, coming-soon-to-a-commercial-near-you smash, "Beer." They like "cold beer, draft beer, dark beer, green beer, bock beer, warm beer, all beer," since, after all, "beer rules." The Spudmonsters also courteously provide us with the best excuse I've heard for staggering through life in an alcoholic haze: "In heaven there is no beer/that's why we drink it down here."

If you're more into buds than Bud, Saturday also brings the legendary ska band The Specials to Avalon (931-2000) for an early show, before Avalon turns into the pink neon, big hair dance-club atrocity that is its true calling.

On October 4, as part of its Phatt Tuesday series, Bill's Bar (421-9678) hosts The Jesus Lizard, a venerable noisy punk/metal band whose name has more potential to offend than its music. Opening are the buzz-bin-bound (you heard it here first) Girls v. Boys and Sunny Day Real Estate, a medium-heavy Sub Pop (the Seattle label that brought us Nirvana, Soundgarden, Mudhoney, etc.) band whose somewhat whiny drone owes more to Smashing Pumpkins than Kurt Cobain.

Guns 'n Roses guitarist Gilby Clark invades the Paradise (351-2526) on Wednesday (10/5) for a night of monstrous metal mayhem. Um, or something. Also, performance artist and MTV icon Maggie Estep takes the stage at the Middle East (497-0576).

A trio of shows hits town on Thursday (10/6), beginning with an early show at Avalon featuring the thoroughly non-threatening riot-grrrl lite pop-metal of L7 and the cacophonous metal sludge of Seattle's Melvins, cited by Pearl Jam and Nirvana as the original grunge band. I suppose they would know, but Melvins' extended atonal jamming, while creative and heavy, borders on '70s self-indulgence, and has nothing in common with punk, the rebellious offspring of the '70s that would later inspire the likes of Nirvana.

Singer/songwriter Jeffrey Gaines shows off his impressive voice and mild-mannered soul-inflected pop on Thursday at the Paradise, and Canada's Barenaked Ladies play right here in our own backyard at the Somerville Theater (931-2000). These pop-folkies' name has definite potential, but they sing about Yoko Ono, for Christ's sake.

Part of Our Identity

By Debra Dickerson '95

RECORD Columnist

Once, I told some friends about my father's Marine Corps service at the Battle of Okinawa. I told them how he'd waded ashore, rifle overhead, chest and face exposed to blistering enemy fire. How his homies (his unit was segregated but full of his boys from Tennessee) fell around him and how he had to wade around their bodies. I told how he'd slept in his muddy foxhole and at his machine gun for longer than he could ever remember, and then of the hand-to-hand combat. After the island was secured, they were shown footage of the battle as a well-deserved treat. I told them how my father and his homies rioted and tore down that segregated quonset hut where the movies were shown once they saw that the thousands of black men who'd fought there had been airbrushed out.

One friend exclaimed in disgust, "I guess that made us look good to the Japanese!" I still can't believe that's what he got from that story, yet I bet many whites would have the same reaction. Not because of racism, but because I think whites and blacks have fundamentally different views of America and what it stands for.

The Marion Barry affair demonstrates this difference. Our most liberal journalists profess their inability to understand why so many blacks support the disgraced leader in full knowledge of his crimes. The explanation is simple: Many of us, especially at the lowest socio-economic levels, believe America to be, *inter alia*, capable of great corruption and self-delusion. We roll our eyes at your indignation at his carryings-on. Barry merely got caught, we think; the high-jinks carried on every day in boardrooms, Congress, and school districts across this country would be no more shocking if revealed. Of course, we think, revelation is so much more likely when we play the game. At least Barry went to jail — Nixon died in his mansion, rehabilitated and lovingly eulogized. These things are not lost on us. We live in segregated neighborhoods, go to substandard schools, swell the ranks of the unem-



ployed, and Barry's not fit to govern? "Hell," one of my relatives said, "he'll fit right in. Takes a criminal to handle criminals." You appear to have no idea of just how cynical we are as a group.

God forbid I should support Barry, but I am among the cynical. I cannot help sneering when I read about America pining for its lost innocence. Even when I was young and conservative (I really was) I never in my wildest dreams thought this country (or any other) innocent; certainly America is wonderful, prodigiously productive, capable of grand gestures of kindness, but innocent? Coming of age in the 1970's, I thought that the '60s had been

about us owning up to the damage we'd done and promising to stop doing it. When I realized I was wrong, I stopped being a conservative. I think this nostalgia really represents a yearning to return to a time when only the good truths could be told. That "innocence" was that of the one who controls the discourse.

Now, I know this sounds like the paranoid ranting of a grudgeholder, but that is my point. To us, slavery and Jim Crow were not periods of mere white rudeness, they are part of the fabric of all our lives. The continuing racism that many of us feel (and that many of you disbelieve) continues to feed that cynicism, and it contributes to a duality of the African-American spirit that many of our thinkers have written about. To you, the Founding Fathers were "great patriots, architects of a great nation copied by freedom lovers all over the world." We think that, too. But we also think, "slave masters." That the same men who gave such a gift to the world could ignore the full import of their own

words is the bedrock of our cynicism.

My father came home from WWII both proud of his service and embittered by his country's treatment of him. He became quite racist and utterly cynical but even so, always made my brother promise that he would respond to his nation's call. If he saw a contradiction, he never spoke of it. My brother is a cynical Barry supporter who joined the reserves "in case there's a war."

As an undergraduate, I wrote a paper called "Why Blacks Fought in America's Wars Before Emancipation" (we had to fight for the right to fight, in case you didn't know). I only got a B because I couldn't figure it out. We have acquitted ourselves honorably in ALL of America's conflicts, including the one for

white men's freedom, even when we were slaves. But why, given the cynicism I speak of? After fighting in those wars, violent repression of returning black soldiers raged, but still we insisted on fighting. I joined the military to escape the inner city, but having done so, served with a conscious sense of duty. During those years, I used (and meant) phrases like "Duty, honor, country" and "Air Force needs come first". I volunteered for duty in Saudi Arabia during the Gulf War. I would personally shave Shannon Faulkner's head. But I remain cynical.

The best I could do on that paper was to conclude that "Blacks fought because they thought they were Americans."

Following Thurgood Marshall's example, I carry a copy of the Constitution and thumb through it often — I always think it magnificent, and I always feel bitterness. You may call it overreaction, throwing the baby out with the bath water, refusal to let go of the past. We call it part of our identity.

**To you, the
Founding Fathers
were "great patriots,
architects of a
great nation copied
by freedom lovers
all over the world."
We think that, too.
But we also think,
"slave masters."**



Fenno felt confined. He was living in a 10 x 8 room made of three thick walls and a door of steel bars. At first Fenno had thought he had returned to his old room in Gropius, but on further inspection he realized that he was, indeed, in a jail cell. It would be his cozy little abode for the next 180 days, to be shared with a large, smelly man who called himself Tank and who had tattoos running from his ankles to his eyes (and, as Fenno had discovered, everywhere in between).

Fenno knew the HLS Administration was getting serious about student crime. Dean Clark had hired security guards who were actually deterring rather than committing crimes. The Admissions Office was now running a complete FBI background check on every applicant; all those with two or more felonies, pursuant to the new "two strikes and you're close enough to being out that we'll just call you out" policy, were being denied admission, even if they had attended Harvard College. And that red-headed hunk of a cop, David Caruso, was now wandering the halls of the Gropius Complex at night, keeping Harvard safe for democracy, or at least keeping television on the brink of an R-rating.

Even the Adviser had hopped on board the anti-crime bandwagon. Gone were the occasional vague and only mildly threatening messages from the Ad Board: "Students are reminded that murder is a crime." In their stead, the Adviser now ran explicit and thoroughly reformist Ad Board missives: "Yesterday, at the big black asphalt blob in front of the Hark, two students were publicly hanged for having spoken out in class without having been recognized by their professor. A third student had her hands removed for failing to return the No. 2 pencil after having completed her course evaluation form. Lessons should be drawn from these episodes!"

Thus when the new chief of the HLS Gestapo, Annie "Give 'em hell, then give

'em the chair" Bombard, caught Fenno trying to drop the same course twice, she sprayed Fenno with nerve gas to stun him while two security guards handcuffed him to the water cooler. The police rushed to the scene the next day, read Fenno his Miranda rights (it is a law school, after all), and carted him off to the Middlesex County jail. The note from the Ad Board said that he was being given 180 days to think about his "errant ways."

Indeed, Fenno had gone directly to jail, without even collecting 25¢ for a phone call, let alone \$200. Fortunately, his new friend Tank had given him a quarter in exchange for services rendered. Walking stiffly to the prisoners' pay phone, Fenno plunked in his coin and dialed HLS information. Of course, the cranky lady who sits at that weird round desk in the center of Langdell was not there, it not being between 1:35 and 2:05 p.m. on the second Wednesday of the month.

Getting no answer, Fenno gave into his urges, dialed a 1-900-HOT-MAMA, and enjoyed the 11 seconds his quarter bought him. Of course, he was no closer to getting himself legal representation, and his roommates wouldn't start missing him for another week or so. He trundled back to his cell. He needed another quarter.

NEXT WEEK: Fenno finds a lawyer

Quote of the Week

"One thing is certain:
Neither O.J. or his
stunned fans, nor
the system that
brought them
together, will ever be
the same again."

— "Juice: The O.J.
Simpson Tragedy"

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No fear

By Spencer Levy '95
RECORD Columnist



I never really spoke up much in class before. But on this day in my first-year criminal law, we were discussing rape shield laws and, given the defense-oriented slant in my class (the mere mention of prosecutorial ethics was usually good for a laugh), I was surprised to hear so few people attacking the validity of such laws: none, to be exact.

I was afraid. I felt naked as my hand my held in the air for what felt like an hour, my heart began to race.... I started to sweat. Prof. Richard Parker '70 panned the room to see if there were any more hands, and he pointed at me and then put one hand on his chin and looked at me inquisitively as only Prof. Parker can. I looked down and gave my response while trying not to hyperventilate and pass out.

While I questioned the logic of the rape shield laws, a person sitting behind me verbally berated my position, not loud enough for the class to hear, but loud enough to rattle me. Nevertheless, I maintained my train of thought, and I completed my answer. The Correct Ones could not break my resolve to state what was on my mind. I would be afraid no longer.

But many students are still afraid. They are afraid of the murmur in the back of the room; they are afraid of being interrupted by a holier-than-thou "...or she" in the middle of a well-intentioned statement; they are afraid of the hiss of cowards if they should say something that The Correct Ones disagree with; they are afraid of being branded a sexist or racist; they are afraid of speaking their minds and they do not. They are silent.

They are afraid of the hiss of cowards if they should say something that The Correct Ones disagree with; they are afraid of being branded a sexist or racist; they are afraid of speaking their minds and they do not. They are silent.

The cost of The Correct Ones' tactics has been enormous. Throughout the course of my time at Harvard Law School, I have participated in and witnessed numerous "debates" much like the one on rape shield laws. Debates on subjects such as affirmative action, abortion, and the death penalty have been almost entirely one-sided, if any non-Correct positions are heard at all. My discussions outside the classroom on subjects dealing with gender or race issues often end with "you just can't understand (because you're a white male)," and nothing is gained from the conversation except another chance for someone to throw a barb at a well-intentioned student. Nothing new is ever learned, no one is ever persuaded, because the non-Correct Ones are afraid to stand up; The Correct Ones are so flip in their efforts to crush dissent, and the administration does nothing about it.

The tactics of The Correct Ones rear their ugly head in all of our academic forums. I harken back to last year when John Finnes, a pre-eminent modern philosopher, was speaking at the invitation of the Catholic Law Students Association. During his speech someone activated the screen behind him and in big green letters it said "HOMOPHOBIC." Apparently some of The Correct Ones disagreed with Finnes's advocacy of a Colorado policy that may have disadvantaged homosexuals and felt that the best way to deal with this man was to publicly humiliate him. To Mr. Finnes' great credit he ignored the display and completed his speech (which had nothing to do with the subject of homosexuality), but I have no doubt that he will be reluctant to speak here again.

The Correct Ones had won another battle against dissent, and the administration did nothing to stop it. There was no investigation, no censure. They too were silent. The administration is afraid of The Correct Ones, and it has proved it in other instances like pushing for an Orwellian hate speech code, which could have further stifled speech during class discussion. One could only speculate what would have happened if someone had written "QUOTA QUEEN" in big block letters when Prof. Lani Guinier spoke last year (a very non-Correct thing to do). Those responsible would have been severely punished by the administration. It is safer for the administration to appease The Correct Ones than to deal with the problem head-on, much as it is for the students.

It's time for all of us to stop fearing The Correct Ones and start improving our education. We must begin by understanding that there is no argument that is illegitimate in the marketplace of ideas (this idea has grown from reading and listening to Prof. Alan Dershowitz). We cannot forget that this is LAW school; this is not kindergarten, and we are not here to learn how to be "nice" to others. If someone is offended by an argument, that is a truly unfortunate cost in the pursuit of knowledge. We are here to flesh out all of the dimensions of the law, and that includes even the vilest of arguments. Anyone who thinks these arguments make it impossible to learn because they are "offensive" or the like has got it all wrong. The only way that we are going to learn or persuade is by making these arguments and then if you disagree with them, discrediting their merits in a respectful manner. Anyone who stands in the way of a reasoned debate in the name of "Correctness" is objectively wrong and is jeopardizing our education. The Correct Ones should not be feared; they should be defeated.

Haiti Abuses Documented

continued from HAITI, page 1

front. They chopped off her ear. They chopped off her right hand. They came within centimeters of her brain."

The woman, 32-year-old Alerte Belance, survived only when she crawled to the side of a road and was taken to a hospital by some passers-by. Even after she arrived at the hospital, Belance's ordeal continued. The attackers returned twice for Belance, but hospital workers were able to hide her, Anker said.

Belance and her husband arrived in the United States as refugees in January.

"She says God made her survive so she could tell this story," Anker said.

Recommendations Made

At the hour-long hearing, the group asked the commission to take a series of steps, including issuing a report urging that the leaders of the military regime — Gen. Raoul Cedras, Brig. Gen. Philippe Biamby, and Police Chief Michel Francois — be tried for gross violations of human rights.

A variety of mechanisms currently exist under international law for prosecuting human-rights violators — including the universal jurisdiction of all nations to try violators — but Anker and Green said an international tribunal similar to the one established for the former Yugoslavia may be necessary.

The commission "seemed very interested" in the idea of establishing a special tribunal, Green said. The coalition plans to submit a specific proposal to the commission by the end of this week, she added.

The coalition also asked the commission to:

- recognize rape as a form of torture and a violation of international law;
- dispatch a special mission to Haiti to collect further evidence of abuses;
- develop a plan to hold perpetrators judicially accountable and provide compensation for the victims of abuse;
- urge the United States to disarm the Haitian military, police, and paramilitary forces;
- call for all states to exercise universal jurisdiction to prosecute Haitian human rights violators; and
- urge the ousted government of democratically elected President Jean-Bertrand Aristide to revise Haiti's rape laws.

Green said she was pleased by the response the group received from the

members of the commission and was optimistic the organization would adopt some of the recommendations.

"The commission was very attentive," she said. "They asked questions that indicated they were very concerned and interested in taking action."

Separately, Anker and a group of nearly 50 law professors from around the country wrote to President Clinton Monday to urge that the U.S. forces in Haiti disarm the Haitian military immediately.

Anker also joined a smaller group of professors in a letter to Attorney Janet Reno '63. The letter urged that Reno designate as "binding precedent" a case in which a Haitian woman who had been gang-raped received asylum. Currently, the Board of Immigration Appeals publishes very few of its cases in which asylum is granted, and it has published no decision granting asylum either to a Haitian refugee or a victim of rape, Anker said.

"They've issued no jurisprudence on women refugees," said Anker, who has published a volume of previously unpublished BIA cases. "This is an outrage and a disgrace."

Research Center Started Here

Much of the coalition's work originated here through the Women's Refugee Project, a joint project formed 1 1/2 years ago by the HLS Immigration and Refugee Clinic and Cambridge & Somerville Legal Services. Beginning last winter, a number of female clients at the WRP began to tell stories of rape and other acts of brutality, Kelly said.

Together with the Human Rights Program, the WRP began gathering and documenting evidence of abuses in Haiti. A number of HLS students, including current students Mary McClenahan '95 and Melissa Weiss '95, joined Kelly and John Wilshire-Carrera of Cambridge & Somerville Legal Services in gathering documents and researching applicable international and asylum law.

The coalition focused primarily on documenting violent acts against women because such acts tend to be "underreported and undermonitored," Anker said.

"We don't mean to downplay violence against men or boys," Green added. "We focused on violence against women because it's traditionally been ignored."

Shots Called Unusual

continued from CRIME, page 1

are breaking-and-enterings. "They break and enter when occupants are not home," said Tatosky. Blue-collar communities like Somerville present more opportunities for criminals, said Tatosky, because, "people are often working. Many of them hold two or three jobs."

Students who live off-campus say they are careful regardless of whether there has been a recent spate of crime or not. "I wouldn't walk home to Somerville alone at night," said Ileana Herman '95.

Herman said this year she has a car and always drives. She said that last year, when she did not have a car, she would always take Harvard's Escort Service at night. "It's dark, it's late, you're alone, you're a woman," she said. "Anytime you are walking alone at night, you should be careful."

Greg Siegler '95, who lives in the same house as Schwimmer, said that crime has become a worry for families in the neighborhood. A couple with a five-year-old daughter lives on the first floor of his house.

"If I were them I'd be concerned, and

I think they're starting to be," Siegler said. "I'm not yet quite as concerned for us."

Other students find Cambridge and Somerville much safer than other places they have lived. "I really don't think about [crime here], because I went to Penn and West Philadelphia is a lot worse than this," said Jason Pollack '95, who lives in a house in Cambridge near Porter Exchange.

Stuart Goldstein '95 agreed with Pollack. Compared to Penn, he said, "It's like Disneyland here." But both were quick to add that crime can occur in any neighborhood. "These things happen. It could happen anywhere," said Pollack. Goldstein advised those walking home at night to do what he does: Always walk in the middle of the street, away from sidewalks where someone can jump out at you.

Keeping safe can be largely a matter of common sense tactics like these, said Tatosky. Above all, he said, "Be aware of your surroundings at all times. Be aware of who is around you. Don't walk around in a fog."

Tatosky also said mace is legal in Massachusetts. To obtain it legally, one must first obtain a firearm identification card.

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THE REASONABLE WOMAN

One Elle

By Linn Brady '96
RECORD Columnist



THE authors of two of the most popular literary depictions of life at HLS, "One L" and "Broken Contract," recount the difficult moments of their law school experience in the manner of shell-shocked war veterans. The image of the educational experience at the Law School that emerges is one of such constant stress and anxiety that the reader wonders just how Turow and Kahlenberg made it through three years of law school with their sanity intact. For Turow, the pressure seems to have caused him to spend most of his time doubled over with stomach pain, unable to sleep, and barely coherent. For Kahlenberg, the Harvard Law School experience is even more taxing; it appears that classroom attendance was only an annoying interruption from the agonizing, soul-searching self-examination that filled every other waking moment. Indeed, the tenacity with which Kahlenberg insists on every page of "Broken Contract" that HLS is attempting to transform his idealism into greed brings new meaning to the word narcissism.

The simple truth, of course, is that no one would want to read a book that even hinted that the law school experience was something other than painful and difficult. Although they are greatly exaggerated, Turow's and Kahlenberg's portrayals do manage to strike a responsive chord. Law school can be an exacting and tension-filled ordeal. Underneath Kahlenberg's self-righteous indignation and Turow's incessant worrying lie a few essential truths about law school. Law school education involves the re-examination of deeply held val-

I look forward to the next book about the HLS experience. Not only do I hope that it is more accurate than either "One L" or "Broken Contract," I have a secret hope that a woman will write it.

ues and encourages questioning the types of change the law may foster. Maintaining one's ideals and fighting off cynicism is not easy, while the basic process of learning the law can be intellectually stimulating as well as pure drudgery. Turow and Kahlenberg see the process of learning the law as cause for complaint. Instead, the intellectual and emotional highs and lows of law school should be recognized for what they are: inevitable parts of the learning process.

To a large degree, I believe that men's and women's experiences at HLS are similar: the strains and pressures recognized by Turow and Kahlenberg apply equally to both sexes. Yet I find it striking that no widely circulated account of life at this law school has been written by a woman. The differences in a woman's experience at HLS have never been explored or examined in a thoughtful manner. My conversations with HLS women have led me to believe that women at this law school encounter subtle constraints and pressures that make a women's experience qualitatively different from that of a man.

The desire to perform as well as possible in class is common enough, but the 1L women I spoke with often felt that their classroom performance reflected not only upon themselves, but upon every woman in their section. Many women feel that the simple failure to answer correctly or in a tone of confidence not only indicates that they are undeserving of their place at this law school, but that their poor performance also tellingly reveals shortcomings stereotypically attributed to women in general. The study of law is described as requiring the ability to think logically and rationally; a mistake made by a woman seems to emphasize that women lack these skills. Similarly, many women often subconsciously feel the need to "hedge" their answers by prefacing them with disclaimers that work to "deflate" their answers.

The lack of female faculty members also generates feelings of isolation for women students. There has been commendable effort on the part of the administration to correct this imbalance, as indicated by the recent hire of three new female professors. Essentially, the absence of parity in the numbers of men and women on the faculty sends the message that there are real limits to the success of women. Even if this response is not empirically justified, the message has strong emotional pull.

One of the most important goals of the Women's Law Association is to foster an environment at the law school where women can feel comfortable and are able to reach their full potential. Unfortunately, the WLA is sometimes depicted as being a blatantly militant male-bashing organization. Such a characterization does a great disservice not only to the WLA but to the whole Law School community because it emphasizes discord instead of the unity between men and women that is necessary to eliminate the constraints and pressures that make a women's experience at HLS different. I look forward to the next book about the HLS experience. Not only do I hope that it is more accurate than either "One L" or "Broken Contract," I have a secret hope that a woman will write it.

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