



Spring 2021

Mastering the Curve: A Retrospective on Eduardo M. Peñalver's Deanship

Cold Calling through a Pandemic: Faculty and Students Navigate Legal Education in the COVID-19 Era

> Learning How to Teach Againa Faculty Essay by Brad Wendel

Photos from the Law School's In-Person Convocation



GIVING WITH A PURPOSE

The Law School expanded experiential opportunities for students this past year, with new practicums in movement lawyering, tenant advocacy, federal Indian law, and civil disobedience defense. When you contribute to the Annual Fund, you support timely new programs like these, which train students in the skills needed to become effective **lawyers in the best sense**.

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FORUM

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Dear Alumni and Friends:

With the new sights and sounds of spring on the Cornell campus, there is also an unmistakable sense of change in the air. Throughout the university, life has started to return to normal as we begin to emerge from the pandemic. And within the Law School itself, a major transition is underway as we bid a fond farewell to former Dean Eduardo Peñalver and prepare for the announcement of who will be the seventeenth dean of the school.

In a sign of how far we have come since last year, on May 22 we were thrilled to hold a masked and socially distanced in-person Convocation for the Class of 2021 at Schoellkopf Stadium. Graduates were even permitted to have two guests each in attendance. (See page 55 for photos of the ceremony.) And in early April, Cornell President Martha Pollack announced that the entire university will return to full in-person instruction for the fall semester as long as certain benchmarks are reached. We begin this issue with a retrospective on the deanship of Eduardo Peñalver, who helped guide the Law School through one of its most challenging periods in recent history. Shortly after the pandemic began, Eduardo told us that, "Like the past generations of Cornellians who experienced their own times of crisis, we will get through this one and come out the other side with a deeper appreciation of the blessing that this law school community represents." Thanks to his exemplary

they are very happy with their courses and professors. Our legal clinics are still meeting with clients, the job market remains promising, especially at large law firms, and Law School administrators are planning for courses and clinics that address racial justice.

Having had the privilege of serving as vice dean during part of Eduardo's term as dean, I can tell you that his management of the pandemic is only a small part of the story. The growth in fundraising that Eduardo oversaw

Although we are not yet fully on the other side of this crisis, it's clear that Eduardo did a masterful job of navigating the Law School through the unchartered territory of how to safely provide the very best legal education during a pandemic.



leadership, I believe this is exactly how things will turn out. Although we are not yet fully on the other side of this crisis, it's clear that Eduardo did a masterful job of navigating the Law School through the unchartered territory of how to safely provide the very best legal education during a pandemic. Our students have continued to excel in spite of the challenges and have indicated enabled the Law School to more than double its spending on financial aid, allowing more than 40 percent of students to now graduate without debt. Increased fundraising also gave a big boost to the recruitment and retention of faculty, enabling him to create seven new named professorships. Eduardo also greatly expanded experiential learning opportunities, launched two new



degree programs, and improved the caliber and diversity of incoming Law School students. Apart from his myriad accomplishments, Eduardo brought a spirit of collegiality and caring, a willingness to try new things, and a determination to nurture and grow the Law School's unique sense of community.

In the second feature article, we take a close look at what it has been like to teach and learn the law during the pandemic. You'll hear from Law School students, faculty, and staff about the trials and triumphs they faced while adapting to the world of social distancing and online learning over the past three semesters. Fortunately, through a combination of resiliency, dedication, generosity, and flexibility, the Law School continued to function quite smoothly during this unprecedented period. And although it was a struggle at times for everyone to adjust

to new technologies and new teaching modalities, the article points out that the most difficult part was losing the human connections that used to happen so naturally. To their credit, professors and administrators found creative ways to reimagine many of these connections virtually. The article also discusses how we made it a priority to preserve as much of the normal 1L experience as possible since it is such a foundational period in the overall law school experience. This meant, more than anything, giving 1Ls as many opportunities as possible to take classes in person. Students in all different years responded amazingly well overall to a difficult situation, making the most of their learning opportunities whether they were online, in-person, or in a hybrid of the two.

A question on the minds of many alumni is whether the



pandemic will bring lasting changes to legal education. I do think that some of the ideas and innovations discovered during online teaching are likely to stick around, but I don't believe there will be a big push toward distance learning in the legal academy as some may fear. In the Faculty Essay in this issue, **Brad** Wendel recounts his largely positive experience with online teaching and how he hopes to incorporate some of the lessons he learned into the traditional classroom experience. Within the Law School as a whole, we hope to use online and hybrid learning to deepen our partnership with Cornell Tech and our collaborations

with overseas law schools, but in a way that does not compromise our DNA as a residential law school.

I hope you will continue to be involved in our efforts to make the Law School even stronger, more dynamic, and more relevant. On behalf of everyone at the Law School, I thank you for your continued interest and support.

Respectfully,

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Jens David Ohlin

Interim Dean and Professor of Law law.dean@cornell.edu

EDUARDO PEÑALVER: Mastering the Curve

by KENNY BERKOWITZ



In the year and a half between leaving Cornell Law School as a professor and returning as its sixteenth dean, Eduardo M. Peñalver had time to settle his

family in the Midwest, teach at the University of Chicago Law School, co-author two articles about property law, speak at eight conferences, including one at Cornell, and think about a career move to academic administration. Then, as Dean **Stewart J. Schwab** approached the end of his second five-year term as dean, Peñalver decided to apply for the position, traveling to New York City for the first round of interviews.

"What I remember clearest is how little I understood about the job," says Peñalver, talking from home on Ithaca's South Hill, four months away from becoming the new president of Seattle University on July 1. "That gave me an opportunity to learn more, to keep leaning in, and by the time I came to campus for the third round, I was in a much stronger position. At each stage, I could feel a change in my ability to shift from thinking as a professor to thinking as an administrator. It was a very steep curve, but I was learning the whole time, I was processing, and over those last twenty-four hours, I was very much on the upside."

Watching from the other side of the boardroom, **Jens David Ohlin** could see the change as it was happening. "I'd known Eduardo as a great scholar, a great instructor, and a great colleague," says Ohlin, who currently serves as interim dean. "As we listened to him talk about how he'd approach the challenges of being dean, you could see this transformation right before our eyes. It was so profound, I could feel it, I think everyone in the room could feel it. We knew he was a natural, that he had great things in store, and being dean of Cornell Law School could certainly be one of them."

Seven years later, as Peñalver readies for his next learning curve, Ohlin lists some of the milestones reached during Peñalver's tenure. The Law School launched two new degrees and revitalized a third: the LL.M. program at New York City's Cornell Tech, the online Master of Science in Legal farm workers' legal assistance, and new practicums in civil disobedience defense, federal Indian law, movement lawyering, and tenant advocacy.

Under Peñalver's deanship, fundraising is up, with seven new named chairs, a loan forgiveness program that helps grads working in government and nonprofits, and scholarships that allow 40 percent of students to graduate without any law school debt. Admissions are up, with an increasing number of applications, an increasing quality in the applicants, and an increasing diversity in the student body. The numbers aren't just rising they're growing in the face of unimaginable

During Dean Peñalver's tenure, Cornell Law boosted financial aid while maintaining one of the very best job placement rates of any law school. In fact, recent data from the Department of Education shows that Cornell has the best student debt-to-income ratio among all top law schools.

Studies for business professionals, and the reenvisioned three-plus-three program for Cornell undergrads. It expanded experiential learning, adding new clinics in entrepreneurship, First Amendment practice, and challenges, smack-dab in the middle of a pandemic that finds the Law School welcoming students to a hybrid of in-person and online courses, adjusting the academic and recruiting calendars, navigating changes in the LSAT and bar exams, and broadening legal aid outreach to the community.

OPPOSITE PAGE: 1. At the Hoffman Challenge Course during orientation for the Class of 2018;
2. With a recent graduate in 2019; 3. With Markeisha Miner, dean of students, and New York State Attorney General Letitia James, during her visit to the Law School in October 2019;
4. With Matthew D'Amore, professor of the practice, at the opening of the Cornell Tech campus in New York City; 5. At the retirement celebration for Gregory S. Alexander;
6. With his wife Sital Kalantry, celebrating the 80th birthday of Allan R. Tessler, LL.B. '63;
7. Talking with Clifford M. Greene '76 at Reunion



Eduardo is very good at not just identifying talent, but in orchestrating individuals to work together in a cohesive unit," says Monica Ingram, associate dean of admissions and financial aid. "On this administrative team, people have the opportunity to lean on one another and to feed off the energy of the entire group, which benefits the whole enterprise. Eduardo has been an active, engaged partner in all of it, and that's saying a lot.







SCHWAB on PEÑALVER

"It was a very good choice," says **Stewart J. Schwab**, Jonathan and Ruby Zhu Professor of Law, who served as Allan R. Tessler Dean from 2004 to 2014. "I thought Eduardo would do a great job, and he really has. His vision and initiatives, especially on clinics and experiential learning, have been very successful. As a leader, Eduardo has been able to think about the Law School from a broad perspective while still rolling up his sleeves and working deep in the weeds. You can tell that students feel connected to the institution, and under his leadership, the school is feeling good about itself and its direction."

Asked to choose his most meaningful accomplishment, Peñalver doesn't name any of them.

"The thing I'm most proud of is the group of people I've brought together for the Law School's administrative team," says Peñalver, whose tenure coincided with the retirement of some of Cornell Law's most beloved administrators. "The group we have now, wonderful people who care deeply about our students and our institution, are superb in every way—and they're also the most diverse leadership team in any law school anywhere in the country. I loved the meetings we'd have at the beginning of each week, with this group of people assessing where we're going and trying to keep finding better ways to accomplish our goals. It's been a real all-hands-ondeck effort, and that's always the thing that makes me proudest. Because we couldn't have accomplished anything without a strong leadership team."







Over the last five years, per capita student debt at Cornell Law School has dropped by nearly 20 percent, driven by financial aid spending that has nearly tripled.

When Peñalver took the position, at a time when law schools were seeing their application numbers fall nationwide, headlines trumpeted Cornell's hiring of the first Latino law school dean in Ivy League history. They enjoyed the irony, too, of seeing Cornell appoint a dean who'd helped lead a takeover of Day Hall as an undergrad. (The 1993 occupation, which lasted four days, led to the creation of the Latino Living Center.) Further down the column, the reasons for hiring Peñalver were clear: He had first-rate credentials as a magna cum laude graduate of Cornell (1994); a Rhodes Scholar at the University of Oxford (1996); a J.D. student at Yale Law School (1999); a clerk for Judge Guido Calabresi at the U.S. Court of Appeals

of the Second Circuit (1999–2000) and Justice John Paul Stevens at the U.S. Supreme Court (2000–2001); an associate professor at Fordham University School (2003–2006); a visiting associate professor at Yale Law School (2005– 2006), Harvard Law School (2007), and University of Chicago Law School (2011); and an associate professor (2006–2008) and professor (2008–2012) at Cornell Law School, where he was fondly remembered.

Nora Ali '15, a former editor in chief of the *International Law Journal*, gives Peñalver credit for supporting her in organizing the ILJ symposium and securing a clerkship on the U.S. District Court for the Eastern District of Students participate in teambuilding and leadership exercises during the first Professional Development Orientation in 2015



MINER on PEÑALVER

Markeisha Miner, who became dean of students during the second year of Peñalver's tenure, calls Eduardo "a powerful representative for all students," describing his leadership style as "a master class on walking the walk." In one story, she and Peñalver are racing between meetings when they reach a group of 1Ls discussing the pandemic. "We have our notepads and phones in hand, we're going from office to office, talking with colleagues, until we run into a group of first-year students in the foyer," says Miner. "They're debating the transition on grading, and in the middle of putting out fire after fire, Eduardo stops to stand with them. To find out how they're doing, hear what's on their minds, and make sure they know their opinions are being heard. That's his approach, and that's how he instills a culture of putting students first. By modeling it."

between you and the dean," says **Emmanuel Hiram Arnaud '16**, who remembers asking Peñalver to review an essay he was writing for the *Cornell Daily Sun*. "I wanted him to just take five minutes to read it, and instead he emailed me back, saying the piece was fantastic, telling me I was a great writer, and asking if I'd thought about clerking, which honestly had never even occurred to me. That cemented my sense that I really did belong in this school and in this profession. He suggested a judge he thought I'd work well with, encouraged me to apply, reviewed my application materials,

Michigan. "Whenever I needed a resource, he was there, and when I was concerned that I wouldn't be competitive enough for a clerkship, Dean Peñalver provided reassurance and called every judge I applied to," says Ali. "You could tell how focused he was on finding space for everybody to feel they belong. As a student, seeing that your dean is thinking of you first and foremost instills the confidence that you can focus on your studies, knowing you don't have to fight to be understood."

"At a lot of other law schools, there's a thirty-foot pole



Dressed as Albus Dumbledore (from the Harry Potter Series) for Halloween in 2019

and rehearsed me the day before my interview, telling me to just be myself. That clerkship has been opening doors ever since."

For Peñalver, whose own clerkships were two of the defining points in his career, the lessons learned in his twenties have lasted ever since. Now fortyeight, thinking about his initial interview at the Supreme Court, Peñalver remembers how Justice Stevens put him at ease "within seconds of walking into his chambers, which is the knack he has for bringing out the best

in people." Then, as they worked together, he quickly saw a jurist who embodied approachability, humility, and a sense of treating everyone with respect, which inspired great loyalty from his clerks, who still ask one another, "What Would the Justice Do?"



Posing with Nicholas Carre '19.

From Justice Calabresi, who served nine years as dean of Yale Law School, Peñalver borrowed what would become a central metaphor of his administration. "When I started thinking about pursuing the deanship at Cornell, Justice Calabresi was the first person I called," says Peñalver. "We talked about it, and he told me that a dean is a like a butler. That may sound falsely modest, but I think it's actually true. The butler is not an unimportant person in the household. He makes a lot of decisions that influence everything else, but fundamentally, the job exists to serve the household. That's really what a dean does, and it's one of those images I keep returning to."

It's come up again and again over the course of Peñalver's deanship, like the time when students asked him to create a First Amendment clinic. (He worked with Mark Jackson '85, who helped raise well over \$1 million to launch one of the premier First Amendment clinics in the country.) When students asked him to make teaching evaluations available online, he brought the students and faculty together to make it happen. When students asked him to add intercultural training to student orientation, he and Dean Miner started small and kept building. (Learning to engage in dialogue across difference is now one of the highlights of orientation.) When asked by students to switch from letter grades to pass/fail during the pandemic-disrupted semester, he tasked a faculty committee with student membership to consider the question. (They recom-

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I know that students think of Eduardo as being student-centered, but as an alum, I think of him as alumni centered," says Jacqueline Duval '92, a member of the Cornell Law School Advisory Council and president of the Mary Kennedy Brown Society. "He was really focused on making sure the alumni office was strong, and under his leadership, alumni connections have really shone. When people graduate, they feel connected, they stay connected, and that's a huge lift.



With Professor Celia Bigoness (left) and the winning teams from the 2017 Transactional Lawyering Competition



With Cornell Provost Michael Kotlikoff

mended a change to pass/fail for the spring 2020 semester, with virtually every other top law school following suit.)

In a pandemic year, Peñalver managed to balance all those interests while steering the Law School through uncharted territory of University COVID protocols, which were themselves responding to constantly shifting federal, state, and local guidance. Starting in mid-March, when the Law School shifted away from in-person instruction, along with the rest of Cornell University, Peñalver's team initiated a series of administrative, financial, social, and technological responses to maintain safety without compromising the



graduates have achieved impressive success in the job market, with 97 percent of last year's graduating class finding full-time work in positions requiring bar passage. This kind of success was a major factor in the loan financing company SoFi naming Cornell Law School one of the best values in the nation in 2017. SoFi reported that recent Cornell Law graduates made the highest salaries of any school's alums, earning an average of more than \$183,000 three years out of law school.



With painter William Benson at the May 2017 unveiling of a portrait of Jack G. Clarke '52

value of a Cornell Law degree—and then, after a break for summer, instituted a new set of protocols for the changing landscape of fall 2020.

"Eduardo adapted the law school environment as well as anyone could, as well as anyone did, anywhere, to the challenges of the pandemic," says **Franci J. Blassberg '77**, adjunct professor of law and member of the Cornell Law School Advisory Council. "He prioritized in-person classes for first-year students, which was critical. He realized many law students wouldn't be coming back for the fall 2020 semester, so he made Zoom teaching and learning easily accessible for both students and faculty, and he made sure class meetings and class recordings would work for international students. He wisely changed the times when second-year students apply for summer jobs, and he wrote to the bar examiners, asking them to permit remote classes. Each time, he had to reimagine a solution, and he did it all without missing a beat."

"These are very, very difficult days to be a law student," says **Gregory S. Alexander**, A. Robert Noll Professor of Law Emeritus, who coauthored *An Introduction to Property Theory* (2012) and coedited *Property and Community* (2010) with Peñalver. "There's the pressure to succeed, and if anything, it only increases at an elite law school, because you not only need to get a job, you need to get a prestigious job. And I've never seen a dean as single-mindedly focused on student life, every day, before and during the pandemic, who made students feel truly integrated within the school, made them feel happy to be at Cornell. Let me emphasize that: happy to be at Cornell."

On a 2017 trip to Thailand





With his son Siddhartha at the 2015 Reunion



For Alexander, who recommended Peñalver's hiring as a professor in 2006, at the end of three years at Fordham, cowriting and coteaching with Peñalver has been "like a lesson between master and student, because I owe far more to him than he does to me. He's incredibly smart, analytically acute, and a deep, quick, perceptive thinker." In Peñalver's writings, particularly *Property Outlaws: How Squatters, Pirates, and Protesters Improve the Law of Ownership* (2010, cowritten with Sonia Katyal), Alexander sees Peñalver's roots in Catholic I had the good fortune of working for some really extraordinary deans and being inspired by their examples.

social thought, which Peñalver studied for his master's in philosophy and theology at Oxford, taught as a professor at the Jesuit-led Fordham, and presented as the subject of his 2017 Faculty at Home seminar.

"My faith has had its ups and downs, and there are times when I feel closer to it and times when it's been more of a challenge," says Peñalver, who will be the first lay president to lead Seattle University. "My faith isn't the same as my dad's, who has always managed to fully integrate it into his life and work, but it's always been an important part of my identity as a person and as a scholar. I've always drawn insight and inspiration from the Catholic intellectual tradition, and I hope as dean I've done that at Cornell without imposing my values on other people, that my work somehow reflects those values and gives them light."

As he prepares to leave for the Pacific Northwest, Peñalver sees a commonality between Cornell's land-grant mission of "any person, any study" and Seattle's Jesuit mission of providing a progressive, values-driven education that emphasizes critical thinking, ethical reasoning, and public service. Located thirty-five miles north of Puyallup, where TESSLER on **PEÑALVER**

"It's a sadness to see him go, but I think it's good for Eduardo get back to his home territory," says **Allan R. Tessler**, an emeritus member of the Board of Trustees and life member of the Law School Advisory Council. "When we were seeking Stewart's replacement, I was very concerned that whoever filled his shoes should continue the work we started, including the partnership with Cornell Tech, and Eduardo has been a tremendously positive force in that regard. He's had a different vision but many of the same goals, and he's continued to build the future of Cornell Law, to keep that momentum going. That's a super achievement, and it's been incredibly satisfying to watch."

Peñalver grew up, Seattle U has 7,200 students, 65 undergraduate degree programs, a 50-acre campus in the city's First Hill neighborhood, and many of the same challenges Peñalver faced here in Ithaca. And just as at Cornell, his first priority will be listening, learning, and connecting with the people around him.

"When the announcement was made in October, it felt a little abstract, but now that I'm preparing for the move, it's feeling a lot more real," says Peñalver, whose wife, Professor **Sital Kalantry**, is joining the faculty of Seattle University School of Law and whose two teenage sons are looking forward to living near their grandparents, aunts, uncles, and cousins. "I'm going to miss coming into Myron Taylor Hall every day, and I'm going to miss the students, the faculty, the community, the alumni.

"I had the good fortune of working for some really extraordinary deans and being inspired by their examples," he continues. "I felt I might have an aptitude for it, and I thought the practicing lawyer part of my brain would really enjoy the problem-solving dimensions of administration, of helping things run better. What I didn't realize was that every day would be different, and no day would be exactly what I'd intended, no matter how much I planned. To me, that's been invigorating, and the times when the learning curve was steepest were also the times the work was most gratifying."

Eduardo saw the opportunity for creating an online master's in legal studies that really caters to business professionals," says Fouad Saleet, assistant dean for external education and Jack G. Clarke Executive Director of International and **Comparative Legal Studies.** "A focus on working professionals has made the difference between Cornell and other programs around the country, and that's why we've had more than three million hits on our marketing materials—three million hits we might not have had otherwise.

Cold Calling through a Pandemic

Faculty and Students Navigate Legal Education in the COVID-19 Era

by ian mcgullam



The COVID-19 pandemic overtook Cornell Law School in earnest in March 2020. Over the past year, students and professors have had to adapt to radical changes in what get-

ting, and giving, a legal education means first with the overnight transition to online-only classes, and then, as students were able to return to campus in the fall, in figuring out how to integrate online and in-person students into a cohesive whole.

As the anniversary of that first abrupt shift rolled around, the *Cornell Law Forum* spoke to faculty, students, and staff about how the Pandemic Year That Was reshaped the experience of teaching law, and of learning it.

It's a story of adapting to new technologies and new teaching modalities, but also of how old standbys persist. Although generations of law students have dreaded cold calls, numerous current students said the Socratic method has helped them stay focused through hours of Zoom calls. Sandile Magagula '22 said professors returning to cold calling has given things a welcome sense of normality. "Last March, when we went online, there was the understanding that, you know, this was new for everyone, so there was a lot more leeway given," Magagula said. "But I think just adding that structure back has definitely made things feel more real. You're still under the same pressure you were under in person."

Some professors have found that they've had to modify how they use cold calls to account for the new circumstances. In the Torts class **Tyler Rhoads '23** took last fall, he said that Professor **Valerie Hans**, wouldn't just question one student for an extended amount of time, but would bring in another a few questions later, and then ask another student to comment after that. "You were constantly required to be actively listening and engaged in forming opinions, rather than just like, 'Oh, two people are going to get called on today,'" Rhoads said.

The same semester, **Nelson Tebbe**, the Jane M.G. Foster Professor of Law, started out coldcalling at random, but, based on midsemester feedback, switched to assigning panels of students who would be on the hook for each class. Students logging on from shared homes said they liked knowing when they might be called on so they could coordinate quiet times with roommates.

Lexi Anderson '22 said that another helpful change was that professors now expect students to keep their cameras on, as opposed to the first semester of virtual learning, when classrooms full of black screens made it too easy to tune out. "The requirement to have the screens on just makes it feel so much more interactive and like I'm actually attending class," she said.



Professor Lienau teaching from her home office during the spring 2021 semester

Cold Calling through a Pandemic

Cornell Law School had already begun planning for a shift online as the COVID-19's scope became evident, but Cornell University's announcement on March 13 that classes would be suspended was still stunning.

Nonetheless, the Law School faculty and staff swung into action over a period of ten days to convert classes to virtual.

The Law School AV department drilled faculty on Zoom basics, distributing its stockpile of webcams, lights, and microphones to equip professors' home offices. Odette Lienau, the associate dean for faculty research and intellectual life and professor of law, shared with colleagues her personal class policies for students attending virtual classes—use "raise hand" rather than asking questions in chat, keep your video on-and they were quickly adopted and adapted, first by other Law School professors and then in other parts of the university. The Law Library took advantage of publishers relaxing copyright restrictions to digitize as much class material as possible.

Hans, the Charles F. Rechlin Professor of Law, remembers relying on the generosity of the wider law faculty community in those early days, as professors with virtualclassroom experience quickly put together pop-up workshops on best practices. In one, the leader split the larger class into breakout rooms. "I got a sense of what it was like to be a student in a classroom when you're being lectured at, and all of a sudden you transition into a breakout room with a small

number of other people. And it was fantastic. I went from being in a larger group where there was very little opportunity to contribute or ask questions, to interacting in a smaller group," Hans said. designates students at random to report back on their groups' conclusions, while Adjunct Professor **Marion Bachrach '77** has experimented with varying breakout rooms' sizes—it turns out her students preferred



Breakout rooms have proved a popular device to encourage conversations, but experience has shown that they need to be approached carefully, with groups given concrete goals. If there's no structure, discussion can bog down aimlessly, or a few voices can dominate. Tebbe

Breakout rooms have proved a popular device to encourage conversations, but experience has shown that they need to be approached carefully, with groups given concrete goals. the robust discussion that came from rooms with just three or four participants. Francisco Micheo '21 has appreciated professors who drop into breakout rooms; in a 160-student class where that wasn't feasible, Hans and her co-instructor Jeffrey Rachlinski, the Henry Allen Mark Professor of Law, enlisted law student teaching assistants to organize the breakout room discussions and ensure all of the students had a chance to contribute.

Teaching grew even more complex as it became clear that a return to campus in the fall was possible, with students signing a Behavioral Compact that mandated social-distancing, masks, and frequent testing.

Some classes remained totally online. In others, some students attended class in person, with others who either had elected to stay virtual-only participating via Zoom. A third "hybrid" model saw students who elected in-person learning rotate between being in the classroom some days, and "Zooming" in others.

Experiential classes like clinics and smaller lecture classes that could still function with social distancing got priority for in-person classrooms. However, above all, the Law School wanted to give 1Ls the opportunity to take classes in person.

"The first-year experience in the classroom is really central to the whole law school experience, and it just lays the foundation for everything that comes after," said Professor 90

The first-year experience in the classroom is really central to the whole law school experience, and it just lays the foundation for everything that comes after.

— Professor Eduardo M. Peñalver

Eduardo M. Peñalver, who served as the Allan R. Tessler Dean until the beginning of 2021 when he stepped down in preparation for taking a new post as Seattle University's president in July. "Part of law school is the kind of terror in the first-year classroom of being called on, and having to compose yourself and generate a response. It really does develop a confidence in your ability to think on your feet."

Of course, the new reality meant that a lot of iconic 1L experiences have been altered. The Law School has tried its best to come up with ways to give 1Ls an engaging introduction to their time at Cornell, from leaving the tents up on campus to give students a place to gather to hosting orientation events on Zoom. Some ended up working better than others—it's a lot easier to connect with a new classmate you're sitting next to during an inperson panel discussion than in a Zoom lecture, **Leah Toney '23** said. Still, she added, "We as 1Ls came in pretty eager to learn and to participate, and just kind of get the most out of what we could "

"So many people have said, 'Oh, we're so sorry this is your experience, that you're missing out on these things,'" said Rhoads.

"But for us, we haven't ever experienced 1L or law school before. And so it's really not all that shocking to us, because we didn't really know what we were going to experience coming into it. It's hard to know what you're missing if you don't have an experience of the alternative."



Cold Calling through a Pandemic

A decade ago, in the aftermath of the much smaller disruption caused by the swine flu pandemic, the Law School had already started to install cameras and microphones to allow remote access to classes.



However, more than \$100,000 in tech upgrades have been necessary over the past year to bring all of the classrooms up to modern standards and enable the variety of new teaching models necessitated by the pandemic. The Law School's AV team, Michael d'Estries and Rvan Schmohe, installed banks of beam array microphones in classroom ceilings, first hacking together systems using consumer-grade equipment in the fall and then putting in more sophisticated gear as supplies became available. "They can actually pinpoint where a student is talking in the room and all focus on that student," d'Estries said. "And it also triggers a camera at the same time. So, if you're in the audience, and you start to speak up, the camera shifts from the instructor, and it follows you intelligently."



The result is that a discussion can play out between a professor and students in a physical classroom and others online, with mics picking up individuals on-site and speakers transmitting what virtual students are saying to the classroom.

"This is an important thing that a lot of people will remember from their time at Cornell: a professor very deliberately and carefully sets in motion a particular conversation, which then develops between the students, and then the professor sits back and makes discrete interventions at the right moment," said **Jens Ohlin**, interim dean and professor of law. "If you're only picking up the audio at the podium at the front of the class, you're not getting the full effect of the pedagogy."

Professor Heise teaching an Education Law class in the spring 2021 semester

Even after a year of upgrades, though, there's still room for improvement, and rustling papers and tapping keyboards next to mics can result in frustration. "There are definitely times when online students can't hear other students speaking when they're getting cold called because microphones don't work or the cameras don't work, so vou don't know who's talking when," said Toney.



Teaching from home offered some unexpected props for Professor Lienau in the form of her children's toys

Faculty and students at the Law School haven't been spared the pandemic's great blurring of boundaries between professional and home life. They log into virtual classrooms from spaces shared with family members and roommates, and juggle their educational responsibilities with those of parents and caregivers.

"Every once in a while, there will be an acute need for parenting that comes from outside the door," said Tebbe, who splits the day between his roles as law professor and dad. "You just have to hope that students are understanding about that, and then also remember that when the same thing happens with students."

Lienau had to figure out how to adapt her classroom style to teaching from her guest room. Prepandemic, she had been a big proponent of traditional blackboards to help students keep track of where the money was going as she taught subjects like international economic law and bankruptcy law. "It's all about flows of money," she said. "And so I like to draw the flows." In the beginning, Lienau tried out various replacements, including a little easelmounted blackboard and corporate-brainstorming-



Market Constants

the fall, she figured out how to use a document camera to let students watch her clearly as she drew.

Teaching from home also offered some unexpected props, in the form of her kids' toys. "Doc McStuffins played the third-party financier contemplating a transaction, and then the target asset was a little Lego building," Lienau said.

Micheo has been attending virtual classes from his family's home outside of San Juan for his final semester and enjoying the distinctly un-Ithaca-like weather, but Puerto Rico's lackluster internet connectivity can make following along a challenge times you'll be in a Zoom class and you'll get called on, and the neighbor's gardener will be going off, or there's a loud car in the street."

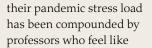
There are advantages to virtual learning. **Nathalie Greenfield '21** found she preferred her more expansive home setup, with dual monitors and space for books and unlimited tea. "You can look a case up online if someone's talking about a particular issue in class that you're like, 'I have no idea what we're talking about right now,'" Greenfield said.

Some students have expressed frustrations that

For people coming into their professional identity, they have to figure out, what does this mean for me? In my everyday life, my life can literally be choked out of me, and I'm learning to uphold the rule of law in a system where the rule of law may fall short.

— Dean of Students Markeisha Miner

session-style pads of paper, but visibility over Zoom remained subpar. Finally, in at times. "I'm getting half of what people are saying," Micheo says. "And then some99



Cold Calling through a Pandemic

they need to assign more work than usual to compensate for not being physically in class. "What helps is [when professors acknowledge] the challenge that we have in front of us instead of, you know, pretending that it's normal," said Toney. "I think that helps to orient ourselves so that we know we're all in this together instead of 'okay, let's just chug along.""

And, of course, the pandemic and law school finals haven't been the only sources of anguish over the past year. The racial-justice reckonings triggered by the killings of **George Floyd**, **Ahmaud Arbery**, **Breonna Taylor** and other Black men and women would have been difficult enough in a normal year.

But, add a pandemic and everything became ten times more difficult.

"Everybody was fatigued. There was pandemic fatigue and there was the fatigue of having to speak up to affirm your own humanity," said Dean of Students Markeisha Miner. "For people coming into their professional identity, they have to figure out, what does this mean for me? In my everyday life, my life can literally be choked out of me, and I'm



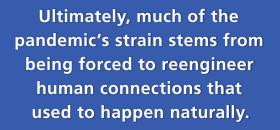
What helps is [when professors acknowledge] the challenge that we have in front of us instead of, you know, pretending that it's normal.

learning to uphold the rule of law in a system where the rule of law may fall short."

Magagula had just been elected as the treasurer of the Cornell Black Law Students Association that spring when BLSA was forced to launch into action, releasing statements and organizing virtual events where members could support one another and vent their frustrations. "On top of all your law school stuff, you're also having to carry that," he said. "It can definitely be a mess of responsibility."

Whatever the cause of hardship, Miner's office offers itself as a resource that can point students towards support and accommodations. Miner recalled a student who reached out after they had tested positive for COVID-19 and was having difficulty attending their remote classes. "I sent a message to those professors, without disclosing their confidential information, that just says the student is dealing with a difficult situation, and any flexibility you can extend to them I would appreciate," Miner said. "Because we're such a close knit and small community, our faculty understands that they don't need to know the details."

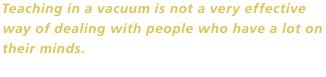




Professors have gone entire semesters without ever meeting their students in person. When they do see each other, it's just from the nose up. Rhoads recalled taking Civil Procedure his first semester with Professor Barbara Holden-Smith. "She's one of the sweetest people I've met, but whenever she's teaching, it can be quite intimidating," he said. "With masks on, it's hard to tell what people's faces are doing. And so I remember the first day she told a joke, and no one laughed, because everyone was scared of her. And then she was like, 'You can't see it, but I'm smiling under my mask. That's a joke, guys.'"

The Business Organizations class taught by **Dan Awrey**, professor of law, is listed as in person, but two-thirds of the class tunes in online, including about twenty-five who attend asynchronously because they're living in Asia. Besides the class proper, Awrey has started holding two seminars where students can discuss the week's material and ask questions one starting at 7:30 a.m. on

Teaching in a vac





Fridays so that the asynchronous students can attend, and another for the real-time students. "Because students are so isolated, and because they don't have that many opportunities for interaction, for a class that big I just thought that this was a way



to at least show willingness," Awrey said.

Getting ready for her Ethical Issues in Criminal Investigation, Prosecution, and Policy seminar in the fall, Bachrach was searching for ways to bridge the virtual-classroom divide, and she also knew that she couldn't just stick to business as usual if her students weren't living through multiple compounding crises. One way she approached the

dilemma was by offering the opportunity to write a—totally optional—paper sharing a time when they had dealt with "the other" or an oppositional force. Despite all the other work they had, more than half the class felt moved to share their experiences. It provided an on-ramp for class discussions about people and institutions that transgress the rules, but it also gave her an unusually intimate view into her students' lives.

"Teaching in a vacuum is not a very effective way of dealing with people who have a lot on their minds," Bachrach said.



FACULTY ESSAY: Learning How to Teach Again

by BRAD WENDEL



I was in the last year of my term as associate dean for academic affairs when news reports started trickling in of a new potentially dangerous and highly contagious respiratory virus. The dean at the time, Eduardo Peñalver, thought it might be prudent to have a meeting with all the Law School senior administrators who could have any role in a response to a pandemic. This was before "pandemic" was a word in common usage, before Tom Hanks tested positive for COVID-19, before the NBA abruptly stopped playing games, before most people not in the health professions owned a face mask, and before anyone had heard of Joe Exotic. I figured out immediately that the best thing for me to do would be to get out of the way and let some very talented professionals take care of things within their areas of competence. Our facilities, library, information technology, audiovisual support, and student support departments were already thinking about how they could respond if the unthinkable happened-which of course it did.

By mid-March 2020, Law School classes had gone fully remote. A heroic effort by our IT support staff resulted in a substantial number of not particularly tech-savvy faculty members figuring out the quirks of webcams, home internet access, and the ubiquitous Zoom platform. More important, however, faculty had to rethink law teaching from the ground up, and do so in a matter of weeks. The traditional law school Socratic classroom experi-



ence is difficult to replicate online. Experienced teachers read the room to see whether students are following the discussion or getting confused. Tone and body language help soften what could otherwise come off as an intense grilling process. Eye contact with other students keeps them involved while someone else is on the hot seat. All of this is lost in the Zoom environment, with its Brady Bunch grid of faces, raising of little blue hands, reminders that "you're on mute," connectivity issues, and awkward pauses to avoid talking over each other. Techniques like polling and breakout rooms helped to some extent, but going online still represented a fundamentally new approach to teaching. The challenges were, if anything, even greater for clinicians and teachers in the Lawyering program,

The traditional law school Socratic classroom experience is difficult to replicate online. Experienced teachers read the room to see whether students are following the discussion or getting confused.

whose teaching methods depend on individualized, face-toface interactions with students.

We improvised our way through the spring, and that semester's course evaluations reflected the students' sense that we were doing the best we could under difficult circumstances. As the summer progressed and it was clear we would not be back to in-person teaching in the fall, however, the faculty

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applied.

as do the majority, the District Court and cial victim ordunneement was imp the state court. It would scarcely be wrong to criticize him for, as the District. Court stated, being "a human being," However, because at the time of the discle sure Morea was playing a critical and unique role as McClure's defense attorney. I cannot sametion his behavior. It seems that the time has come for Meern to take responsibility for the choice he made to breach his client's confidence and for a court, Heis court, to recognize that whether or not Meena did the "right" thing does not diminish the fact that his doing so constitated an abdication of his professional duties and receivered his performance as McChare's defense attornoy deficient under the Sixth Amondment. Meeca's coneern for the children is certainly under-

Affirmed in part, reversed in p remanded.

L Sentencing and Punishment @ 972

In order to support a sente hancoment under guideline for pe of a firearm or ammunition in co with another folony offense, a preance of the evidence must show defendant possessed a firearm in tion with mother folony. § 2K2 1(b)(5), 18 U.S.C.A.

2. Sentencing and Punishment

Evidence at sentencing in pro possession of a firearm by a pr dicient to

pointed

1452; Doe, 155 F.3d at 1074; Phoenix Eng'g & Supply Inc., 104 F.3d at 1141. The district court believed Mocca's account at the evidentiary hearing, dishelieved McClare's, and found the discrepancies in Mocca's testimony to be "minor." Because there are "two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneeus." Working. 224 F.3d at 1102. We therefore hold that McClure gave his consent to the disclosuro.

b. Consultation

[10] However, the more fart of consent is not sufficient to excuse what would otherwise he a breach of the duty of confidentiality. Consent must also be informed. That is, the client can provide valid consent only if there has been appropriate "consultation" with his or her attornoy. Meeca's consultation with McClure regarding his consont to disclosure was addressed in the state court and district court findings. Both courts found that Mecca did not advise McClure about the potential harmful consequences of disclo-

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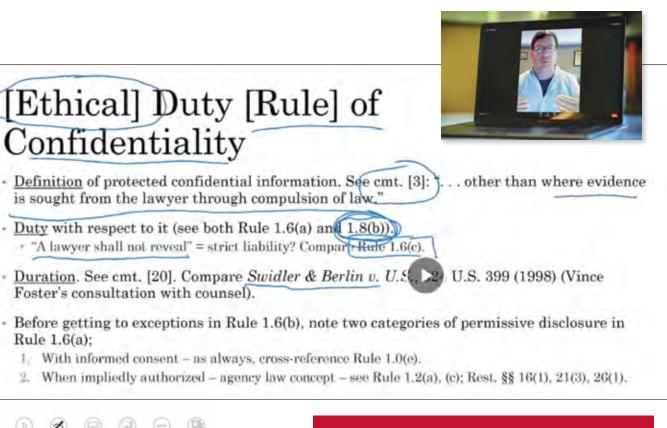
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and administration began to think about how to do remote instruction more effectively. While most classroom teachers had been doing the same thing we've been doing for years, others in the university and elsewhere had been systematically studying online learning. The most important finding is that effective online teaching does not simply try to replicate an in-person class. Straight lecturing isn't a particularly good way to facilitate learning even in a live classroom, but it is deadly on Zoom. Even the most well-intentioned students have a hard time staying focused on a talking head on a screen. The technical aspects of distance learning create additional challenges, some of which raise important equity concerns. Although the Law School made computers and other hardware available to students who could not afford it, there is still the issue of students' in-home environment. Not all of our students can go back to a house with a private room, reliable home WiFi, and fast internet connections. Our students are also scattered all over the globe, so an online course needs to be just as accessible in Seoul as in New York City.

Taking these considerations into account, I opted to try something very different for my large Professional Responsibility course. The Law School has partnered with eCornell, the university's distance learning unit, to develop a Master's degree program in legal studies, aimed at midcareer professionals in the technology and health-care sectors. I am building a course in The guiding principles of the eCornell designers are short video segments, a very high degree of interactivity, and frequent feedback. The idea is not to merely impart a lot of information, but to get the students involved in doing something.

Business Ethics for the Master's program, and had been working with instructional designers at eCornell to optimize the class for the online environment. The guiding principles of the eCornell designers are short video segments, a very high degree of interactivity, and frequent feedback. The idea is not to merely impart a lot of information, but to get the students involved in doing something.

Much of August was taken up with recording videos and designing interactive exercises. In-house tech support, otherwise known as my twenty-year-old son, helped me configure videorecording software, buy a decent webcam, and connect to a tablet so I could doodle on my PowerPoint slides while talking. The result was far from eCornell quality, but not bad for something cooked up in my home office. The videos were uploaded to the course website, where the students could watch them whenever they had time and a bit of peace and quiet. If the connection was glitchy, no problem—try again later. I transformed many years of exam questions and in-class examples into interactive questions for the students to complete as part of each week's assignment. Much is lost in the online environment, as compared with an ideal Socratic discussion. There is no way to follow out a conversation to the end, drill down deeper into an issue that the class finds interesting, or adjust the coverage in the moment. But a high-quality discussion can be difficult to facilitate in a large survey class like Professional Responsibility. If you're standing in the well at the bottom of a large lecture hall, looking up at a sea of 135 faces, you're already kind of a talking head

During my time as associate dean I learned just how good many of my colleagues are at teaching large upperclass courses. Since even experienced teachers can find ways to improve, we may be able to take lessons from the adaptations we were forced to make during the pandemic.

- Brad Wendel

The questions were loaded into the system along with pre-written feedback, so that an incorrect answer on a quiz would result in an explanation. For example, if a student chose an option, "No, the communication with the client was not protected by the attorney-client privilege because it was not made in anticipation of litigation," the course management software would automatically respond, "Incorrect—anticipation of litigation is an element of work-product protection, not the attorney-client privilege." In this way, the quizzes could function as part of the learning process, pushing out additional information in an interactive format. I was available to provide guidance, through online discussion boards and regularly scheduled Zoom office hours.

Of course, the proof of the pudding is in the eating, and the question was whether the students would be able to handle complex issues of conflicts of interest, privilege and confidentiality, malpractice, litigation misconduct, and other staples of Professional Responsibility. I was pleasantly surprised to read the students' answers on their midterm and final exams and discover that, if anything, they were better than those in the usual in-person course. It seems that the eCornell methodology is onto something—frequent interactive exercises can push the students deeper into the material, forcing them to really grapple with some of the hard questions in that moment, rather than pushing off the learning to some future exam-preparation session. on a video screen. During my time as associate dean I learned just how good many of my colleagues are at teaching large upperclass courses. Since even experienced teachers can find ways to improve, we may be able to take lessons from the adaptations we were forced to make during the pandemic. I will be adding more interactive components, including frequent quizzes, and will try to break up the live class into shorter segments.

Some fear that the pandemic will hasten the transition to distance learning, but in legal education at least, that is unlikely. The ABA and New York Board of Law Examiners, who regulate our curriculum to a significant extent, waived many of the restrictions on distance learning during the pandemic. Once we receive the all-clear to resume in-person instruction, I would be surprised if the regulators renew those waivers. We all understand the value of in-person education, and we miss it, too. Being in the classroom is energizing, and it is much harder to get to know students online. No one wants to continue online or hybrid classes for a minute longer than public health considerations warrant. But many of us are taking stock of lessons learned as a result of adapting to the world of social distancing and online learning, and thinking about ways to incorporate those lessons into the traditional live classroom environment.

PROFILES

Justin Cajero Reaches New Heights

Higher education was never in **Justin Cajero's '20**, plans. No one in his family, and few people in his hometown, had attended college. Upon graduating high school, Cajero had two main options: work at the local poultry plant or join the military. He chose the latter.

"Fortunately, I had a teacher who saw something more and

What impressed me was how well the teachers were trying to know you on a personal level from day one. They really try their best to get to know you and guide you both personally and professionally.

— Justin Cajero

expected more," he says. "That teacher filled out a scholarship application for me at a military school in Georgia that enabled me to join the military and go to college at the same time. It was at that school that I realized all of the opportunities that the military could provide."

Cajero earned an A.S. at Georgia Military College in 2006 and went on to earn a B.B.A. in international business from Florida International University in 2009. Afterward, he served in the U.S. Armed Forces as an AH-64 Apache helicopter pilot, a company commander in Afghanistan, a ground force liaison officer in Iraq, and a theater security cooperation partnership officer in Kuwait. He received a number of honors for his service, including a Bronze Star in 2014 and a Defense Meritorious Service Medal in 2016. Along the way, he also attended the U.S parachutist school, air assault school, and U.S. Army S.E.R.E (the army survival school).

While in the military, Cajero learned about the impact of U.S. foreign policy on the world and became interested in law. In 2017, he enrolled at Cornell Law School, attracted by the small class sizes and job-placement success rate.

"What impressed me was how well the teachers were trying to know you on a personal level from day one," he says. "They really try their best to get to know you and guide you both personally and professionally."

He was particularly influenced by Adjunct Professors **Richard Ross** and **Mark Underberg**.

"They were outstanding professors at the Cornell Tech campus, and I learned a tremendous amount from both of them, from an academic and career perspective," notes Cajero.

He says Underberg's Practical Lawyering course was especially useful for the one-onone detailed explanations and feedback the professor provided on legal-writing assignments. He also appreciated





that Professor Ross, despite being a partner in a prominent law firm, went out of his way to be a resource for his students.

Cajero delved into his law school experience, participating in the Latin American Law Student Association, the Cornell Law Veterans Association, and the Cornell First Generation College Student Association. His academic achievements included earning a CALI Award for his top grade in the Internet Transactions course.

Meanwhile, he was preparing for the next step. He spent the summer of 2018 as an intern at Woods Oviatt Gilman, in Rochester, New York. The following year, he was a summer associate at Foley & Larder, in the Dallas/Fort Worth area. Then 2020 happened.

Graduating during the early months of the pandemic came with a lot of uncertainty. He notes, "I registered for three bar exams in three states over a period of two months, because transferability issues, timing issues, and cancellation issues kept impacting the bar exams. On top of bar exam stress, you also had to deal with delays—and the underlying worry of canceled-forever start dates with the law firms."

Ultimately, however, Cajero did start his career, returning to Foley & Larder, where he is now an associate in the firm's Business Law Practice.

Looking back at his unlikely journey, he observes, "It has

been an uphill climb, but I am grateful and happy for having these opportunities along the way. Since no one in my immediate family—mom, dad, brothers, grandparents, aunt, uncles, or cousins—has ever gone to college, it has been exciting to get the opportunity to seek higher education, and it was even more exciting to get to go to a school like Cornell."

A conversation with Associate Director of Alumni Affairs **Carlos McCluskey** inspired Cajero to recognize that experience by participating in the Class of 2020 Gift Campaign, which he says has been fun. "Cornell Law School is a great school and experience purely because of the effort and support put in by the current faculty and alumni."

For all he has achieved as a first-generation college and law school graduate, a decorated military veteran, and a

new lawyer, the thing that brings Cajero the most pride is his marriage. "I married my high school sweetheart in 2016. We've made it through three military deployments and her educational pursuits (she is an orthodontist) to get to where we are today. We've had to work at constantly finding time for each other throughout the years, and somehow we have made it work."

Their family also includes three dogs—Dobermans Tosha and Copper and "walkon adoptee" Nena—who, Justin says, "consume a lot of my daily life." And while he does not get to pilot Apache helicopters anymore, he does still occasionally find time to fly airplanes. As for his work with Foley & Larder, what excites Justin most is also what motivated him to pursue a law degree: the chance to continue learning.

"As a transactional associate, I have the opportunity to work on my firm's acquisitions, venture capital deals, and securities transactions. In these types of transactions (especially in the first two) you really get to go through all the inner workings of what makes a company tick," he says. "If you are a person who is inquisitive and who likes to see how things are made, it's the perfect job."

~OWEN LUBOZYNSKI



LEFT: Cajero (right) in Afghanistan in 2013 with Carlos Martinez, his former college roommate at Florida International University. RIGHT: Cajero with his wife Dr. Colby Cajero and their dogs Tosha (left) and Copper.

Michael Atkinson, Intel Watchdog Who Refused to Look the Other Way

On August 15, 2019, **Michael Atkinson '91** found himself reading the whistleblower complaint that would lead to the first impeachment of thenpresident Donald Trump.

"What struck me initially," he says, "was how the politically explosive nature of those allegations, which posed an existential political threat to the president of the United States and, to a less extent, the prospects for his party, would put Congress's normally nonpartisan protections for whistleblowers and inspectors general to the ultimate test."

The weeks and months that followed would also put Atkinson's fortitude to the test, as he grappled with stonewalling, and retaliation, from the administration that had appointed him as its intelligence watchdog.

Esprit de Corps

Atkinson's journey to this moment began in Pulaski, New York., where he grew up in a small fishing and farming village. He earned an undergraduate degree from Syracuse University and worked for two years as a legal assistant for a law firm in Washington, D.C., before enrolling at Cornell Law School.

He chose Cornell for its reputation and its location—and its offer of generous financial support didn't hurt. "Deciding to attend Cornell Law School was one of the easiest—and best—decisions I ever made in my life," he says.

At law school, Atkinson participated in moot court and trial advocacy classes, taught by Clinical Professor of Law **Glenn Galbreath**, that helped him see a trial practice as

> Deciding to attend Cornell Law School was one of the easiest—and best—decisions I ever made in my life

— Michael Atkinson

something he could enjoy and for which he might be suited.

"Unlike some of my other classes, I never considered those to be work, even though I probably put more effort into them than any others (except for Property I and II, which were brutal)," he recalls. "I also especially liked the team aspects of those activities. I figured that if I could get paid for doing something that I enjoyed so much, and have the opportunity to work closely together with really talented people, then that could make for a rewarding career in more ways than one."

Another rewarding collaboration, and pivotal law school experience, was meeting his future wife, **Kathryn Camer**- **on Atkinson '92**, now chair at Miller & Chevalier in Washington, D.C.

Atkinson remembers that he arrived at school expecting to work hard and be surrounded by very bright classmates. "What I had not really expected was the camaraderie and shared support that existed at Cornell Law School, which

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came out during small group study sessions, many nights in the law school library, and drinks and pool at the Chapter House."

He notes, "I am a naturally introverted person, which I am sure my law school classmates would attest to, but I felt very comfortable at Cornell Law School. I thank my professors and classmates, and especially my two roommates, for that sense of comfort and inclusion. I have tried to model and capture that sense of authentic collaboration, open-mindedness, and esprit de corps throughout my career and as part of the organizations that I have led."

After graduating, Atkinson joined Winston & Strawn, in

Washington, D.C., where he focused on white-collar defense, internal investigations, and complex civil litigation. He was a partner at the firm from 1998 to 2002.

Subsequently, he spent fourteen years as a prosecutor with the United States Department of Justice, serving leadership roles in several departments. In May 2018, he became the inspector general of the intelligence community.

The Whistleblower

The whistleblower complaint that landed on Atkinson's desk in the summer of 2019 concerned a July 25 phone call between Trump and Ukraine's president, Volodymyr Zelensky. According to the whistleblower, Trump pushed Zelensky to investigate Joe Biden and his son, Hunter.

Finding the complaint credible and an urgent national security concern, Atkinson was legally required to send it to the director of national intelligence, who was in turn legally required to send it Congress. When Joseph Maguire, the acting director, declined to do so, and the Department of Justice put up roadblocks, Atkinson contacted congressional intelligence committees directly to report that he had received a credible complaint he was not being allowed to disclose.

After the resulting scrutiny forced the White House to release details of the call, the House Intelligence Committee



Michael Atkinson's confirmation hearing before the Senate Select Committee on Intelligence on January 17, 2018, to be the Inspector General of the Intelligence Community. His wife, Kathryn Cameron Atkinson '92, is in the background.

began an investigation, and in December 2019, the president was impeached. He responded with vitriol toward Atkinson and, the following April, fired him. Meanwhile, lawmakers disclosed the whistleblower's name to conservative media, and the whistleblower was reportedly bombarded by death threats.

Atkinson notes that a poll conducted by the Government Business Council, the same month that the impeachment proceedings concluded, revealed that one in three federal workers said they were less likely to "report an act of perceived wrongdoing to the appropriate authorities." He adds, however, "The good news is that half of the respondents said that Trump's attacks would have no impact on their willingness to expose malfeasance, and 16 percent said they were now more likely to blow the whistle."

In a public statement issued after his dismissal, Atkinson urged government employees, "Please do not allow recent events to silence your voices."

While Atkinson's integrity and competence were publicly questioned by Trump and his allies, he also had many defenders, including a group of former colleagues and a group of law school classmates, both of which published letters of support. "I was also fortunate to receive many private statements of support from friends, law school classmates, colleagues in both the U.S. and abroad, and people I had never met," Atkinson says. "I also have received some pretty funny text messages, and enjoyed a nice Zoom call, about the events with my two former law school roommates, Abel Montez and Randal Acker. The response from colleagues and friends has meant the world to me."

Since last April, Atkinson has given some guest lectures at universities and law schools, including Cornell. This February, he started a new job as a partner at Crowell & Morning, joining its White Collar and Regulatory Enforcement and Investigations group and coleading its national security practice.

Team Effort

Two things have stuck with Atkinson since the whistleblower affair: first, "the bravery of the public servants—the whistleblower and the impeachment inquiry witnesses—who spoke up about the alleged wrongdoing, in the face of enormous personal and professional dangers, to protect the rule of law and for the common good"; and second, "how fragile the norms of protecting whistleblowers and inspectors general turned out to be in the context of such a political firestorm."

He notes that he gets a lot of individual credit or blame for the incident, "usually depending upon one's political views," but wishes more people knew about the courage and support that others displayed behind the scenes.

"I could not have accomplished what I did without the mutual and moral support from my colleagues," he says, "particularly the courage and competence demonstrated by the three other core members of the team that I assembled to review the whistleblower's complaint."

He adds, "I also think people should know the role that other inspectors general provided in terms of supporting my former office as part of that whistleblower complaint and the continuing role they play to protect current and future whistleblowers. This was and remains—a true team effort."

~OWEN LUBOZYNSKI



Jackie Davidson Helps the Tampa Bay Buccaneers Win the Super Bowl

"In Alabama, football is kind of a religion," says Jacqueline (Jackie) Davidson '05, who grew up in Tuscaloosa.

"It comes with the territory," she says. "I remember watching the pageantry of the 1991 Super Bowl when I was almost ten, hearing Whitney Houston singing the Star Spangled Banner and having a feeling of euphoria that was almost like falling in love."

But it wasn't until she was older and watched the movie *Jerry Maguire* that she saw a potential role for herself in the game.

"That's when I was introduced to athlete contracts and sports representation," say Davidson. "That's what appealed to me early on. Before that, I had no concept of the behind-thescenes work involving how athletes got to play on the field."

Named director of football research last July with the Tampa Bay Buccaneers, Davidson came to the Bucs after working for the New York Jets from 2007 to 2018, the last three of those years as chief negotiator of player contracts. She is the highest-ranking woman of color across the thirty-two front offices in the NFL. Her expertise is in salary cap management. And, although she has

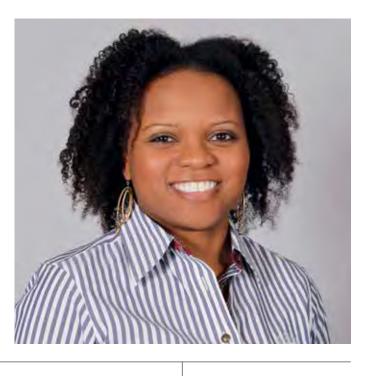


only been with the team for about a year, Davidson is credited with being a key reason the Bucs were able to win the Super Bowl this season.

A week before Tampa Bay's decisive 31-9 victory over the Kansas City Chiefs gave them their second Lombardi trophy in franchise history, the Bucs general manager Jason Licht was quoted as calling Davidson "brilliant" in a news story in the *New York Post*, adding: "She has made an impact already in her first year."

And former New York Jets general manager Mike Tannenbaum, whom she'd worked for while at the Jets, called her a "rock star." He credited her with being the linchpin in ending that team's contract stalemate with former cornerback Darrelle Revis in 2010, among other things, as per that same January, 28, 2021 *New York Post* story.

"It didn't take long to sell me on the job with the Bucs," Davidson says, "because it combines all the things that I like to do. I like negotiating player contracts, putting things together on the salary cap side. And I like data analysis," adds Davidson, who, in addition to her Cornell Law School studies, majored in



economics as an undergraduate at Davidson College in North Carolina.

"I can't think of anyone better at this than Jackie," says **Mike Greenberg, B.S. '07**, Cornell, director of football administration with the Bucs, who first got to know Davidson back when he was a law student at Hofstra, and interned for her while she was working for the Jets.

"She has a plan, is able to project the market, find creative ways to structure deals, is also creative about salary and phenomenal about drafting contract language," Greenberg asserts. "Recently we were working on a deal with a lot of obstacles. Jackie was staring at the board with all the figures, saying: 'It's here, I know it's here'—and in two minutes she had the solution."

- "Overall, my job can be whittled down to trying to help the organization make more efficient and more informed decisions," says Davidson.
- "Whatever components go into team building, whether that's data modeling, data analysis of the contract statistics, trades."

Her secondary duty—which has become more primary since free agency started—is to assist Greenberg with contract negotiations and managing the salary cap. "Essentially that's what my background is in," says Davidson. Interestingly, Davidson doesn't see herself as a tough negotiator, "although my mom might say otherwise" she hints. "I think I'm more of a problem solver. Sometimes problem solving means towing the line, and sometimes it means active listening, asking what's important to the other side," she explains.

When Davidson decided to apply to law school, she says, "It was not necessarily to practice traditional law, but to gain a skill set and a degree that I wanted to have." She chose Cornell because she liked its small size and the way it handled the entire admissions process, plus "you can't beat an Ivy League degree."

Davidson's career in sports management actually began with a Law School course she took on sports law with **William "Buck" Briggs, B.S. '76**, Cornell, an attorney with the National Football League Management Council, who

taught the course as an adjunct professor for close to thirty years.

"She made her interest in a possible career in sports management known to me early on and was one of several of my law students who did an externship at the NFL Management Council when I was an attorney there," Briggs recalls.

"Looking back, I was a wideeyed intern," says Davidson. "I didn't know what the day to day was like. A lot of what I did was baptism by fire."

"She was astute enough to realize the importance that research and analytics play in contract negotiations at NFL clubs," says Briggs, "and she was able to lay a solid groundwork in those areas to open the doors to club employment."

Davidson says that the externship "was a very eye-opening experience, in terms of learning about an area I hoped to go into."

Other courses that stood out for her include Civil Procedure with **Kevin Clermont**, the Robert D. Ziff Professor of Law, and Trial Advocacy, during which "my trial partner and I put on a case that was so much work but also very gratifying and a lot of fun," she says.

"I met Jackie when she was assigned to me as my mentee through BLSA [the Law School's Black Law Students Association]," says Shameka Walker '04. "We hit it off immediately and have been friends for nearly nineteen years now. She was a bridesmaid at my wedding, and we continue to communicate often."

Of Davidson's career successes with the NFL, Walker says: "I'm very proud of her, but not at all surprised. She is quiet and laid back but also hardworking, dedicated, and has tremendous determination. And as a friend she is understanding, generous, and has been there for me," Walker asserts. "She is reserved, but she has a huge personality and a big heart.

As an African American woman holding a high-level position in the NFL, Davidson often finds herself in the spotlight in national sports media, fielding a lot of questions about what that's like. Unsurprisingly, she handles it all with much grace and humility, say colleagues and friends.

In a recent interview, Davidson said one role model for her is Katie Blackburn, the first woman to be chief contract negotiator in the NFL and who is currently executive vice president of the Cincinnati Bengals. "I got to meet her when I interned at the league office in 2005," recalls Davidson. "I remember being kind of blown away that this was Katie Blackburn, and she did a lot of the things that I was hoping to do in the future."

As to Davidson's own pathbreaking successes, she says: "I'm very fortunate to be in a position to inspire others. It is not something I take lightly, and if I am that to someone, then I'm very humbled and appreciative.

"I didn't and still don't have a sense of myself as being a trailblazer," Davidson asserts. "I recognize the importance of visualizing people who look like me in certain spaces. I recognize that it matters. But I don't see myself that way. I'm still the same Jackie Davidson who grew up in Tuscaloosa, Alabama."

~LINDA BRANDT MYERS



Davidson was featured in a 2017 video series produced by Secret antiperspirant and the NFL to celebrate women in the football industry who are breaking down cultural barriers.

RIEFS

Legal Information Institute Breaks Record with Surge in Traffic

As Congress prepared to certify the results of the November presidential election on January 6, the law governing the counting of electoral votes was a trending topic on Cornell Law School's Legal Information Institute (LII), a pioneer in providing open access to

We consider ourselves researchers, and we're looking for ways to make the law more available to more people.



U.S. legal information online. Those topics changed abruptly when a mob stormed the U.S. Capitol that afternoon: The Constitution's Twenty-Fifth Amendment became the website's most visited page, along with the sections of the U.S. Code criminalizing rebellion or insurrection, seditious conspiracy, and advocating the overthrow of government.

The more than 542,000 unique visitors to LII on January 6, and 516,000 the next day, represented the site's two busiest days since the Supreme Court handed down Bush v. Gore two decades ago. The heavy traffic continued the trend from a record-setting 2020, when LII welcomed roughly 39 million unique visitors—up from 33

million the year beforeboosted by a steady stream of major headlines: impeachment,

Codirectors Sara Frug and Craig Newton '07 said the growing traffic has helped validate the institute's theories, techniques, and mission.

"We consider ourselves researchers," Newton said, "and we're looking for ways to

make the law more available to more people."

Run by a team of eight technologists and legal experts, the nonprofit institute founded in 1992 by Thomas Bruce and **Peter Martin**, the Jane M.G. Foster Professor of Law, emeritus, and then-dean of Cornell Law, set out to enable everyone "to read and understand the laws that govern them, without cost."

In addition to the U.S. Code compiling all federal laws, LII

LII Website Traffic

500K

400K

300K

200K

100K

WEBSITE VISITORS



resources include the U.S. Constitution and U.S. Constitution Annotated (a Congressional Research Service publication), the Code of Federal Regulations, and federal rules of procedure, along with original content including a Wikipedia-like legal dictionary and encyclopedia, and commentary including Supreme Court case previews.

The laws, regulations, legal definitions, cases, and key subjects are indexed, cross-referenced, and explained in ways that make them easier to navigate and understand. Those enhancements—strengthened by recent accessibility improvements—over time established LII as a top result in Google searches about federal law, its biggest source of traffic.

At the end of 2020, with support from Public.Resource.Org, LII published one of the first free online publications of regulations in all fifty states, making it easier, for example, to find state-level rules about absentee ballots. "This project has the potential to have an enormous impact, so we're very excited about it," Frug said.

Nearly a year before the recent violence at the Capitol, another event there sparked LII's previous high traffic mark of more than 434,000 visitors. On February 5, 2020, the day after Speaker of the House **Nancy Pelosi** ripped up her copy of President **Donald Trump's** State of the Union speech upon its conclusion, the site registered more than 208,000 views of the law prohibiting "concealment, removal, or mutilation generally" of government records.

Beyond that episode, the institute's 2020 traffic highlighted its real-world impact as visitors from law professionals and journalists to small business owners and students sought help making sense of sometimes life-or-death matters. During impeachment proceedings, readers pored over commentary and U.S. Constitution Annotated entries on impeachment, separation of powers, and bribery, and researched laws on obstruction of justice, treason,

viewed nearly 33,000 times in April, up 38,000 percent from a year earlier. The section concerning federal unemployment insurance was viewed almost 85,000 times in April, up more than 300,000 percent. Following the police killings of Black Americans, including **George** Floyd and Breonna Taylor, visitors flocked to LII content on qualified immunity and noknock warrants, articles on martial law, and the civilian commander in chief, and laws on respect for the flag and the destruction of veterans' memorials.

All that traffic, especially during summer months when LII typically sees a dip, added up

You can be a very intelligent, educated person and still have no idea how any of this law stuff works," Newton said. "And the Supreme Court isn't going to step in and explain what they're doing. Somebody else is going to have to make that truly accessible to a lay reader."

— Craig Newton

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and whistleblower complaints, the institute noted in its 2020 annual report.

The coronavirus pandemic prompted people to look up federal regulations on eligibility for the Small Business Administration's Paycheck Protection Program loansto a record high. But most of the tens of millions of visitors, Frug and Newton said, were just performing their daily jobs or studies, demonstrating the value of free access to law presented in a comprehensible way.

"You can be a very intelligent, educated person and still have no idea how any of this law stuff works," Newton said. "And the Supreme Court isn't going to step in and explain what they're doing. Somebody else is going to have to make that truly accessible to a lay reader."

~JAMES DEAN

Seth Peacock '01 Elected to Ithaca City Court

For **Hon. Seth Peacock '01**, winning a seat on the Ithaca City Court in the November election was the end of a long journey that began when he started watching C-SPAN at the age of thirteen.

With his mother and sister, Peacock had just moved from a public housing project in Manhattan into a mixed-income apartment building, where his family gained access to cable TV for the first time. When he tuned into C-SPAN one day, he became intrigued watching the proceedings of Congress.

"I would listen to it and then I noticed that a lot of them were attorneys," he said. "I didn't know if that's what attorneys did or didn't do. But in the back of my mind, with no proof or reason to think I could become an attorney, I said, "That's cool what they did. Maybe I should do that.""

After driving a tractor-trailer to support himself, Peacock enrolled in Queens College, earning a degree in philosophy. Graduating at the age of thirty, he returned to his interest in the law and enrolled in Cornell Law School. One of his most memorable experiences was serving in an externship with Ithaca City Court Judge **Judith Rossiter '86**, just before moving to Texas to work as a corporate attorney. Rossiter was so impressed with Peacock that she suggested that he might want to return to Ithaca and serve on the city court.

Thirteen years later, that is what happened when Peacock, then a private attorney in Itha-

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I don't know if I would have become a judge if I hadn't gone to Cornell. I came into the law like a blank slate, not knowing the career path or how it works.

— Seth Peacock

ca, was appointed an interim city court judge after Rossiter retired. Peacock ran in the Democratic primary in 2014 to retain the seat, but narrowly lost the race.

That outcome changed in November, however, when he received 81 percent of the vote to win a ten-year term. "I don't know if I would have become a judge if I hadn't gone to Cornell," he said. "I came into the law like a blank slate, not knowing the career path or how it works."

Peacock is the first Black judge to serve not only on the Ithaca City Court but also in the Sixth Judicial District, which encompasses a ten-county area in Central New York.

Since January, when Peacock became an interim city court judge to fill another vacancy, he has presided over the newly created Ithaca Wellness and Recovery Court, which brings together housing and other

Cornell Team Seeks Mercy for Lisa Montgomery

Throughout the fall 2020 semester, a team from Cornell Law's International Human Rights Clinic—along with facThe clinic team had hoped a more complete understanding of Montgomery's severe mental illness and history of relentless sexual and physical abuse—never fully disclosed at trial and dismissed by prosecutors as an "abuse excuse"—



She's not the kind of person that the death penalty was intended for. Even those who support the death penalty can see that Lisa [was] not 'the worst of the worst,' but [was], as her sister Diane says, 'the most broken of the broken.'

— Sandra Babcock



ulty, graduate students, and undergraduates from across the university—fought to save **Lisa Montgomery** from federal execution, supporting her bid for clemency from courtrooms to recording studios to a social media campaign urging followers to #SaveLisa and consider #HerWholeTruth. would persuade President Donald Trump to grant her a reprieve from becoming the first woman put to death by the U.S. government in nearly seventy years. Ultimately, however, Montgomery was executed in the waning days of the Trump administration.

"She's not the kind of person that the death penalty was in-



specialists to work with criminal defendants who have a mental health diagnosis.

What Peacock enjoys the most is interacting with the people who appear in court and issuing fair decisions to resolve the crises they face. "It may be a run-of-the-mill case for me," he said, "but for that individual and that family, there's nothing more important in their lives at that point."

~SHERRIE NEGREA

tended for," said Sandra

Babcock, clinical professor of law at Cornell Law School and the founder and faculty director of the Cornell Center on the Death Penalty Worldwide. "Even those who support the death penalty can see that Lisa [was] not 'the worst of the worst,' but [was], as her sister Diane says, 'the most broken of the broken.'"

The defense team representing Lisa Montgomery reached out to Babcock in mid-2020 after learning about the Alice Project of the Cornell Center on the Death Penalty Worldwide—a research and advocacy project focusing on women In early November 2020, Lisa's two principal lawyers contracted severe cases of COVID-19 after visiting Lisa in prison. At the time, their clemency petition was due in a matter of weeks. Babcock led a team of lawyers who filed a post-conviction counsel to prepare clemency appeals.

More than 134,000 people signed a petition supporting a commutation or at minimum a stay of execution for Montgomery, who had accepted responsibility and expressed tion, ineffective lawyering, and other errors.

On December 2, in response to a petition drafted by Cinibulk, Franz, and Markolovic, the Inter-American Commission on Human Rights, part of the Or-

On December 2, in response to a petition drafted by Cinibulk, Franz, and Markolovic, the Inter-American Commission on Human Rights asked the U.S. government to stay Montgomery's execution until it could review allegations that Montgomery's confinement in a Texas prison during a pandemic, and the execution planned despite her mental illness, violate international human rights standards.



Gabriela Markolovic

facing the death penalty around the world. In fall 2020, Babcock and Clinical Teaching Fellow **Zohra Ahmed** recruited a team of clinic students— **Gabriela Markolovic '21**, **Allison Franz '21**, and **Veronica Cinibulk '22**—to assist in Lisa's defense.



lawsuit in federal court seek-

ing a stay of execution based

on counsel's illness. She par-

ments (all telephonic) before

Judge Randolph Moss, ulti-

Lisa's December 8 execution

date. His detailed opinion af-

firmed the rights of capital de-

fendants to qualified capital

mately persuading him to stay

ticipated in four oral argu-

Allison Franz

Veronica Cinibulk

remorse for her crime: killing pregnant twenty-three-yearold Bobbie Jo Stinnett in 2004 to take the baby as her own.

Montgomery committed that crime while in the grip of a psychotic episode, according to the death penalty center, which says her case has been marred by gender discriminaganization of American States, asked the U.S. government to stay Montgomery's execution until it could review allegations that Montgomery's confinement in a Texas prison during a pandemic, and the execution planned despite her mental illness, violate international human rights standards.

In addition to working on the petition, Cinibulk tapped her talent as a musician to write and record "Lisa's Song." Through haunting piano chords and vocals accompa-



nied by images of a young Lisa, the song charts Montgomery's history of abuse from her perspective and asks if after her execution, "Will you think it's fair . . . Will you think you've won?"

Cinibulk said she sought to convey Montgomery's repeated victimization-by parents who should have protected her, systems that should have intervened to rescue her from a dangerous home, lawyers who failed to represent her adequately, and the laws that put her on death row. The song was played on the news program "Democracy Now!" and re-tweeted by activists Susan Sarandon and Gloria Steinem to their more than 1 million combined followers.

Montgomery's story and all of the case's developments were shared on social media accounts supported or designed by undergraduate and graduate students in "Human-Centered Design and Engaged Media," a class taught by Jon McKenzie, professor of practice of English and director of StudioLab. The class partnered with the Cornell Center on the Death Penalty Worldwide early in the semester, building on a First-Year Writing Seminar collaboration last year that supported prisoners facing the death penalty in Tanzania. They planned to help advocate for women on death row and highlight gender discrimination in capital cases, the focus of the center's Alice Project.

The team of undergraduate students Lara Harvey, Arleigh Parr, and Genna Haddad, along with Sophia Wang and Samantha Chu, who completed master's degrees in the field of information science in December, started with research that included Zoom conferences with formerly incarcerated women,

who they said shared moving accounts of feeling stereotyped, silenced, and alone. The students pitched the idea of "Her Whole Truth"—and

an Instagram account with that handle—as a platform for telling more balanced and nuanced stories about women on death row and the cycles of violence they experienced.

In mid-October, the students pivoted to focus on Montgomery's case when the U.S. Department of Justice suddenly set a date for her execution by lethal injection at the Federal Correctional Complex in Terre Haute, Indiana. They participated in meetings with Law School students and with Montgomery's team of lawyers and advocates. And they helped to craft social media messages and promote a different image of Montgomerynot as the scowling convict often seen in media reports, but as a smiling child, one who was born with brain damage caused by her mother's drinking and subjected to rape, incest, and sex trafficking by her parents.

The campaign also helped coordinate diverse supporters of Montgomery's cause that included a coalition of U.N. human rights experts; a pair of former federal prosecutors who handled cases involving attacks on pregnant women; forty-one current and former state and federal prosecutors; and more than 1,000 organizations and individuals involved in fighting domestic violence and child sex trafficking.

"No other woman has been executed for a similar crime, because most prosecutors have recognized that it is inevitably the product of trauma and mental illness," Babcock said. "Executing Lisa Montgomery [is] yet another injustice inflicted on a woman who has known a lifetime of mistreatment."

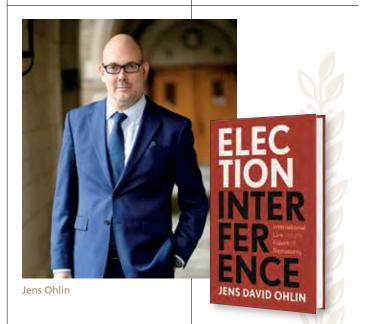
~JAMES DEAN

Jens Ohlin Addresses "Election Interference" in New Book

After the Russian government interfered in the 2016 U.S. presidential election, **Jens David Ohlin**, interim dean and professor of law, realized that social media disinformation represented a new risk to democratic deliberation. He asked himself: Did Russia's behavior violate international law?

Four years later, Ohlin's book, Election Interference: International Law and the Future of Democracy (Cambridge University Press, 2020) was published, making the case that Russia's election meddling was illegal because it violated the collective right of self-determination.

"The definition of self-determination is that a people have



the right to select their own destiny, and in a democratic system, that process is played out through the democratic institution of elections," Ohlin said at a book celebration held on October 19. "When a foreign country ends up meddling in an election, it violates this core notion of self-determination."

During the virtual event, moderated by **Odette Lienau**, associate dean for faculty research and intellectual life and professor of law, two experts in the field of international law praised the book for providing insights into the legal implications of Russia's interference in the 2016 election.

Yet **Duncan Hollis**, Laura H. Carnell Professor of Law at Temple Law School, questioned whether the problem of foreign election interference should continue to be prioritized, given the emergence of domestic groups that are spreading misinformation on social media in the current election.

"Is the problem really the foreign origins of information or is it really how quickly misinformation and disinformation are getting amplified today?" Hollis asked. "We're seeing a host of domestic dirty tricks misinformation about everything from masks to the craziness of QAnon—all suggesting a broader national crisis in political deliberation."

Ohlin acknowledged that the misinformation disseminated by domestic groups has be-



come an increasing problem, especially since the outbreak of the coronavirus pandemic last spring. Yet he argued that misinformation by domestic groups is a separate problem that will be difficult to address given the constraints of the First Amendment.

Chimène Keitner, Alfred and Hanna Fromm Professor of International Law at the University of California Hastings College of the Law, commended the book for foregrounding the choice of political destiny as the ultimate value to protect.

Ohlin recommends several strategies in the book to counteract election interference, including social media firms labeling posts that come from foreign troll farms, Congress creating a new federal agency with the authority to protect elections from foreign interference, and a new federal statute criminalizing the solicitation of foreign interference.

"Unfortunately, election interference is likely to be a permanent fixture of modern democracy, especially in our social media age," Ohlin said. "But there are concrete actions that states can take to protect their right to self-determination."

~SHERRIE NEGREA



New Book by Cynthia Bowman Explores "Living Apart Together"

"What I began to see was that a quiet revolution was going on," said **Cynthia Grant Bowman**, speaking March 5 at a virtual celebration for her new book. Bowman, the Dorothea S. Clarke Professor of Law at Cornell Law School, is the author of *Living Apart Together: Legal Protections for a New Form of Family*, released in December 2020 by NYU Press.

Living Apart Together is an indepth look at a new way of "doing family"—living apart together (LAT)—in which committed couples maintain separate residences and finances. In Bowman's own 2016 national survey, 9 percent of respondents reported having this type of relationship, yet it has gone virtually unstudied in the United States.

Bowman kicked off the celebration with a brief overview of her book, which focuses on three key demographics: women, the elderly, and gay men. The chapter on the last group was written by Bowman's research assistant, **David Eichert '20**. Bowman remarked that her insight about the "quiet revolution" of LAT arose as she began to research her next book, on socialist feminism. Through the lens of Marxist theory, she recognized that "LATs respond to a world in which labor is very mobile, the technology to control reproduction exists, women have entered the workplace in large numbers, and they demand equality both there and at home."

Noting the injustices that LATs encounter when dealing with the U.S. family law system, Bowman proposes legal reforms that support the important caretaking functions of LATs and protect couples from being punished for choosing this lifestyle.

Providing guest commentary were **Susan Frelich Appleton**, the Lemma Barkeloo & Phoebe Couzins Professor of Law at Washington University in St. Louis School of Law; and **Robin West**, the Frederick J. Haas Professor of Law and Philosophy and associate dean at the Georgetown University Law Center.

~OWEN LUBOZYNSKI

Cornell Defender Program Helps Bolster Local Indigent Defense

After local law enforcement officers searched a Black man's car last summer and found a gun, prompting criminal charges, the man's assigned, Ithaca-based defense attorney questioned the search's legality. A team of Cornell interns one Cornell Law student and two undergraduates—sprang into action, conducting research and writing a brief that cited relevant case law and contributed to a court filing on the client's behalf.

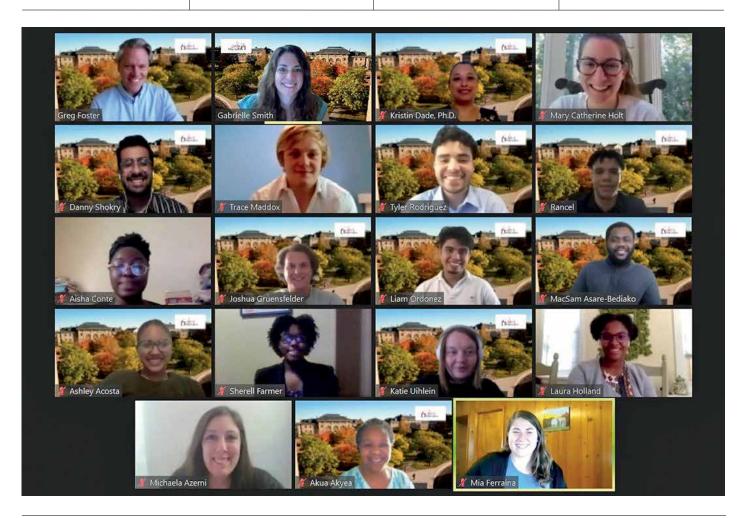
"It was pertinent to everyday life, because anyone can be stopped, especially if you're a person of color," **Sherell Farmer**, an undergraduate, said of the case, which is ongoing. "It was cool to learn about what rights you have through the lens of a legal case, and then be able to give power to someone by doing our research and trying to stand up for them." The students' support was a product of the Cornell Defender Program, a ten-week pilot program that paired eight un-



Sherell Farmer

dergraduates and six Cornell Law School students with local trial attorneys to bolster their capacity to represent indigent clients in criminal and family courts.

The unique partnership with local and state officials—potentially a model for others around the state—also sought to strengthen the pipeline of students pursuing law degrees and careers, particularly among underrepresented firstgeneration students and students of color.



"Our mission was to support New York state in its efforts to ensure that all New Yorkers have equal access to quality representation, engaging the talented pool of undergraduate and law students at Cornell seeking meaningful public service and dynamic career development," said **Greg Foster**, assistant director and career development manager at Cornell Career Services.

Cornell partners included Akua Akyea, assistant dean for public service, and Michaela Azemi, director of pro bono services and externships, at Cornell Law School; Kristin Dade, senior associate director, and Gabrielle Smith, assistant director, of the Office of Academic Diversity Initiatives; and Mia Ferraina, a career coach at Career Services. External partners included the New York State Office of Indigent Legal Services and the Office of Assigned Counsel for Tompkins County.

In Tompkins County, home of Cornell's Ithaca campus, about fifty attorneys represent indigent clients in roughly 3,000 cases a year, according to **Lance Salisbury**, supervising attorney in the county's assigned counsel office and an adjunct professor at Cornell Law.

Cornell's team reached out to see how students interested in law and public service could help, discussions that led to development of the Cornell Defender Program. The pilot cohort of fourteen students completed two weeks of virtual training, learning about criminal justice and family law issues and procedures from more than thirtyfive attorneys, investigators, prosecutors, judges, and advocates. They were prepared to do factual and legal research, "You have this amazing intergenerational connection, and the echoes of that are profound," Akyea said. "We want to acclimatize underrepresented students to the idea that they absolutely can do this work. Making it very accessible for this particular population makes it achievable."

Our mission was to support New York state in its efforts to ensure that all New Yorkers have equal access to quality representation, engaging the talented pool of undergraduate and law students at Cornell seeking meaningful public service and dynamic career development.

— Greg Foster

request public records, write memos and briefs, interview clients, and observe court hearings.

Teams then were assigned to one or more of the eleven local attorneys who participated in eight-week virtual internships. It's common for Law School students to participate in such internships, but rare for undergraduates, whose inclusion was an innovative aspect of the program's goal to promote diversity in a profession lacking it. Both the lawyers and Law School students served as mentors for the undergraduates, all of whom came from underrepresented backgrounds.



Undergraduate **Aisha Conte**, said she had been nervous at first about working on legal cases, but her experience drafting memos and interviewing clients ultimately reinforced her interest in a career in human rights or criminal law.



Aisha Conte

"Once I was able to have Zoom meetings with clients and go through documents, I realized there was no reason to fear," Conte said. "(The program) really helped shape my mentality."

The pilot program successfully navigated a forced pivot to entirely virtual participation. Conte accessed court records, conducted online research, and joined virtual meetings from the Bronx; Farmer worked from Brooklyn. Their Law School mentor, Mary Catherine Holt, worked from Philadelphia.

Though not the experience they'd initially hoped for, it offered valuable insight into the criminal justice system during a pandemic.

"To see how the courts adapted to such a crazy set of circumstances and how the legal system functioned in the middle of the crisis was really interesting," Holt said.

Kevin Kelly, an attorney who worked closely with Conte, Farmer, and Holt, said he was impressed by how quickly the remote interns completed assignments.

"This program is boosting our ability to represent our clients in a more comprehensive way," Kelly said. "There are certain kinds of things in cases where if you had unlimited resources you would go after them, you would lift up all those rocks . . . Having the interns allows us to raise the bar." Program organizers are reviewing lessons learned, optimistic that it will continue next summer and that it may become a model for others beyond Cornell.

Said Foster: "The need for it is going to persist."

~JAMES DEAN

Tyler Rhoads '23 Pivots from Ballet to Law

When Tyler Rhoads began his 1L year at Cornell Law School this fall, he was also embarking on a second career. The first: ballet. Rhoads joined Colorado Ballet's Studio Company in 2014 and was promoted to the corps de ballet in 2016. Though he grew up appreciating his father's work as an attorney, it was his experiences as a unionized artist that provided the extra push toward law.

During his dance career, Rhoads was a member of the American Guild of Musical Artists and became involved in

union activities, serving on negotiating committees for collective bargaining agreements. Eventually, he was appointed to the Board of Governors for the union and elected as the union representative for his company.

"I saw the tangible impacts my work had on the working conditions and quality of life of my colleagues firsthand," he says, "and I knew that, with a legal education, I could be an even more effective advocate



Tyler Rhoads

ing." At the recommendation of union staff members. Rhoads looked into Cornell's labor law program, which, he observes, is "truly one of a kind." He decided to apply to the Law School.

for the artists I was represent-

Though it may seem like a big leap, Rhoads notes that ballet has equipped him for a variety of challenges. "Ballet teaches you a self-discipline that is extraordinary. I learned my physical and mental limits, and then I learned that, with time and dedication, I could expand those limits. I think that internal motivation is essential to success in any field, and I especially think it will help me throughout my legal career."

While he hopes to get back in the dance studio recreationally once it is safe to do so, he is currently focusing on other types of movement: "I'm enjoying this new chapter by finding new ways to move and connect with my body. This summer I started running and have taken to it—I'm enjoying exploring Ithaca's many trails and gorgeous views."

Rhoads is looking forward to studying labor law and participating in the Labor Law Clinic at some point, but he's also keeping an open mind about where his studies and future career may lead. For now, he's making the most of an unusual but motivating first term.

"I feel so grateful to be back in the classroom exploring a new field," he says. "In the first few

weeks of classes, I have been inspired by my peers as we all grapple with new concepts and ideas. Even though we are physically distanced, wearing masks, and on Zoom, we are working to create a sense of camaraderie that further enriches the education we are receiving."

~OWEN LUBOZYNSKI

Homecoming Keynote Highlights Law School Clinics

When students in **Carlton** Williams' legal practicum wanted to help two high-need organizations—Law for Black Lives and the Water Protector Legal Collective-he feared it would be too much work for them. The students disagreed.

"They acted like lawyers in the highest sense-they had sculpted an argument, gave an introduction, supporting points, references to other work that they had done, and a closing statement about why they could do more work," said Williams, adjunct professor of law, speaking October 9 during "Keeping the Promise: Stories from the Front Lines," StayHomecoming's keynote panel. "It brought me nearly to tears."

Williams' Movement Lawyering Practicum, which aims to provide legal assistance to organizations working to change society, was one of four clinical programs featured during the virtual discussion. A sixtyyear-old tradition at Cornell Law School, clinics offer stu-





dents real-world experience while aiding those who might not be able to afford legal services otherwise. It's an experiential approach that both enriches education and advances the university's landgrant mission. Medicine, and the Cornell S.C. Johnson College of Business.

"These cross-disciplinary connections allow students to work in teams bringing multiple skill sets to bear on complex problems while navigating very different professional cultures," she said. dents to earn the trust and keep the trust of people who cannot even safely appear in a casual group photo is one of the key goals of the clinic," she said.

The panel also featured the work of the First Amendment Clinic and the Entrepreneurship Law Clinic, which part-

A commitment to public service has appropriately been an intrinsic part of Cornell Law School's identity from the very beginning. clinical professor of law and founder of the clinic, now in its third year. "It was an opportunity for our law students and our law school to assist in the ongoing effort to commercialize technology, and to really contribute to our local economy in a meaningful way."

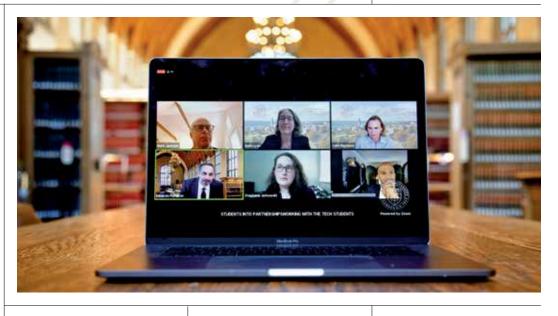
For **Stephanie Jurkowski '19**, participating in clinics not only taught her about different areas of the law and how to effectively collaborate, it gave her confidence.

— Eduardo Peñalver

"A commitment to public service has appropriately been an intrinsic part of Cornell Law School's identity from the very beginning," said **Eduardo Peñalver**, former Allan R. Tessler Dean and Professor of Law, who moderated the panel.

The popularity of law clinics has surged in recent years, with 70 percent of Cornell law students participating in 2020, compared with 15 percent of students twenty years ago, said **Beth Lyon**, associate dean for experiential education and clinical program director at the Law School. Future goals for the program, Lyon said, include establishing an interprofessional clinical presence in New York City and a clinical teaching fellow program.

Lyon, who also founded the Farmworker Legal Assistance Clinic, highlighted clinical program collaborations with other Cornell units including the ILR School, Weill Cornell



While describing the students' work in the farmworker clinic, which has taken them across New York state and as far away as Indonesia, Mexico, and California's Central Valley, Lyon displayed a photo of staff and students doing outreach at a New York state farm, in which one of the farmworkers was hiding his face. "Helping stuners with programs across Cornell and beyond in areas ranging from food and retail to computer science and engineering, biomedicine, life sciences, finance, and education.

- "We have a world-class research institution that is a prime source of innovation," said **Celia Bigoness**, associate
- "Having had that exposure to actual clients allayed some of the anxiety I had about going out into the world and practicing law," said Jurkowski, now a senior court attorney with the New York State Court of Appeals...it really opened my eyes to types of law practices I had not previously considered."

~JAMES DEAN

Migrations Initiative Wins \$5M Mellon Grant for Racial Justice

In January, the Global Cornell program called Migrations: A Global Grand Challenge won a three-year, \$5 million grant from The Andrew W. Mellon Foundation's Just Futures Initiative that will bring together scholars across the university and beyond to study the links between racism, dispossession, and migration. **Stephen Yale-Loehr '81**, professor of immigration law practice, was one of six faculty members from across Cornell University who led work on the Mellon proposal.

Research, teaching, and community engagement supported by the grant will "respond to historical and ongoing nativist and racialized violence in the U.S. by turning the university into a living laboratory," according to the successful proposal titled "Cross-Border Movements: Racism, Dispossession, and Migration."

The Just Futures Initiative, overseen by the foundation's Higher Learning program, funded sixteen proposals across the country seeking to address "long-existing fault lines of racism, inequality, and injustice that tear at the fabric of democracy and civil society." Goals include improving access to higher education, developing fuller accounts of the human experience, and advancing bold ideas to support more just societies.

In addition to his work securing the Mellon grant, Steve is a faculty fellow on the Migrations Grand Challenge. As such, he helps to coordinate all Migrations Initiative activities, including the Mellon grant.

~JAMES DEAN Cornell Chronicle





Michaela Azemi

Law School Faculty Awarded Grants from Engaged Cornell

Two community-engagement projects from Law School faculty received Engaged Curriculum Grants from Cornell's Office of Engagement Initiatives in fall 2020. The projects, titled "Learning through Advocacy" and "International Human Rights and the Death Penalty," call for creating a new course exploring the causes and consequences of unemployment and creating a new human rights minor at Cornell University, respectively.

"Learning through Advocacy," a project proposed by a team of faculty from both the Law School and the School of Industrial and Labor Relations (ILR), received \$40,000. The team includes **Michaela Azemi**, director of pro bono services and externships at the Law School, and **Stewart Schwab**, professor of law, along with **Ian Greer** and **Paul Davis** from ILR.

In the project, ILR students will collaborate with law students, legal services, and pro bono attorneys to assist unemployed members of the community. The team proposes a



Stewart Schwab

new course titled "Unemployment: Experiences, Causes, and Responses" and a partnership between the Law School and Legal Assistance of Western New York that will mobilize students to combat the consequences of unemployment. Students will also observe court appearances concerning unemployment insurance benefits, housing, and/ or public assistance.

Another grant in the amount of \$10,000 was awarded to a team from the Cornell Center for the Death Penalty Worldwide for the project "International Human Rights and the Death Penalty," which aims to create an undergraduate minor in human rights along with a seminar on human rights and the death penalty. The minor curriculum will teach background and skills useful for human rights work while also taking students through ethical and practical decisions of how to work within global solidarity movements. The seminar will connect students with community partners in Africa through the Cornell Center on the Death Penalty Worldwide and students will work with these partners to develop community-engaged learning opportunities.

The Office of Engagement Initiatives supports a variety of community-engaged faculty and staff initiatives through awards, grants, and supplemental funding. Engaged Curriculum Grants create, expand, and strengthen research and teaching fields by funding teams that are integrating community-engaged learning into curriculum exploration, development, and improvement.

~GEORGINA SELENICA

Ithaca Responds to Tenants in Crisis: Pro Bono and a Practicum

Given the widespread economic hardship caused by the pandemic, many tenants in Ithaca have found themselves in precarious housing situations. Though the New York State eviction moratorium has prevented many tenants from being evicted, they also face problems recovering security deposits, addressing issues of habitability, and more.

In June of 2020, Cornell Law School partnered with the Ithaca Tenants Union and the Binghamton office of the Legal Aid Society of Mid-New York to establish the Ithaca Tenants Union Housing Hotline (ITUHH). With the help of numerous dedicated law student and undergraduate volunteers, local attorneys, and a grant from Cornell's Office of Engagement Initiatives, the ITUHH has provided legal assistance to more than 100 Ithaca tenants since its inception.

Tenants seeking legal advice from the Housing Hotline submit an intake form that is then assigned to a Cornell Law student. The law student reviews the case, confers with a volunteer attorney, and then gives the client brief legal advice.

This fall, the Tenants Advocacy Practicum was established as an expansion of the work of the hotline. The practicum is taught by Legal Services of Central New York attorney **William Niebel**, and provides Cornell Law students with the unique opportunity to participate in the local Ithaca community. Students take on hotline cases as part of their coursework, which allows the ITUHH to take on more cases.

Once the state moratorium on evictions is lifted, the ITUHH and the Tenants Advocacy Practicum seek to address the disproportionate impact of displacement on low-income communities and people of color in Ithaca. A 2018 study in Ithaca City Court showed that only about 3 percent of tenants in Ithaca who were evicted had legal representation, as compared to 97 percent of landlords. Furthermore, where race was identifiable, 54 percent of people evicted were Black although they comprise 7 percent of the Ithaca population.

~MICHEALA AZEMI



United States Urged to Do More to Address Sexual Violence in the Military Following Clinic Report

On November 9, following many months of advocacy work, members of Cornell Law School's Gender Justice Clinic watched via Zoom as the Israeli representative on the U.N. Human Rights Council in Geneva urged the United States to do more to address sexual assault in the U.S. military.

The recommendation was given at the council's third Universal Periodic Review (UPR), a process through which all U.N. Member States are given the opportunity to periodically review the human rights record of all other Member States and make recommendations for reform. As part of the current UPR process, the Gender Justice Clinic had submitted a stakeholder report to the Human Rights Council detailing how sexual violence in the U.S. military continues to be perpetrated at alarming rates.

In the months leading up to the UPR, clinic students Emma Horne '21, Logan Kenney '21, and Barbara Silva '21 spoke at online briefing events for representatives of U.N. missions and foreign embassies and conducted related outreach, often in collaboration with survivor-advocate and Marine Corps veteran Stephanie Schroeder.

"I remember what it was like [while serving in the military] to be hopeless, powerless, and silenced," Schroeder says. By contrast, her collaboration with the clinic and involvement in U.N. advocacy have "opened doors for [her] to negotiate directly with the senior leadership of the Department of Defense for the reforms we so desperately need."

The report is part of the clinic's ongoing international advocacy on the issue of sexual violence in the military. According to the report, the military continues to foster a culture of impunity in which claims of sexual violence are not adequately investigated, prosecuted, or punished, and survivors are frequently subject to retaliation.

~ VERONICA CINIBULK & Logan kenney

SCHOLARSHIF ACULTY



John H. Blume, Samuel F. Leibowitz Professor of Trial Techniques and Director of the Cornell Death Penalty Project

Sheri Lynn Johnson, James and Mark Flanagan Professor of Law

(w/ coauthor Amelia Hritz '17)

"Death by Expert: Cognitive Bias in the Diagnosis of Mild Intellectual Disability" (July 3, 2020), *Law & Psychology Review*, vol. 44.

In Atkins v. Virginia, the Supreme Court held that executing individuals with intellectual disability violates the Eighth Amendment. Due to this new categorical exemption, the accuracy and reliability of an intellectual disability determination is literally a matter of life or death. Hritz, Johnson, and Blume tested whether various factors influence mild intellectual disability diagnosis in a sample of 179 people (primarily psychologists and social workers) with intellectual disability expertise. Unlike prior studies showing that lay people are significantly less likely to find that a person has intellectual disability in a death penalty case compared to a disability benefits case, they found that experts diagnosed intellectual disability at nearly identical rates in

death penalty and disability benefits cases. However, men, Republicans, and people who believed intellectual disability is not an excuse for a crime were significantly less likely to diagnose intellectual disability in both types of cases. These findings suggest that diagnosis of mild intellectual disability is correlated with preexisting beliefs about punishment and, in this sample (where over 70 percent reported being opposed to the death penalty), the facts of the crime did not cause the experts to refrain from diagnosing intellectual disability.



Michael C. Dorf, Robert S. Stevens Professor of Law

"When Two Rights Make a Wrong: Armed Assembly Under the First and Second Amendments" (January 6, 2021), Northwestern University Law Review (forthcoming).

This article argues on textual, historical, doctrinal, and normative grounds that there is no constitutional right of armed assembly. It rejects the proposition that the First Amendment right to assemble and the putative Second Amendment right to public carriage of firearms in nonsensitive places combine to create a right to armed assembly. While acknowledging that in some circumstances the courts recognize a hybrid right that is greater than the sum of its parts, the article finds no basis for concluding that the First and Second Amendments add up to a right to armed assembly.



Stephen P. Garvey, A. Robert Noll Professor of Law

"Versari Crimes" (November 23, 2020), *Arizona State Law Journal* (forthcoming).

The versari doctrine alleges that if a person commits a crime, he or she is strictly liable for all the resulting consequences. This doctrine, which goes back to canon law, doesn't get much attention these days from criminal law theorists. But it probably should. A fair case can be made that the doctrine underwrites the felony murder rule, the misdemeanor manslaughter rule, the legal wrong doctrine, constructive malice, the natural and probable consequences doctrine, and the Pinkerton doctrine. Those doctrines don't have many friends in the academy today, although they endure in positive law despite all the academic criticism. Because they

endure, criminal-law theorists should perhaps pay more attention to the versari doctrine. Perhaps they should try to understand what the doctrine says and why it seems to have some intuitive appeal to some people, despite not having much intuitive appeal to those inside the academy. The paper, written for a conference Arizona State University sponsored on mens rea and criminal justice reform, is an effort to better understand the versari doctrine.



Michael Heise, William G. McRoberts Professor in the Empirical Study of Law

Martin Wells, Charles A. Alexander Professor of Statistical Sciences and Elected Member of the Law Faculty

Dawn Chutkow, Visiting Professor of Law

"Does Docket Size Matter? Revisiting Empirical Accounts of the Supreme Court's Incredibly Shrinking Docket," (May 18, 2020), *Notre Dame Law Review*, vol. 95, no. 4.

Drawing on data from every Supreme Court term between 1940 and 2017, this article revisits, updates, and expands prior empirical work by Ryan Owens and David Simon (2012) finding that ideological, contextual, and institutional factors contributed to the Court's declining docket. This article advances Owens and Simon's work in three ways: broadening the scope of the study by including nine additional Court terms (through 2017), adding alternative ideological and nonideological variables into the model, and considering alternative model specifications. What emerges from this update and expansion, however, is less clarity and more granularity and complexity. While Owens and Simon emphasized the salience of ideological distance across justices as well as ideological distance separating the Supreme Court from the lower federal appellate courts, results from our study, by contrast, suggest that when it comes to ideological differences, intra-Court rather than intercourt ideological distance emerged, on balance, as critical. Other variables also emerged as persistently important, notably Congress's decision in 1988 to remove much of the Court's mandatory appellate jurisdiction and variation in the total number of certiorari petitions filed. Finally, these core findings appear robust across alternative model specifications. While most commentators react to a diminishing Court docket by emphasizing possible adverse consequences,

rather than commit to any normative position, our article instead considers both the possible institutional costs and benefits incident to a declining Court docket, with an emphasis on structural horizontal separation of powers implications.



Robert Hockett, Edward Cornell Professor of Law

"An FSOC for Continuous Public Investment: The National Reconstruction and Development Council" (August 10, 2020), Michigan Business & Entrepreneurial Law Review, vol. 10.

The crisis our nation now faces does not stem from COVID alone. That is the "match." The kindling is simply our having forgotten for decades that "national development" both (a) is perpetual, and (b) requires national action to guide it, facilitate it, and keep it inclusive.

Hamilton and Gallatin, Wilson and Hoover and Roosevelt, ... all "got" this. They built institutions to operationalize it imperfectly operated, but soundly conceived and designed. Our having abandoned these truths and these institutions these past fifty years has enabled not only our public health, but also our nation's industrial and infrastructural muscle, to degenerate to a critical point. The same now increasingly holds of our social fabric.

Full national regeneration— "reconstruction" in both the post–Civil War and the mid-20th century senses of the word—has thus become a matter of urgent, even "existential," necessity. And continuous "national development," in the "perpetual renewal" sense of the phrase, must follow that reconstruction. This is what "Building Back Better" must mean.

Key to any such national project is how it is organized and then orchestrated.

This paper proposes means of both organizing and orchestrating. These means are simultaneously "incrementalist" in their reliance upon existing institutions, while also "regenerative" in enabling new synergies among those same institutions-much as our Financial Stability Oversight Council is meant to enable our post-Lehman financial regulators to develop. An FSOC for national reconstruction and development will better use what we already have, and augment it with a financing arm linked to the Federal Reserve and the Treasury.

Hockett calls the resulting synthesis a National Reconstruction and Development Council with a financing arm formed by upgrading Treasury's existing Federal Financing Bank into a de facto National Investment Commit-

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tee, which will both rebuild capacity now, and perpetually renew such capacity going forward, as knowledge and technology progress as they always do. According to Hockett, "Building Back Better" means "Building Back Now and Forever."



Sital Kalantry, Clinical Professor of Law

"Reverse Legal Transplants" (October 10, 2020), North Carolina Law Review (forthcoming).

In early modern history, laws often moved in one directionfrom imperial nations to their colonies. In the contemporary era, we would expect legal solutions to move in many directions, including from economically weaker countries ("Global South" countries) to economically more developed ones ("Global North" countries). The legal transplant literature, however, documents relatively few transplants from Global South countries to Global North countries. There is also little critical analysis in the literature about why there is a paucity of "reverse legal transplants"-transplants

from Global South countries to Global North countries.

This article presents a case study of a reverse legal transplant-the movement of restrictions on abortion from India to the United States. U.S. statutes restricting women from terminating their pregnancies on the basis of the predicted sex of the fetus have been enacted in nine states and introduced in over half of all state legislatures and the U.S. Congress. The U.S. Court of Appeals for the Seventh Circuit found those prohibitions to be unconstitutional. The U.S. Supreme Court suggested that it would consider adjudicating the constitutionality of the statutes after more appeals courts ruled on them. Many lawyers, advocates, and others who oppose restrictions on abortion have failed to analyze sex-selective abortion statutes correctly. Instead of a human rights approach that proposes universal legal solutions, a comparative methodology is more appropriate because it leaves room for distinct legal solutions across jurisdictions.

This article fills several gaps in the transplant literature. First, through an analysis of the literature, it finds that scholars have documented few reverse legal transplants. Second, it exposes the lack of rigor around the concept of transplants and attempts to create relevant definitional boundaries for it. This analysis informs the methodology of the literature review and allows us to identify the case study as a reverse legal transplant. Third, this article contributes to the refinement of comparative methodologies to evaluate legal transplants. Articles evaluating transplants have measured success after the transplantation has already occurred. By limiting their analysis to whether a transplant was properly implemented in the reception country, authors have neglected to examine whether the law was appropriate to transplant in the first place. This article proposes a multidirectional and contextual approach that can be useful in identifying whether a specific law should a priori be transplanted or not.



Odette Lienau, Associate Dean for Faculty Research and Intellectual Life and Professor of Law

"Sovereign Debt, Private Wealth, and Market Failure" (August 7, 2020), *Virginia Journal of International Law*, Vol. 60, No. 2.

This article argues that the norms and legal practices of global finance in the arenas of sovereign debt and private wealth have led to a significant market failure, in particular

the over-supply of sovereign borrowing and a related misallocation of global capital away from its most productive uses. It suggests that this deficiency rests on two related elements: First, a separation of the risks and benefits of sovereign state control, which has resulted from a failure to properly and coherently define the lines between "public" and "private" across the international financial arenas of sovereign borrowing and private client banking. And, second, the self-interested and potentially internally conflicted actions of major global banks. Lienau uses the lens of "vulture fund" asset collection efforts in sovereign debt to highlight this problematic outcome, and also ask whether such recovery efforts offer a potential "private" correction for the market failure. Ultimately, she argues that the vulture fund strategy is insufficient as a corrective, resting on internal inconsistencies and giving rise to its own pathologies. More significant structural reforms and conceptual reconfigurations are necessary, which might capture the benefits of the funds' efforts while minimizing their costs. The article also tentatively raises deeper theoretical and historical questions about how the lines between public and private wealth have arisen in global finance and how they might be drawn going forward.



Saule Omarova, Beth and Marc Goldberg Professor of Law

"Dealing with Disruption: Emerging Approaches to FinTech Regulation," Washington University Journal of Law & Policy, vol. 61, no. 25.

"Fintech" refers to a variety of digital assets, technologies, and infrastructure that deal with the operation of today's financial markets. The regulation of this presents both legal and regulatory challenges. This article examines the emerging regulatory responses to an ongoing Fintech disruption of traditional finance. Focusing primarily on the U.S. experience to date, it offers a three-part taxonomy of principal approaches to Fintech taken by financial regulators: what Omarova calls the "experimentation" approach, the "incorporation" approach, and the "accommodation" approach. Within this framework, the article analyzes the pros and cons of establishing regulatory sandboxes and innovation hubs, issuing special Fintech charters, and pursuing various regulatory-adjustment measures under a broad heading of RegTech.



Emily L. Sherwin, Frank B. Ingersoll Professor of Law

"Formalism and Realism in Private Law" (January 9, 2021), Cornell Legal Studies Research Paper, no. 21-03, Formalism and Realism, in The Oxford Handbook of the New Private Law (Andrew S. Gold, John C.P. Goldberg, Daniel B. Kelly, Emily Sherwin, and Henry E. Smith, eds., Oxford University Press 2020).

This chapter examines the benefits and drawbacks of determinate rules in private law: rules provide settlement and support coordination, at the cost of some undesirable results in particular cases. It also traces the traditional methods used in equity to soften the adverse consequences of enforcing rules. It compares, and finds misguided, the dismissive attitude that many American Legal Realists adopted toward rules. It concludes, however, that the damage done to the artificial but useful law/equity divide may be irrevocable.



Nelson Tebbe, Jane M.G. Foster Professor of Law

"A Democratic Political Economy for the First Amendment" (September 24, 2020), *Cornell Law Review*, vol. 105, issue 3.

A burgeoning literature argues that First Amendment freedoms of speech and religion are serving a political economy that resists economic redistribution. This article builds on that work by constructing a less regressive conception of freedom of speech and freedom of religion. Obstacles stand in way of that project, however. In constitutional theory, First Amendment freedoms, like other social and political rights, are taken to trump ordinary economic regulation. In liberal political theory, similarly, basic liberties are understood to have priority over policies that effectuate distributive justice. In sum, it is unclear whether and how any interpretation of free speech or free exercise could work to ameliorate, rather than worsen, economic inequality.

In this article, Tebbe argues that First Amendment freedoms can and should be interpreted in a manner that is sensitive to distributive justice in significant respects. What connects individual rights to economic redistribution is a robust conception of democracy. In brief, people who are suffering from deprivation and disadvantage will find it impossible to exercise the basic rights that are essential to the project of cooperative government. Without adequate primary goods, people may be unable to exercise their fundamental liberties, and their status in the political community may be degraded. No democracy can function well under those conditions, and every democracy must interpret religious liberty and freedom of speech in ways that respond in certain respects to the material circumstances of its people. Moreover, people have an obligation to support the political community, for instance by paying taxes.

In this article, Tebbe specifies exactly how the First Amendment should be interpreted in light of these considerations, and illustrates the argument with concrete examples taken not only from the courts, but also from legislation and administrative regulation.



ALUMNI

Cornell Law Honors Alumni Working in Public Service

Pandemic or no pandemic, Cornell Law celebrated its public service alumni for the sixteenth consecutive year, "Zoomcasting" live on March 18. Hosted by Jens David Ohlin and Akua Akyea, this year's Alumni Exemplary Public Service Awards opened with a welcome from Congresswoman Katherine Clark '89

Cornell offers students the opportunity to delve into work that is most meaningful to them but also that serves individuals and communities close and far.

- Jens David Ohlin

and some welcome news from the New York State Office of the Attorney General: The City of Ithaca had just received a grant to support Cornell Law's tenant advocacy programs, which have expanded dramatically since the beginning of the pandemic.

"Public service has always been an intrinsic part of the Cornell Law School educational experience," said Interim Dean Ohlin, sharing examples of how Cornell Law's clinical and practicum students have continued to advocate for their clients, especially their most vulnerable clients, despite the logistical obstacles of the pandemic. "Cornell offers students the opportunity to delve into work that is most meaningful to them but also that serves individuals and communities close and far. You'll see from this year's awardees that the work they believe in, the passion they carry, is about building communities, not just helping individuals."

The first award of the evening, the Public Service Champion Award, went to Hon. Stephen C. Robinson '84, whose four decades of public service include years spent investigating the 1995 Oklahoma City bombing as a special assistant to the director of the FBI; uncovering government corruption as U.S. Attorney for the District of Connecticut; presiding over trials as a judge on the U.S. District Court for the Southern District of New York; acting as the federal monitor for affordable housing in



Katherine Clark



Stephen C. Robinson

Westchester County; representing civilians on the New York Police Department's Terrorism Committee; and serving as a trustee for Cornell University, the New York Community Trust, and Lincoln Center for the Performing Arts.

"We tend to think about public service as a job, about the things we do," said Robinson, who is also a member of the Cornell Law School Advisory Council. "In my view, it's about who we are. You can perform public service no matter what your job is, no matter where you live, no matter how old you are. Throughout my career and my life, I've tried to find ways to serve, to do work that matters, to make the lives we lead a little more fair, and to provide opportunity for others. But my greatest goal, and the one you all have adopted, is to lead a life of service, of caring, uplifting, and helping others wherever I can."

In Zoomland, the audience nodded virtually, and the second round of honorees was announced. The first Rising Star Award went to Raphael Stern '17, who provides pro bono legal services to nonprofits at Lawyers Alliance for New York, sharing his father's philosophy that "you don't work in the public interest to get thanked, but because it's the right thing to do." The second went to Ivory Goudy '18, who works as a public defender in Atlanta, taking a short break between arguments to

encourage listeners to keep "giving voice to the voiceless people who don't have representation."

Public Service Awards were given to James Bogin '84, a senior supervising attorney at Prisoners' Legal Services of New York in Albany, who spoke about the need to improve prison conditions, and to Katherine Ensler '13, an assistant federal defender in everywhere to make sure the government serves the public interest and that government lawyers represent the diversity of the people they serve.

As assistant dean for public service, Akyea introduced the eight award-winning 3Ls: **Nathalie Greenfield '21**, **Gabriela Markolovic '21**, and **Kayleigh Yerdon '21**, who won the Freeman Award for Civil-Human Rights; **Victor Flores '21**,

You can perform public service no matter what your job is, no matter where you live, no matter how old you are. Throughout my career and my life, I've tried to find ways to serve, to do work that matters, to make the lives we lead a little more fair, and to provide opportunity for others.

– Stephen C. Robinson

Philadelphia, who talked about the impact of the pandemic on prisoners living in poorly ventilated institutions with health conditions that put them at risk for serious complications. Mildred Whalen '92, who has worked in federal criminal defense since graduation, asked private attorneys to help any way they can, from donating money to drafting motions. Joseph Wheeler '03, a supervisory attorney in the U.S. Department of Education's Office of Civil Rights in San Francisco, urged lawyers

Molly Huffaker '21, and Rosalind Major '21, who won the Stanley E. Gould Prize for Public Interest Law; and Conor Bednarski '21 and Allison Franz '21, who won the Seymour Herzog Memorial Prize.

Then, reaching for an African proverb to close the program, Akyea reminded listeners that "rain does not fall on one roof alone"—that trouble is shared by an entire community, and that ultimately, we are all responsible for taking care of one another. "Lawyers are in an incredibly privileged place," said Akyea. "We've gone beyond high school, beyond college, to acquire skills that very few people have, which is why our profession has this ethos of giving back. As part of our professional responsibility as lawyers, we're asked to look around us and find where we can offer assistance."

Mary Kennedy Brown Society Celebrates Deans Lukingbeal and Miner

In 1891, when Mary Kennedy Brown attended her first Cornell lecture, *The Cornell Daily Sun* reported it as news. In an era when Cornell men were called "students" and women "co-eds," Kennedy Brown delivered a commencement address for the Class of 1893, and more than a century later, when alumnae founded an organization of their own, they named it after Cornell's first woman law graduate.

"The Mary Kennedy Brown Society has become an important way for women to come together, network, and mentor one another," said co-founder Jacqueline Duval '92, who currently serves as president. "That's really what we're trying to accomplish. We want to make this the place to connect, where Cornell Law women can meet to share their insights with students and fellow alumnae—including right now, during the pandemic, when online programming has actually increased our ability to

help people make new connections."

Last August, MKBS held its first online event, "100 Years Strong: A Woman's Vote," hosted by Duval, to celebrate the centennial of the 19th Amendment, share stories about the campus activism that helped women gain the franchise, and draw parallels to present-day challenges for Black women and underrepresented minorities. More online panels followed, sponsored or co-sponsored by MKBS, with "Women Lawyers: Talking About and Tackling Inequity in a Demanding Profession" hosted by Maria Fernandez '92 in September, "Raising the Diversity and Inclusion Bar: Women of Color in the Law" hosted by Nora Ali '15 in October, and "Working from Purpose" hosted by Risa Mish '88, in November.

This spring, MKBS launched a new year of programming with February's "Connections You Won't Find Anywhere Else," which drew more than seventy alumnae and students to a networking round-robin, and March's "Fireside Chat with Anne Lukingbeal and Markeisha Miner: The Women of Cornell Law School from the 1970s to Present," which brought together the past and present deans to compare perspectives on their combined forty-four years at Cornell Law. "For Women's History Month, we thought it would be meaningful to have a conversation with these two amazing and impactful women who have contributed to Cornell Law School's history in so many significant ways," said Duval, opening the March 25 webinar. "We also want to be sure to honor the women graduates between 1893 and the 1970s, who played such a vital, groundbreaking role in the progress of women in the field of law. Our program today couldn't have been possible

without the stories and accomplishments of these women who forged that path."

In 1978, Lukingbeal's journey brought her from Los Angeles, where she'd worked as a public defender, to Cornell, where she remained until retiring as dean of students in 2015. "Thinking back in anticipation

of this program, I am struck at how my career path followed a national trajectory of what was happening in higher education," said Lukingbeal, who was Cornell Law's first full-

We also want to be sure to honor the women graduates between 1893 and the 1970s, who played such a vital, groundbreaking role in the progress of women in the field of law. Our program today couldn't have been possible without the stories and accomplishments of these women who forged that path.

— Jacqueline Duval





Clockwise from top left: Nora Ali '15, Markeisha Miner, Anne Lukingbeal, and Jacqueline Duval '92.

time woman administrator with a juris doctor at a time when male students outnumbered females four to one. "Three years later, Sheri Johnson came in as a tenuretrack faculty member, and Cynthia Farina was hired a few years after that. It may have been serendipity, pure chance, but we just hit it off. We were making it up as we went along, figuring out how to construct our careers and handle the personal issues that came up in our lives."

Thirty-seven years later, coming to Cornell to fill what she calls Lukingbeal's "massive shoes," Miner found a much different environment. Women now make up half of Cornell Law students, and new structures exist to address their concerns, including the Center for Women and Justice, the Legal Information Institute's Women & Justice Collection, Myron Taylor's Closet, the Women of Color Collective, the Women's Law Coalition, and the Mary Kennedy Brown Society. The Law School has reserved rooms for parents to feed their infants, designated bathrooms as gender neutral, established a clinic to support the LGBT community, and written policies to protect unmarried same-sex and opposite-sex couples.

"It's an exciting time to be here and see that evolution," said Miner, who arrived after seven years as an assistant dean at University of Detroit Mercy School of Law. "A couple of years ago, we elected the first all-women senior editorial board of the Cornell Law Review. There are twenty-seven women in our permanent faculty, and thirty-six of our visiting and adjunct faculty identify as women. That phrase, 'identify as women,' wasn't even in the language when I went to law school, and when you check the ABA, where we report by gender identity, you'll notice three columns: men, women, or other. In just that one category, you see the changes in how schools recognize gender, which impacts the support we provide."

Going back and forth, Lukingbeal and Miner traded stories about things that hadn't changed much, like the dean of students' role as student-advocate-in-chief, perennial concerns about the fairness of grades and grading curves, and the challenge of not being able to perfectly resolve every issue that students raise. There were new variations on old themes, too, including measures to ensure privacy in an age of social media, the ongoing debate over whether laptops should be allowed in lectures, and the difficulties of interviewing for jobs via Zoom.

"The more things change, the more they stay the same," said Miner, summing up the conversation's five decades of history, with organizers Duval and Ali talking afterward about the event's takeaways. For Duval, the two deans represent a continuum of Cornell Law values, "of ensuring that the experience of our students really comes first." For Ali, the afternoon was another way to give back to the Law School, express thanks to the women who came before her, and help pave the way for the generations that follow.

"What drove me to join Mary Kennedy Brown is the relationships that are built there," said Ali, who serves as vice president. "Early on, when I started at Cornell Law, I saw the value of networking with women alumni, and the further I get from law school, the more women reach out to me. They see moments in my legal career that align with their interests, and just like the alumni who mentored me, I want to be that link."

To contact the Mary Kennedy Brown Society, email: MKBS@ cornell.edu.

Ohlin and Peñalver Talk About Transition in Fireside Chat

On January 28, with the temperature dropping to the low teens, the Law School held a virtual fireside chat between Eduardo Peñalver, who becomes the president of Seattle University on July 1, and Professor Jens David Ohlin, who became interim dean on the first of January. "This is a time of great change at Cornell Law School," said Franci J. Blassberg '77, introducing the two deans and launching into a conversation about the transition of leadership and "the new and ongoing challenges the Law School is likely to face in 2021."

The question about Peñalver's decision was resolved first, with the former dean talking about the importance of being close to his family, and his desire to keep working as an administrator, which would be unlikely at Cornell when his second term as dean ended in 2023. "I'm going to terribly miss this place, and it's really hit home since I stepped down and started turning physically toward Seattle," said Peñalver, with a photo of the library in

the background as he talked about common ground between the two schools.

"Cornell and Seattle are both very mission-driven institutions that have values I share, that resonate for me," he continued. "Cornell's land-grant mission, that any-person-anystudy ethos has always inspired me. It inspired me to come to Cornell as an undergraduate, brought me back as a faculty member, and made me really proud to serve the community as dean. Seattle is a Jesuit university that's very much committed to similar values of inclusion and excellence, and that's a big draw for me."

Blassberg asked Ohlin about the beginning of his term as interim dean, which is expected to last until the next school year. "It has been a trial by fire, with a lot of work and a renewed appreciation for everything that Eduardo has done," said Ohlin, twenty-eight days into the new position. "The thing that comes to mind right away is teaching: How do we deliver our educational services in this COVID era? This sounds simple but turns out to be bureaucratically and technologically complicated to accomplish. The other things that are looming large in my thoughts are faculty recruitment, which is going fullsteam ahead, and alumni engagement. I want to plan for a return to normalcy as quickly as the public health situation will allow."

More questions and answers followed. Both Peñalver and Ohlin believe the pandemic will bring lasting changes to the academy, enabling a hybrid of in-person/online instruction, adding the possibility of virtual lectures and mini-courses, deepening the partnership between Cornell Law and Cornell Tech, and increasing opportunities for collaborations with overseas law schools. Now that we're all used to Zoom meetings, the search for new faculty members-Cornell is still hiring, though many other law schools aren't-can grow shorter, and the acceptance of working from home can make it easier for trailing spouses to keep their current jobs when they move to Ithaca.

In the meantime, said Ohlin, even with the added stress of the pandemic, current students are doing well, responding in surveys that they love their courses, their professors, and their in-class training. Despite the pandemic, the Law School's clinics are still meeting with clients, the job market remains promising, especially at large law firms, and Cornell administrators are pushing forward with plans for courses and clinics that address racial justice.

Then, with time for one last question, Blassberg asked: What sets Cornell apart in the minds of potential employers? What is the Cornell difference? "For me," said Ohlin, "it's that our professors share this bold,



Clockwise from top: Blassberg, Peñalver, and Ohlin

visionary view of the law. They're reconceiving large ideas in their fields of study, but at the same time, they're concerned with how the law operates on the ground. One thing that's great about the Cornell approach is that we're operating at 10,000 feet, and we're also operating at ten feet, right with our feet firmly planted on the ground, and you can see that in our graduates."

"Absolutely right," said Peñalver, taking the last word. "The secret sauce, from the point of view of employers, is our strong sense of community and the way our graduates are team players. That gives them a real leg up, because when they get into the workplace, the importance of not having sharp elbows and the importance of being good team players become so crucial to the success of their organization. I hear this from so many different places: that our students

act differently than students from other law schools. They sing each other's praises, they love to work together, and they really get along across their own disagreements. That translates into how they practice law, and that collaborative, collegial personality is a Cornell trait."

A videorecording of "A Time of Transition: A Fireside Chat with Eduardo Peñalver and Jens Ohlin," can be found at the Law School's digital recordings page.

Alumni Atkinson, Bachrach, and Hayes Discuss Rule of Law

In two years as inspector general of the intelligence community, from May 2018 to May 2020, **Michael K. Atkinson** '91, read hundreds of whistleblower complaints. But of all those complaints, he saw only one—an account that then-President Donald Trump had pressured Ukraine to investigate a political opponent—he considered an "urgent concern" that "appears credible."

"This one was so different, so extraordinary," says Atkinson, who spoke at the Law School's online Government Lawyering and the Rule of Law event on February 25. "The first six sentences are quite dramatic in terms of the allegations the president was using his official position to interfere in the 2020 presidential election. I thought it was quite eye-catching, not just in terms of how well the complaint was written and how well sourced it appeared to be, but also the extent of the timeline, the breadth of the allegations, and the people involved, some of the most powerful in the country, if not the world."

After investigating, Atkinson forwarded the complaint to the acting director of national intelligence, and when it stopped there, Atkinson sounded a public alarm that caused the "Michael tells a really important story about one of those moments when government lawyers have to go to ground truth," says Annette Hayes
"91, who shared her experience as the U.S. attorney for the Western District of Washing-

as the U.S. attorney for the Western District of Washington from 2014 through early 2019. "It's a time when lawyers have to figure out the right way to keep moving forward, because they're being asked to do something that appears to fly in the face of their legal obligations. As a government lawyer, you have to keep asking yourself almost every day—wait a minute—what is consistent with the rule of law, the Constitution, and my legal and ethical obligations as a lawyer?"

complaint to be forwarded to

Congress, where it became the

center of Donald Trump's first

impeachment trial in the Sen-

ate. The rest, as we say, is his-

started: a nine-page complaint

and Atkinson's decision to up-

hold his oath and defend the

tory, but this is where it

rule of law.

For Hayes, that meant a range of things—none as dramatic as those Atkinson faced—but nonetheless "important to doing the right thing and ensuring the district's interests were protected, even when that meant saying 'no' to powerful folks in Washington, D.C." In Atkinson's case, it included surviving weeks when the president questioned his integrity, tweeted he'd done "a terrible job, absolutely terrible," and fired him on April 3, as Atkinson and his family followed the news on television. For **Marion Bachrach '77**, who moderated the event, it brings up memories of her years as a prosecutor, when she asked that a conviction she'd prosecuted be overturned in the face of new evidence.

"It can be difficult to pursue what you believe to be right when your supervisor says no," says Bachrach, who ultimately succeeded by getting authorization directly from the U.S. attorney. "There was a miscarriage of justice, and whatever way I looked at it, something was very wrong. So I decided to pursue it, because the whole point of taking a job as a prosecutor is to do right and uphold the rule of law, even when it's not easy. I certainly never had a situation as difficult as Michael's, where he was in the public eve every step of the way. He handled it all with clarity, firmness, rigorous analysis, and great integrity. That's an extraordinary combination of admirable qualities."

Looking back, Atkinson remains angry the whistleblower was publicly attacked but shrugs off his own firing, explaining that he simply did what he had to do. He'd joined the Justice Department in 2002, following the terrorist attacks on 9/11, and though he'd been reassured he could remain nonpartisan in his role as inspector general, he'd also cleared out his desk by the time he was fired.

He took the next few months off, began a job search in the fall, and joined Crowell & Moring in February 2021, working as a partner, co-leader of the national security practice group, and member of the white-collar and regulatory enforcement and investigations group. When asked to name a satisfying experience from his years in government service, he quickly returns to the whistleblower complaint.

"It was by far the most challenging professional experience I've ever had, but it was rewarding in ways that were very unexpected, in terms of support from colleagues, friends, and Law School classmates I'd lost contact with," says Atkinson. "The work itself was important, and public support and private support meant the world to me."

How does he expect history to judge him? "Hopefully, it'll say I did my job, that I did it objectively and independently, without bias or agenda," he continues. "The second impeachment underscored the threat the first was trying to identify: that we need to hold people publicly accountable and make sure everyone at all levels is following the rules. The truth matters. You follow the facts and let the chips fall where they may. I think government service is some of the best work you can do as a lawyer. Your allegiance is to the

Constitution and to the people of the United States, which goes beyond any kind of personal interest. It's a higher calling."



Development News

The Cornell Law School Annual Fund faced a difficult reality when the fiscal year opened on July 1, 2020. The COVID-19 pandemic was causing pervasive economic uncertainty that curtailed philanthropic giving to every cause. As the virus continued to spread with winter approaching, diminished confidence among potential benefactors left the Law Annual Fund well short of the success it achieved just a year ago. When the books for the second guarter closed on December 31, 2020, total donors numbered barely more than one thousand, a decrease of 4.5 percent, and total gift dollars had slipped 12 percent from the December 2019 level, coming in at just over \$1.414M. The advent of highly effective COVID-19 vaccines, together with the Law School's redoubled fundraising outreach via virtual events and meetings, worked to reverse those downward trends. At the beginning of March, the Annual Fund

had staged a strong fightback to largely close the shortfalls noted above: total Annual Fund donors stood at 1,203 and total gift dollars rang in at more than \$1.766M. These totals were still lagging behind FY 2020 numbers, but not by much—and, with Cornell Giving Day in the offing, retained the potential of a full recovery of the prior year's results.

The Law School is grateful to all of its Annual Fund supporters during a year that has been, to say the least, challenging. Annual Fund gifts make it possible for Cornell's law students, faculty, and staff to persevere in educating "a fair number of well-trained, largeminded, morally-based lawyers in the best sense" whose service will be "a blessing to the country, at the bar, on the bench, and in various public bodies." A.D. White's foundational vision of Cornell Law School feels especially powerful today as the school and the nation at large, continue to struggle against the most destructive public health crisis in more than a century.

Interim Dean **Jens Ohlin** and the Law School faculty have succeeded in maintaining the standards of instruction while protecting the welfare of our students—an achievement largely underwritten by the resources our Annual Fund donors provide. Donors to the "Partners in Purpose" initiative have been at the forefront of that support. By making a three-year commitment to the Law School Annual Fund for Scholarship, they are providing three-year term scholarships to deserving law students whose financial resources have suffered during the COVID Year. "Partners in Purpose" scholarship funds go wholly and directly to current 1Ls in the form of tuition-assistance grants. Those additional grants are making it possible for those students to complete Cornell's J.D. program, with their graduation slated for May 2023. Cornell Law School, Interim Dean Jens Ohlin, and immediate past-Dean Eduardo Peñalver are grateful to "Partners in Purpose" supporters **Dominic K**. L. Yoong '94 and Akiko Nakatani Yoong '94, Boyd M. Johnson '92, and David J. Miller '06 for their generous gifts.

Before we proceed to new gifts to the Law School during fiscal 2021, we must note several corrections to last fall's Annual Report, which appeared in the fall issue of Cornell Law Forum. Lewis M. Ress '54 and his wife Esta B. Ress are longtime, loyal benefactors of many schools and units at Cornell, including the College of Agriculture and Life Sciences, the College of Arts and Sciences, the College of Human Ecology, and the College of Engineering, as well as the Law School and the university. Their membership in the 1865 Society is among the longest on record, and Lewis Ress's giving to Cornell Law reaches back to 1957. In fiscal 2020, he and Esta again made a generous gift

to Cornell Law and should have been listed with the J.D. Class of 1954 in the \$1,000– \$4,999 gift range. We regret the error that omitted their names; their annual gift is selfrenewing and has no end-date, and merits consistent acknowledgement. Thank you, Lewis and Esta! We are grateful for your steadfast support.

Apologies also are due to Lee I. Weintraub '70, donor of a prestigious Dean's Scholarship, who made a new gift to the fund's endowment that will significantly increase the value of the annual scholarship grant it provides to an academically meritorious J.D. candidate. His fiscal 2020 gift should have been noted with his name in the \$50,000-\$99,999 giving range. That range was mistakenly omitted from the Class of 1970 donor column. Weintraub has been a benefactor of Cornell Law since the early 1980s and has given dependable and generous support to the Law Annual Fund and other Law School initiatives. Thank you, Lee! We are grateful for your partnership and value your "forever relationship" with Cornell.

The Bank of America renewed its sponsorship of the Bank of America Institute for Women's Entrepreneurship at Cornell with a new gift. This gift enables the institute to continue its mission of giving entrepreneurs free access to the skills, knowledge, and resources to build, manage, and scale a successful business. It should be noted that the Institute welcomes all persons pursuing entrepreneurship, notwithstanding its founding mission to promote the business projects of women entrepreneurs. Using eCornell's online learning portal, aspiring and active entrepreneurs can access a curriculum designed by the respective faculties of Cornell Law School, the Charles H. Dyson School of Applied Economics and Management, the S.C. Johnson Graduate School of Management, the College of Human Ecology, and the College of Hotel Administration. Online two-week courses address customer discovery techniques, legal considerations, product development, funding options, and other topics essential to successful entrepreneurship.

Institute Program Director Kirsten J. Barker characterized the Bank of America gift as consistent with "the nature of Cornell," since the new funding will enable the Institute to bring an additional 30,000 students into the program. At that level, the institute will serve a total of 50,000 students-fully ten times its original goal. Together with an initiative to translate its entire curriculum into Spanish for more effective outreach to Spanish-language-first populations, increased enrollment extends the reach of a Cornell education on a scale that invests the university's motto, "any person ... any study" with real and greater meaning. Bank of America support will also give the institute the necessary resources to promote diversity and inclusion among its roster of experts, who deliver "Ask the Expert" questionand-answer modules on a range of specialized subject areas pertinent to entrepreneurs, including law.

The institute's services are especially important in the wake of COVID-19 economic disruptions, which have damaged or destroyed the livelihoods of so many women, especially women of color. As Barker notes, "Eighty-five percent of our students self-identify as women of color. And, our program originated online, so when everything went to remote instruction, the institute was already in place. It has proven itself as an outstanding educational option both in normal circumstances and during very difficult times. Thanks to the generosity of the Bank of America, the Institute for Women's Entrepreneurship at Cornell will be a valuable and effective educational resource serving a diverse constituency. All are welcome."

Dominic K.L. Yoong '94 and Akiko Nakatani Yoong '94,

made the first gift commitment to the "Partners in Purpose" scholarship initiative. Designed to provide immediate financial assistance to Cornell's current 1L class, "Partners in Purpose" seeks current-use gifts to offset tuition costs. Dominic and Akiko's commitment to a three-year "Partners in Purpose" term scholarship is

named by them the Nancy Yoong Memorial Scholarship and guarantees augmented financial assistance for a current 1L. In making the gift, the Yoongs noted, "It has been a difficult time for everyone because of the pandemic, including our Cornell community. We wanted to do our part to give back to the next generation of Cornell law students by funding a three-year term scholarship for first-year law students. We hope our gift can provide assistance and motivate the recipient and others to pay it forward to help the community when they can." Cornell and its 1L class thank Dominic and Akiko for their thoughtful generosity. The Law School welcomes gifts to "Partners in Purpose" scholarships for one, two, and threeyear terms on an ongoing basis.

A new gift by Eric B. Fastiff '95 and his wife Rebecca Arons to the endowment fund of the Daniel Webster Barmon, LL.B. 1894, and Marcus Barmon, LL.B. 1898, Scholarship will provide a more valuable scholarship grant to a Cornell Law student during the 2021-2022 academic year. The Barmon-Barmon Scholarship remembers Eric's great-great uncle and great-grandfather, respectively, both of who were members of two of Cornell Law's earliest graduating classes. Eric and Rebecca's ongoing support of its endowment fund is tremendously beneficial; as the value of the endowment rises, so does the

amount of tuition-assistance the Barmon-Barmon provides to a J.D. candidate at Cornell. In making this new gift, Eric said, "Rebecca and I endowed this scholarship to allow students to receive a Cornell Law education, and with the financial assistance, to encourage them to pursue whatever career path they want, hopefully not influenced by debt repayment obligations." In addition, Eric and Rebecca renewed their support of the Law School Annual Fund for Scholarship, which delivers current-year funding to Law students and effectively lowers the cost of attending Cornell Law School during the current academic year. Eric made these gifts during the Class of '95 reunion campaign to mark its milestone twenty-fifth graduation anniversary. His leadership as a member of the Law School Dean's Advisory Council, as well as a consistent and generous benefactor of Law scholarships and the Law School Annual Fund, are greatly appreciated.

As group projects go, the Cornell Law School Class of 1985 Scholarship Fund is certainly among the most successful. Members of the class have built the scholarship's endowment through steady giving since its establishment in 2010. In fiscal 2020, the Class of '85 celebrated its thirty-fifth reunion by lifting the fund's endowment beyond \$1.5M—a level we expect to be sufficient to generate an annual grant equal to the cost of a year's J.D. tuition. A grant of that value has a transformative effect on the life of its recipient. **Julia Mikolajcza '22** is a current recipient of a full-tuition Charles Evans Hughes Scholarship that is funded primarily by the Class of '85 Scholarship Fund.

"As someone with no interest in Big Law or moving to New York City, this scholarship has afforded me the opportunity to pursue client-facing, public interest, and small firm work in Buffalo in my areas of legal interest-criminal, family, and immigration law," says Mikolajcza. "These career opportunities, if not my attendance at law school, would surely be impossible if not for this scholarship due to the crushing burden of loans I would need to take out as a low-income, first-generation student."

"With the funding provided to me through this scholarship, I am also able to avoid working too many jobs, and thus can devote more time to my studies and extracurriculars," adds Mikolajcza. "I deeply appreciate the opportunity that the Class of '85 Scholarship has provided me to enhance my law school experience and pursue my academic and professional ambitions."



In Memorian

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Robert F. Hermann '73 Melvin Jones '79 Hon. Norman E. Joslin, LL.B. '52 Paul T. Kalinich LL.B. '57 Stanley L. Kantor '71 Gilbert Katz '53 William J. Kupinse Jr., LL.B. '64 Richard A. Lang Jr. '64 James "Jim" D. McFarland '80 Jeffrey C. Miller '68 John F. Murphy, LL.B. '62 Louis F. Nawrot Jr. '63 Gregory Joseph Nowak '84 Robert P. O'Neill '67 Alan Parsons, LL.B. '56 George R. Pfann, LLB '59 Lorraine K. Rak '84 Robert A. Sanville '89 Frederick Smith Jr., LL.B. '52 Richard Charles Southard '57 Jean Seibert Stucky '78 Howard J. Thomas '54 Ronald James Turiello Jr. '96 Carol Wanagel '74

FORUM

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Cornell Law School CLASS of 2021

Convocation

































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