



Photo by Michael Johnson.

Legal and human welfare scholar compares efforts to save identifiable and statistical lives

recalled that before starting his treatment he frequently thought about dying from complications related to cancer. In his mind, this fear made him believe his life could be in danger even though treatment for retinal melanoma had a 99 percent success rate.

Because humans can get caught up in the emotions of such a personally traumatic situation, Kelman said, “We treat the intensity of fears as if they are diagnostic of the actual danger of an event.” Such strong emotions can cause us to “misperceive the relative probabilities” of the occurrence of events.

When someone considers contributing to a certain cause, Kelman asserts that this person will experience greater concern if the cause will help a person he or she knows.

Moreover, he said people are less likely to support an effort to save unknown people because there is no emotional attachment in the scenario.

Even though more statistical lives could be saved in the latter case, one’s feelings toward identifiable lives can result in assessing the situation incorrectly, according to Kelman.

“People think they’ve done a better job reducing mortality when they save a higher proportion of a reference group they’ve constructed at risk,” he said.

In actuality, saving 50 out of 5 million is better than saving one out of one, even though the proportion is much worse. Therefore, it is important to consider the number of lives saved rather than the proportion of lives saved when making policy decisions, according to Kelman.

In the areas of policy and public health, world leaders must use rational logic to accurately assess and carefully consider the policies they enact, Kelman stated. There are many more statistical lives around the world that are suffering compared to the number of known individuals in danger.

Kelman further proposed that government officials must transfer dollars from

projects that save fewer lives to projects that save more lives, many of whom are statistical, unknown individuals.

He criticized public officials in this regard, saying that one of the goals of his lecture was “to embrace in part and reject in part the mainstream intuition, among fundamentally utilitarian public policy types, that [those] who are willing to spend more to save identifiable lives than unidentifiable lives are the poster children for the persistence of irrationality and error in the formation of public policy.”

With areas of interest ranging from law and economics to cognitive psychology, Kelman has used social science approaches to examine various legal fields such as criminal law, taxation, administrative regulation and disability law. Additionally, Kelman is an authority on antidiscrimination law, criminal law and criminal justice, distributive justice, employment discrimination, property, and race and the law. His current research focuses on whether the concept of human welfare, which is used to evaluate the success of policy or the justice of the distribution of goods and opportunities, can or should be refined.

In addition to his teaching duties, Kelman serves as the vice dean of the Stanford Law School. Before joining the faculty at Stanford in 1977, he was the director of criminal justice projects for the Fund for the City of New York. Kelman earned his Bachelor of Arts and his Juris Doctor from Harvard University.

Established in 1964 by the Charles Lovidans Foundation of Atlanta, the Sibley Lecture Series honors the late John A. Sibley, a 1911 graduate of the School of Law. The series hosts renowned legal academics known throughout the country for their exceptional scholarship.

- Compiled by Drew Bloodworth

View lecture online at : www.law.uga.edu/academics/lectures

Women's law school experiences explored during Edith House Lecture

Chicago-Kent's Felice J. Batlan, a specialist in feminist legal theory, delivered "Are We Our Mother's Law Students?: Women's Law School Experiences and an Agenda for Action" as Georgia Law's 27th Edith House Lecturer.

While acknowledging that great strides have been made as far as the sheer number of women enrolled in law schools across the nation, Batlan argued that there is room for improvement.

"The fact that women now make up 50 percent of all law students is really remarkable," Batlan said. "But my question here today is not one about numbers so much as it is about the quality of women's law school experiences."

Her story began in the spring of 2007, when students in her Gender and the Law class at the Chicago-Kent College of Law read portions of Lani Guinier's *Becoming Gentlemen: Women, Law School, and Institutional Change*.

Guinier wrote that although men and women entered law school with practically identical academic qualifications, men received better grades in law school, participated more in class and received more faculty attention. Additionally, the women in his study described significant "psychological problems" stemming from law school and how they were treated by both faculty and other law students.

"The book generated very strong reactions from my students. In part, I had thought that they may not actually relate to the experiences of these women from 1994. This was a new age, a new dawn. But of the 22 women in my class, about three-quarters of them deeply related to the sense of alienation experienced by the women in Guinier's study," Batlan said.

However, according to Batlan, about 30 percent of her class disagreed. They countered that what the women law students expressed was really part of all law students' experiences, both men and women.

This mixed reaction inspired Batlan and four of her students to conduct their own survey to see what other Chicago-Kent law students had to say about their experiences in law school and examine if there were any differences based on gender.

Some of the areas addressed in the study were class participation, interactions with professors outside of class and student confidence/self-perception.

Half of the student body responded to the online survey, Batlan said, and the results "were shocking."

For class participation, 24 percent of men reported they volunteered in class on a daily basis versus 16 percent of women.

"Women were more likely to report that they were silent in class due to timidity or fear, while men were more likely to report that they didn't participate because they were unprepared or had a lack of interest," Batlan said.

The survey also found that while men and women interacted with professors outside of the classroom on an equal basis, they reported very different feelings when doing so.

Batlan said a lot of women admitted feeling intimidated when approaching their professors and were concerned about "wasting the professor's time." However, men reported feeling entitled to go speak to the professors and did not have the same concern of disruption.

When asked how they felt about their intelligence since entering law school, slightly more than 30 percent of women versus 17 percent of men said they felt less intelligent than they did prior to attending law school. Also, women were more likely to indicate that they were less

pleased than expected with their overall law school experience.

Last year, Batlan and her students presented the full results of their study to student groups, faculty and administration, and devised reforms to help improve women's experiences at Chicago-Kent.

She said by the fall of 2008, several initiatives were put into place such as creating a first-year orientation program on diversity.

Other recommendations that have not been implemented include hiring more women so that every first-year law student has at least one female professor.

An assistant professor at Chicago-Kent, Batlan previously worked for a law firm in New York and served as a judicial clerk to Judge Constance Baker Motley of the U.S. District Court for the Southern District of New York.

She earned her undergraduate degree *summa cum laude* from Smith College and graduated *magna cum laude* from Harvard Law School, where she served as executive editor of the *Harvard Women's Law Journal*. Batlan later returned to school at NYU and earned her doctorate in history, specializing in U.S. legal and gender history.

The Edith House Lecture Series is hosted annually by the Women Law Students Association in honor of one of the first female graduates of the University of Georgia School of Law. House was co-valedictorian of the law class of 1925, the first class to graduate women.



Conference explores the future of arbitration

Gary Born – a leading practitioner in the field of international arbitration – recently visited the Dean Rusk Center to take part in a conference examining the state of international commercial arbitration 50 years after the New York Convention, a document widely considered as the foundational instrument guiding international commercial dispute resolution.

The symposium, co-sponsored by the *Georgia Journal of International and Comparative Law*, featured Born as the keynote speaker and included several leaders in the field of arbitration, including Executive Director of Judicial Arbitration and Mediation Services Arbitration Practice Robert B. Davidson, President and CEO of the American Arbitration Association William K. Slate II and former Secretary General of the International Chamber of Commerce International Court of Arbitration Anne Marie Whitesell. Additionally, notable academics, such as Columbia University's Monnet and Gellhorn Professor George A. Bermann and New York University's Lipton Professor Linda J. Silberman, served as panelists.

Born, who marked the occasion by introducing his newly published treatise on international commercial arbitration, focused his remarks on the continued growth of commercial arbitration, especially at the international level, due in large part to the robustness and efficacy provided by the New York Convention.

"In 1993, the main institutions reported roughly 1,300 arbitrations. In 2007, the number was 3,200 – a fairly dramatic increase ... that, in fact, doesn't come close to capturing the very significant increase in arbitrations at regional centers around the world," Born said.

He added that the robust legal framework of the New York Convention has provided reason, over the last 20 years or so, for an increasing number of states – not typically categorized as developing and not historically in support of commercial arbitration – to basically give effect to international arbitration.

In addition to the relative efficiency, flexibility and enforceability provided by arbitration, Born posited that there may be

another, more fundamental reason that parties increasingly arbitrate and states increasingly give effect to international arbitration agreements: that arbitration is, in fact, an expression of party autonomy.

Furthermore, Born suggested that the "constitutional" nature of the documents – the New York Convention and the Federal Arbitration Act – forming the legal regime of arbitration, supports the position that these "constitutional instruments," which essentially work, should not be readily amended or tinkered with. He suggested rather than legislatively revising these "constitutional" documents of arbitration, there is room – in the courts, in the restatements and in academia – for common law development of the principles of arbitration, both domestically and internationally.

- Assistant Director of the Dean Rusk Center
André B. Barbic (J.D.'05)

Hear proceedings online at : 
www.uga.edu/ruskcenter/conferences.html

Social injustice continues to be theme of annual conference

Students, practitioners and public interest advocates from all parts of the Southeast gathered to address pressing topics related to human rights and social injustice during Georgia Law's 4th Annual Working in the Public Interest Law Conference.

"Our goal was to create a forum where important social injustice issues could be brought to light and potential solutions explored," second-year law student and conference organizer Stinson W. Ferguson said.

The two-day event consisted of numerous panels and roundtable discussions with notable speakers from across the country. The keynote address was delivered by Mary Bauer, the director of the Southern Poverty Law Center's Immigrant Justice Project, where she gave first-hand accounts of her experiences working with migrant farm workers.

Other speakers included U.S. Human Rights Network Executive Director Ajamu

Baraka and U.S. Program Human Rights Watch Director David C. Fathi, both of whom delivered the Saturday morning plenary on human rights in the Southeast.

Panels explored topics such as the problem of eyewitness testimony in capital cases, examining the health law partnership, the harsh sentencing of juvenile offenders, same-sex marriage, the prevalence of sex trafficking and the sexual exploitation of minors, and combating economic disparity with civic engagement.

Supreme Court review, ethics in practice, funding a public interest career, and race and the law were also addressed during lunch roundtable discussions.

Additionally, three individuals were recognized during the conference for their distinguished service in public interest. The late Alabama attorney and civil rights activist J.L. Chestnut Jr. was honored with the Milner S.

Ball Working in the Public Interest Lifetime Achievement Award.

University of North Carolina third-year law student and National Association of Law Students with Disabilities founder and President Rebecca S. Williford received the Working in the Public Interest Student Achievement Award.

The Equal Justice Foundation Annual Practitioner Award was presented to American Civil Liberties Union of Georgia National Security/Immigrants' Rights Project Director Azadeh N. Shahshahani.

Coinciding with the conference was Georgia Law's 24th Annual Equal Justice Foundation Auction, which serves as a fundraiser for EJF fellowships. These fellowships help support Georgia Law students working in public interest positions during the summer.

Annual Red Clay Conference addresses green sustainable commerce

Georgia Law's 21st Annual Red Clay Conference explored the question "Does going green equal making green?" and offered a wide spectrum of views from the private legal sector, the corporate/business arena, and government and public interest groups.

The goal of this day-long event was to examine green environmental initiatives in a variety of industry settings and to explore the balance struck between the corporate bottom line and compliance with environmental regulations as well as the aims of environmental stewardship.

"This year's conference featured an impressive group of speakers who discussed environmentally friendly commercial practices," second-year law student and conference co-organizer Kelly A. Christian said.

The first keynote address – "Sustainable Commerce: Georgia's Next Economy" – was delivered jointly by Georgia Law Associate Professor Peter A. Appel and President of

Registry Consultants and UGA College of Pharmacy Adjunct Professor Dr. T. Rick Irvin (J.D.'08).

Stephen E. O'Day, who leads the Environmental Law Section and Sustainability Practice Group at Smith, Gambrell & Russell in Atlanta, delivered the second keynote address, titled "Benefits of Sustainability in a Recession."

Green building, green forestry, green corporate environmental initiatives and the growing tide of green investment were also explored through panel sessions.

The panelists were as varied as the topics discussed and included Georgia Forestry Commission Senior Forester Joe Burgess, Coca-Cola Environmental Manager Ben Jordan, Delta Environmental Sustainability Manager Michael E. Morgan, Doraville City Councilman Bob A. Roche and Coca-Cola Senior Environmental Counsel Vail T. Thorne as well as others from law firms and academe.



Coca-Cola Environmental Manager Ben Jordan (center) fielded a question from the audience during the Green Corporate Environmental Initiatives Panel at the 21st Annual Red Clay Conference. Others on the panel were Coca-Cola Senior Environmental Counsel Vail Thorne (left) and Delta Environmental Sustainability Manager Michael Morgan.

This conference is sponsored annually by the law school's Environmental Law Association to increase public awareness of environmental issues of regional, national and international significance through a series of educational presentations and open forum discussions.

IJTP celebrates 10th anniversary; hosts record group from Brazil

The International Judicial Training Program celebrated its 10th anniversary last December by training a record group of 50 members from the Brazilian judiciary and two from the Argentine judiciary on the workings of the U.S. legal system.

"I feel privileged to have been able to co-direct this program since its inception in 1998," Dean Rusk Center Associate Director María E. Giménez (LL.M.'89) said. "It is very fitting that we were able to mark this special occasion with a record number of participants from the Brazilian judiciary, since Brazil was the first country to participate in the IJTP."

According to Giménez, not only was this the largest group the IJTP has hosted from any country, but it was also the most national participation for the Brazilians with members from 10 different states and the federal judiciary taking part.

"The geopolitical strategic position of Brazil is considered, with India, China and Russia, as one of the future economic forces in the world, making it more important than ever for the law school to be engaged in this high-level training program," Giménez said.

The IJTP, which is co-sponsored by the Georgia Institute of Continuing Judicial Education, is designed to introduce foreign judges and court personnel to the U.S. judicial system as a

potential model for their own countries, allowing participants to gain ideas and insights on possible ways to strengthen their own judicial systems.

"We respect all judicial systems throughout the world; however, America's system is one of the best," Fernando Cerqueira, a justice for the State Supreme Court of Pernambuco and coordinator of the program for the Brazilians, said. "So, we have come to learn from the best. We want to give the population of Brazil what they need – justice."

Cerqueira said that since participating in the IJTP, the Brazilian judiciary has engaged in modernizing drug courts as well as creating a domestic violence program and a national council for the Code of Judicial Conduct. He added that while it is always difficult to implement new ideas into a system, the face of the Brazilian judiciary is "very slowly beginning to change."

"These programs have helped us improve our system and improve our work with the Brazilian population," Cerqueira said.

Since the IJTP's inception, more than 300 judges and court personnel from Argentina, Armenia, Brazil, the Czech Republic, Egypt and Ghana have participated in the program.

Former U.S. diplomats offer perspectives on Obama's foreign policy

Recently retired U.S. Foreign Service Officers Earle St. A. Scarlett and Barbara A.H. Scarlett, who have a combined 50-plus years of global diplomatic experience, shared their personal views on President Barack Obama's foreign policy plans at a Dean Rusk Center lecture during March.

The couple noted that because Obama does not yet have a national security document, he has a listening audience that is "broad and deep" of people trying to get a sense of his plan through his statements and actions.

Barbara said as a result, "when he talked about reaching out to people who will open their clinched fists, a lot of people heard that, not just leaders. He is going to have an audience from the bottom up." She added that she is encouraged by this approach and believes the new president will have success internationally because of it.

"It is a bottom-up diplomacy perhaps very close to what Ronald Reagan did when he said 'I don't need the leaders and the press. Just open the mic. I want to talk to the world.'"

According to Earle, the world is listening and is waiting to see how Obama answers the major challenge of the financial crisis along with some other questions – "Is China a rival or an ally? Is Afghanistan winnable? Is the Palestine-Israeli problem solvable? What tactic or strategy is best to deal with Iraq? How will he and his team solve these problems?"

Earle believes Obama is "a tenacious person and a good listener with a sense of vision that will serve the United States well" both in national security and foreign affairs.

"To wander through the thicket of international affairs and maintain a sense of good relations with our friends [and] grace with our adversaries and then also build new allies requires great dexterity," Earle added.

Since 1976, the Scarletts have had joint overseas diplomatic assignments in Cameroon, Brazil, the Philippines, the former Yugoslavia and Ireland.

Earle's domestic assignments included serving on the China Desk and Task Force during the Tiananmen Square incident and on the Somalia Desk. He was also a director of political training at the Foreign Service Institute and a Foreign Service examiner.

A specialist in public diplomacy, Barbara was a Foreign Service examiner. She worked on diplomatic strategy for the Kyoto Protocol and on television and teleconference programming on diplomatic issues in Latin America. She also served as a policy adviser on the Middle East and as a desk officer for East Africa and Anglophone West Africa.

Hear proceedings online at : www.uga.edu/ruskcenter/conferences.html

Faculty Notes

The following will summarize the scholarly productivity of Georgia Law's distinguished faculty during the calendar year 2008 and year-to-date 2009.



Peter A. Appel

"Sustainable Commerce: Public Health Law and Environmental Law Provide Tools for Industry and Government to

Construct Globally-Competitive Green Economies" in 33 *Southern Illinois University Law Journal* (forthcoming) (with Dr. T. Rick Irvin (J.D.'08)); "Wilderness and the Judiciary" in 30 *Stanford Environmental Law Journal* (forthcoming); "Changing Intellectual Property and Corporate Legal Structures to Promote the U.S. Environmental Management and Technology Systems Industry" in 35 *Boston College Environmental*

Affairs Law Review 397 (2008) (with Dr. T. Rick Irvin (J.D.'08)); "Kyoto Comes to Georgia: How International Environmental Initiatives Foster Sustainable Commerce in Small Town America" in 36 *Georgia Journal of International and Comparative Law* 559 (2008) (with Dr. T. Rick Irvin (J.D.'08), J. McEntire and J. Rabon); and "Hawaii Housing Authority v. Midkiff" and "Public Lands" in the *Encyclopedia of the Supreme Court of the United States* (Macmillan Reference USA, 2008).

Robert P. Bartlett III

"Commentary" in 51 *Arizona Law Review* 47 (2009); "Going Private but Staying Public: Reexamining the Effect of Sarbanes-Oxley on Firms' Going-private Decisions" in 76 *University of Chicago Law Review* 7 (2009); and "Taking Finance Seriously: How Debt-Financing Distorts Bidding Outcomes in Corporate Takeovers" in 76 *Fordham Law Review* 1975 (2008).

Faculty Accomplishments

J. Randy Beck

"Gonzales, Casey and the Viability Rule" in 103 *Northwestern University Law Review* 249 (2009).



Daniel M. Bodansky

The Art and Craft of International Environmental Law (Harvard University Press, forthcoming); "Is There an International

Environmental Constitution?" in the *Indiana Journal of Global Legal Studies* (forthcoming); "Commentary on the OSPAR Arbitration of the MOX Plant Dispute" in *The OSPAR Arbitration Award of 2003* (Asser Institute/Cambridge University Press, 2009); "Trade and Environment" in *The Oxford Handbook of International Trade Law* (Oxford University Press, 2009) (with J. Lawrence); *Measurement, Reporting and Verification in*

a *Post-2012 Climate Agreement* (Pew Center on Global Climate Change, 2009) (with C. Breidenich) (white paper); “Does One Need to be an International Lawyer to be an International Environmental Lawyer?” in 100 *American Society of International Law Proceedings* 303 (2008); “The Concept of Legitimacy in International Law” in *Legitimacy in International Law* (R. Wolfrum and V. Roben, eds.) (Springer, 2008); and “Non Liquef” in the *Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2008).

David A. Brennen

“Race and Equality Across the Law School Curriculum: The Law of Tax Exemption” in *Critical Tax Theory: An Introduction* (Cambridge University Press, forthcoming) (reprinted from 54 *J. Legal Educ.* 336 (2004)); “Property Tax Exemptions” in *Bender’s State Taxation: Principles and Practice* (LexisNexis, 2009) (with D. Jones); “Succeeding in the Candidate Pool: Resources Available at Association of American Law Schools for Persons Interested in Becoming a Law School Dean” in 31 *Seattle University Law Review* 791 (2008); “Bob Jones University v. U.S., 408 U.S. 564 (1983)” in the *Encyclopedia of the Supreme Court of the United States* (Macmillan Reference USA, 2008); and *The Tax Law of Charities and Other Exempt Organizations: Cases, Materials, Questions and Activities*, 2d ed. (Thomson/West, 2007) (Supp. 2008) (with D. Jones, S. Willis and B. Moran).

Lonnie T. Brown Jr.

“Ramsey Clark” in the *Yale Biographical Dictionary of American Law* (R. Newman, ed.) (Yale University Press, 2009).



Ronald L. Carlson

Objections at Trial, 5th ed. (NITA Publishers, 2008) (with M. Bright and E. Imwinkelried); “Distorting Due Process for Noble Purposes: The Emasculation

of America’s Material Witness Laws” in 42 *Georgia Law Review* 941 (2008); and *Dynamics of Trial Practice: Problems &*

Materials, 3d ed. (Thomson/West, 2002) (Supp. 2008) (with E. Imwinkelried).

Dan T. Coenen

“The Pros and Cons of Politically Reversible ‘Semisubstantive’ Constitutional Rules” in 77 *Fordham Law Review* (forthcoming); “Where United Haulers Might Take Us: The State-Self-Promotion Exception to the Dormant Commerce Clause Rule” in 95 *Iowa Law Review* (forthcoming); and “Holding” and “Implied Powers” in the *Encyclopedia of the Supreme Court of the United States* (Macmillan Reference USA, 2008).



Harlan G. Cohen

“Can International Law Work? A Constructivist Expansion” in 27 *Berkeley Journal of International Law* (forthcoming); “Historical American

Perspectives on International Law” in 15 *ILSA Journal of International & Comparative Law* (forthcoming); and “International Decision: *Munaf v. Geren*” in 102 *American Journal of International Law* 854 (2008).

Alan A. Cook (J.D. ’84)

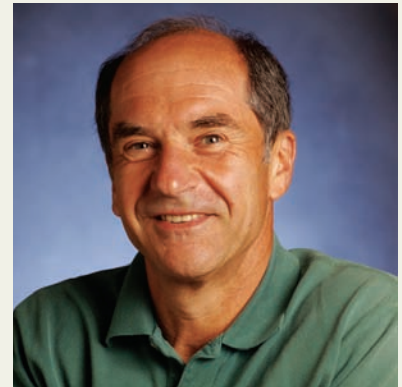
“Criminal Law” and “Evidence” in the *Domestic Violence Benchbook, A Guide to Civil and Criminal Proceedings*, 3d ed. (Council of Superior Court Judges, 2008) (co-authored).

Julian A. Cook III

Inside Criminal Procedure I (“Inside” Series) (Aspen Publishers, forthcoming); and Inside Criminal Procedure II (“Inside” Series) (Aspen Publishers, forthcoming).

James M. Donovan

Legal Anthropology: An Introduction (AltaMira Press, 2008); “A Library Romantic’s Reply to Richard Danner” in 27 *Legal Reference Services Quarterly* 255 (2008); “Skating on Thin Intermediation: Can Libraries Survive?” in 27 *Legal Reference Services Quarterly* 95 (2008); and *Behind a Law School’s Decision to Implement an Institutional Repository* (Berkeley Electronic Press, 2008) (with C. Watson) (white paper).



Hellerstein receives NTA’s highest honor

The National Tax Association presented its most prestigious award, the Daniel M. Holland Medal for distinguished lifetime contributions to the study and practice of public finance, to Shackelford Distinguished Professor of Taxation Law Walter Hellerstein.

Hellerstein joined the Georgia Law faculty in 1978 and was named the Francis Shackelford Distinguished Professor in 1999. He teaches in the areas of state and local taxation, international taxation and federal income taxation.

Scholarly works by Hellerstein include the leading treatise in the state tax field, the leading casebook on state and local taxation and more than 100 articles in professional journals addressing state and local tax issues.

Recently, *State Tax Notes* named Hellerstein the nation’s most influential academic in state and local taxation, and he also received BNA Tax Management’s Franklin C. Latham Award for Distinguished Service in State and Local Tax Law.

Having practiced extensively in the state tax field, Hellerstein has been involved in numerous state tax cases before the U.S. Supreme Court.

The NTA began presenting the Holland Medal during 1993 in honor of Dan Holland, a professor of economics at the Massachusetts Institute of Technology.