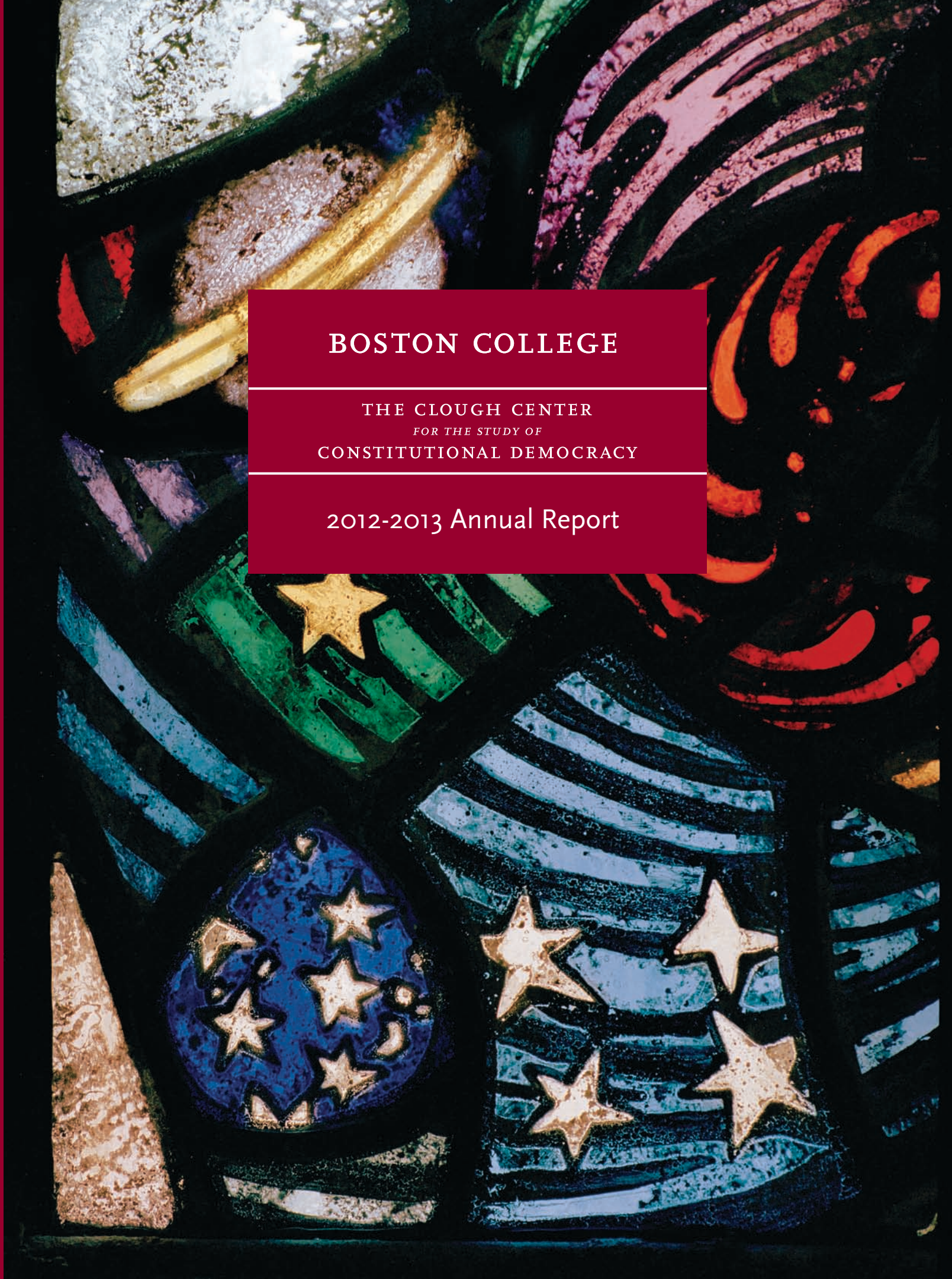

BOSTON COLLEGE

THE CLOUGH CENTER
FOR THE STUDY OF
CONSTITUTIONAL DEMOCRACY

2012-2013 Annual Report

THE CLOUGH CENTER FOR THE STUDY OF CONSTITUTIONAL DEMOCRACY

2012-2013 Annual Report

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From the Director

Welcome to the 2012-2013 Annual Report of the Clough Center for the Study of Constitutional Democracy at Boston College. After my first year as the Center's Director, I am delighted to report on the state of this vibrant and important institutional initiative for the study of constitutional democracy at Boston College.

The Clough Center was started five years ago with an ambitious mandate from our visionary benefactors, Gloria and Chuck Clough. The Center aims to make available unparalleled and life-changing educational opportunities to students at Boston College and to create a nurturing and vibrant intellectual environment for the entire academic community. We also aim to establish a trusted presence in the larger public sphere. At a time when public debate is too often distorted by the spin-room mentality, the fate of political communities committed to the ideals of freedom, dignity, and equality depends in large measure on learning the skills of civic engagement and thoughtful dialogue.

The Center also aims to reinvigorate and reimagine the study of constitutional democracy in the twenty-first century. By taking a holistic, global, and interdisciplinary approach to constitutional democracy, we seek to foster original research and thoughtful reflection on the promise and challenges of constitutional government in the United States and around the world.

We invited our distinguished speakers this year—Amartya Sen, Zygmunt Bauman, Anne-Marie Slaughter, Hilary Putnam, Jeremy Waldron, Joseph Weiler, Annette Gordon-Reed, Francis Fukuyama, Robert Kaplan, Robert George and many others—to reflect on some of the central questions of political, social, and legal thought. These include the nature of political power and constitutional authority, the implications of the demand for institutional responsiveness in a democratic setting, the role of the past in shaping identity, and the role of will and of the mind in setting the trajectory of individual lives and the shape of political communities. Our guests have explored, from a variety of disciplinary and methodological perspectives, the philosophical and institutional dimensions of the commitment to self-government that characterizes constitutional democratic government. Their topics have ranged from the role of geography in political thought to the legacies of slavery in the discourses of constitutionalism, and from environmental constitutionalism to the future of global trade regimes and the place of religion in the process of European integration. You will find in this Annual Report detailed descriptions of each event. More details, including video recordings of our events, are available on our website: www.bc.edu/cloughcenter.

This year the Center also hosted five major conferences and symposia. Their themes reflect the range of our inquiry into the political and constitutional aspects of social organization. They included an analysis of the political landscape in the United States in the context of last Fall's

elections (keynotes: Sean Wilentz of Princeton University and Heather Gerken of Yale Law School), a symposium celebrating 300 years since the birth of Jean-Jacques Rousseau and 250 years since the publication of The Social Contract (keynote: Leo Damrosch of Harvard University), a conference entitled Dreams of Total Power: Dictators and Dictatorships in the Twentieth Century (keynotes: Vladimir Tismaneanu of the University of Maryland, College Park and Horia-Roman Patapievici, who is one of Europe's most distinguished public intellectuals), a symposium on the Ethics of the Warrior, organized in partnership with the John Marshall Program in Political Philosophy, and, finally, a conference organized by our Graduate Fellows to mark 150 years since the Emancipation Proclamation (keynote: Dylan Penningroth of Northwestern University).

The Center was proud to launch this year a major series of Lectures on Jurisprudence in partnership with Boston College Law School. The Inaugural Lecture was delivered by Professor Jeremy Waldron, who holds the Chichele Chair in Social and Political Theory at the University of Oxford and is a University Professor at New York University. The lecture, entitled "The Separation of Powers in Thought and Practice," has been published in this year's volume of the *Boston College Law Review*. Other speakers in our Jurisprudence series this year have included Seana Shiffrin (University of California, Los Angeles), David Garland (NYU), Fred Schauer (University of Virginia), and Nicola Lacey (Oxford University). You will find more details on the series in this report.

The Center has also been proud to support the work of its outstanding student fellows and provide a milieu for their intellectual explorations. We have worked with an impressive group of Junior Fellows selected from undergraduate students who have been awarded our competitive Civic Internship Grants. Our Junior Fellows have the opportunity to meet the Center's guests in special sessions and participate in events throughout the academic year. They also edit the *Clough Undergraduate Journal of Constitutional Democracy*, which has now entered its fourth year. This Report contains the table of contents of the latest issue as well as a note from the Journal's Editor-in-Chief.

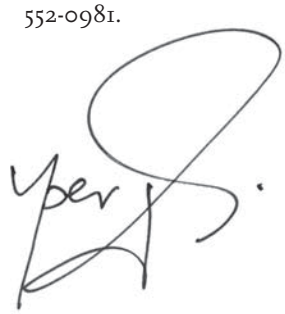
Our Graduate Fellows are a group of outstanding and highly accomplished doctoral students. We bring together historians, political scientists, economists, sociologists, theologians, lawyers, and philosophers to participate in intensive writing workshops, reading groups, and to brainstorm about the Center's events and general programmatic direction. The year has culminated in a Graduate Symposium on the Emancipation Proclamation, which brought to Boston College some of the nation's foremost scholars in this field. As in past years, the Center has been able to provide throughout the year funding opportunities for students and faculty to conduct research and participate in conferences.

None of these opportunities for students or academic events would have been possible without the vision and generosity of our friends and benefactors, Gloria and Chuck Clough. They knew how

important a great center for the study of constitutional democracy would be to a great university. We are delighted that they remain actively involved in the life of the Center by attending events, meeting with our Fellows, and providing guidance and advice as we chart the Center's future. My hope as the Director is that the Center can live up to their vision and generosity as well as to the bold ambition of our university.

Finally, I would like to thank the Center for Centers staff—Monetta Edwards, Michelle Muccini, Yasmin Nuñez and Susan Dunn——for their extraordinary work and generally for making the Center such a fun place to be. I am also very grateful to Jared Hardesty (graduate assistant), Chris Fitzpatrick (Junior Fellows coordinator), Michael Girma Kebede and Seth Meehan (Graduate Fellows coordinators).

I hope that you will enjoy reading our Annual Report. If you would like to learn more about the Center and our programs, please do not hesitate to contact me directly at perju@bc.edu or call 617-552-0981.



VLAD PERJU
Director, Clough Center for the Study of Constitutional Democracy
Associate Professor, Boston College Law School

ABOUT THE DIRECTOR

Vlad Perju is the Director of the Clough Center for the Study of Constitutional Democracy and an Associate Professor (with Tenure) at Boston College Law School. He holds a doctorate (S.J.D. degree) from Harvard Law School, an LL.M. degree summa cum laude from the European Academy of Legal Theory in Brussels, Belgium, and two law degrees from the University of Paris 1 Panthéon-Sorbonne and the University of Bucharest. While at Harvard, he served as a Byse Fellow, a Safra Fellow at the Edmond J. Safra Foundation Center for Ethics and a Research Fellow in the Project on Justice, Welfare and Economics.

Professor Perju's primary research interests are comparative and global constitutional law, European law, international law and jurisprudence. His recent publications include "Reason and Authority in the European Court of Justice," 49 Virginia Journal of International Law *307 (2009) (awarded the 2009 Ius Commune Prize for the best article on European integration); "Cosmopolitanism and Constitutional Self-Government,"* International Journal of Constitutional Law *(I-CON) vol. 8 (3): 326-353 (2010) (selected for presentation as the best paper in constitutional law at the 2010 Yale/Stanford Junior Faculty Forum); "Impairment, Discrimination and the Legal Construction of Disability in the European Union and the United States," 44* Cornell International Law Journal *279 (2011); "Proportionality and Freedom: An Essay on Method in Constitutional Law,"* Journal of Global Constitutionalism *(Glob-Con) vol. 1(2): 334-367 (2012); "Constitutional Transplants, Borrowing and Migrations," in the* Oxford Handbook of Comparative Constitutional Law *(M. Rosenfeld & A. Sajo, eds., 2012) and "Cosmopolitanism in Constitutional Law", forthcoming in volume 35 of* Cardozo Law Review *(2013).*

Professor Perju was a Visiting Associate Professor at Harvard Law School in the Fall Term 2011, a Visiting Professor of the Theory of the State at the European Academy of Legal Theory in Brussels, Belgium in 2008 and 2009, and a research fellow at NYU Law School in 2009. In 2008, he received appointment from the President of Romania to the President's Special Commission on Constitution Reform.

2012-2013 Center Lectures

FALL 2012

Annette Gordon-Reed · Law, Culture, & Legacies of Slavery

Jeremy Waldron · The Separation of Powers in Thought and Practice

Global Environmental Constitutionalism Panel

David Garland · Peculiar Institution: America's Death Penalty in an Age of Abolition

Anne-Marie Slaughter · Filling Power Vacuums in the New Global Legal Order

Seana Shiffrin · Duress & Moral Progress

J.H.H. Weiler · Of Law & God in Europe

SPRING 2013

Robert George · Constitutional Structures & Political Culture

Francis Fukuyama · The Origins of Political Order

Frederick Schauer · Constitutionalism & Coercion

Amartya Sen · Constitution: Language & Content

Hauke Brunkhorst · The Beheading of the Legislative Power

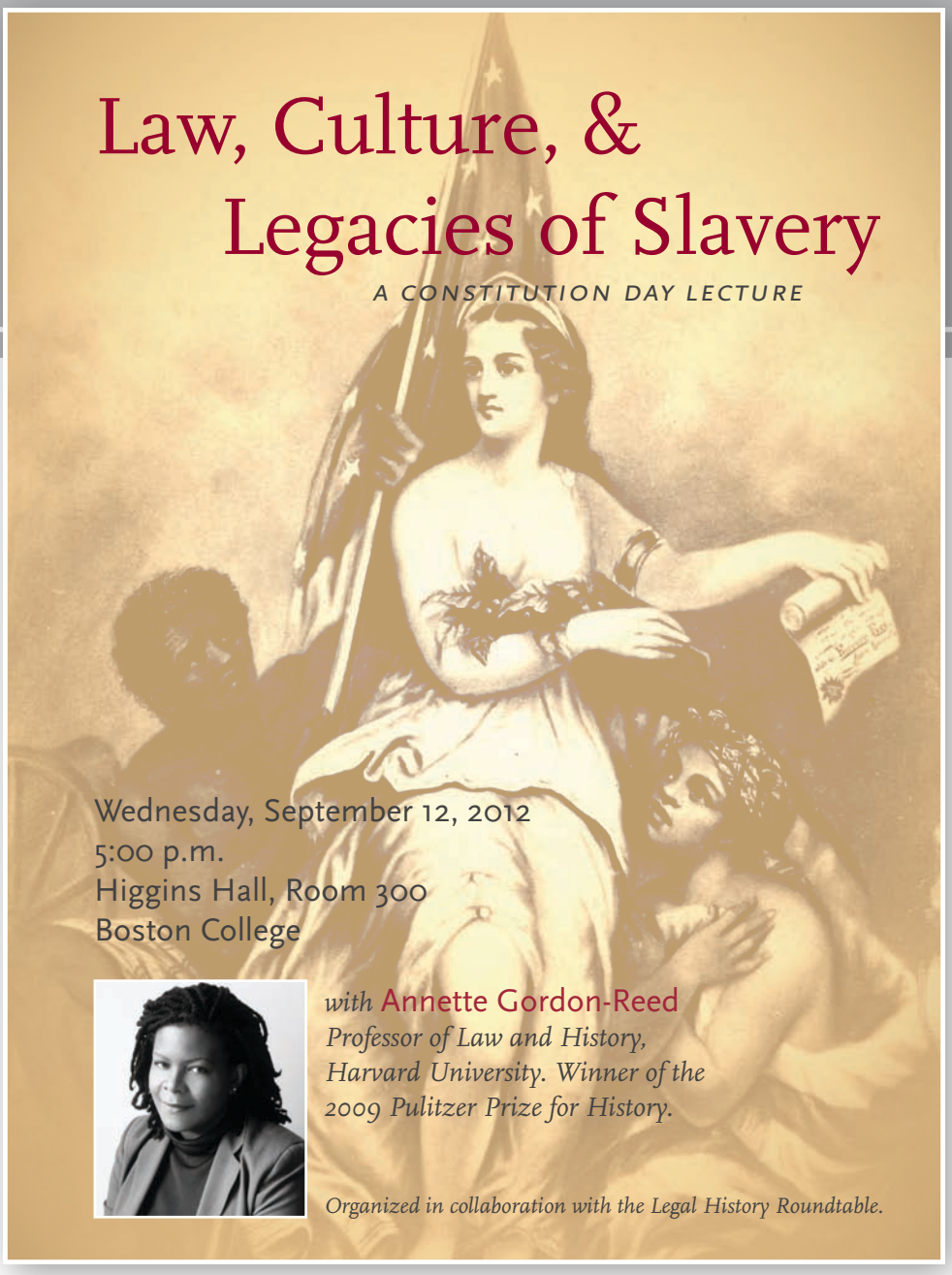
Zygmunt Bauman · Living in the Times of Interregnum

Robert D. Kaplan · States & the Revenge of Geography

James L. Bacchus · A Common Gauge: Harmonization & International Law

Nicola Lacey · Institutionalizing Responsibility: Implications for Jurisprudence

Hilary Putnam · The Founders of Pragmatism on Philosophy and Life



BY CRAIG GALLAGHER

How do the family, the law and the institution of slavery intersect in history, and what are the consequences of such intersections for historical actors and their legacy for modern America? These and other important questions were the focus of a fascinating and powerful lecture given by Professor Annette Gordon-Reed, the Charles Warren Professor of American Legal History at Harvard University and the Pulitzer Prize-winning author of *The Hemingses of Monticello: An American Family* (2008), to a diverse audience of political scientists, historians, legal scholars, psychologists and "Presidential buffs."

Anette Gordon-Reed addresses the crowd during the Constitution Day Lecture.

Gordon-Reed began by outlining how she was drawn to the historical story of Thomas Jefferson and his slave, Sally Hemings, specifically to the question of whether "Tom" had fathered "Sally's" many children. Trained as a lawyer, she considered how competing assertions from biographers and historians relied on evidence from either nineteenth-century African-Americans claiming descent from Jefferson, or his white grandchildren who asserted the black claimants were descendants of Jefferson's nephews. Gordon-Reed believed that by emphasizing how such testimonies were used, she could shine a light onto what Jefferson scholars believed, and what they were *prepared to say they believed*. Specifically, she could demonstrate that the testimony of a slave was worth less to arbiters in the colonial period and in the 1970s alike.

When her book on this subject, *Thomas Jefferson and Sally Hemings: An American Controversy* (1997) was published, Gordon-Reed freely admitted she was "prepared for a battle" with scholars from the earlier historiographic tradition that denied Jefferson's paternity of Hemings' children. She found much support instead, from younger scholars more ambivalent about Jefferson's sexual habits and from Monticello, the Jefferson museum in Virginia, which considered Gordon-Reed's study convincing enough to change its official Jefferson family tree to include the Hemingses. But dissent remained, and in order to broaden the issue, she decided to reconstruct the Hemings family in order to get at questions about legal protection for slave and free blacks more generally in the nineteenth century.

This project became *The Hemingses of Monticello*, which had as a central concern the problem of *filius nullius*, the illegitimacy of a child. Emphasizing that the idea is a legal fiction designed to provide tidy solutions to matters of property and inheritance, Gordon-Reed spoke at length about the problems that it spawned in a slave society, and in subsequent attempts to recreate that society. Every slave was the child of someone, yet they could not inherit from their parents, even if that parent was a white person protected by legitimate birth. Since slave families were denied similar protection, it opened up the idea that anyone could father a slave, since no legal determination of descent could exist. Thus, for those opposed to the idea of Thomas Jefferson fathering the children of his slave Sally Hemings, it was equally possible that many other men or—after the publication of genetic evidence demonstrating the Hemings had Jefferson family DNA—another Jefferson besides Thomas, perhaps a cousin. Nineteenth-century commentators, historians, and Jefferson's modern descendants alike adopted such arguments, in spite of seemingly cast-iron evidence to the contrary that Sally Hemings' children had all been named after Thomas Jefferson's family friends, unlike the rest of her siblings whose children were named after relatives among the Hemings. This and other assertions about the Hemings family bring home the human impact of slavery on both white and black culture, then and now. Though legal status justified and perpetuated problems with paternity and inheritance, the root relationship was one between people on either side of an extremely complicated institution. They also challenge prevailing assumptions about monolithic slave cultures, emphasizing the humanity and heterogeneity of slaves, slave-owners, and slave descendents in nineteenth-century America.

Throughout her analysis, Professor Gordon-Reed kept faith first and foremost with her evidence, as befits her legal training. Her works put the complicated issues she discussed—paternity, the relative worth of testimonies, the legal fiction of *filius nullius*—on trial in an attempt to allow her readers to judge the merits of her case. In her lecture, she repeatedly emphasized that she did not *know* whether Thomas Jefferson fathered Sally Hemings' children—nobody could know for sure—but that she did *believe*, very strongly, that he had, based on her review of the available evidence. In reflecting thus, Gordon-Reed gets at the central challenge of history, whether what we reconstruct about the past has any truth to it. Her response is that we are only human, that we must do the best we can with what evidence we have available to us, but that if we attempt to make watertight assertions, we must remember that what we write about and study existed not just in the abstract, but in the lives of our subjects, whose experience can magnify and make real that which we study. That is the lesson of Sally Hemings and her family.

ABOUT THE AUTHOR
Craig Gallagher is a Ph.D. Candidate in History at Boston College and a Clough Center Graduate Fellow.

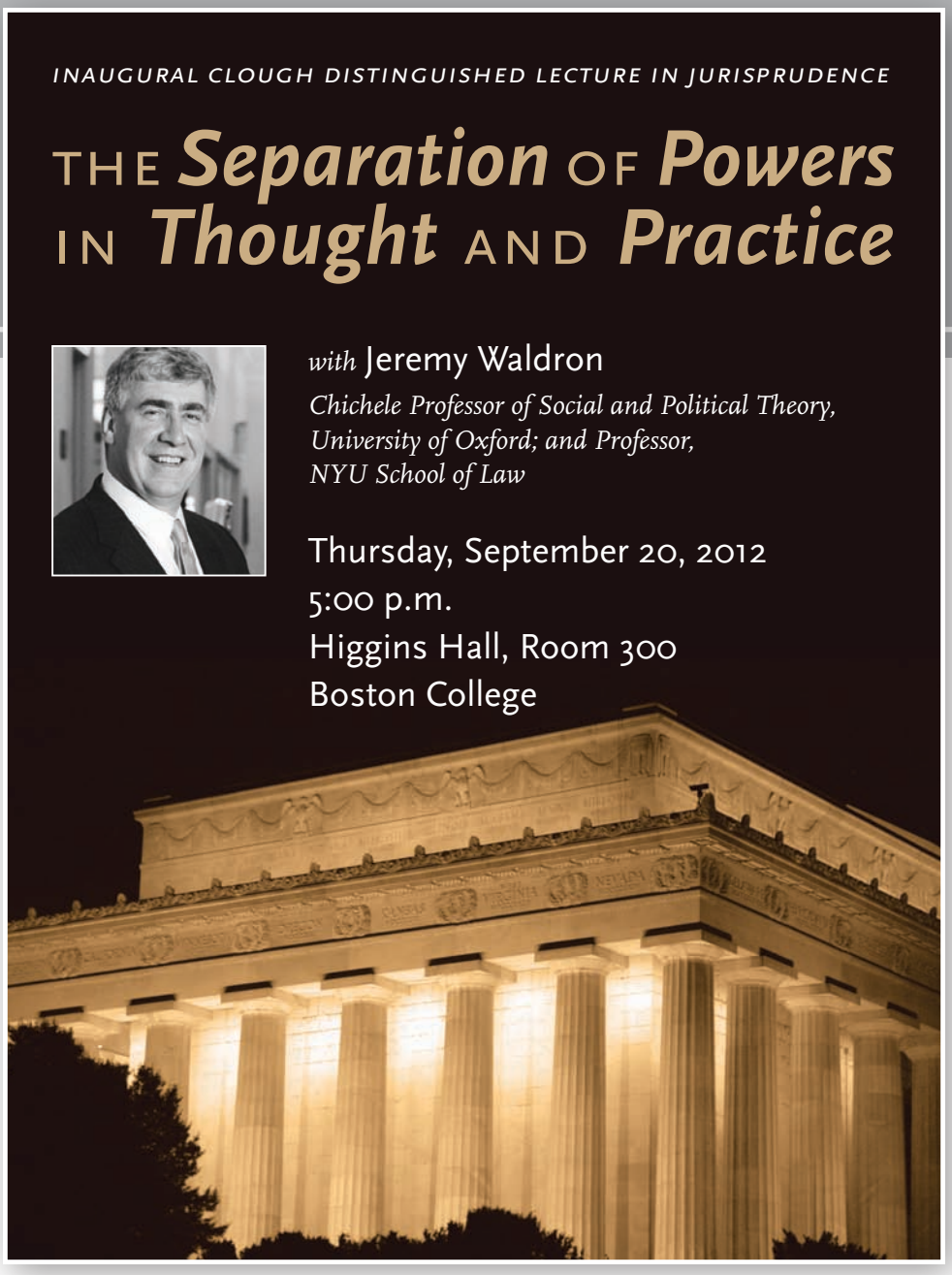
About Annette Gordon-Reed

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Annette Gordon-Reed is the Carol K. Pforzheimer Professor at the Radcliffe Institute for Advanced Study, Professor of History, and Charles Warren Professor of American Legal History at Harvard University. A renowned and prestigious historian and legal scholar, she has taught at New York Law School as the Wallace Stevens Professor of Law and Rutgers, the State University of New Jersey where she was Board of Governors Professor of History. Her book, *The Hemingses of Monticello: An American Family* (2008) won numerous awards including the National Book Award and Pulitzer Prize for history. Gordon-Reed is the author of numerous other books and articles including *Race on Trial: Law and Justice in American History* (2002), *Thomas Jefferson and Sally Hemings: An American Controversy* (1997), which was a nonfiction finalist for the First Annual Library of Virginia Literary Awards, and most recently a biography of president Andrew Johnson (2011).

She has received numerous honors and prestigious fellowships including the National Humanities Medal in 2009, a Guggenheim Fellowship in the humanities (2009), a fellowship from the Dorothy and Lewis B. Cullman Center for Scholars and Writers at the New York Public Library (2010–2011), a MacArthur Fellowship (2010), and the National Organization for Women in New York City's Woman of Power and Influence Award (1999).

Professor Gordon-Reed received a J.D. from Harvard Law School and an A.B. from Dartmouth College. Prior to becoming an academic, she was counsel to the New York City Board of Correction and was an associate at Cahill, Gordon, and Reindel.



BY JOHN LOUIS

On September 20, 2012 the Clough Center had the privilege of welcoming Dr. Jeremy Waldron, the Chichele Professor of Social and Political Theory at University of Oxford and Professor of Law at NYU School of Law for the inaugural Clough Distinguished Lecture in Jurisprudence. In a lecture entitled "Separation of Powers in Thought and Practice?" Professor Waldron evaluated the concept of separation of powers as a "political principle for evaluating the legal and constitutional arrangements of a modern state."

After opening with the contention that the U.S. Constitution contains no explicit textual reference to a freestanding principle of separation of powers, Waldron advocated, "not everything that a constitutionalists political theory commits us to is found in our constitution." Articulating the importance of separation of powers to the functioning of constitutional democracy, Waldron proclaimed, "even when a principle lacks a specific legal status, it may still be an indispensable part of our constitutionalism." Clear thinking about separation of powers as a political principle, Waldron emphasized, is essential to maintaining the rule of law in practice.

Waldron contended that Western political thought provided an insufficient understanding of separation of powers as a freestanding political principle. Madison, borrowing from Montesquieu, Waldron explained, treated the separation of powers as an instrumental guarantee of personal liberty. Waldron excoriated the Montesquieuian argument as nothing more than tautological assertion. After criticizing the fact that, "we have not been bequeathed any good arguments specific to the separation of powers by our heritage of political thought," Waldron set out to provide a more rigorous treatment of separation of powers as strict ideational differentiation between distinct governmental functions.

The practice of separation of powers engaged as it is in the messy process of politics, Waldron argued, has muddied our conceptual understanding of the concept as a political principle. "We did not invent a distinction among legislative, executive, and adjudicative powers," Waldron claimed, "in order to establish the existence of entities that could check and balance one another." Rather, "the distinction of powers is given to us by an theory of articulated governance that distinguishes these functions for what they are in themselves." Understanding clearly the functional differentiation behind the principle of separation of powers, Waldron articulated that, "ordinary adjudication is different from legislating and the difference is important" not just for the preservation of liberty but for adherence to the procedural prerequisites of rule by law.

Waldron then laid out a basic framework for thinking properly about the separation of powers. "The principle," he confessed, "takes the basic process of governance and divides it conceptually into three main functions: enacting a law, adjudicating disputes on the basis of law, and administering, enforcing, and implementing a law or legal decision." For Waldron, functional differentiation, and the procedural requirements entailed thereby "embody an account of the rule of law."

The rule of law, Waldron explained, can be understood as analogous to an assembly line. Waldron described a "ten part process" but then went on to say, "the numbers don't matter." Instead, "what matters is that the governmental action has

Jeremy Waldron, introduced by Center Director Vlad Perju, discusses the separaton of powers in government.

become articulated." Functional differentiation is critical to maintaining the procedural strictures if we omit, or "blur and treat as undivided" any of those steps then "there is a serious failure of the rule of law." "And that," Waldron argued, "is where...we find the overlap between respect for the rule of law and the principle of separation of powers."

Each distinct branch of government should do the kind of work defined by its function. "The principle holds that these respective tasks have, each of them, an integrity of its own," Waldron exclaimed. When considerations properly belonging to a separate branch affect the way in which each carries out its own distinct function the integrity required by the principle of separation of powers "is contaminated." Waldron maintained that legislatures should not consider judicial or executive constraints. Judiciaries should avoid legislating and administering from the bench, and executives should avoid legislating or adjudicating through administrative decree. Contamination of functional integrity caused by a blurring of powers is engendered in part by an adherence to a doctrine of checks and balances, which has too often stood in for a clearer understanding of separation of powers as a political principle. Waldron regretted that in an age of increasing bureaucratic governance the ideal of separation of powers has too often been written off as an antiquated principle out of touch with the demands of modern governance.

In closing, Waldron hoped that "even if the principle is dying a sclerotic death, even if it misconceives the character of modern political institutions, still it points to something that was once deemed valuable—namely, articulated government through successive phases of governance each of which maintains its own integrity." For our constitutional democracy to continue to support rule of law in practice, we should remember to keep the idea of separation of powers as an essential principle of our political thought.

ABOUT THE AUTHOR

John Louis is a Ph.D. Candidate in Political Science at Boston College and a Clough Center Graduate Fellow.

About Jeremy Waldron

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Jeremy Waldron is Chichele Professor of Social and Political Theory at All Souls College, University of Oxford and University Professor of Law, New York University School of Law. He earned his BA in Philosophy and LL.B. at the University of Otago, New Zealand and a D.Phil. in Law from Oxford University. Professor Waldron has published numerous books and articles, including *The Right to Private Property* (1988); *God, Locke, and Equality: Christian Foundations of Locke's Political Thought* (2003); and *Torture, Terror, and Trade-offs: Philosophy for the White House* (2010). Waldron's articles have appeared in the *Harvard Law Review*, *Yale Law Review*, and *Law and Philosophy*. His most recent book, *The Harm in Hate Speech* (2012), argues "powerfully that hate speech should be regulated as part of our commitment to human dignity and to inclusion and respect for members of vulnerable minorities." He is also the recipient of the Phillips Prize for Lifetime Achievement in Jurisprudence from the American Philosophical Society in 2011 and was a fellow at the British Academy in the same year.

Prior to teaching at Oxford and NYU Law, Professor Waldron taught at Lincoln College, Oxford, University of Edinburgh, and has been Professor of Law in the Jurisprudence and Social Policy Program, University of California at Berkeley School of Law, Laurence S. Rockefeller University Professor of Politics, Princeton University, and University Professor, Columbia University.

BY BRIAN GAREAU

This report is an excerpt of Professor Gareau's introduction he wrote for an upcoming issue of the Boston College Environmental Affairs Law Review. *For the full version of his forward and articles from all the participants, please see the* Boston College Environmental Affairs Law Review, *40 B.C. Envtl. Aff. L. Rev. (2013).*

On the evening of September 26, 2012, the Clough Center for the Study of Constitutional Democracy hosted a panel discussion on Global Environmental Constitutionalism. My introductory remarks discussed the sense of wariness regarding global environmental governance and constitutionalism from those within the field of environmental sociology. Three panelists more fully explored the global response to climate change from legal,

sociological, scientific, and political perspectives. Douglas Kysar, Deputy Dean and Joseph M. Field '55 Professor of Law at Yale Law School, focused on unequal distribution of political power among nation-states and challenged our current assumptions regarding political decision-making models. David Wirth, Professor of Law and Director of International Programs at Boston College Law School, surveyed new technologies for addressing global climate change and made recommendations for structural adaptations in international governance. Sheila Jasanoff, Pforzheimer Professor of Science and Technology Studies at the Harvard Kennedy School, challenged us to look outside the limitations of standard legal tools and embrace the expertise of other disciplines—such as science—to create a more robust dialogue on global environmental constitutionalism.

Many scholars studying global environmental affairs have found recent efforts to achieve a more robust legal framework with which to protect global environmental conditions and resources to be rather disappointing. Given the state of the current political milieu, many scholars in the social and political sciences are understandably skeptical of the possibilities of achieving real, meaningful global environmental governance. The reasons for this skepticism constantly affront us via the "scientific debates" over the reality of climate change so poorly portrayed in the U.S. media. These debates legitimize the "do-nothing" political attitude of some U.S. politicians. More grievous is the apparent lack of leadership among global powers at the international level of climate deliberations. As it had at the start of the 2009 U.N. climate change conference in Copenhagen, however, hope is rising again with President Obama's second inaugural speech. The positions taken by the scholars during the panel on September 26, 2012 and in this special volume provide some important insights into what might be necessary to succeed in such a global reformation process today. In this age of heightened doubt and skepticism, it will take many people operating from diverse perspectives to discover better ways toward global sustainability and hold major actors accountable for any lack of progress.

Professor Kysar deals head-on with the flawed economic models that currently guide political reaction to global environmental problems. He asserts that these models suppress global environmental negotiations by focusing on shortsighted cost-benefit analyses instead of taking a more cumulative approach to understanding climate change impacts. Kysar presses nations to embrace the planetary democracy concept and the precautionary principle. These concepts would help to avoid a return to the 1970s when unfettered economic growth, blanket acceptance of industrial-led growth, and the increasing use of human-made chemicals dominated policy decisions. Global environmental constitutionalism requires that we "climb the right mountain." Global powers must take a leadership role, and decision-makers must broaden their concerns to those that extend beyond the bottom line.

Professor Wirth explores the technology-based solutions that are on the table today, but he also illustrates that the most promising of which are those deemed to make the most economic sense. Carbon taxation and international trading schemes are the most popular mechanisms for reducing carbon emissions, but

they have not been very successful because it has proven very difficult to tax carbon enough to incentivize lower emissions. The primacy of these economic solutions reflects a move away from a precautionary approach to environmental protections more prevalent in the 1960s and 1970s toward a profit-led approach in which environmental solutions must unequivocally make economic sense. Professor Wirth explores many innovative approaches to reducing carbon emissions that are currently in development, but he warns that they require guidance in implementation if they are to benefit the masses. It could be argued that some of these solutions should be pushed forward, despite their current lack of economic viability, but that will not be possible without a constitutional framework that places emphasis on future sustainability over market demands.

Professor Jasanoff eloquently explores why a stronger constitutional framework such as those deemed necessary by Professors Kysar and Wirth (and implied here) will be difficult to achieve without "out of the box" thinking. Perhaps ironically, the possibilities for thinking beyond the confines of established notions of global environmental constitutionalism grow with every new disaster. Jasanoff describes the global response to these disasters—which are themselves oftentimes the consequence of human impacts on the global environment—as operating via "counter-economic principles." This is a deeply important way of viewing these responses, as they open up the possibilities of how we may situate these actions in the broader political and economic contexts. So-called "natural" disasters are very expensive, in terms of infrastructure destroyed, lives lost, and finances put on hold. The counter-economic responses to them—aid, time, effort, lifestyles changed due to a kind of global reflexivity, and emotional links—are also significant, but the international community considers these costs secondary to the benefits of helping victims of these tragedies. Achieving a more productive environmental constitutionalism requires that global institutions continue to incorporate the voices of those most affected by the large-scale changes occurring around the globe. The rural poor and island nations, for example, have deep understandings of climate change, although their knowledge is likely not considered adequately on the global stage. Although not easily monetized, the democratization of expertise and experience is a necessary step toward a solution.

Whether global environmental constitutionalism might regain its status as a legitimate, influential paradigm depends on the creativity of those working on the problem. The call for global environmental constitutionalism is a breath of fresh air for those skeptical of the possibilities of achieving a meaningful global agreement on climate change. In order for it to find legitimacy on the world stage, the main actors will need to use a new set of political and economic tools that more accurately reflect the global nature of environmental change. We need a wider range of options. We need a new paradigm. Discussions like the one among these expert panelists are the first step toward its creation.

ABOUT THE AUTHOR:
Brian Gareau is an Assistant Professor of Sociology and International Studies at Boston College. He served as the organizer and moderator of the Global Environmental Constitutionalism Panel.

About the Panelists

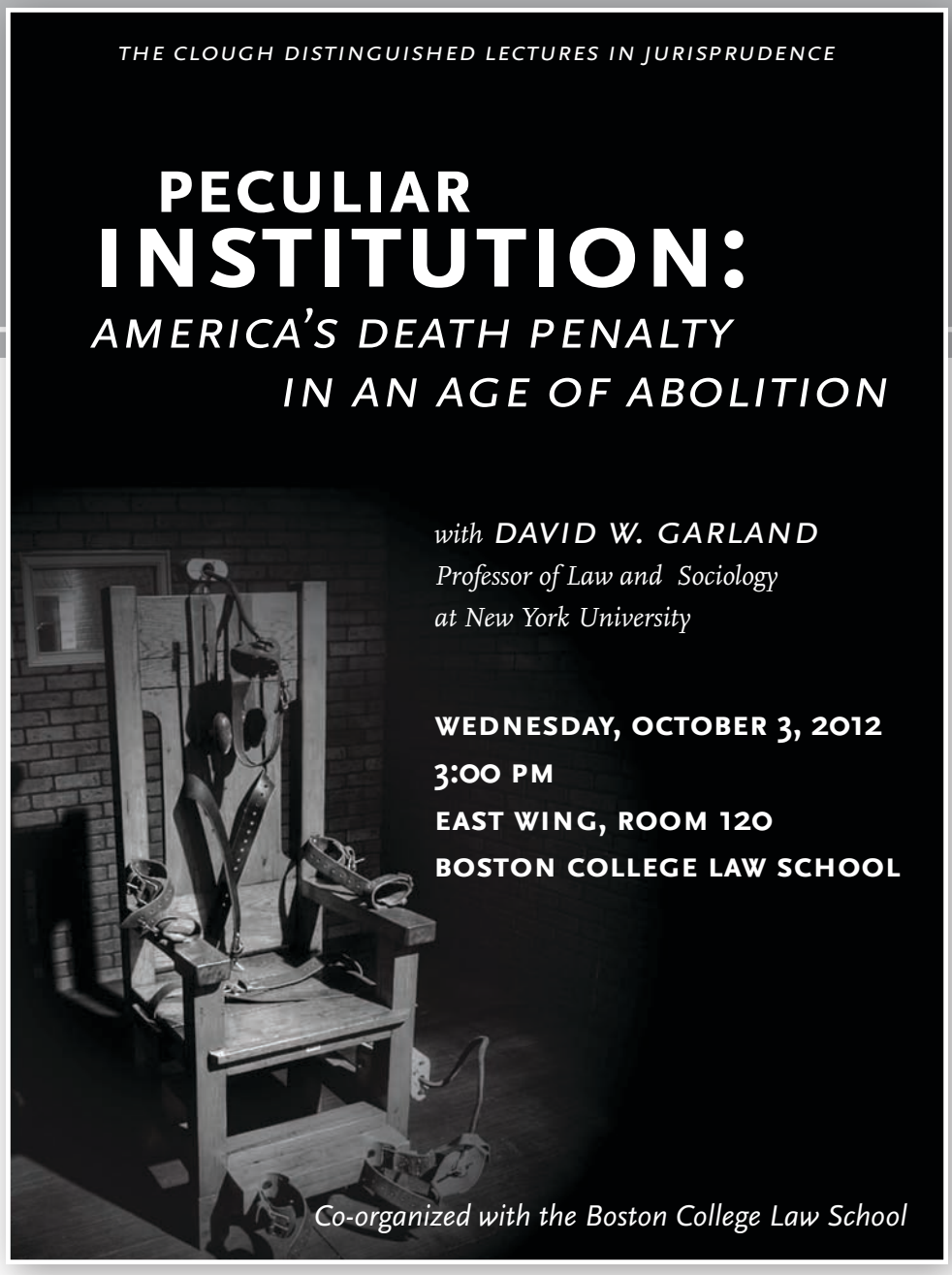
For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Douglas Kysar is Deputy Dean and Joseph M. Field '55 Professor of Law at Yale Law School. His teaching and research areas include torts, environmental law, and risk regulation. He received his B.A. summa cum laude from Indiana University in 1995 and his J.D. magna cum laude from Harvard Law School in 1998 where he served on the student board of advisors. He has published articles on a wide array of environmental law and tort law topics, and is co-author of a leading casebook, *The Torts Process, and Economics of Environmental Law* (2009). He is sole author of *Regulating from Nowhere: Environmental Law and the Search for Objectivity* (2010), which "seeks to reinvigorate environmental law and policy by offering novel theoretical insights on cost-benefit analysis, the precautionary principle, and sustainable development."

Sheila Jasanoff is Pforzheimer Professor of Science and Technology Studies at the Harvard Kennedy School of Government. A pioneer in her field, she has authored more than 100 articles and book chapters and is author or editor of a dozen books, including *Controlling Chemicals* (1985), *The Fifth Branch* (1990), *Science at the Bar* (1995), and most recently *Designs on Nature* (2005). Jasanoff's articles have appeared in journals such as *Science and Public Policy and Society*. Her work explores the role of science and technology in the law, politics, and policy of modern democracies, with particular attention to the nature of public reason. She has received numerous grants and awards from the National Science Foundation, the Ford Foundation, the Alfred P. Sloan Foundation, the National Endowment for the Humanities, and the Rockefeller Foundation. Professor Jasanoff is also the recipient of fellowships from the American Council of Learned Societies, Cornell University, and the German Marshall Fund.

Brian Gareau is an Assistant Professor of Sociology and International Studies at Boston College. He received his BA in Social Science from Providence College, a M.S. in Environmental Science and Regional Planning from Washington State University, and a Ph.D. in Sociology from University of California, Santa Cruz. His forthcoming book, *From Precaution to Profit: Contemporary Challenges to Environmental Protection in the Montreal Protocol*, "focuses on the linkages between globalization, science, and politics in global environmental governance by investigating the Montreal Protocol on Substances that Deplete the Ozone Layer." Professor Gareau has also published a number of book chapters and articles, the latter appearing in *Capitalism, Nature, Socialism, Social Science Quarterly, Sustainability*, and *Environmental Politics*.

David Wirth is Professor of Law at Boston College Law School, where he serves as Director of International Programs. He received his AB from Princeton University, an AM from Harvard University, and a J.D. from Yale Law School. While at Yale, Professor Wirth was editor of the *Yale Journal of World Public Order*. He is the author of numerous articles concerning international legal issues, which have appeared in *American Journal of International Law*, *University of Chicago Legal Forum*, and *Environmental Science and Technology*. Wirth has a forthcoming chapter entitled "The President, the Environment, and Foreign Policy: The Globalization of Environmental Politics" which will appear in *The Presidency and the Environment: The Twentieth Century and Beyond*. Before arriving at Boston College Law School, Professor Wirth served as law clerk to Judge William H. Timbers, U.S. Court of Appeals for the Second Circuit, New York and was a faculty member at Washington and Lee University Law School.



BY SEAN VITKA

David Garland's October talk at Boston College Law School, "Peculiar Institution: America's Death Penalty in an Age of Abolition," opened with a series of declarations. Garland displayed the empirical data relevant to the modern state of the death penalty in America. He was here to scientifically discuss the facts of America's continued use of the death penalty, which is somewhat unique to us in the Western world. Garland was confident that a reassessment of the facts will valuably change the face of the debate.

However unique our policy as a country is, our popular support for the death penalty is not. Several countries in Europe that outlawed the death penalty years ago contain a majority or significant minority of people that assert they would favor the reinstitution of capital punishment. Garland pointed out that popular support was not, in most places, the basis for outlawing the death penalty. Where our biggest fear may be that the elites in government will turn the death penalty on its own people, it is those elites that are the most successful advocates in eliminating the practice. To bring this home, the closest the United States as a nation has come to outlawing the death penalty was through the Supreme Court.

Garland's talk lacked moral judgment and prescription, but his opinions are far from invisible. For instance, his talk (and book) were titled in homage to the other "Peculiar Institution"—a book about slavery—and his presentation of facts, while fair, transparently harkens back to debates about slavery. He refers to states with the death penalty as "retentionist" and those without it as "abolitionist." During the Q&A session, he suggested that whatever elitism and undemocratic action is needed to eliminate the death penalty, wherever it may be, is justified by that populace's failure to do so already.

The most important effect of Garland's approach to the normative debate that he tried so hard to separate himself from was the leeway he earns as a fair presenter of facts. By not advocating vocally in one direction, he was able to penetrate the superficial levels of debate that often preclude substantive discussion. He revealed, for instance, the compelling double-edged sword that is the modern death penalty in America: Although justice and victim-satisfaction are important goals in criminal justice, the death penalty, with its layers and layers of appeals, is no longer an adequate path to either. Victims that want to see a convict put to death likely do not recognize at the outset of trial that they may be watching a case that goes on for decades. Worst, they may see their murdered loved ones become the suggested villain, and his or her murderer the public hero of a labyrinthine process. Death is not ultimately distributed under pangs of justice, but as a sort of "embarrassed euthanasia," Garland said.

Garland's most successful point—and he's deliberate in ensuring he achieved this above all—was that we can be all-but certain that someday our children will look down on the modern death penalty, and, like so much of our past, be astounded that we did not fully contemplate the associated tragedies of the institution. In fact, we don't even readily admit them—particularly the pervasive racism that underlies most death penalty convictions. Perhaps this is all he needs to accomplish: Showing that once the winds have settled, after sides have been taken and given, the unfortunate truth will be that we all had access to enough facts to know that the death penalty's persistence in America is simply the modern incarnation of a long arc of injustice.

For all his apparent support of elite elimination of a popularly supported death penalty, he did not have a convincing answer to the galvanized resurgence of the death penalty after the Supreme Court halted the practice in the 1972 case, *Furman v. Georgia*. After that de facto moratorium, 34 state legislatures rapidly passed new death penalty laws that purportedly operated within the confines in *Furman*, including Oregon, which had not previously authorized capital punishment. That reaction is something abolitionists must expect—and in fact something they experience every day through the polarizing and ossifying effects of debate. It can only be answered by more mandates or deference, and neither is final.

For abolitionists, his empirical presentation will do little other than galvanize, and perhaps educate. He did, to his credit, represent without judgment the aspirations to state sovereignty (versus judicial legislation) that characterize much of the retentionists' argument. He also praised the early abolition in certain states as being ahead of their time, and being provided for by state's rights. These are important things for abolitionists to internalize, if only to understand their opponents in the debate. For retentionists, this palatable form, stripped of moral statements, serves a definite purpose in helping to illuminate the abolitionist point of view, without beating them over the head for disagreeing. By wrapping his facts in this amoral ploy, Garland pierced the omnipresent shroud of stagnant argumentativeness that triggers our mischaracterization and misunderstanding of the other side. Both sides should see that as a revitalizing accomplishment for all of society, and as a reassurance that accurate discussion and understanding of both sides is still possible in this ferocious, if exhaustingly old debate.

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About David Garland

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Professor David W. Garland, widely considered one of the world's leading sociologists of crime and punishment, joined the New York University School of Law faculty in 1997. He was previously on the faculty of Edinburgh University's Law School, where he had taught since 1979, being appointed to a personal chair in 1992. At New York University School of Law, he also holds a joint appointment as professor of sociology in the College of Arts and Sciences, where he teaches graduate classes in social theory and an undergraduate course in criminology.

Garland received a law degree with First Class Honors and a Ph.D. in Socio-Legal Studies from the University of Edinburgh as well as a Masters in Criminology from the University of Sheffield. He is noted for his distinctive sociological approach to the study of law, for his analyses of punishment and crime control, and for his historical studies of criminology. He has played a leading role in developing the sociology of punishment and was the founding editor of the interdisciplinary journal *Punishment & Society*. He is the author of a series of prize-winning studies, including *Punishment and Modern Society: A Study in Social Theory* (1993), which won distinguished book awards from the American Sociological Association and the Society for the Study of Social Problems, *Punishment and Welfare: The History of Penal Strategies* which won the International Society of Criminology's prize for best study over a five-year period; *The Culture of Control: Crime and Social Order in Contemporary Society,* (2001) which is one of the most influential studies in contemporary criminology; and *Peculiar Institution: America's Death Penalty in an Age of Abolition* which won awards from the American Sociological Association and from the Association of American Publishers. His books have been translated into many languages.

BOSTON COLLEGE LAW REVIEW *and the*
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present

FILLING POWER VACUUMS IN THE NEW GLOBAL LEGAL ORDER

Friday, October 12, 2012 | 9:00 a.m. – 5:15 p.m. | East Wing room 200

Keynote Address: Anne-Marie Slaughter

Bert G. Kerstetter '66 University Professor of Politics and International Affairs at Princeton University

East Wing room 120 | 1:00 p.m.

Panel Discussions

Globalization, Deregulation, Power and Agency
Legal Practice and the Legal Profession in the Global World
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BOSTON COLLEGE | LAW

BY ANNE-MARIE SLAUGHTER

This report is Part I of Professor Slaughters's keynote address as it will appear in a special joint issue of the Boston College Law Review *and* Boston College International & Comparative Law Review. *For the entire keynote address, please see the* Boston College Law Review *and* the Boston College International and Comparative Law Review, *54 B.C. L. Rev.; 36 B.C. Int'l & Comp. L. Rev. (2013).*

In her Keynote Address at the October 12, 2012 Symposium, "Filling Power Vacuums in the New Global Legal Order," Anne-Marie Slaughter describes the concepts of "power over" and "power with" in the global world of law. Power over is the ability to achieve the outcomes you want by commanding or manipulating others. Power with is the ability to mobilize people to do things. In the globalized world, power operates much more through power with than

through power over. In contrast to the hierarchical power of national governments, globally it is more important to be central in the horizontal system of multiple sovereigns. This Address illustrates different examples of power over and power with. It concludes that in this globalized world, lawyers are ideally trained and positioned to exercise power.

I. Power as Ladders and Webs: Power Over and Power With

I think a lot about power in terms of the vertical and horizontal worlds, to start with the most abstract ideas. One way to think about this concretely is the ladder and the web. If you think about power in terms of a ladder, you want to be at the top. It's a vertical ascent. If you think about power in terms of a web, you want to be at the center. There is no top. Power in a web comes from the center, outward. To be at the top of ladder would be to be on the periphery of a web. To be at the center of a web would be to be midpoint on the ladder.

This is a very different way of thinking about power. The examples come from Professor Carol Gilligan's book from the early 1980s, *In a Different Voice*, She actually wrote the book about how adolescent boys and girls think about relationships in terms of ladders and webs. I'm not sure whether the gender dimension makes a difference. For my purposes, they are two equally valid ways of thinking about power and both, certainly, operate in the world today.

The next way to think about ladders and webs is to think of the ladder as "power over." If you're at the top of a ladder, you have power over the people below you. You can tell them what to do. It's a hierarchy. If you have power in a web—if you're at the center of a web—you don't have power over anyone. It's horizontal. You can't make anyone do anything, but you have "power with" them. It's the distinction between power over and power with. If you're at the center of a web, you can mobilize people to do all sorts of things. You have all the connections you need to bring people together to make things happen. But it is a different kind of power, and you have to exercise it differently. I first heard this distinction from Professor Lani Guinier, my former colleague at Harvard. I've read it in many different places, but I remember her talking about the distinction of power over versus power with fifteen years ago.

For our purposes today, I want to suggest that these are two ways to think about power in the national state and power in the global economy: power over and power with, or ladders and webs. In the national state, it's much more of a hierarchy, at least formally. We have the federal government, we have state governments. We think about law and politics in hierarchical terms. Now, within the federal government, we have checks and balances, such that we have no one institution that controls all the others, but broadly, it's a hierarchy. In the global economy, it is much more of a web. There are certainly elements of hierarchy such as the United Nations system or other sources of international law. By and large, however, when you think about power in diplomacy or power in any area that is not very strictly regulated, you're talking about a horizontal system of multiple sovereigns in which it's very important to be central. Indeed, I have argued that the power of the United States comes from our central position in that global web. But, it's easier to think about power exercised horizontally, rather than vertically. We can think about that very broadly: vertical power/horizontal power, ladder/web, national/global.

A. Power Over

Now, let me turn to more specific definitions of power in each context. With respect to vertical power, I would define it as getting the outcomes you want. Professor Joseph Nye, who has written a great deal on power—indeed, his last five books have had "power" in the title— defines power as "the capacity to do things and in social situations to affect others to get the outcomes we want."[12] In other words, power is either the ability to do things yourself, without anybody constraining you, or the ability to get other people to do what you want.

Nye talks about three ways in which that power operates. The first is command. You can command change. You can simply tell people they have to do what you want. As the mother of teenagers, the limits of that power are readily apparent. You can command, but they will not necessarily obey. Indeed, you more often get a counter-reaction. But yes, there are certainly situations in which the first way we think about power is command.

The second way—and this is still drawing on Nye's work—is controlling agendas. We're familiar with this, too. If you have ever worked in a bureaucracy or chaired a meeting, you have three options. One is extreme in one direction, the other is extreme in the other direction, and the one in the middle looks just right. So there, you're really using ideas and institutions to frame agendas for action in ways that make some options seem

out of bounds. You drive people toward your preferred option. Just to continue the parenting metaphor, this would be like saying, "Would you like to go to theater camp or art camp or sports camp?" There are a whole bunch of things that are really not on the table. So, we're shaping agendas.

The third way—and again, this is power over, thinking about it vertically—is to shape preferences. This is Gramscian hegemony. This is the way in which you shape what people want without them ever being aware of it. It is the norms, the deep beliefs, the ideas, the culture, so that we want things, or we believe things to be true, without ever recognizing the power of the culture. Obviously, Madison Avenue's influence is based on this kind of power: with advertising, we are constantly subject to these kinds of forces. You recognize this all the time. You say things like, "We don't do that. That is not something we do." Every family has its own sense of "our" values. Or, in a school, you have deep values. That's what structures the community; that is the power of shaping preferences. That's power over: command, controlling agendas, and shaping preferences.

b. power with

Now, let's think about the contrast with power with, and what power looks like in a setting where you do not have direct control over everybody. Command is off the table because you're one person in a group of equals. Anybody who's tried to lead a faculty of tenured professors will be very sympathetic to this view. You don't have actual control.

Therefore, instead of command, the first option under power with is to convene, to connect, and to catalyze. You can't make people do anything, but again, if you're at the center of that web, you can bring people together. You can connect them in ways that you actually can control. You can say, "You should meet so-and-so," and you know the two of them have a project or an interest in common. You know that they're aligned. Suddenly, you have sparked something that you want to happen, but you're doing it through those whom you connect. Then, of course, you catalyze action. Imagine if we were all in a social movement, and I had brought you all here and I had connected you. You're all passionate about human rights or you're all passionate about the environment. Then, I catalyze action by proposing that we do something together. It's the person who can bring all those people together and can mobilize them that holds the power.

Even the word "power" doesn't quite work in the same way it does vertically. Instead of command, you convene, you connect, you catalyze.

Second, instead of controlling an agenda where I bring you all together and I give you a carefully constrained set of choices, I actually do the opposite. In power with, you don't constrain, you open up. I brought you together, having chosen who's here, and we're all together with a common purpose. If I tell you, "Here are our three options," many of you will leave. You will not want to accept my options. If I want to mobilize you, I actually put some general ideas on the table, and then I open myself up to your ideas. I get people mobilized if they think they can actually contribute and I will hear them. Another way to put this is, if I want to persuade you of something, you have to be certain you can persuade me. You have to be certain I'm hearing you, that I'm not just standing up here with a predetermined agenda that I'm going to have you adopt, and pretend that we reached it together. You actually have to be able to contribute.

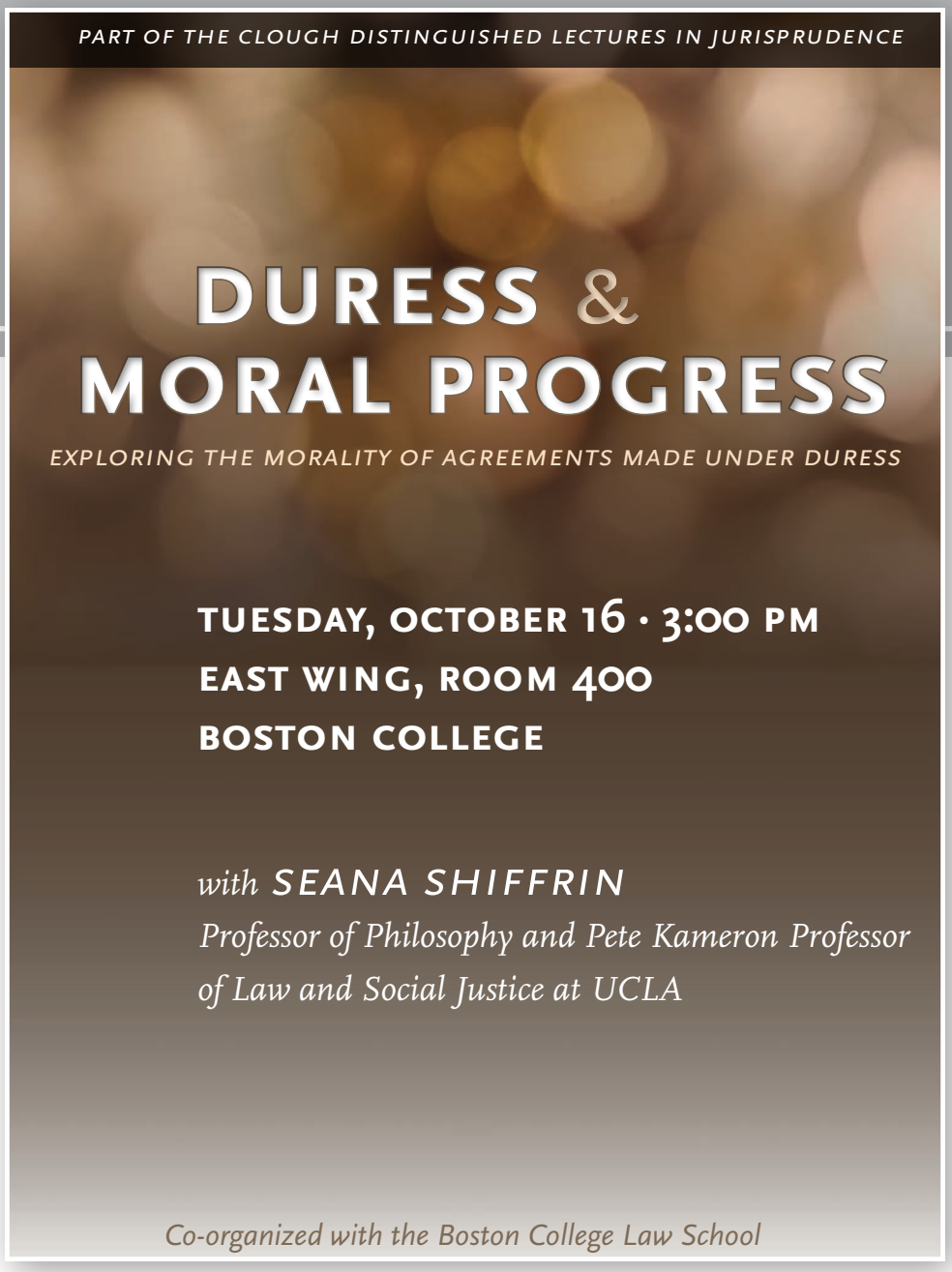
So, it's actually the opposite of controlling an agenda. You are saying, "I'm going to listen to you, and I'm going to change my sense of exactly what I thought I wanted when I came in here, depending on what you say." There has to be a broad set of constraints. If we come together for an environmental movement, we're not going to walk out of here pursuing digital technology. Within that broad area, however, you open yourself up. Instead of constraining, you create as many ways for people to participate as possible.

Third, instead of shaping preferences—that deep structure where you, in various ways, adopt a culture and have that shape what people want—many people in the power with world talk about the power of sharing. Instead of constraining or shaping preferences, what you're actually doing is sharing what you have and inviting others to share back. It sounds very touchy-feely, but it has some very concrete applications, which I will get to. In the Internet world, as just one example, if you want to gather followers on Twitter, you put stuff out, people send stuff to you, and you share back. It's an active culture of generosity that brings people together and then they shape their preferences and their action. That's all very abstract, so let me now turn to how I think those different kinds of power operate in the world of law, and, specifically, in the global world of law.

About Anne-Marie Slaughter

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Anne-Marie Slaughter is the Bert G. Kerstetter '66 University Professor of Politics and International Affairs at Princeton University. She received a B.A. from Princeton, an M.Phil and D.Phil in international relations from Oxford, where she was a Daniel M. Sachs Scholar, and a J.D. from Harvard. From 2009–2011, she was the Director of Policy Planning for the United States Department of State, the first woman to hold that position. After leaving her position at the State Department, she received the Secretary's Distinguished Service Award for her work leading the Quadrennial Diplomacy and Development Review, a Meritorious Honor Award from the U.S. Agency for International Development (USAID), and a Joint Civilian Service Commendation Award from the Supreme Allied Commander for Europe. Outside of her public service career, Professor Slaughter has published a number of books and articles, some of which appeared in *Foreign Policy*, *The Washington Post*, and *The Atlantic*. Prior to her service at the State Department, Dr. Slaughter was the Dean of Princeton's Woodrow Wilson School of Public and International Affairs from 2002–2009 and was the J. Sinclair Armstrong Professor of International, Foreign, and Comparative Law and Director of the International Legal Studies Program at Harvard Law School.



BY NADIA AKSENTIJEVICH

"What is the moral significance of promising while under duress?," Seana Shiffrin asked her audience of Boston College Law faculty and students at the Clough Center Distinguished Lectures in Jurisprudence. Shiffrin is a Professor of Philosophy and Pete Kameron Professor of Law and Social Justice at University of California, Los Angeles. In response, Shiffrin theorized that when a person initiates a promise under duress, this promise may exert moral force. Her argument focused both on the essential character of a promise made under this condition and the transformative nature of the agents involved.

She began her lecture with an introduction to the reflexive view, wherein the coercive circumstances entirely excuse the coerced for their behavior and their promises made under duress. Citing difficulties with this view, Shiffrin then wove her thesis through Kantian and Smithian philosophies. Both Kant and Smith found something inherently dishonorable in lying to someone, or promising with no intention to fulfill, despite coercive circumstances. While Kant's theory found that reneging on a coerced promise was a violation of the right of mankind, Smith viewed the same as a violation of one's own sense of dignity, honor, and reverence of the truth.

Shiffrin brought her own personal theory into greater focus, however, by examining three different mugging scenarios. In the first, the "orchestrated case," a mugger asks for a victim's wallet, and the victim hands it over. This scenario was referred to as "mere capitulation" throughout her lecture. In the second scenario, the "initiated case," the victim negotiates, offering a ring instead of the wallet. Finally, the third scenario, "surreptitious subversion," involves the victim removing some money from the wallet before handing it over. It is in the initiated case, where the victim negotiates, that moral content is vested in the relationship between the mugger and the victim.

Shiffin argued that the moral character of the mugger can only be transformed if the victim offers his own terms through negotiation. The victim himself is also moved towards stronger moral character as he has initiated a solution to a conflict through his promise. She explained that this ability to transform moral character through the recognition of the criminal's moral agency is enormously important for the good of our moral community.

According to Shiffrin, moral force attaches to initiated promises directed at objects that retain their value despite their coerced origins. No moral force attaches, however, to inherently evil or immoral promises. Her argument did not concern objects independently and rightfully owed to the promisee. Through an initiated promise, discretionary power is transferred from promisor to promisee, as it enables the promisee to direct the promisor to act in a way he otherwise may not have.

Why is the initiated case the most morally preferable in exigent circumstances? Why is it not just a move from one non-ideal situation to another? Among the many reasons she offered, Shiffrin highlighted that in negotiating on initiated terms, the victim exerts his own effective agency, makes the coercer accept that agency, and doesn't banish the coercer from the community. While society usually implements policies of containment, avoidance, capture, and segregation of the "wicked," she argued this isolation technique is a morally imperfect solution. Instead, Shiffrin promoted the initiated promise as a means of neutralizing the harm and moving both parties towards a regulative ideal.

Are promises made under duress fully binding? It seems they are binding to some extent, since they are premised on the promisor regarding the promise as having some moral significance. Shiffrin said that under duress, the promisor divests her power of reneging completely. Third parties need not come to promisee's rescue, however, if the promisor fails to honor his promise, nor should punishment of the promisee be withheld.

While Shiffrin argued that the initiated case is the most preferred for moral progress, there are times where capitulation can be courageous in itself. To further bring out this point, Shiffrin discussed the *New York Times* and the *Washington Post*'s publication of Ted Kaczynski's manifesto in response to his threat and alternative to continue killing. While it exposed the *NYTimes* and the *Post* to criticism, Shiffrin argued that it was the right thing to do. Surreptitious subversion, on the other hand, lacks the value of transparency found in the first and second scenarios and is thus "an inadequate response to moral imperfection."

The debate on whether and how much moral significance is vested in a promise made under duress will continue to delight legal minds in the future. Fortunately for us, Shiffrin's novel perspective on individual and societal moral progress has opened the floor to a higher intellectual discourse on the notion of active citizenry.

ABOUT THE AUTHOR
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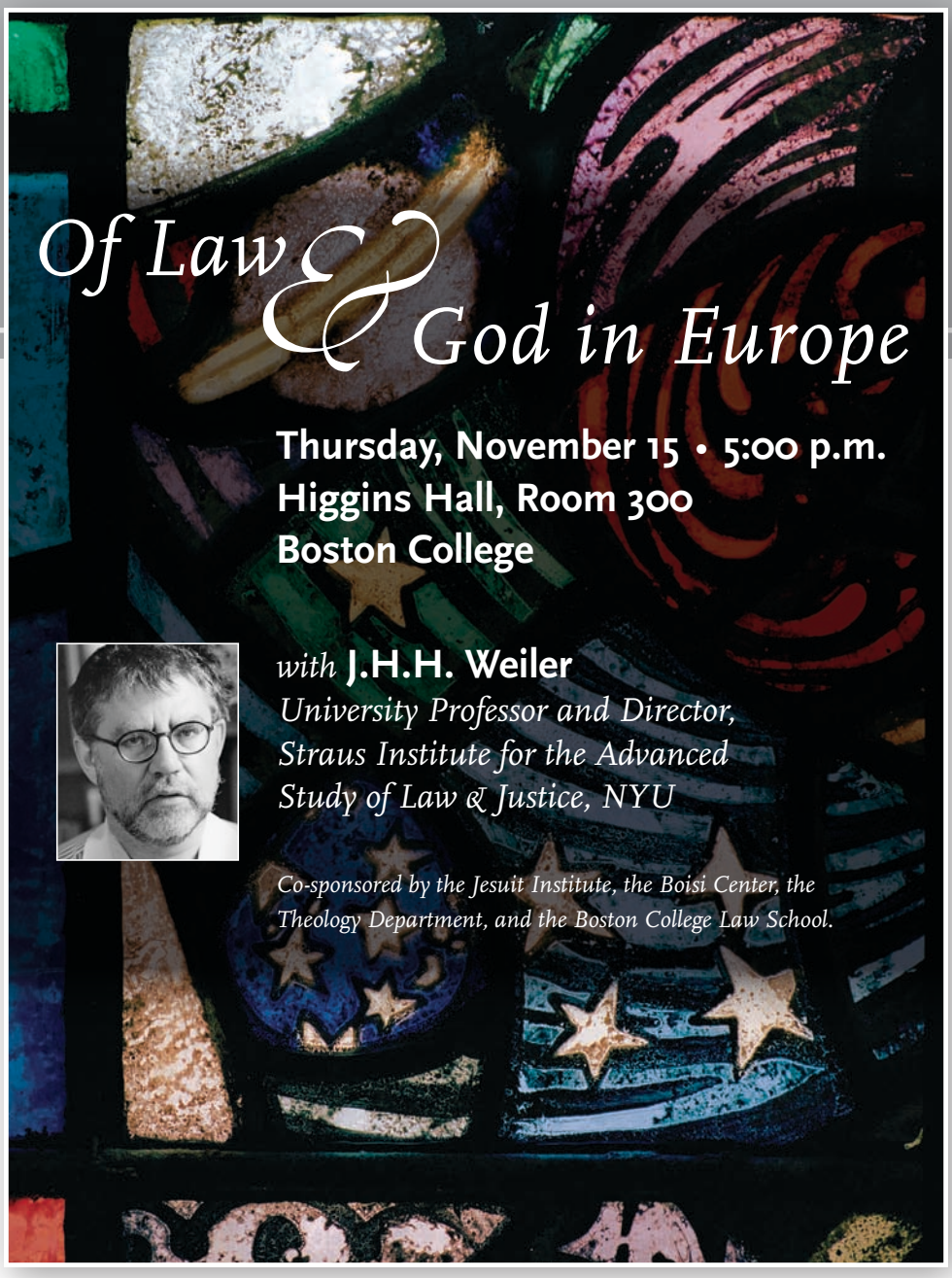
About Seana Shiffrin

For more information, visit the event page at www.bc.edu/cloughevents.

Seana Valentine Shiffrin is Professor of Philosophy and Pete Kameron Professor of Law and Social Justice at University of California, Los Angeles, where she has taught since 1992. She holds degrees from University of California, Berkeley; Oxford University; and the Harvard Law School. She teaches courses on moral and political philosophy as well as contracts, freedom of speech, constitutional rights and individual autonomy, remedies and legal theory. She is an associate editor of *Philosophy and Public Affairs* and a member of the American Academy of Arts and Sciences. Her research addresses issues in moral, political and legal philosophy, as well as matters of legal doctrine, that concern equality, autonomy and the social conditions for their realization.



BY JAMES D'AMBRA

During his visit to Boston College, J.H.H. Weiler presented an interesting analysis of the recent cultural clashes concerning religion in Europe. The typical American knows little about the cultural dialogue in Europe, at least not beyond the contrived stereotypes we receive through news and media. Such an examination of Europe, arguably the United States's closest political, philosophical, and cultural relative, is one that prompts a reflection on the ongoing cultural debates at home and abroad. Weiler discussed the principle of religious accommodation and respect in its expression in government and constitutional law.

J.H.H. Weiler addresses the crowd during his November 15th event.

Considering the Judeo-Christian cultural roots of the US, Weiler contended most culture wars here have had religious overtones. This seems to be an accurate observation considering the ongoing debate over gay marriage, abortion, and the timely "Holiday" versus "Christmas" tree. Weiler points out that historically Europe has not as frequently or intensely encountered these cultural clashes with the accompanying religious tinge. Recent examples cited by Weiler include British Airways forbidding cabin attendants from wearing a small cross necklace; the prohibition in some European countries of Hallal or Kosher slaughter and male circumcision; same sex adoption; and crucifixes in Italian public schools.

Weiler attempted to explain this phenomenon in Europe, an explanation which may carryover to some of the changing cultural trends in the U.S. He began by discussing the change of secularism itself and explained that in the past, an atheist or agnostic was passive in his or her beliefs: "I don't believe in God", while accepting or ignoring the religious. More recently, however, secularism has itself become a religion: "I don't believe in God and please keep it to yourself," becoming more active in their avoidance of the religious, almost to the point of being offended by their mere existence. Secularists seem more militant than the religious, harboring a mutual distain rather than mutual respect.

Continuing, Weiler discussed the growing Islamic population in Europe and the inherent tension created by Islam's religious normativity and universalism. Foundationally, Weiler explained that religious normativity is either rotted in ethics or ecumenical reasoning. The difference being that the former is one based on a more humanist ethical approach (generally adopted by Christianity—Jesus's "do onto others as you would have them do onto you") versus the latter is "revelational" as it is law prescribed by God (generally adopted by Judaism and Islam—do X, don't do Y because God says so). Additionally, the kind of salvational truth is also important in the creation of this tension: universalism versus particularism. In Islam and Christianity, Jesus and Muhammad, respectively, can save everyone, whereas Judaism only speaks to other Jews in following God (described as the "you leave us alone, we leave you alone approach"). Using these categories, Weiler concludes that Islam is both ecumenical and universal, creating tension with other religions and secularism.

In Weiler's continuing explanation, he discussed why the nuance or "tinge" of religion in a cultural and legal debate is so difficult. While the legislature/government may be characterized as religious and there is a necessity to protect belief, particularly those of the minority, the debate is one of religious right against secular right and not power against right. It is the right to be free of religion versus the right to be religious. Weiler notes that a lot of this depends on characterization: if you say to the church you have to hire woman priests, the priesthood is a job and thus under the auspices of state control. However, if the church says the priesthood is a religious right for men only, the state is not supposed to get involved. Thus it becomes the right of a job versus the right of religious beliefs.

Weiler then turned to the constitutional and philosophical "freedom of religion." He emphasizes a difference between freedom "from" and a freedom "of" religion. At a certain level of generality, religion may be considered simply a state of mind or perspective. A freedom of conscious being freedom to think and believe whatever one wants, including who or what God is or is not. However, most constitutions single out freedom of religion, rather than freedom from. The difference being that the former allows for the freedom of any religion, or in the context of conscious, a freedom of any thought.

Weiler does nuance his critique by emphasizing that he does not think that the imposition of religion is constitutionally valid. Coerced worship, nationwide religious dress, and the like would not be allowed, despite the election of a religious government. Rather, Weiler described a "religious hue" that the state may take on. Whether that is the use of religious symbols in official seals or a cross placed passively in public schools. As government is a reflection of the people, if the people elect a religious government, they are allowed to be expressed, within certain limits. Weiler points out that a mandated state religion would be self-defeating, as faith is about choice. In a religion mandated by the state, choice would be left out as an essential element and would be considered spiritually invalid. Instead, it seems we "accommodate" religion, and in Weiler's eyes, correctly embody a freedom of religion.

ABOUT THE AUTHOR

James D'Ambra is a J.D. Candidate at Boston College Law School.

About J.H.H Weiler

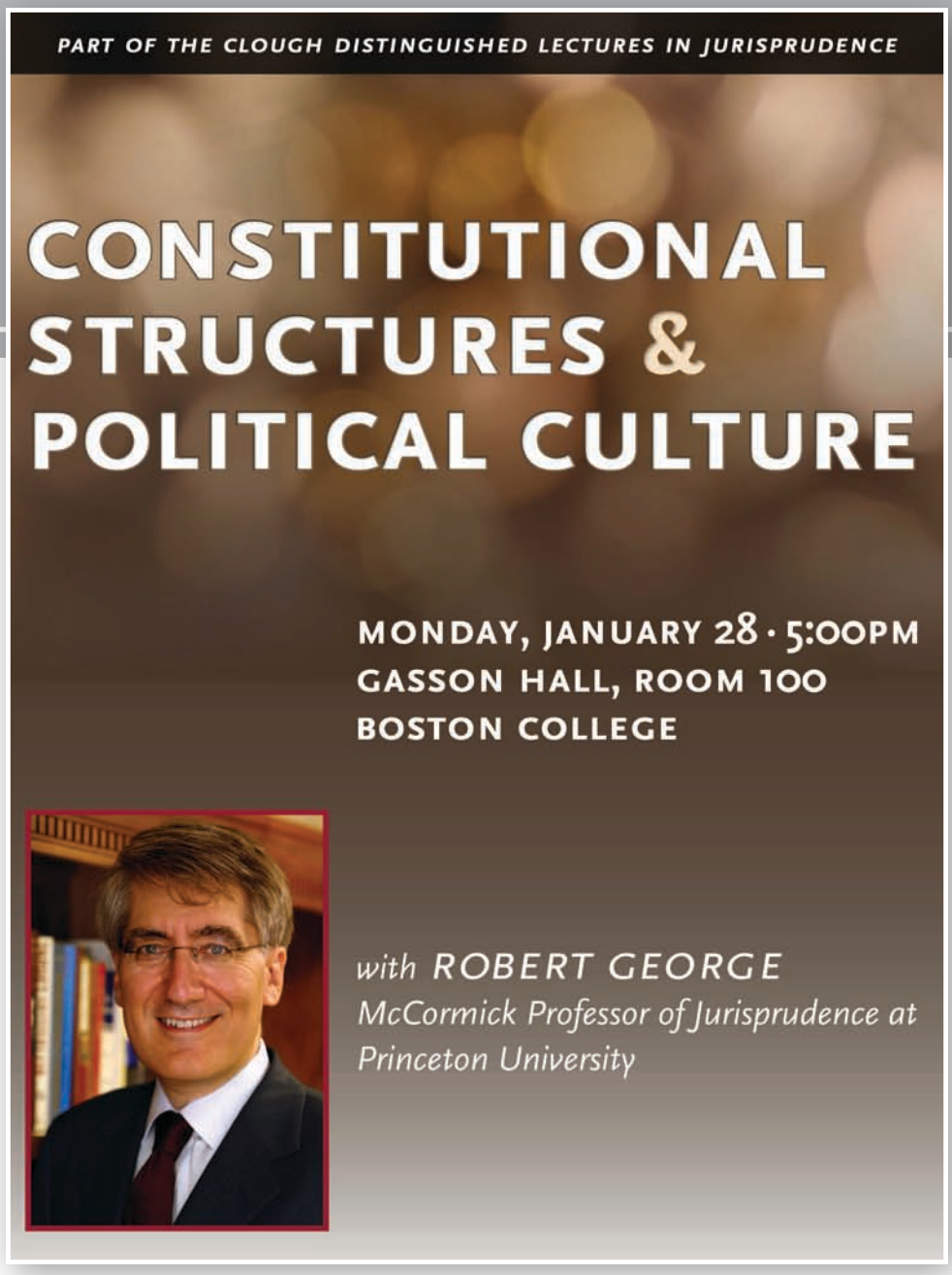
For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

J.H.H. Weiler is University Professor as well as holder of the European Union Jean Monnet Chair at New York University School of Law, Director of the Straus Institute for the Advanced Study of Law & Justice, and Co-Director of the Tikvah Center for Law & Jewish Civilization. Weiler is also Professor at the National University of Singapore; Honorary Professor at University College, London; Honorary Professor at the Department of Political Science, University of Copenhagen; and Co-Director of the Academy of International Trade Law in Macao, China. He has recently been appointed as president of the European University Institute in Florence.

Weiler is a Fellow of the American Academy of Arts. He holds degrees from Sussex (B.A.); Cambridge (LL.B. and LL.M.); and The Hague Academy of International Law (Diploma of International Law). He earned his Ph.D. in European Law at the EUI, Florence. He is recipient of Doctorates Honoris Causa from London University, from Sussex University, from the University of Macerata, Italy and from the University of Edinburgh and is Honorary Member of the Senate of the University of Ljubljana.

Weiler served as a member of the Committee of Jurists of the Institutional Affairs Committee of the European Parliament, co-drafting the European Parliament's Declaration of Human Rights and Freedoms and Parliament's input to the Maastricht Inter-intergovernmental Conference. He is a WTO and NAFTA Panelist, and a founding editor of the *European Journal of International Law*, the *European Law Journal*, and the *World Trade Review*.

Weiler is author of articles and books in the fields of international, comparative, and European law. His publications include: *Un'Europa Cristiana* (2003); *European Constitutionalism Beyond the State* edited with Marlene Wind, (2003); *Integration in an Expanding European Union: Reassessing the Fundamentals*. Edited with Ian Begg and John Peterson, (2003); *Constitution of Europe – do the New Clothes have an Emperor?* (1998); *The EU, the WTO, and the NAFTA: Towards a Common Law of International Trade?* (2000); *The European Court of Justice*. Edited with Grainne de Burca, (2001) and a novella, *Der Fall Steinmann* (2000).



BY KIARA KHARPERTIAN

On January 28th, Professor Robert George lectured on the intersections between the responsibilities of public servants in a democracy and a nation's pursuit of justice and the common good. Professor George began by charting the limits of democratic rule, specifically the tension between the ideals of democracy and the liberal democratic regime that the United States's political structure encourages.

Robert George discusses political culture at the Clough Center's first event of the spring semester.

Though we often claim that, in this country, "we rule ourselves," Professor George pointed out that this is both "a boast and a lie." Part of this discomfort stems from the fact that "the people who rule us, rule by serving us," creating a fundamental juxtaposition between the ability of individuals to pursue their own justice and the government's interpretation of what shape that justice should take—in other words, a juxtaposition between individual liberty and governmentally sanctioned public service. Although this service most often takes the shape of decisions made for the common good which maintain the country's code of justice, Professor George maintained throughout his talk that broadly conceived political justice does not always equate with privately conceived notions of justice and good. And although Professor George did not quite define the contours of that private "justice for the common good," he did identify the victims of injustice or corruption as those most deserving of the common good.

The challenge, Professor George claimed, comes in coordinating the national and local human activity that pursues this common good. While the law should solve these coordination problems, it more often obscures them; to resist this obscurity, we should institute a "set of conditions which enable members of communities to attain [the common good] for themselves." Redirecting the burden of the pursuit of good and justice onto private bodies, rather than the political or public ones, foregrounds the distinction between intrinsic good and instrumental good in contemporary society. This move in turn clarifies the roles different public and private institutions should play in the pursuit of different forms of common good. Instrumental good, aligned with material gain, falls more naturally under the umbrella of political work, whereas intrinsic good is unveiled as the domain of private, religious, and familial institutions. Put simply, instrumental good, protected by the government, gives private entities the ability to

define, pursue, and maintain intrinsic good. Moreover, private groups have a scope and perspective that larger public groups do not, granting them a unique ability to determine reasonable objectives for justice in their corresponding communities.

Attention to this distinction between the role of public and private bodies in pursuing the common good can thus help us to identify the qualities of successful justice, facilitated by reason, in the private realm, where Professor George argues it belongs. "Flourishing," he claims, is one of the most broad and primary results of justice; it is constituted by a strong familial and religious presence in a cohesive, political community that supports membership in these groups. Thus, such progress cannot be found in a community where the government overshadows the ability and reach of private bodies. Instead, Professor George argues that governments that play too strong a role in community building enterprises serve as limiting functions that become a sin against justice. As a result, the primary job of the government must be to diffuse power in such a way that it puts the resources necessary to pursuing the common good in the hands of private entities that can then apply them best to their on-the-ground communities. Correspondingly, big business and big government depart from this diffusion of power and ultimately block the public's pursuit of its own justice. Our own socioeconomic and political structures must therefore be reevaluated because their reliance on big business and big government ultimately interferes with the pursuit of private justice and good.

Moreover, if the United States' Constitution is our country's template for the pursuit of the common good, then the general public's reluctance to recognize what constitutes justice and the common good stems in part from a misunderstanding of this document. Professor George argues that, in order to prevent tyranny and protect liberty, the ratifiers of the Constitution put juridical structures in place that created a government of limited and enumerated powers that, as a result, maintained a division of power between the federal and the state. This division and the original intention of the Constitution need to be revisited to reassess how to best protect our individual liberties as individuals and citizens. If we are to best protect the private entities that pursue their members' common good with the greatest perspective and effectiveness, Professor George claims that we as a country must then redefine our political system to allow for greater leniency in private and state decision making.

ABOUT THE AUTHOR

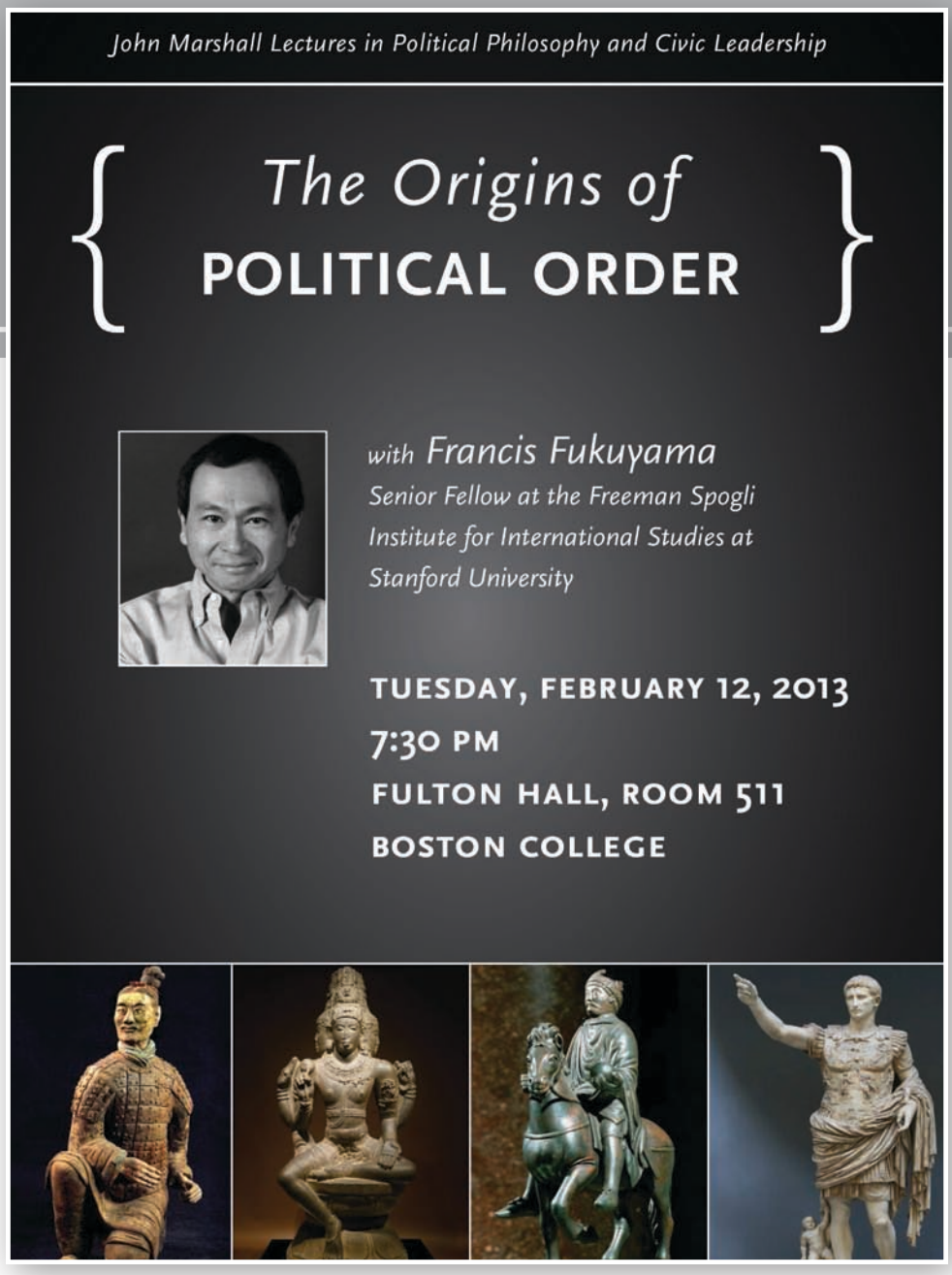
Kiara Kharpertian is a Ph.D. Candidate in Literature at Boston College and a Clough Center Graduate Fellow.

About Robert George

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Robert George is McCormick Chair in Jurisprudence and is the founding director of the James Madison Program at Princeton University. He has served on the President's Council on Bioethics and as a presidential appointee to the United States Commission on Civil Rights. He has also served on UNESCO's World Commission on the Ethics of Science and Technology, of which he continues to be a corresponding member. He is a former Judicial Fellow at the Supreme Court of the United States, where he received the Justice Tom C. Clark Award. He is the author of *In Defense of Natural Law* (1999); *Making Men Moral: Civil Liberties and Public Morality* (1995); and *The Clash of Orthodoxies: Law, Religion and Morality in Crisis* (2002); as well as co-author of *Embryo: A Defense of Human Life* (2008) and *Body-Self Dualism in Contemporary Ethics and Politics* (2009). His scholarly articles and reviews have appeared in such journals as the *Harvard Law Review*, the *Yale Law Journal*, the *Columbia Law Review*, the *American Journal of Jurisprudence*, and the *Review of Politics*.

Beyond his public service and publications, George is a member of the Council on Foreign Relations, and holds honorary doctorates of law, ethics, science, letters, civil law, humane letters, and juridical science. A graduate of Swarthmore College and Harvard Law School, he also received a M.A. in Theology from Harvard and a Ph.D. in Law from Oxford University. This academic year, Professor George is visiting professor at the Harvard Law School.



BY GARY WINSLETT

If people were allowed to choose which country to be born in, Denmark would have decidedly more people choosing to live there than Somalia. The reasons for this are too numerous to count but many if not all of them depend either directly or indirectly on political order. Prosperity tends not to flourish amidst chaos. Where does that requisite political order come from? Political Scientist Francis Fukuyama visited Boston College and gave his answer to that question. He argued that political order arises from three institutional foundations: states, the rule of law, and accountability.

As part of the John Marshall Lecture Series, Francis Fukuyama discusses political order to a full house.

According to Fukuyama, human nature sets the stage for the need for political order. Because of the biological facts of kin selection, reciprocal altruism, and man's social nature, humans have a tendency to promote the interests of their family and friends at the costs of others. This is an understandable but clearly suboptimal and inequitable manner for arranging politics. Building on Charles Tilly's famous aphorism that states make war and wars make states, Fukuyama argues that the first modern state was China around the third century BC after it emerged from what is known as the Warring States Period (a fact which he says that Western scholars frequently overlook). In roughly 1000 BC, China was divided into 1200 or so political entities. An extended period of warfare broke out in which this number decreased. The large stakes involved in this fighting incentivized Chinese political leaders to devise more meritocratic and centralized institutions. As Fukuyama points out, if you hire your brother to be the leading general regardless of his competence, that often leads to losing and political death. During the Warring States Period, the number of polities in China dropped from 1200 to 16, then 7, and finally 1. With only a few exceptions, it has maintained unified, centralized political control ever since. European countries would not develop into states for almost another two millennia until similar war-based incentives lead to the European state system in the 16th and 17th centuries.

Whereas the first institutional foundation, the state, is needed to effectively govern, the second institutional foundation, the rule of law, is needed to constrain the arbitrariness of political

power. If states prevent chaos, the rule of law prevents tyranny. Fundamental to the rule of law then is that it remains outside of direct political control. Fukuyama argues that this institutional foundation most frequently grew out of religion. As an example, he pointed to India's traditional caste system in which those who interpreted the law were actually set above those who controlled political power. He also examined Pope Gregory VII's conflict with the Holy Roman Emperor Henry IV in which Pope Gregory VII wrested control over how the pope would be chosen out of political hands. Finally, he analyzed how the Byzantine Justinian Code spurred the growth of the civil law tradition in Europe.

The third institutional foundation is accountability. Fukuyama contends that modern democracies come from feudal structures that survived to modern times. He says that to wage wars, kings needed to raise money and to do that the kings levied taxes on the population, especially the nobility. Political competition between the king and the nobility generally ensued from this. In most places, the king won and in these places the king tended to remain unaccountable to those below him in the political hierarchy. In a few places, the nobility won and in those places the state remain quite weak. But importantly, in one place (England) the king and the nobility fought each other roughly to a draw. This created the grounds on which existent but accountable government could most readily flourish.

Fukuyama then brought the discussion up to the present. He first noted certain continuities in the historical pattern. For example, he argues that modern China remains very similar to dynastic China in that it is still a highly centralized, bureaucratic, authoritarian government. It has little rule of law that is not politically controlled (Fukuyama contends that a contributing factor to this is the Chinese religious tradition of ancestor worship) and it has little accountability to constrain government. Manifestations of these lacking institutional foundations can be seen in the Chinese government's response to railway accidents and the continued pollution in Chinese cities. He juxtaposes China with India. Whereas China throughout its history has normally been centralized with only a few exceptions, India with only a few exceptions has been highly fragmented. He then argues that American politics is in many ways at the opposite end of the spectrum from China; it has lots of accountability and (possibly) too many veto points. As an example, he tells the story of how improving the Oakland port ended up costing ten times as much as was originally estimated and taking far longer than it was supposed to; much of this was due to a plethora of political constraints ranging from citizens' group to lawyers, environmental lobbies, and congressmen worried about re-election. He noted that the Dodd-Frank financial regulation bill passed after the 2008 Financial Crash was considerably longer and more complex than earlier regulations such as Glass-Steagall. He argued that much of the explanations behind these developments stemmed from Americans' refusal to put more power and discretion in the hands of government. In the attempt to build political order then it seems that whereas China has underdeveloped rule of law and accountability and so its people must sometimes contend with unresponsiveness and tyranny, America has an underdeveloped state and so its people must sometimes contend with gridlock and glacial governance.

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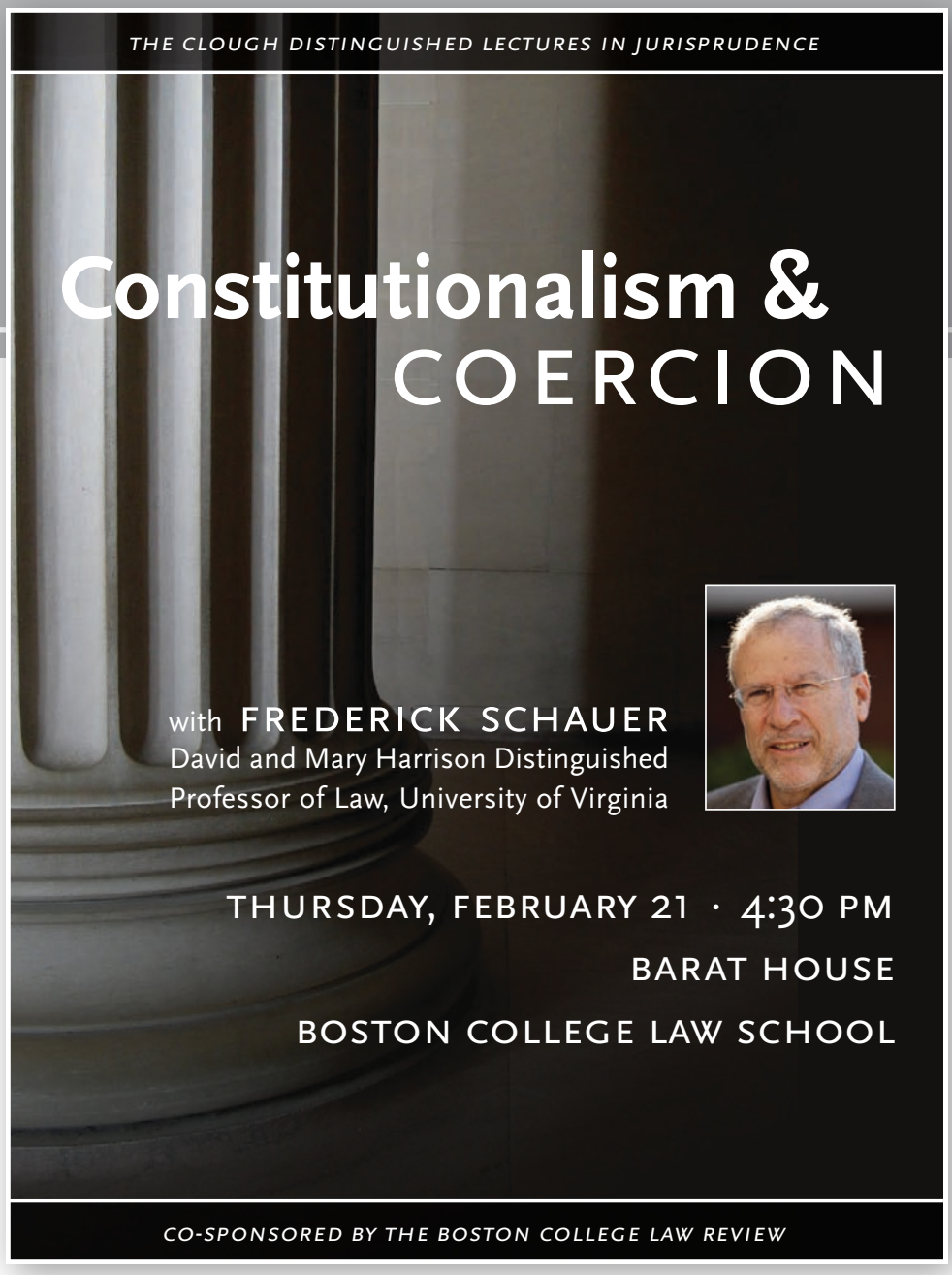
About Francis Fukuyama

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Francis Fukuyama is Olivier Nomellini Senior Fellow at the Freeman Spogli Institute for International Studies (FSI), and resident in FSI's Center on Democracy, Development, and the Rule of Law. He comes to Stanford from the Paul H. Nitze School of Advanced International Studies (SAIS) at Johns Hopkins University, where he was the Bernard L. Schwartz Professor of International Political Economy and director of SAIS's International Development program.

Dr. Fukuyama has written widely on issues relating to democratization and international political economy. His book, *The End of History and the Last Man* (1992) and has appeared in over twenty foreign editions. His most recent book, *The Origins of Political Order*, was published in April 2011. Other books include *America at the Crossroads: Democracy, Power, and the Neoconservative Legacy* (2007), and *Falling Behind: Explaining the Development Gap between Latin America and the United States* (2011).



BY ANDRE GREGORI

Thoreau once said, "It is not desirable to cultivate a respect for the law so much as for the right." Professor Frederick Schauer does not entirely agree. On February 21, Professor Schauer lectured on how a respect for the law—particularly for constitutional law—is sometimes more desirable than a respect for the right. The United States, Schauer lamented, has been too fanatical about Thoreau's words. The country's highest policymakers regularly ignore the clearest commands of the Constitution or of Supreme Court case law when obedience thereto would obstruct moral or expediential resolutions to concrete problems. But the good resolution of a concrete problem is not neces-

sarily conducive to—and indeed may conflict with—the attainment of a higher good. For that reason, a vigorous constitutional law is necessary because it advances political wisdom by staving off reactive weakness of will.

For Schauer, constitutional law should serve as what Robert Nozick called "side-constraints." It should be, first and foremost, a mechanism for restricting or channeling power with a view to advancing certain high societal goals, even if at the cost of some particular wrongs never being righted. The Fourth and Fifth Amendments are uncontroversial examples of this side-constraining function of the Constitution. Guarantees against unreasonable searches and seizures, cruel and unusual punishment, and self-incrimination, are conceivably unpopular in the immediate aftermath and vicinity of an especially heinous crime. Nevertheless, that is precisely when these guarantees are most important. They are needed to restrain rash actions that may cause irreparable damage to innocent parties; they are needed in order that the truth may out with sufficient certainty, and that justice be done. It is undeniable that these guarantees operate at a cost. They may delay, or even ultimately obstruct, rightful punishment, since they are most frequently invoked by people who—as Schauer aptly put it—"did it." However, that cost seems light to bear in proportion with the end advanced (e.g., truth or justice). For this reason, there seems to be little disagreement in the United States that the Fourth and Fifth Amendments are precious protections of the Constitution.

The idea of side-constraints is more controversial, however, when constitutional law stands straight in the way of a reasonable and well-meaning policy or the good resolution of a concrete case before a judge. This controversy, for Schauer, stems from an erroneous view of the Constitution. Under this view, the Constitution should keep bad people from doing bad things, but

should let good people do good things. Thus, from this perspective, a constitution which stands in the way of a good policy or of concrete justice is broken; but Schauer contended that, from a different view, the constitution may be working just as it should. Constitutional law should not be directed simply towards restricting bad people from doing bad things; it should be designed to constrain both good and bad people from doing both good and bad things *when* those things would clash with higher constitutional goals.

To illustrate his position, Schauer cited eight Supreme Court cases of "wise policies wisely invalidated." In each case, the Court ruled against good outcomes sought by good people, because those outcomes conflicted with more fundamental constitutional objectives. In one case, for example, the dignity of Holocaust survivors conflicted with the plans of a Neo-Nazi group to rally in the survivors' predominantly Jewish town. A second case where the desire of the family of a deceased member of the armed forces to give their loved one a respectful send-off clashed with the interest of the Westboro Baptist Church in picketing, heckling, and spreading hateful messages at the deceased soldier's funeral. Finally, the protection of animals from murder and torture was inconsistent with the interest of filmmakers in making films depicting such acts. In all of these cases, the Supreme Court decided against interests that were reasonable and well-meaning, ruling in favor of Neo-Nazis, bigots, and animal torturers. And that, according to Schauer, was precisely what the Court should have done: In each of the three cases, the relief sought, though justifiable from moral grounds, would have clashed with the higher constitutional goal of free expression.

What the United States needs, according to Schauer, is a greater respect for its constitutional side-constraints. While the Supreme Court is good at internalizing the constraints, policymakers and implementers are not. Policymakers in particular are "systematically hostile" to unpopular rights. Congress, for example, too often passes laws that its members know are—or probably are—unconstitutional. For Schauer, this is evidence of the lack of coercive power of constitutional law. Congressmen violate constitutional law simply because they are not required to follow it. To remedy this, Schauer suggested sanctions. If liability were to attach to policymakers—e.g., to members of Congress, or even to Congress as an institution—constitutional law would not be violated so often.

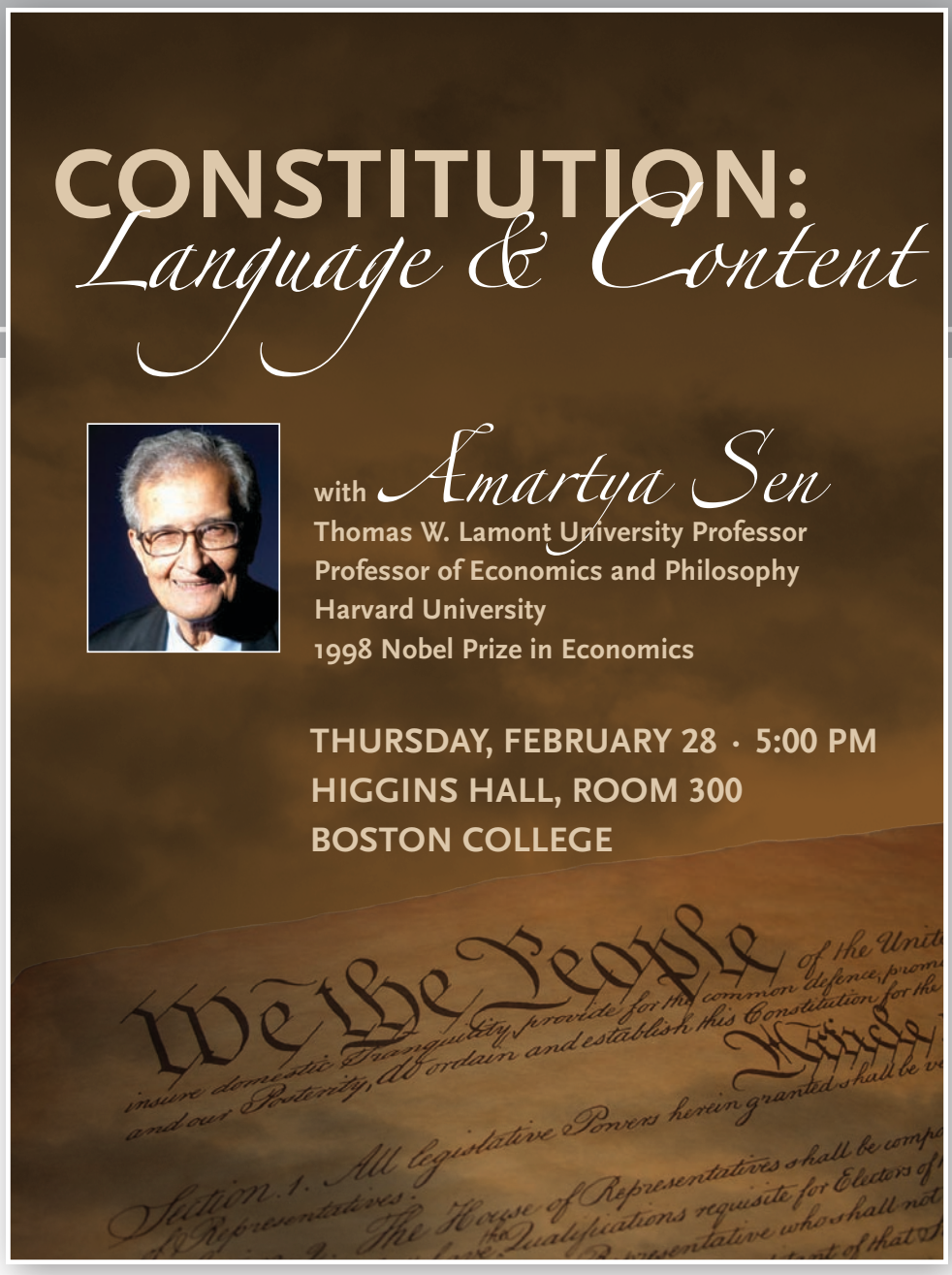
With his suggestion of sanctions, Professor Schauer intended more to initiate debate about the idea of coercion within the context of constitutional law, than to shift debate to the potential mechanics of the sanctions, or to the constitutional and institutional changes that would be necessary to enable coercion at that level. Like any good lecturer, Schauer brought value not only in the things he said, but in the things he left unsaid that emerged in his audience's minds. In sum, his lecture invites a series of questions which could have deep significance for the institutional arrangements of the United States, such as whether to amend the Speech and Debate Clause. Moreover, in a world where the theories of John Austin and Jeremy Bentham are no longer in vogue, Schauer took a brave stance by making coercion the central topic of discussion and applying it to the novel area of constitutional law.

ABOUT THE AUTHOR
Andre Gregori is a J.D. Candidate at Boston College Law School.

About Frederick Schauer

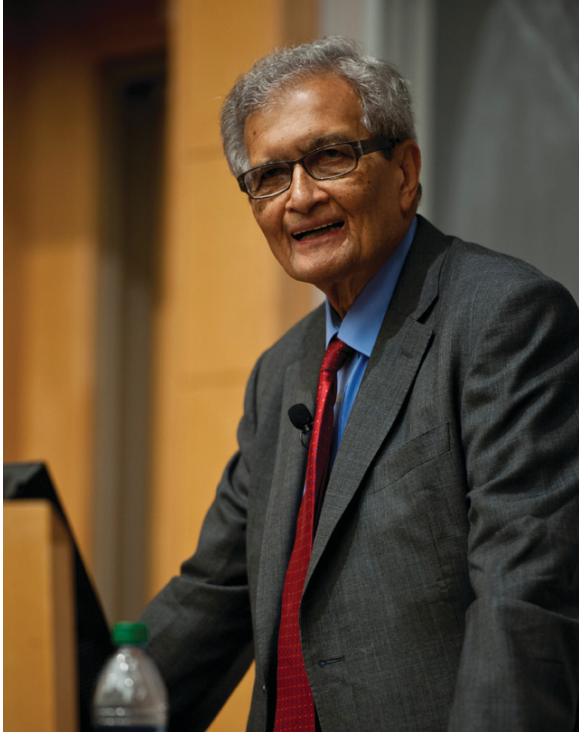
For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Frederick Schauer is a David and Mary Harrison Distinguished Professor of Law at the University of Virginia. He is the author of *The Law of Obscenity* (1976), *Free Speech: A Philosophical Enquiry* (1982), *Playing By the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and in Life* (1991), *Profiles, Probabilities, and Stereotypes* (2003), and *Thinking Like a Lawyer: A New Introduction to Legal Reasoning* (2009) and of numerous articles on constitutional law and theory, freedom of speech and press, legal reasoning and the philosophy of law. Schauer is a fellow at the American Academy of Arts and Sciences, has held a Guggenheim Fellowship, has been vice-president of the American Society for Political and Legal Philosophy and chair of the Committee on Philosophy and Law of the American Philosophical Association, and was a founding co-editor of the journal *Legal Theory*. He has also been the Fischel-Neil Distinguished Visiting Professor of Law at the University of Chicago, Ewald Distinguished Visiting Professor of Law at the University of Virginia, Morton Distinguished Visiting Professor of the Humanities at Dartmouth College, Distinguished Visiting Professor of Law at the University of Toronto, and Distinguished Visitor at the New York University School of Law. In 2007-08 Schauer was the George Eastman Visiting Professor at Oxford University and a fellow of Balliol College.



BY AMELIA WIRTS

In the 16th century, Holy Roman Emperor Ferdinand I famously proclaimed "Let justice be done though the world perish." In his Clough Lecture "Constitution, Language and Context," Nobel Prize winning economist Amartya Sen attacks precisely this view of justice as a narrow set of rules to be followed regardless of its effects. In a packed hall, Sen laid the groundwork for his more complex notion of justice that takes into account a full context of rules, institutions, effects, and individuals' lives. With a lively mix of theory, mythology, and stories from his own life, Sen wove together the framework of comprehensive justice from his book *The Idea of Justice* with his new theory of constitutional



Standing Room Only: a captive audience looks on as Amartya Sen discusses constitutional theory.

interpretation. Just as the narrow sense of justice described by Ferdinand misses the real meaning of justice, Sen critiques the originalist approach to constitutional interpretation for its failure to take into account the full range of the meaning of constitutional law.

In classical Sanskrit, there are several words for justice. Sen contrasts two: *niti*, the kind of narrow justice that Ferdinand proclaimed, and *nyaya*, the justice that looks to not only establish just institutions, but to avoid manifest injustices by attending to the realities in a society. The distinction between the two types of justice is the heart of Sen's critique of theories of justice from Immanuel Kant to John Rawls. Most contemporary theorists of justice focus on deciding which rules and institutions would be the most ideally just in a perfect society. For Sen, this approach fails because it considers justice only in a perfect society, which is impossible in our real world. This is *niti*, and without the balance of *nyaya*, it will lead us to reject improvements in our society simply because they fail to live up to the strict rules of justice that exist only in our theories. *Niti* alone demands that we destroy the world in the name of attaining perfect justice.

Instead, *nyaya* focuses on alleviating the effects of the most manifest injustices. Of course, as Sen clarified, we cannot ignore the institutions and rules that make up a *niti* kind of justice, but we must not focus solely on institutional solutions to social problems. We cannot rest assured that a perfect procedure will yield justice. To demonstrate the insufficiency of *niti*, Sen explained a common saying in early Indian legal theory. It was said that a legal system should avoid *matsyanyaya*, or 'justice in the world

of fish.' In the world of fish, a big fish can devour a small fish, but we should never accept a society in which the weak can be overpowered by the strong. Sen argues that we will never be sure that the big fish in society cannot devour the small fish if we look at a society's procedures alone. Rather than examining the rules of a society to see if they appear fair, we should look at the society itself. How are the most vulnerable people fairing? Can a big fish eat a small fish? If small fish are vulnerable, it does not matter how perfect the *niti* is. If *nyaya* is missing, a society is not really just.

With this distinction between *niti* and *nyaya* in the background, Sen elaborated his critique of constitutional originalism. One form of originalism links the meaning of the constitution to the intentions of the authors of a constitution, arguing that any contemporary constitutional problem can be solved through appeal to this intended meaning. However, this view misses the meaning of constitutional law, just as *niti* misses the meaning of justice. This type of originalism is problematic because the original intentions of authors are only part of the story of how a law developed. Just like *niti*, originalism gives us too narrow of an understanding of the context in which laws and justice arise. Thus, with originalism, we might say "Let the original intentions of the law prevail, though the world perish."

Still, it is not as if constitutional interpretation should have no connection to the constitution's history. All interpretation is interpretation of something. Sen argues that instead of looking to original intent, we should use a more comprehensive method of understanding the meaning of a constitution. He calls his approach constitutional motivation. If we reconstruct the motivation of a given part of the constitution, we are not interested in the intentions of the authors, which may have been supported by reason or mere whim. In a motivational theory, we look at the problem that the law was meant to solve or the situation that it arose within. What were the motivations for writing this clause or amendment? From there, one can reconstruct the arguments that authors could have given for the law and its meaning. Arguments, unlike intentions, are always supported by reasons. We should attend to the reasons that could have been given to support a constitutional law based on the situation in which they were created. Much like *nyaya*, this approach to interpretation is about seeing a full context and a whole range of factors together as contributing to the meaning of a law. Originalism only examines one narrow aspect of the meaning of constitutional law.

Sen presented the motivational theory of constitutional interpretation in brief outline as an initial attempt to build a more comprehensive and contextual understanding of constitutional law. While he admitted that the details of his new theory are yet to be filled in, constitutional motivation promises to become a compelling theory of interpretation in our increasingly complex legal world. With landmark cases being argued in the American Supreme Court and in constitutional courts around the world, certainly legal scholars will await the full articulation of this fresh approach to constitutional interpretation with great anticipation.

ABOUT THE AUTHOR

Amelia Wirts is a Ph.D. Candidate in Philosophy at Boston College and a Clough Center Graduate Fellow.

About Amartya Sen

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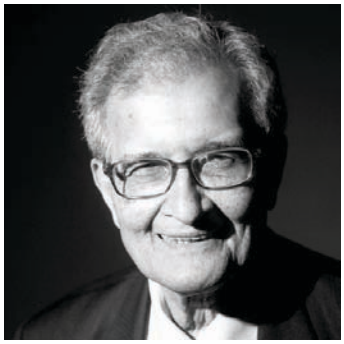


Amartya Sen is Thomas W. Lamont University Professor, and Professor of Economics and Philosophy, at Harvard University and until 2004, he was the Master of Trinity College, Cambridge. He is also Senior Fellow at the Harvard Society of Fellows. His research has ranged over social choice theory, economic theory, ethics and political philosophy, welfare economics, theory of measurement, decision theory, development economics, public health, and gender studies. Amartya Sen's books have been translated into more than thirty languages, and include *Choice of Techniques* (1960), *Collective Choice and Social Welfare* (1970), *Choice, Welfare and Measurement* (1982), *Commodities and Capabilities* (1987), *The Standard of Living* (1987), *Development as Freedom* (1999), *Identity and Violence: The Illusion of Destiny* (2006) and *The Idea of Justice* (2009).

Professor Sen has served as President of the Econometric Society, the American Economic Association, the Indian Economic Association, and the International Economic Association. He was formerly Honorary President of OXFAM and is now its Honorary Advisor. He has received more than one hundred honorary degrees. Among the awards he has received are the Bharat Ratna (the highest honour awarded by the President of India); the Agnelli International Prize in Ethics; the Edinburgh Medal; the Brazilian Ordem do Merito Cientifico; the Eisenhower Medal; Honorary Companion of Honour (United Kingdom); the George C. Marshall Award (United States); the National Humanities Medal (U.S.); and the Nobel Prize in Economics.

BY GARY WINSLETT

What are the underlying sociological foundations of the European Union's current and longer-term political problems? Why is it that so many Europeans feel that there is a democracy deficit- that their voices are not listened to in the halls of power- and why is it that European governments find themselves so unable to deal with their fiscal crises?

Hauke Brunkhorst addresses legislative power in Europe to an interested audience.

Hauke Brunkhorst argues that the answer lies in the extent to which legislative power has been curtailed relative to managerial power. He begins his account at the start of the European unification project that emerged from the ashes of World War II. At first, this unification project "was not affirmation of peace but negation of fascism, not built on a managerial mindset but political autonomy, not rational choice bureaucratic law, but no law other than laws that had been consented to by the governed." Brunkhorst refers to the mindset that underpinned this system as the Kantian mindset. For those of the Kantian mindset, the scandal of absolutism was the lack of political autonomy and the paucity of true representation. The idea that these were prerequisites for good governance was the foundation for legislative power. The Kantian mindset largely characterized the European system from the end of World War II until 1957.

After that, a new mindset, known as the managerial mindset, became hegemonic. The managerial mindset can best be understood as the notion that the really important decisions are best left to judges and experts rather than legislators. According to Brunkhorst, to understand the managerial mindset one has to go back to the new constitutions that many European states adopted from 1944-1947. These new constitutions empowered former resistance fighters and former exiles, expanded suffrage and democratic representation, undermined corporatism, emphasized human rights which increased the extent to which states were exposed to international law, and bound those states to the project of European unification. After this constitutional moment, the process of ever-deepening integration and the strengthening of technocracy based in European-level institutions relative to national-level legislatures fostered the rise of a

managerial mindset that left many Europeans feeling unrepresented. Brunkhorst says that the problem is not that the European political organizations are undemocratic; it is that nobody understands that they are democratic. The other major problem is not the presence of technocracy and a managerial mindset; it is that they have become predominant and repressed the Kantian mindset and legislative power (which feels, and often is, more responsive to citizens' demands).

The hegemonic managerial mindset created an evolutionary process for political organization in Europe. First, it inverted the relationship between economic constitutionalism and political constitutionalism by allowing transnational economic arrangements to superseded national political power. Meanwhile, capital was allowed to gain an advantage over labor because it became Europeanized while labor was kept at the national level. As an extension of this process, the adoption of the single currency was an attempt to establish a political economy without democracy or governance. Brunkhorst argues that this is exactly why large corporations were so in favor of it. Second, it created a juridical moment in which the law combined with subjective rights empowered experts while facilitating a constitutionalization process that became a self-fulfilling prophecy. Third, it meant that the European Union was granted both a stick of law and a carrot of money to induce states to embrace certain policies while at the same time it denied states the basic strategies to respond to crisis such as the current ongoing fiscal crisis. Finally, it allowed globalization to weaken states through two mechanisms. It made states less able to rely on tax collection as a means of revenue generation and so has made them even more dependent on sovereign debt. As with the managerial mindsets relationship to the Kantian mindset, the problem with sovereign debt as a means of financing the state is not its existence but rather the extent to which it has come to predominate tax collection which provides states with greater autonomy. It has also, through the single currency, taken away a state's ability to devalue its currency in a controlled manner as a means to increasing competitiveness.

Brunkhorst then pointed to the New Deal under President Franklin Roosevelt as an example of a state managing an economic crisis in a way that would be significantly more difficult after this evolutionary process. He contends that the New Deal was not a managerial process but instead a legislative one in which various social groups combined to constrain capital in order to alleviate the Great Depression and hopefully prevent a recurrence of it. They did this by increasing taxes on wealth, expanding the social safety net, augmenting infrastructure investment, and reigning in major financial institutions. This allowed the New Deal coalition to control the productive forces of capitalism without destroying them. Brunkhorst asserts that this kind of legislative process and its outcomes seem to no longer be possible. After the 2008 financial crisis, big banks were not broken apart and the rich did not see their taxes meaningfully hiked. Instead labor was squeezed through austerity and this squeeze was sold as "reform." This then has left states ever more reliant on the "oligarchy of global investors" and institutions that can finance their debt and thus makes them more susceptible to policy blackmail. Brunkhorst contends that given the fact that capital has greater mobility than labor, the best hope for rectifying this situation is the rise of a transnational class struggle that can restore legislative power and the balance between capitalism and democracy.

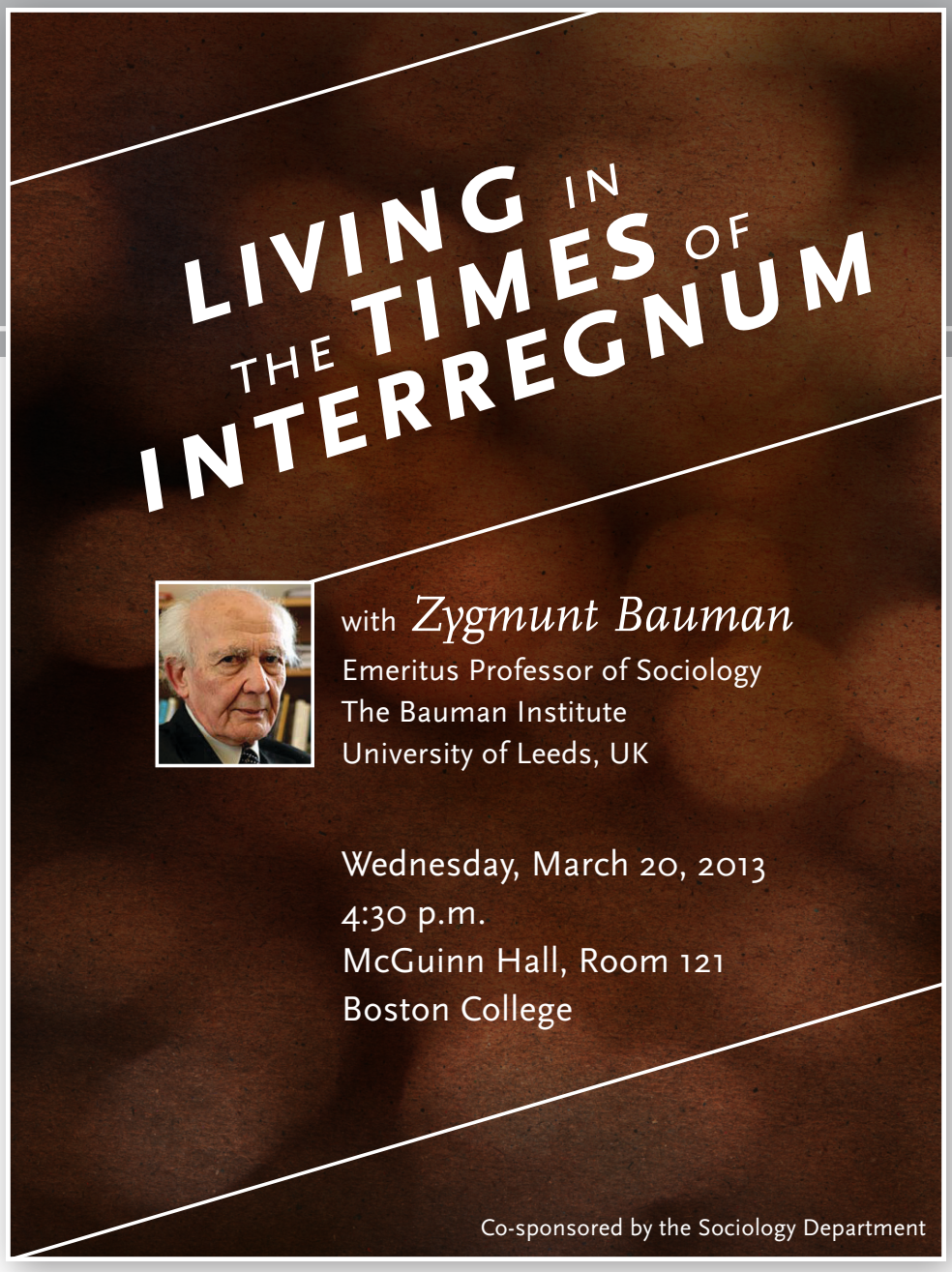
ABOUT THE AUTHOR

Gary Winslett is a Ph.D. Candidate in Political Science at Boston College and a Clough Center Graduate Fellow.

About Hauke Brunkhorst

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Hauke Brunkhorst is Professor of Sociology and Head of the Institute of Sociology at the University of Flensburg, Germany. A political sociologist, he has authored many books, including *Adorno and Critical Theory* (1999) and *Solidarity: From Civic Friendship to a Global Legal Community* (2005). During the 2009-2010 academic year, Dr. Brunkhorst was the Theodor Heuss Professor at the New School for Social Research in New York City.



BY LIAM MARTIN

On March 21st, the Clough Center welcomed Zygmunt Bauman to Boston College. Professor Bauman is perhaps the world's foremost scholar of late modernity, and on this evening, organized an analysis of contemporary politics around the concept of *interregnum*—a period of political break or discontinuity. He described the emergence of a "crisis of agency," an historical moment where conventional institutions for dealing with social problems appear ever more antiquated. The question today is: who's going to do it?

Zygmunt Bauman lectures at Boston College.

Bauman began with a genealogy of the term interregnum. It was first used by a historian of Rome writing about the death of King Rombus. Rombus was in power for 37 years, at a time when the average age was 37 years, so few people could remember life before his rule. The historian described widespread feelings of loss, uncertainty and abandonment in the period of interregnum before a new ruler was found. More recently, the Political Philosopher Antonio Gramsci expanded the meaning to describe any moment of crisis where the old ways of doing things no longer work, but new ways have not been discovered.

The political or social organization of interregnum is accompanied by states of psychological insecurity. Insecurity combines uncertainty (what will tomorrow bring?) and impotence (even if I knew, there's nothing I could do). It spreads humiliation, to which people react angrily, becoming deeply suspicious of neighbors, traditions and leaders. Conventional ways of doing things appear ineffective, even immoral. For Bauman, the loss of public confidence in political institutions is a symptom of the interregnum that has been dominant for several dozen years.

Bauman describes the "crisis of agency" in terms of the nation state being undermined by globalization. As he put it: globalization has split power (the ability to get things done) from politics (the ability to decide which things get done). Power is now globalized, held by supranational institutions not confined to the territory of any state: financial capital, multinational corporations, the arms trade, terrorist organizations, and drug cartels. These powers have been emancipated from political control, and are more or less free to ignore local values, preferences and

decisions. The powers that most influence human life around the planet are beyond the reach of politics, that is, there is a 'gap' between global power and local politics.

Politics is constantly suffering from this gap, and the state can no longer perform many of its previous functions. Policymakers and officials, increasingly aware of their lack of agency, have enacted a twofold retrenchment: (1) contracting out functions previously performed by state organs (with all the anti-democratic implications of having these removed from electoral influence), and (2) amplifying the role of "life politics," expecting everyday people to manage social problems in their own lives—and holding them responsible for the results.

In this context, people no longer expect much from government, and trust in the state is falling all over the world. Rather than being confined to any particular political camp, this involves a more general loss of faith in the ability of established state institutions to get things done. For Bauman, the outbreaks of protest in America (Occupy) and Spain (*indignados*) are signals that effective ways of representing the needs of the population have not been found, and show that people are searching for, and experimenting with, new forms of collective politics. He outlined three pressing social issues that make this search especially urgent:

> I. RISING INEQUALITY
>
> Bauman argues that rapid growth in inequality shifts how poverty should be measured and conceptualized, with the term "precariat" replacing the term "proletariat." The precariat encompasses a much greater share of the population, including many people with high incomes and educations, but who live with the feeling they are "walking on moving sand," always fearful they will be unable to maintain their standard of living. As evidence, Bauman described huge increases in the ratio of director to industrial worker incomes, and research suggesting 93 percent of the wealth produced in the United States since 2007 has been appropriated by the wealthiest 1 percent of the population.
>
> II. DIASPORIZATION OF THE PLANET
>
> In an age of multiculturalism, migrants are no longer willing to abandon their difference, and the social difficulties of mixing lifestyles is no longer a temporary moment on the way to assimilation. Large-scale processes of diaspora formation are a striking feature of contemporary migration, and for the first time in history, people face living together daily with strangers on a mass scale. This creates deep tensions—witness the spread of fundamentalist movements.
>
> III. SUSTAINABILITY
>
> It has become increasingly apparent that the planet is unable to sustain the kind of lives that many expect. The old catchall solution to social problems, economic growth, now creates more issues than it solves. People are already consuming 50 percent more than the planet can cope with without devastation, and if everyone consumed at the level of the US and Sweden, long term sustainability would require the resources of five planets.

Bauman revealed his views on the future in the questions after the lecture, when an audience member accused him of being at once too optimistic (interregnum suggests a temporary crisis), and too pessimistic (focusing on the global and missing what can be achieved more immediately and locally). Bauman responded by refusing the labels of pessimist and optimist, preferring to label himself "hopeful." He then quoted the late French philosopher Cornelius Castoriadis, who was pressed on the question of change in a TV interview:

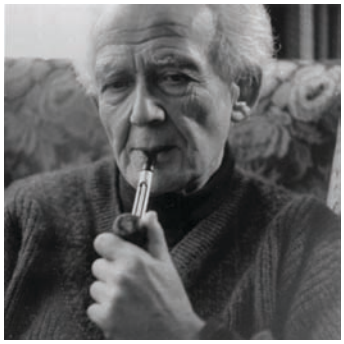
> The reporter asked, 'Mr Castoriadis, what are you doing, you want to change the world?'
>
> To which he replied, 'God forbid, I don't want to change the world, I only want human beings to change, as they have done so many times in the past.'

ABOUT THE AUTHOR

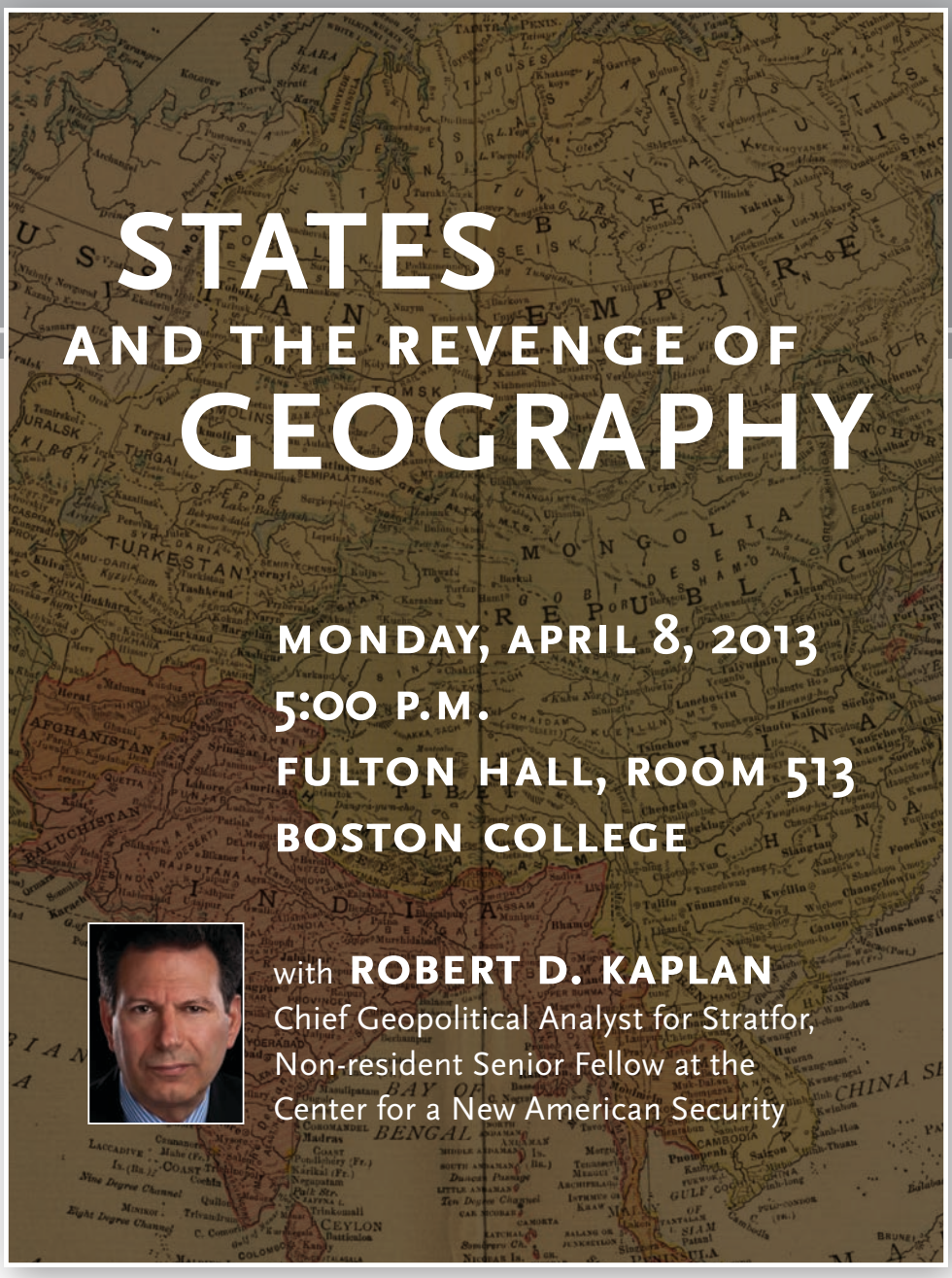
Liam Martin is a Ph.D. Candidate in Sociology at Boston College and a Clough Center Graduate Fellow.

About Zygmunt Bauman

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.



Zygmunt Bauman is Emeritus Professor of Sociology at the University of Leeds, UK and considered one of the most significant global social thinkers of the modern era. The author of 57 books and hundreds of articles, most recently *This is Not a Diary* (2012) and *Culture in a Liquid Modern World* (2011), Bauman has extensively studied such themes as morality, modernity, postmodernity, globalization, and consumerism. His early work also includes important studies analyzing the links between the Holocaust and modernity. Originally born in Poland, Professor Bauman studied sociology at the Academy of Social Sciences in Warsaw and then received postgraduate degrees in philosophy from the University of Warsaw. After completing his M.A. in 1954, he became a lecturer at the same university, where he remained until 1968. Bauman also spent time at the London School of Economics, where he completed a comprehensive study of the British socialist movement, which later became his first major book. In 1968, an anti-Semitic campaign in Communist Poland resulted in a purge, which forced Bauman to flee, first to Isreal where he taught at Tel Aviv University and then to the University of Leeds where he accepted a chair in 1971. He retired from teaching in 1990, but became a leading voice in the anti-globalization movement. Most recently, his work has focused on the metaphor of "liquidity, which has captured the fluid and constantly shifting character of our equally individualized and globalized lives and, over the course of a series of related books and articles, has offered one of the most significant interpretations of human societies in the twenty-first century. Today, at age 87, Professor Bauman is still an active lecturer at The Bauman Center, University of Leeds.



BY JOHN LOUIS

On April 8th, 2013 the Clough center welcomed renowned author and journalist Robert D. Kaplan to Boston College. Kaplan has authored 14 books including: *Soldiers of God: With Islamic Warriors in Afghanistan and Pakistan* (2001), *Arabists: the Romance of an American Elite* (1993) and *Balkan Ghosts: A Journey Through History* (1993). As a foreign correspondent for the Atlantic Monthly, Kaplan's journalism has frequently taken him beyond the headlines, and his insights have more often than not proven startlingly prescient. In recognition of his achievements, Foreign Policy magazine named Kaplan one of the worlds "top 100 global thinkers."

Robert Kaplan lectures to a full house in Fulton Hall at Boston College. After his talk, undergraduate attendees rushed to purchase Kaplan's book and were excited to meet the author.

Kaplan brought his years of journalism, extensive traveling experience in over 100 countries, and deep knowledge of geopolitics, history, and economics to bear in his newest book *The Revenge of Geography: What the Map Tells Us About Coming Conflicts and the Battle Against Fate* (2012), which informed the subject of his lecture entitled "States and the Geography of Revenge."

Kaplan began his talk with reference to the 1755 earthquake in Lisbon, Portugal. In the aftermath of its carnage and destruction the French enlightenment philosopher Voltaire announced his opposition to the earthquake. It may seem odd to express moral indignation at a natural disaster, but Voltaire's denunciation represented a more profound enlightenment belief in the capability of humanity to gain mastery over nature. A belief in the power of "individualism" to overcome "nationalism" and the forces of "history" remains a striking feature of the western ethos. Kaplan cautioned us to question our western worldview and look instead to "another half of the world that pays more attention to the constraints on individuals, rather than the power of individuals."

Kaplan focused his attention on the hardest constraint: geography. Natural resources are not evenly distributed. Places with vital energy supplies will grow in strategic importance over the coming decades as the awakening nations of China, India, and Brazil develop even greater appetites for consumption. Markets are global, and academics banter about theories of global governance and the construction of cosmopolitan norms that will replace the calcified nation state; yet, Kaplan argues geography remains critical to understanding the future of world politics.

Looking to the Middle East Kaplan declared, "the Arab spring is less about democracy, and more about the collapse of central authority." In Tunisia, Kaplan saw a country divided between the developed north and the underdeveloped south. Libya, Kaplan argued, is "not a state at all" but rather, "just a vague geographical notion split between Carthage and Egypt." In Yemen, which did not experience the upheaval of protest, Kaplan again said that the name on the map tells us little about the conditions on the ground. "Yemen was always divided into a bunch of kingdoms" split by the imposing mountain ranges that cross the country's boundaries. "On a good day," Kaplan estimated, "King Abdullah rules only about sixty percent of Yemen." Egypt, in contrast, has a state, and therefore, the possibility of establishing a stable regime, "but in Libya that vague geographical entity can do nothing." Kaplan than noted that "Iran is a natural state", "a real state" with "real institutions." Kaplan noted that, "The Iranian plateau has long been a bastion of the state," and cajoled the audience to, "not to be surprised if ten to fifteen years from now the U.S. has closer relations with Iran than Saudi Arabia."

After addressing the Middle East, Kaplan again shifted his analysis further eastward. In Russia, Kaplan noted that geography is likely to shape politics, because "despite Russia's vast territory, there are more people in Bangladesh." Kaplan remarked "Putin sees eleven time zones and no way to protect the borders." Russia's strength will come from its huge reserves of oil and natural gas, but the long border in the underpopulated eastern steppes will breed antagonism between Russian and China. China lies south of the fiftieth parallel, and is blessed with a moderate temperate zone in the north, and semi-tropical climate in the South. Kaplan argued that when viewed from the sheer power of its human resources China is "bigger than it's current borders." China's demand for resources will require that it stretch its sphere of influence further into the Far East, Central Asia, and South-East Asia.

Kaplan then turned to the west. In Europe he noted, "the European welfare state is falling apart," which is putting a strain on the EU's ambition to "unite diverse areas of Europe under a currency union without political union." The U.S. he argued has been blessed by geography by having "more miles of navigable rivers that any country in the world." The United States favorable geography, Kaplan claimed, allowed the country to turn outward, but he noted changes in Latin America, and particularly Mexico where drug-cartels threaten anarchy on the streets, will force the United States to once again focus on the Caribbean.

Theorists and thinkers may see the future as an "end of history," in which conflict among nations gives way to perpetual peace. The idea of peace on earth carries with it certain sentimentality; but Kaplan hopes we will not forget the continuing "power of nationalism." If we fail to heed his warning then we should not be surprised if we one day become ensnared by "the revenge of geography."

ABOUT THE AUTHOR

John Louis is a Ph.D. Candidate in Political Science at Boston College and a Clough Center Graduate Fellow.

About Robert D. Kaplan

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Robert Kaplan is Chief Geopolitical Analyst for Stratfor, a private global intelligence firm. He is the author of 14 books on foreign affairs and travel, most recently *The Revenge of Geography: What the Map Tells Us about Coming Conflicts and the Battle Against Fate* (2012). He has been a foreign correspondent for *The Atlantic* for over a quarter-century. In 2011, and again in 2012, *Foreign Policy* magazine named Kaplan among the world's "100 Top Global Thinkers."

Since 2008, he has been a non-resident senior fellow at the Center for a New American Security in Washington, D.C. From 2009 to 2011, he served under Secretary of Defense Robert Gates as a member of the Pentagon's Defense Policy Board. From 2006 to 2008, he was the Class of 1960 Distinguished Visiting Professor in National Security at the United States Naval Academy, Annapolis.

New York Times columnist Thomas Friedman calls Kaplan among the four "most widely read" authors defining the post-Cold War (along with Francis Fukuyama, Samuel Huntington, and Paul Kennedy). In the 1980s, Kaplan was the first American writer to warn in print about a future war in the Balkans. *Balkan Ghosts* was chosen by *The New York Times Book Review* as one of the "best books" of 1993. *The Arabists* (1993), *The Ends of the Earth* (1996), *An Empire Wilderness* (1998), *Eastward to Tartary* (2000), and *Warrior Politics* (2002) were all chosen by *The New York Times* as "notable" books of the year. *An Empire Wilderness* was chosen by *The Washington Post* and *The Los Angeles Times* as one of the best books of 1998. *The Wall Street Journal* named *The Arabists* as one of the best five books written about America's historical involvement in the Middle East.

A Common Gauge: HARMONIZATION & INTERNATIONAL LAW

Tuesday, April 16 at 5:00 p.m.
Barat House, Boston College Law School

with **Hon. James L. Bacchus**,
Chair, Greenberg Traurig's Global Practice Group;
Former Founding Chair, WTO Appellate Body; and
Former U.S. Congressman

Co-sponsored by the Economics Department and Boston College Law School

BY JONATHAN CARLONE

Former Congressman and Chairman of the World Trade Organization's Appellate Body, the Honorable James L. Bacchus delivered an intriguing lecture to political scientists, global trade scholars, and law students on the importance of harmonizing product and regulatory standards. Bacchus, who chairs the Global Practice Group at Miami-based law firm Greenburg Traurig, argued that coordinating internationally the laws and regulations that establish requirements to sell products or services in a country—for example, vehicle emissions standards—would unite the world by increasing international commerce. As it stands, according to Bacchus, different standards are slowing the

Hon. James Bacchus address an audience on the Boston College Law School Campus for an event co-sponsored by the economics department and Boston College Law School.

flow of international trade, thus hampering prosperity, and obstructing the links among countries.

Bacchus began by using examples in history to illustrate the problems caused by different standards. He cited the different railroad track gauges between the North and South of the United States before the Civil War and between Russia and Western Europe. As insipid as it may sound, the difference in track gauges stalled economic advancement for the Southern States and for Russia, facilitating the South's divide with the North and Russia's divide with Western Europe. According to Bacchus, domestic standards today are similarly stalling economic advancement and the connection among nations by increasing the costs of doing business. The production of goods is now global, but different domestic standards make it more expensive for producers to do business internationally because they have to adjust their products to satisfy the requirements imposed by different markets. Thus, fully integrated global supply chains are impossible. Consequently, there is less international trade. Less international trade, according to Bacchus, results in a lower gross domestic product (GDP) for all countries and less cooperation among countries.

To remedy the problems caused by competing domestic standards, Bacchus suggested using the World Trade Organization (WTO). Bacchus proposed the WTO as the appropriate forum because, for one, through its rules and rulings it produces more international law than any other intergovernmental organization. Additionally, the WTO has already considered this issue and has incorporated in its agreements ways to solve it. As early as 1979, during the Tokyo Round, the Contracting Parties of the General Agreement on Tariffs and Trade (GATT) realized that regulatory

protectionism, just like tariffs and quotas, could hinder trade. The Contracting Parties thus signed the Standards Code to prevent regulatory discrimination, prohibit unnecessarily restrictive standards, and to promote international regulatory collaboration. Ultimately the Standards Code failed because it did not bind all parties; but it was replaced by the Agreement on Technical Barriers to Trade (TBT Agreement) and the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement). Both of these agreements were added as WTO obligations with the signing of the Marrakesh Agreement Establishing the WTO and thus are binding on all WTO Members. The SPS Agreement deals explicitly with health and safety standards intended to protect humans, animals, and plants from disease and food risks. Bacchus stated that these standards affect fifteen percent of trade. The TBT Agreement applies to all other product standards which, according to Bacchus, affect thirty percent of trade. Both of these agreements have provisions designed to prevent regulatory discrimination, guard against unnecessarily restrictive standards, and to promote regulatory harmonization.

Bacchus focused on the necessity provisions, Article 2.2 of the TBT Agreement and Article 5.6 of the SPS Agreement, and on the provisions promoting harmonization, Articles 2.4 and 2.5 of the TBT Agreement and Article 3 of the SPS Agreement. He argued first that if every Member of the WTO met its obligations under the necessity provisions, which roughly state that standards should not be more trade restrictive than necessary, then the problems caused by competing domestic standards would be limited. Bacchus then pointed to the provisions that promote harmonization. Both the TBT Agreement and SPS Agreement instruct WTO Members to base their regulations on international standards. Further, both agreements give regulations based on international standards a rebuttable presumption of validity. He suggested that the language from these provisions, which WTO Members are already bound to, could be used for negotiating common gauges.

Bacchus ended his lecture by emphasizing that if the WTO is not the forum used to remedy the problems caused by competing domestic standards, the problems could be exacerbated. If countries instead use regional trade agreements, regional regulatory protectionism could result. The time, energy, and political capital expended on regional agreements would make global agreements difficult to achieve, thus pulling the world further apart. In the WTO, however, members could collaborate on standards by increasing their obligations incrementally. Bacchus argues that other members, in hope of economic prosperity, would eventually increase their obligations as well, which will ultimately advance harmonization. With regulatory harmonization, the cost of doing business globally will decrease, international trade will increase and the links between countries will strengthen.

ABOUT THE AUTHOR
Jonathan Carlone is a J.D. Candidate at Boston College Law School.

About Hon. James Bacchus

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

James Bacchus chairs Greenberg Traurig's Global Practice Group and is a leader in the firm's overall worldwide practice. He focuses on international business, including trade, investment, finance and sustainable growth. In particular, Bacchus offers legal and strategic advice to worldwide clients based on his unique experience with the many issues relating to the global rules for trade and commerce of the World Trade Organization (WTO). He is a former chairman of the Appellate Body of the World Trade Organization, the highest international tribunal of world trade; a former Member of the Congress of the United States, representing the 15th Congressional District of Florida as a Member of the United States House of Representatives; and a former Special Assistant to the United States Trade Representative in the Executive Office of the President.

Bacchus works worldwide for his firm's clients on international business of all kinds, and is also engaged in numerous additional efforts to address shared global concerns. He is among the B20 global business leaders selected to advise the G20 heads of state on the international economy; he chairs the global Commission on Trade and Investment Policy of the Paris-based International Chamber of Commerce; and he chairs the Global Agenda Council on Governance for Sustainability of the Davos-based World Economic Forum.

BY JOEY COHEN

Should we conceive of jurisprudence narrowly or broadly? Are laws and jurisprudence reducible to a singular, unified theory common to all bodies of law, or are they dynamic, shifting and various? On April 17, 2013, students gathered inside the Barat House for the final Clough Distinguished Lecture in Jurisprudence of the academic year, and to hear Professor Nicola Lacey, the Senior Research Fellow at All Souls College, Oxford and Professor of Criminal Law and Legal Theory at the University of Oxford, lecture on these issues.

Nicola Lacey explores the significance of jurisprudence with an audience at the Boston College Law School campus.

Professor Lacey first recounted her exposure to and rejection of traditional, more narrow conceptions of law's modality as singular and distinct that she encountered at law school, describing some of these traditional approaches to jurisprudence, articulating the problems with these approaches, and describing potentially alternative and normative ways of understanding jurisprudence and the bodies of law which rest upon such jurisprudential foundations. The traditional approach, according to Lacey, has focused on deriving or describing a monolithic theory that might describe all legal systems and bodies of law, or function as a criterion for evaluating rule of law status. Such approaches have struggled to account for and resolve the range of systems that have been regarded as legal.

Professor Lacey began her lecture by briefly relating her legal autobiography, focusing on the development of her legal career and the inception of her interest in legal theory. Attending law school at the University of Law in London in the 1970's afforded her the opportunity to pursue a broader and more theory-based curriculum than might be available to current law students. She related that she found this jurisprudence "fundamentally wrong-headed," and, she implied, incomplete. Feminist and other strains of critical legal theory were virtually nonexistent; social theory and historical context were not accounted for.

However, it was not until Professor Lacey began researching and writing her biography of H.L.A. Hart, *A Life of H.L.A. Hart: The Nightmare and the Noble Dream,* that she began to appreciate the significance of jurisprudence. She observed that previously, analytical jurisprudence has enjoyed "undue dominance" in both British and United State legal studies. As a result, jurisprudence has defined itself in unduly narrow terms. As a general matter, Professor Lacey stated that we ought to conceive of jurisprudence in broader, more general terms. Developing her arguments from her research on H.L.A. Hart and shifting perspectives on his work over time, Professor Lacey proceeded to make the case for a broader approach to jurisprudence.

One of her central points was that jurisprudence, what H.L.A. Hart called the "central case of law," might change over time. Ju-

risprudence, Lacey argued, was shaped by law and the will of the governed, and was therefore not universal. Professor Lacey described this approach to jurisprudence in part through contrast with and criticism of the works of Columbia University Law School professor, Joseph Raz, and Oxford law professor, John Gardner. The work of Raz and Gardner has focused on a single, distinctive modality of law, considering not what the law does or achieves, but on how it does so. They do this by deriving an unchanging, singular, "inner morality of law" from studying the classificatory aspects of the law. Professor Lacey argued that this approach was flawed. It is not clear that law's modality is unchanging or whether it is part of a structure, or whether it is an analytical truth or an unchanging given (as Raz and Gardner have posited). Professor Lacey implicitly argued that focusing only on deriving a singular approach is unnecessary and produces inadequate models of jurisprudence. Her preferred mode of analysis engages jurisprudence's social and historical aspects as well as its abstract and legal aspects.

Demonstrating the value of this broad, multi-disciplinary approach to analysis of modalities of jurisprudence, Professor Lacey focused on the evolution of different conceptions of responsibility within criminal and civil law. Efforts to reconstruct, accommodate, or describe a consistent or unified theory underlying both areas of the law, have tended to focus on conceptions of responsibility, and to examine relationships between already existing conditions and our conceptual frameworks. Professor Lacey argued that these efforts were misguided. Instead, to better understand these underlying theories, we ought to focus on the *uses* of responsibility in critical legal theory.

Emphasizing the primacy of social forces in shaping law and jurisprudence, Professor Lacey described the development of conceptions of capacity responsibility in Britain in the 17th and 18th centuries and how the systems of crime and punishment developed to accommodate this view of responsibility. A complete understanding of the criminal jurisprudence of 17th and 18th Century Britain must account for the unique historical, socio-political, and economic forces that were at work, shaping the criminal laws and the jurisprudence upon which they were based. The Industrial Revolution and increased urbanization created a need for social order and control that shaped the central role of "capacity responsibility" in Britain's criminal jurisprudence. The key to a coherent jurisprudence is understanding the changing modality of law's own sense of criminal responsibility over time. Therefore, understanding the shifting balance between different understandings must be central to any account of jurisprudence

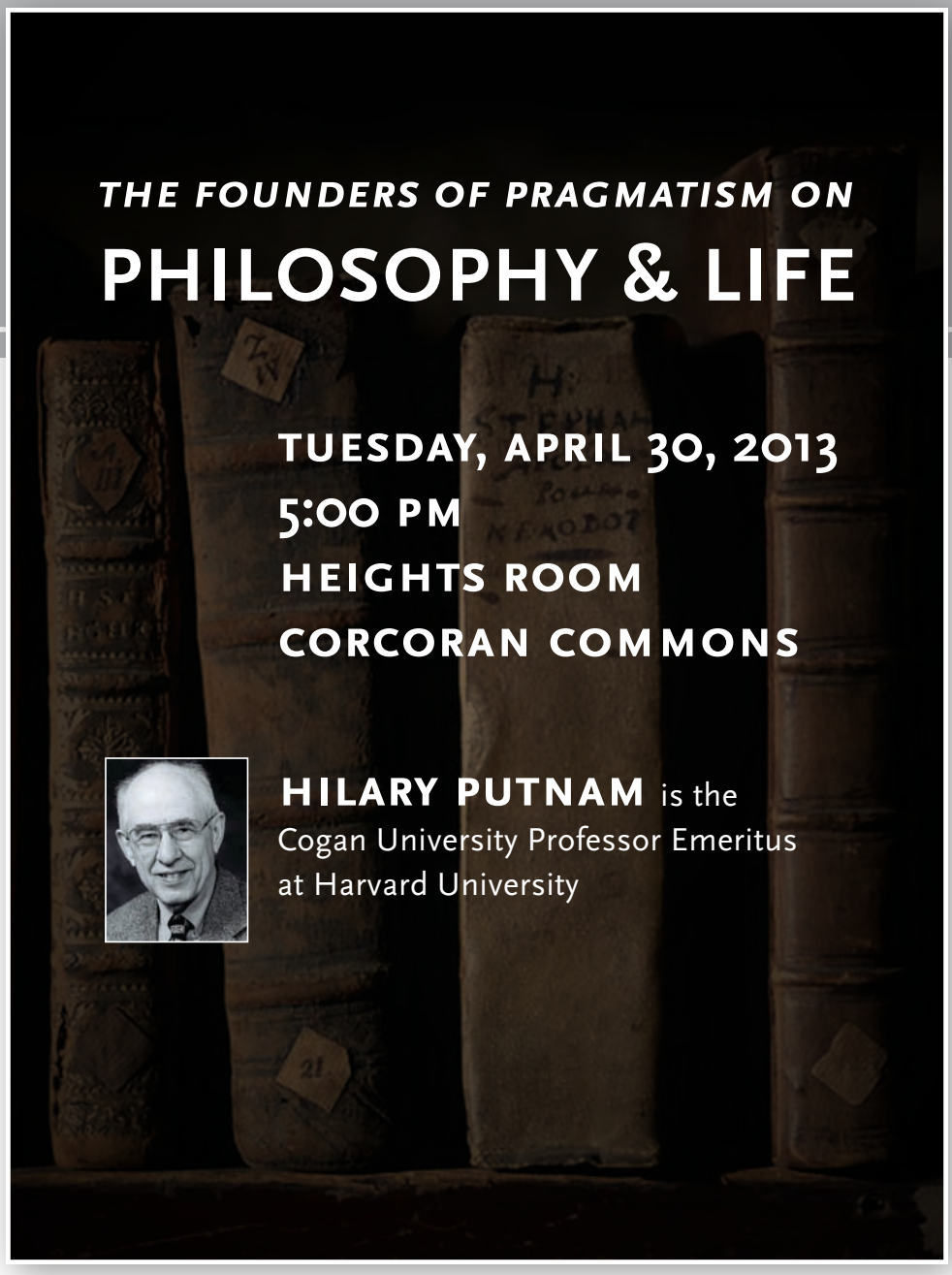
Throughout her analysis and argument, Professor Lacey consistently argued for a broad and inclusive conception of law itself, one that regards the law and jurisprudence as being shaped by their environment. Jurisprudence ought to be understood as a fundamentally social phenomenon. While she recognized that there was arbitrariness to the level of abstraction upon which one focuses, she forcefully and convincingly argued that a truly complete account of jurisprudence requires engaging multiple approaches and modes of analysis.

ABOUT THE AUTHOR
Joey Cohen is a J.D. Candidate at Boston College Law School.

About Nicola Lacey

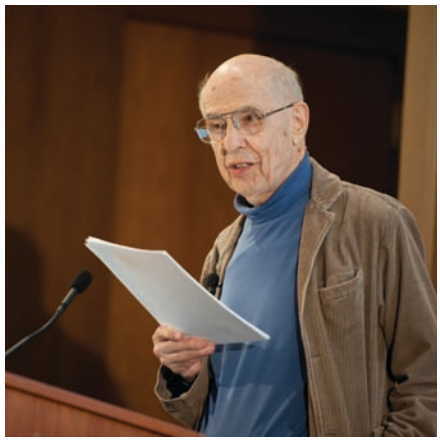
For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.

Nicola Lacey holds a Senior Research Fellowship at All Souls College. She moved to Oxford in October 2010, having held a chair in Criminal Law and Legal Theory at the London School of Economics since 1998. Professor Lacey's research is in criminal law and criminal justice, with a particular focus on comparative and historical scholarship. Over the last few years, she has been working on the development of ideas of criminal responsibility in England since the 18th Century, and on the comparative political economy of punishment. She also has research interests in legal and social theory, in feminist analysis of law, in law and literature, and in biography. Her many publications include multiple books, including *The Prisoners' Dilemma: Political Economy and Punishment in Contemporary Democracies* (2008) and *Unspeakable Subjects: Feminist Essays in Legal and Social Theory* (1998), and journal articles that have appeared in journals such as the *New York University Law Review* and *Criminal Law and Philosophy*. Beyond her publications, Prof. Lacey has held visiting appointments at the Humboldt University in Berlin, the Wissenschaftskolleg zu Berlin, the Research School of Social Sciences at the Australian National University, New York University, Yale, and Harvard. She is an Honorary Fellow of New College and of University College, and a Fellow of the British Academy. In December 2011 she was awarded the Hans Sigrist Prize by the University of Bern. Before arriving at Oxford, she was also Professor of Law at Birkbeck College, University of London (1995 to 1997); Fellow and Tutor in Law at New College and CUF Lecturer at Oxford (1984 to 1995); and Lecturer in Laws at University College, London (1981 to 1984).



BY JOHN LOUIS

On Tuesday April 31st, 2013 the Clough Center welcomed Hilary Putnam, the Cogan University Professor Emeritus at Harvard University, author of more than twenty books, and one of the most influential analytical philosophers of the 20th century to Boston College to share his thoughts about "The Founders of Pragmatism on Philosophy and Life." Putnam noted for his advances in mathematics, computer science, philosophy of science, philosophy of mind, and philosophy of language focused not on recent advances in theoretical physics, but instead looked back to the teachings of turn of the century pragmatists to shed insight on the meaning of philosophy and its relationship to practical experience and life.



In his lecture Putnam explored the writings of "the founders of pragmatism"—Charles Sanders Peirce, William James, and John Dewey—to determine the role of free will in scientific inquiry and the role of value judgments in the progress of knowledge. Putnam argued that the pragmatists rejected a view of "mechanical causation" or "hard determinism" and instead sought to reaffirm the "dualism of self in ideal and motive." The pragmatists, especially Peirce, Putnam argued, looked for a theory of pure science, but increasingly became unable to fully attenuate inquiry from reality, thought from outcome, and theoretical beauty from experiential truth. Following this line of inquiry the pragmatists developed a theory of science rounded not in the objectivity of scientific fact, but rather in the objectivity of convergent opinion. The pragmatists denied the separation of belief and action and argued for a view of "belief as that which impels a man to act." Understanding that beliefs must be rooted in, and explained by conduct, the pragmatists understood that convergence among beliefs constructed systems of accepted knowledge by providing "coerciveness over thought" or "a complex feeling endowed with compulsiveness" by which the objects worthy of—and therefore subject to—rigorous inquiry are defined and elevated.

Modern scientific inquiry displays all the hallmarks of the pragmatist's maxim of truth seeking as "coerciveness over thought." Putnam argued the method of scientific inquiry carries a certain internal certainty about its own paradigmatic assumptions. The pragmatists understood that the "objective truth" of foundational paradigmatic assumptions could always be questioned, but that without such frames of reference the progress of knowledge would be imperiled by an eternal return to first principles. The "ultimate aim" of science, philosophy, and life, to be "pursued indefinitely" should therefore, at least in the pragmatic understanding, be the production of a "finished knowledge" that "approaches the limit" of truth, but self-consciously acknowledges that it is "only achieving aesthetic demands." Theoretical physics, for example, must choose between competing theories, and often does so not only through the experimental method, but also by depending on certain aesthetic values of coherence, beauty, and parsimony. These values illustrate the central tension between any system of knowledge which seeks to create a legible conceptualization of truth, and the complexity of phenomenological events which carry with them potential intervening sources of causality embedded in the actual processes of reality.

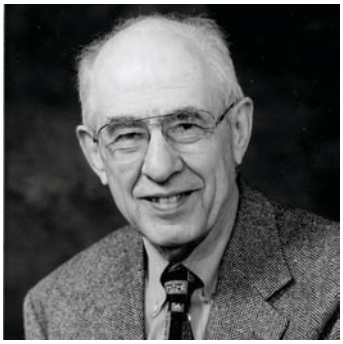
The pragmatists acknowledgment of the subjective as a criterion for truth makes them strange bedfellows to the philosophical realism prevalent in contemporary philosophy of science, but Putnam argues that pragmatism offers an important lesson too often forgotten in the quest for an ever more pure line of scientific inquiry such as modern string theory. The founders of pragmatism never forgot that the power of philosophy depends on its ability to shape contextual circumstances, and that the relationship between abstraction and reality must be confirmed or denied by the judgment of humans reflecting upon practical knowledge. Putnam believes this pragmatist insight to be an important lesson for modern scientific and social inquiry and contends that we "should ask of philosophy not just what is right in the abstract, but what the consequences of philosophy have been for human life."

ABOUT THE AUTHOR

John Louis is a Ph.D. Candidate in Political Science at Boston College and a Clough Center Graduate Fellow.

About Hilary Putnam

For more information, including a video recording of the event, visit the event page at www.bc.edu/cloughevents.



Hilary W. Putnam is Cogan University Professor Emeritus in the Department of Philosophy at Harvard University. Putnam has written extensively on issues in metaphysics and epistemology, philosophy of mathematics, philosophy of physics. philosophy of language, and philosophy of mind, and on the American Pragmatists and the later Wittgenstein. He has published over 20 books, his most recent works examining the relations between "facts" and "values," and dozens of articles in journals like *Philosophical Review* and the *Journal of Philosophy*. He is a past President of the American Philosophical Association (Eastern Division), the Philosophy of Science Association, and the Association for Symbolic Logic. He is a Fellow of the American Academy of Arts and Sciences, the American Philosophical Society, a Corresponding Fellow of the British Academy and the French Academie des Sciences Politiques et Morales, and holds a number of honorary degrees. He has received the Prometheus Prize of the American Philosophical Association and the Rolf Schock Prize in Philosophy. Before arriving at Harvard, Professor Putnam graduated from the University of Pennsylvania and received his Ph.D. in 1951 from UCLA, where he worked with Hans Reichenbach. Before joining the faculty of Harvard in 1965, he taught at Northwestern University (1951-2), Princeton University (1953-61), where he received tenure in both the Department of Philosophy and the Department of Mathematics in 1960 and after that at M.I.T. (1961-65). Professor Putnam retired from Harvard at the end of June 2000.

2012-2013 Conferences

FALL 2012

The 2012 Election in Comparative and Historical Perspective

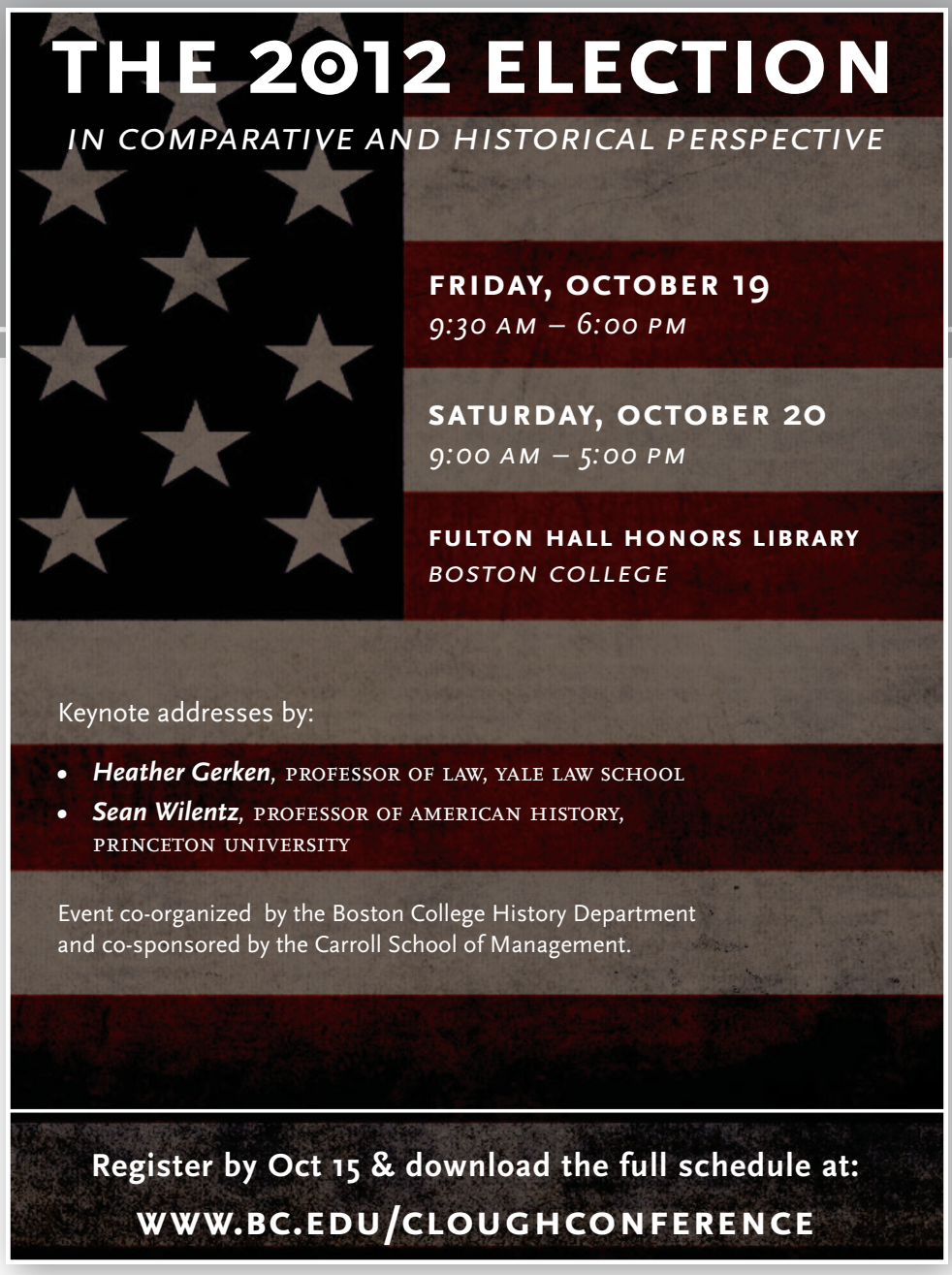
Symposium on Jean-Jacques Rousseau's 300th Anniversary

SPRING 2013

Dreams of Total Power: Dictators & Dictatorships in the Twentieth Century

The Ethics of the Warrior

Emancipation at 150



BY SARA DOYLE

Friday and Saturday, October 19 and 20, The Clough Center for the Study of Constitutional Democracy held a conference titled "The 2012 Election in Comparative and Historical Perspective." The event, co-organized by the Boston College History Department and co-sponsored by the Carroll School of Management (CSOM), featured a series of speakers discussing topics relevant to the upcoming election. "We wanted to showcase local talent, but also put them in dialogue with top scholars from the outside," said James Cronin, a professor in the History Department and coordinator of the event.

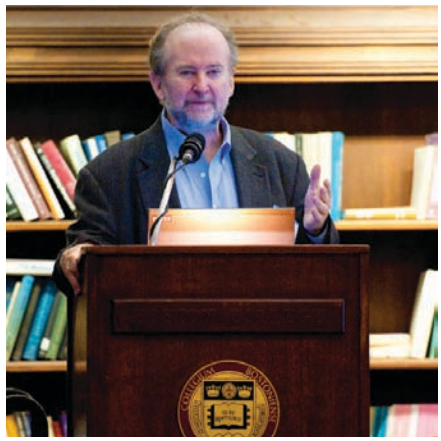
Thirty-two speakers were featured over the two days of the conference.

The speakers all had specialties ranging from economics to history to politics, said Cronin. Thirty-two speakers were featured over the two days, and eight sessions were held, the topics of which included "The Republican Challenge," "The Democrats and the Problems of Incumbency," "The Influence of Social Issues: Religion, Race, and Other Divides," and "The U.S. in the World: Comparisons, Contrasts, Models."

Some notable speakers were Heather Richardson, Boston College; Geoffrey Kabaservice, author of *Rule and Ruin*; Ruy Teixeira, Center for American Progress; Heather Gerkin, Yale Law School; Sean Wilentz, Princeton University; and Jeffry Frieden, Harvard University.

Another speaker was Ellen Fitzpatrick, the Carpenter Professor of History at the University of New Hampshire. She specializes in American political and intellectual history, and spoke during a session titled "The Evolving Process: Money, Media, and the Right to Vote."

"Our elections today are shaped by a collection of changing forces that have a huge impact on political democracy," Fitzpatrick said. "The growing power of the media, large campaign contributions, and the overall cost of campaigns deserve our closest scrutiny. These factors have assumed great significance in modern times in ways that are very different from earlier periods in American history. Likewise, we tend to think our modern



electoral process is all-inclusive. But is it? Efforts to regulate access to the ballot suggest it is more complicated than that. So, I look forward to having a good discussion at BC about all these issues."

Fitzpatrick is the author of several books, the latest of which is titled *Letters to Jackie: Condolences from a Grieving Nation*, published in 2011. "JFK was our first 'television president,' but the media exposure he received was shaped by a code of behavior governing journalism that doesn't really exist anymore," Fitzpatrick said. "I look forward to talking about how these changes have influenced the current political process."

This is the first such conference at BC, but Cronin hopes that there will be more in the future. "Putting events in context is critical to understanding, and getting a interdisciplinary collection of scholars together allows us to highlight patterns, causes and likely consequences that might otherwise be hard to discern," Cronin said.

The event was attended by a mixture of students—members of the BC community as well as some members from the local community, according to Cronin. "It's an enduring interest, even if some political activism ebbs and flows," Cronin said.

The event was designed to feature a wide array of speakers of varying areas of study in order to provide different perspectives on topics.

"It is hard to predict the impact, but we hope it will leave students more informed. The conference draws on scholars from BC and other institutions and from people in different disciplines," Cronin said. "One of our aims is to make students aware that there is a vast array of resources, here and elsewhere, that they can tap into."

ABOUT THE AUTHOR

This article originally appeared in the October 22, 2012 issue of *The Heights*, the Boston College student newspaper, where Doyle is a staff writer.

Conference Program

FRIDAY, OCTOBER 19

9:30 AM — COFFEE

10:00 AM — WELCOME & OPENING REMARKS
Vlad Perju, BOSTON COLLEGE LAW SCHOOL

10:30 AM — SESSION 1
The Republican Challenge
Heather Richardson, BOSTON COLLEGE
Geoffrey Kabaservice, AUTHOR OF *RULE AND RUIN*
Vanessa Williamson, HARVARD UNIVERSITY
Moderator: Mark Gelfand, BOSTON COLLEGE

12:15 PM — LUNCH

1:45 PM — SESSION 2
The Evolving Process: Money, Media, and the Right to Vote
Alex Keyssar, KENNEDY SCHOOL, HARVARD UNIVERSITY
Anthony Corrado, COLBY COLLEGE
Ellen Fitzpatrick, UNIVERSITY OF NEW HAMPSHIRE
Kay Schlozman, BOSTON COLLEGE
Moderator: Martin Summers, BOSTON COLLEGE

3:30 PM — SESSION 3
The Democrats and the Problems of Incumbency
Ruy Teixeira, CENTER FOR AMERICAN PROGRESS
Bruce Schulman, BOSTON UNIVERSITY
James Shoch, SACRAMENTO STATE UNIVERSITY
Moderator: Lynn Johnson, BOSTON COLLEGE

5:00 PM — SESSION 4: KEYNOTE ADDRESS
Campaign Finance and Shadow Parties: The Future of American Politics
Heather Gerken, YALE LAW SCHOOL
INTRODUCTION BY **Vlad Perju,** BOSTON COLLEGE LAW SCHOOL

6:00 PM — RECEPTION

SATURDAY, OCTOBER 20

9:00 AM — COFFEE

9:30 AM — SESSION 5
The Influence of Social Issues: Religion, Race and Other Divides
D. Sunshine Hillygus, DUKE UNIVERSITY
Mark Brewer, UNIVERSITY OF MAINE
James O'Toole, BOSTON COLLEGE
Vincent Rougeau, BC LAW SCHOOL
Moderator: Patrick Maney, BOSTON COLLEGE

11:00 AM — SESSION 6
Domestic Consequences: Economy, Society, Government
Jeffry Frieden, HARVARD UNIVERSITY
Kenneth Kersch, BOSTON COLLEGE
Robert Kuttner, AMERICAN PROSPECT
George Ross, UNIVERSITY OF MONTREAL
Moderator: Susanto Basu, BOSTON COLLEGE

12:30 PM — LUNCH

2:00 PM — SESSION 7: KEYNOTE ADDRESS
Still the 'Age of Reagan'?
Sean Wilentz, PRINCETON UNIVERSITY
INTRODUCTION BY **Kevin Kenny,** BOSTON COLLEGE

3:15 PM — COFFEE

3:30 PM — SESSION 8
The US in the World: Comparisons, Contrasts, Models
Mary Elise Sarotte, UNIVERSITY OF SOUTHERN CALIFORNIA
Seth Jacobs, BOSTON COLLEGE
Arthur Goldhammer, HARVARD UNIVERSITY
James Cronin, BOSTON COLLEGE
Moderator: David Hopkins, BOSTON COLLEGE

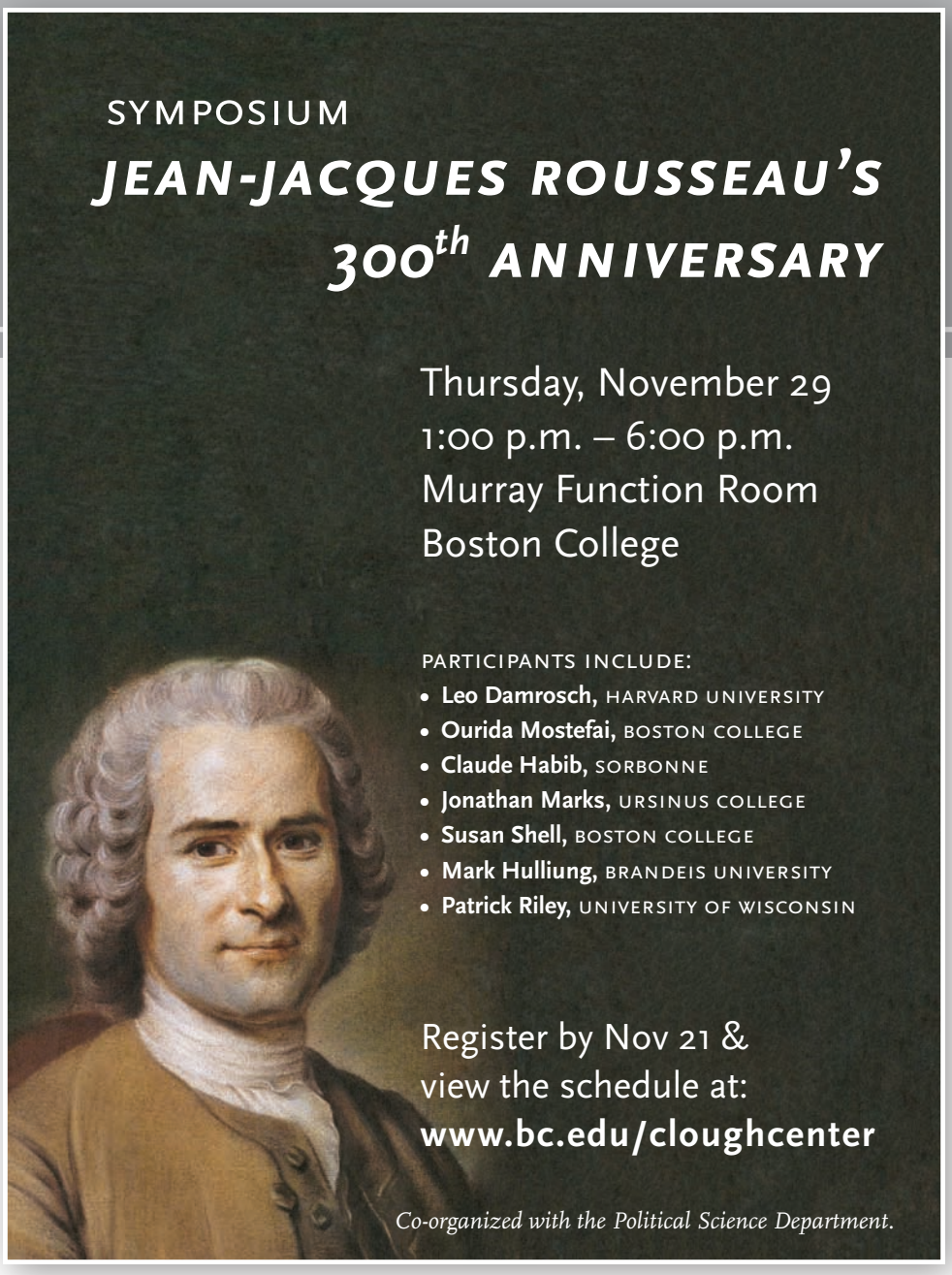
5:00 PM — END

About the Keynote Speakers

For complete bios of all the conference participants, please visit www.bc.edu/cloughconference.

Heather Gerken is the J. Skelly Wright Professor of Law at Yale Law School. She's written about diversity, dissent, federalism, and the relationship between rights and structure. Her most recent piece, "Federalism All the Way Down," appeared as a foreword in the *Harvard Law Review*. She has also written on campaign finance, lobbying, districting, and election administration. Her proposal that Congress establish a "Democracy Index"—a national ranking system of state election performance—has been incorporated into bills by Senators Hillary Clinton and Barack Obama and Representative Steve Israel. It has been the subject of several conferences and is the subject of her new book, *The Democracy Index: Why Our Election System is Failing and How to Fix it* (2009).

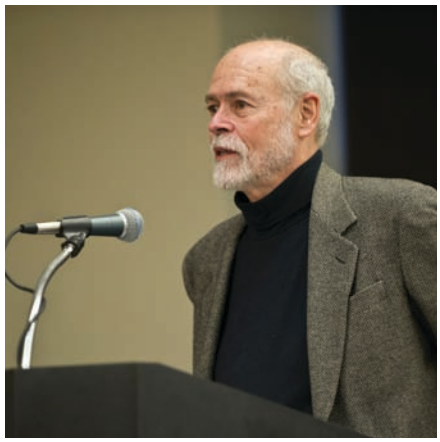
Sean Wilentz is the George Henry Davis 1886 Professor of American History at Princeton, where he has taught since 1979. His books include *The Rise of American Democracy: Jefferson to Lincoln* (2005), which was awarded the Bancroft Prize, and *The Age of Reagan: A History, 1974–2008* (2008). A contributing editor at *The New Republic*, he writes regularly on history, politics, and the arts for *The New York Review of Books*, *The New York Times*, and other national publications.



BY KIMBERLEY STEWART

On Thursday, November 29, the Clough Center hosted a symposium on the topic of Jean-Jacques Rousseau to honor what would be the Genevan philosopher and writer's 300th birthday. Hosting distinguished scholars from around the world, this event consisted of two discussion panels and a keynote address by Professor Leo Damrosch of Harvard University.

The scholars passionately discuss the legacy of Jean-Jacques Rousseau.



The first panel focused on Rousseau's significance as a writer. Each of the three panelists took a different approach to the question of Rousseau's significance as a writer and the significance of his writing. Professor Ourida Mostefai's discussed claims by different sects in the French Revolution that Rousseau was the intellectual inspiration behind their political agenda. Professor Claude Habib approached the question from a less historical and more literary perspective than Mostefai. She described the theme of restraint in Rousseau's thought, writing, and his life as depicted by his autobiographical writings. Professor Jonathan Marks approached the question from the perspective of academic political philosophy and discussed Rousseau's liberal credentials.

Despite the different perspectives of each of the panelists, their papers had a great deal of overlap. When confronted with the question of Rousseau's legacy, all the panelists felt the need to address themselves to Rousseau's reputation as a radical Romantic who was responsible for the French Revolution and/or twentieth century totalitarianism. Each panelist provided reasons for why this reputation is unjustified. Mostefai showed that Rousseau was a contentious figure in the French Revolution and can by no means be viewed as the unequivocal intellectual inspiration behind the revolutionaries' actions. Habib's paper was particularly refreshing because it presented a theme in Rousseau which is largely ignored by political theorists, literary scholars, and historians alike. Whereas most tend to think of Rousseau as being engorged with passion for virtue, equality and freedom and thus incapable of holding back in this writings from expressing his "sincere," if dangerous, desire for political change, Habib emphasized how Rousseau's rhetoric is supremely calculated,

that the establishment of a just state according to Rousseau requires an extraordinary amount of restraint on the part of government and citizens alike, and how the heroes of Rousseau's works all demonstrate this restraint. Marks showed how despite Rousseau's "messiness" he has a lot in common with the "sober" John Locke. Rousseau is most adequately understood as being in the liberal tradition of Locke and Hobbes, and therefore we as citizens of a liberal democracy can turn to Rousseau for political advice. We are encouraged to do so because Rousseau takes more seriously the question of human happiness than Locke, who states that the end of politics is "comfortable preservation." Though Rousseau is "messy," his messiness is not caused by radicalness or lack of thoughtful, prudential political consideration but rather caused by the necessarily messy topic of human happiness.

The second panel of the day, concerning Rousseau on philosophy and politics, was less unified than the first—reflecting the breadth of Rousseau's corpus. But, there was a common thread through the three papers and that was the stasis of Rousseau as a member of the modern era. Professor Susan Shell presented a provocative paper arguing that Rousseau has a teleological understanding of nature consistent with modern natural science. She defended her thesis by showing the need for Rousseau to invoke teleology in order to account for the origin of malice or indignation in babies, and the related, though opposite, sentiment of existence. Her thesis was very controversial primarily because modern natural science defines itself in contrast to teleological science, and because Rousseau seems to deny that human nature can be understood teleologically; for, instead of understanding humans by their perfection, Rousseau understood them by their origins.

Both Shell's paper and Professor Patrick Riley's paper showed Rousseau's modern appropriation of ancient philosophy. Shell's argument attempted to show how Rousseau combined the natural science of the modern Enlightenment with a quasi-classical philosophic understanding of nature. Professor Riley's paper was concerned with Rousseau's use of Fenelon and the manner in which Fenelon's Christian appropriation of classical mythology "legitimized" for Rousseau the use of Classical heroes in his works. Just as Shell argued that Rousseau unites classical and modern natural science, Riley argued that Rousseau unites Christian and classical understandings of virtue. Riley's paper paid homage to the famous Rousseau scholar Judith Shklar who emphasized Rousseau's originality, while also showing Rousseau's debt to his predecessors.

Whereas Shelly and Riley argued that Rousseau is not simply akin to his cotemporaneous modern writers because of his appropriation of ancient philosophy and mythology, Professor Mark Hulliung argued that Rousseau is not a mere modern because he presents a critique of the modern Enlightenment. Hulliung expanded upon the thesis of his book *The Autocritique of the Enlightenment* by describing his interest in the Enlightenment and contemporary opinions about whether the Enlightenment caused twentieth century totalitarian regimes. He spent most of his time discussing various authors from the 1950s through to the 1980s and their opinions on the Enlightenment. Unfortunately this left Hulliung little time to discuss his interesting book on Rousseau in which he argues that Rousseau is both a part of the Enlightenment movement, but also a critique of that movement. Thus all three panelists argued that Rousseau is not a mere modern; Shell and Riley argued that his unique non-modern modernity was caused by his synthesis of ancient and modern ideas, and Hulliung stated that Rousseau is a modern who had foreseen and attempted to counteract the follies of the modern era by considering modern Enlightenment premises themselves.

The keynote speaker of the symposium, Professor Leo Damrosch, discussed his widely acclaimed biography of Rousseau. The thesis of Damrosch's paper was clearly inspired by the works of Jean Starobinski, though Damrosch was careful to distinguish himself from this Swiss literary critic of the 1970s. Damrosch shares in common with Starobinski the belief that modern psychology allow us to understand Rousseau better than he understood himself. Whereas Starobinski concludes that Rousseau had deep psychology pathologies that caused him to think that a grand conspiracy was being contrived against him, Damrosch differs by saying that Rousseau's psychology is not so clearly pathological, there was good reason to believe that there was indeed a plot against him, and that from an examination of both Rousseau's psychology and his peculiar circumstances as a victim of this plot, one can explain why Rousseau thought that man had free will. Though Damrosch is more reserved in his judgment of Rousseau's mental illness than Starobinski, he is much bolder in his assertions concerning the relationship between Rousseau's philosophical positions and his peculiar experiences and psychology. Though Damrosch admitted to not being particularly familiar with Rousseau' philosophical arguments, he confidently came down on one side of the controversy over whether Rousseau thought that the free will exists.

ABOUT THE AUTHOR

Kimberly Stewart is a Ph.D. Candidate in Political Science at Boston College and a Clough Center Graduate Fellow.

Conference Program

THURSDAY, NOVEMBER 29

12:00 PM LUNCH

12:45 PM WELCOME & OPENING REMARKS
Christopher Kelly, BOSTON COLLEGE
Vlad Perju, BOSTON COLLEGE LAW SCHOOL

1:00 PM PANEL I
Rousseau's Significance as a Writer
Ourida Mostefai, BOSTON COLLEGE
Claude Habib, UNIVERSITÉ SORBONNE NOUVELLE
Jonathan Marks, URSINUS COLLEGE

2:30 PM PANEL II
Rousseau on Philosophy and Politics
Susan Shell, BOSTON COLLEGE
Mark Hulliung, BRANDEIS UNIVERSITY
Patrick Riley, UNIVERSITY OF WISCONSIN

4:00 PM BREAK

4:30 PM PANEL III: KEYNOTE ADDRESS
Feeling Free in the Enlightenment: Philosophy versus Lived Experience
Leo Damrosch, HARVARD UNIVERSITY

About the Panelists

For more information, visit the event page at www.bc.edu/cloughevents.

Leo Damrosch is the Ernest Bernbaum Professor of Literature, Emeritus at Harvard University. He is the author of the biography *Jean-Jacques Rousseau: Restless Genius*, a 2005 National Book Award Finalist for nonfiction and winner of the Winship/PEN New England Award for nonfiction, as well as seven other books on literary and historical subjects.

Ourida Mostefai is a professor of French at Boston College. Professor Mostefai grew up in Paris, France. A graduate of the Sorbonne Nouvelle in Paris, she received her Master's and Doctoral degrees in French from New York University. She joined Boston College in 1988, and has served as Chair of the Department of Romance Languages & Literatures (2009-2012).

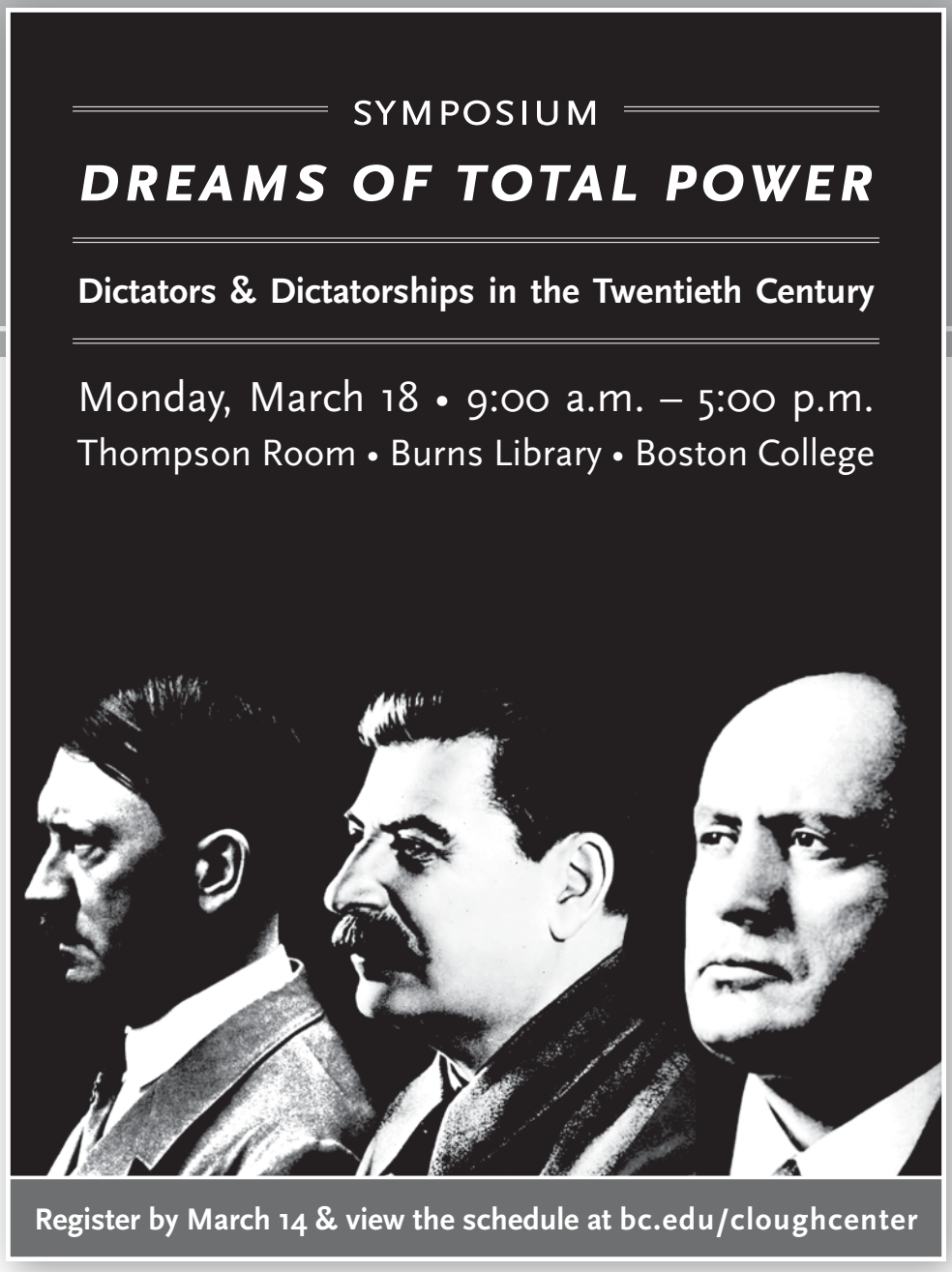
Claude Habib is a professor at the Universite Sorbonne Nouvelle. A native of Paris, France, Professor Habib teaches in the department of Literature and Linguistics. She is the author of *Consentement amoureux* and *Galanterie française* among other works.

Jonathan Marks is an associate professor of politics at Ursinus College. He received his Ph.D. from the University of Chicago. His works on Rousseau include "Rousseau's Use of the Jewish Example" published in *Review of Politics*, November 2010 and "Rousseau's Discriminating Defense of Compassion" published in *American Political Science Review*, November 2007.

Susan Shell is a professor of political science at Boston College. Most recently, Professor Shell is the author of *Kant and the Limits of Autonomy* (Harvard University Press, 2009). She has also written on Rousseau, German Idealism, and selected areas of public policy.

Mark Hulliung is Richard Koret Professor of the History of Ideas at Brandeis University. Professor Hulliung received his Ph.D. from Harvard University. His expertise includes American and European intellectual, cultural, and political history.

Patrick Riley is an Emeritus Professor at University of Wisconsin. His teaching and research focuses on political philosophy. His numerous articles and books include *Will and Political Legitimacy: The Foundations of Social Contract Theory from Hobbes to Hegel, Kant's Political Philosophy, The General Will Before Rousseau*, and he has translated the works of Leibniz, Bossuet, Fenn and Malebranche.



BY GRÁINNE MCEVOY, FELIX A. JIMENEZ BOTTA, ADAM RATHGE, AND IAN DELAHANTY

On Monday, March 18, the Clough Center hosted a symposium titled "Dreams of Total Power: Dictators & Dictatorships in the Twentieth Century." Co-sponsored by the John Marshall Lectures in Political Philosophy and the Boston College Political Science department, this day-long event included three sessions featuring eleven international scholars.

An early morning panel on "Authoritarianism in the 20th Century," opened the Clough Center's Dictators and Dictatorship Symposium, held on March 18 at Boston College. All three speakers explored the role played by ego, pathology, and personality politics in helping us understand the circumstances conducive to dictators' rise to power and fall from grace.

The first of three panelists was Paul Hollander, Professor Emeritus at the Davis Center for Russian and Eurasian Studies at the University of Massachusetts, Amherst. Professor Hollander presented the paper "Intellectuals and Dictators: Political Hero Worship and the Discontents of Modernity" which explored why so many prominent twentieth century intellectuals held a particular admiration for certain dictators. Holly Case, an associate professor of History at Cornell University, followed with her paper "Totalitarianism and Insanity in Central Europe." Professor Case opened her presentation by examining a last minute development in the trial of Romanian dictator Nicolae Ceausescu and his wife Elena in December, 1989. When asked by his lawyers if he had ever suffered from mental illness, the deposed dictator responded "that is an obscene provocation." This vignette on the drawing of a connection between dictatorship and mental health allowed Case to open out onto a discussion of insanity, ideology, and moral responsibility. Finally, Mark Kramer, director of the Cold War Studies Program at Harvard University, rounded out the paper presentations with his paper "Soviet Union's Declining Dictators: From Stalin to Gorbachev." Professor Kramer examined the changing nature of power, and transitions in power, within the leadership of the Soviet Union. The paper followed a chronological trajectory, and argued that Stalin's rise to power shaped all Soviet leadership struggles thereafter. This precedent, Kramer argued, was crucial since the nature of Stalin's consolidation of his leadership position meant that there were no formal arrangements after his death in 1953 for choosing a new leader. Although there was little time for comment and questions, panel discussant Kathleen Bailey, professor of political science at Boston College, noted how confidently these leaders and their supporters felt that they possessed the answers to social and political questions that had been under consideration for many centuries, and their conviction that violence could be used to achieve their ends.

The two main threads of the second session of this symposium, as discussant Professor Julian Bourg (Boston College History Department) accurately put it, were the "uses and disuses of the past" as well as "dictatorial copy" in the Soviet, Romanian, and East German Communist dictatorships. The first two papers dealt with the cult of personality and Stalinism in the Soviet Union and Romania, while the third examined the rabid anti-Zionism of post-Cosmopolitan purges East Germany. Joseph Stalin, Gheorghe Gheorghe Dej and Nicolae Ceausescu employed previous ideological tropes in Leninism and Stalinism to build on their personality cult in ways that would be compatible with an ideology that emphasized the community over the individual. Walter Ulbricht and Erich Honecker also employed pre-1945 anti-Semitic and anti-Zionist rhetoric as a means to escape German history and legitimize the East German state as a beacon in the "anti-Imperialist" struggle against the United States and Israel during the Cold War.

Spearheading the session, David Brandenberger's paper entitled "Stalin and the Muse of History: The Dictator and His Critics on the Editing of the 1938 *Short Course on the History of the All-Union Communist Party (The Bolsheviks)*" sought to counteract the dominating historiographical trend that interpreted Stalin's edits as a self-aggrandizing effort to propagate his personality

cult. Brandenberger's research of the process by which Stalin edited the *Short Course*, of which 40 million exemplars were printed and widely distributed, demonstrated a Stalin deeply involved in the editing process at the height of the purges in 1937. Bogdan C. Iacob's paper "Comparing Gheorghe Gheorghiu Dej and Nicolae Ceausescu: The Fate of Stalinism in Romania" showed how destalinization stopped short at the Romanian borders and remained a viable force reifying the dictatorships of Dej (ruled 1947-1965) and his disciple and successor Ceausescu (1965-1989). Finally, Jeffrey Herff's paper "At war with Israel: East German Anti-Zionism from the Anti-Cosmopolitan Purges to 1989" was a provocative reassessment of East Germany focusing on the anti-Semitic and anti-Zionist language and policies of the Communist state.

Following the first two sessions, Professor of Comparative Politics at the University of Maryland and Director of the Center for the Study of Post-Communist Societies, Vladimir Tismaneanu delivered a wide-ranging keynote address, exploring issues raised during the morning panels of the day-long symposium as well as topics from his latest book, *The Devil in History: Fascism, Communism and Some Lessons of the Twentieth Century* (2012). The devil for the purposes of his keynote address was the figure of Joseph Stalin. Sixty years after his death, the man and the myth continue to fascinate and resonate among scholars and the public alike. This fact, Professor Tismaneanu argued, underscores that the twentieth century is not over in a historical sense. Its issues and catastrophic consequences remain with us. As such, Stalin continues to challenge our understandings: Was Stalin equal to Hitler in his adamant commitment to perpetrating evil? Was he ideologically motivated or rather an opportunist? Did he believe in the Marxist dream of an emancipated humanity? These and other questions remain. Professor Tismaneanu declared that he has no single explanation for all these questions; they remain a thought in progress. Therefore, according to Tismaneanu, explaining Stalin means identifying central pillars from which he can be better understood. An ideologue, a party, a propagandist, and an instrumentalist, these are the pillars with which Tismaneanu suggested we can best understand the Stalin, both man and myth. Only by understanding the pillars of Stalin can we best explain how his liberating dreams were transformed into unbearable nightmares.

While introducing this panel on "Fascism and the Politics of Charisma," Boston College Professor of Political Science and panel chair Nasser Behnegar reminded attendees of the German intellectual Max Weber's three alternative means by which rulers legitimize their power. Rulers, Weber argued, justify their rule with claims to reason; with claims to tradition; or, as the distinguished speakers in this panel demonstrated, with an intangible yet terribly powerful personality trait: charisma. Neither the political Right nor Left has monopolized charisma, as Behnegar noted, yet it was a particularly pliant tool for fascist dictators in the first half of the twentieth century.

Professor Constantin Iordachi of Central European University opened the panel by looking at how fascist leaders cultivated charisma in their autobiographies in order to legitimize and organize their power. Iordachi's paper came from a larger project in progress, allowing him to map the field of fascist autobiography before focusing on the writings of Romania's Corneliu Zelea Codreanu as a case study. Iordachi's focus on Romania provided an appropriate segue into a paper by Professor Dennis Deletant, Visiting Professor of Romanian Studies at Georgetown University. Deletant's talk examined the "temptation of fascism in Romania," moving past Codreanu's reign and into that of Ion Antonescu, *Conducátor* of Romania from 1940 to 1944. The paper addressed two basic questions: Was Antonescu tempted by fascism, and did he succumb? Delatant's answers, yes and not quite, were delivered through a rigorous investigation of Antonescu's policies. Rounding out the panel, the University of California, Santa Barbara's Simonetta Falasca-Zamponi probed the political philosophy of Benito Mussolini. Her findings constitute an innovative and informative reading of *Il Duce*'s approach to statesmanship. According to Falasca-Zamponi, Mussolini self-consciously treated political authority as his paintbrush and the Italian nation as his canvas. Ruling, in other words, was truly an art.

Proceedings of this conference will be published by Central European University Press (Budapest, Hungary) later this year.

ABOUT THE AUTHORS

Gráinne McEvoy, Felix A. Jimenez, Adam Rathge, and Ian Delahanty are all Ph.D. Candidates in History at Boston College. Gráinne, Adam and Ian are also Clough Center Graduate Fellows.

Conference Program

MONDAY, MARCH 18

9:00 AM — WELCOME REMARKS

9:15 AM — SESSION I

Authoritarianism in the 20th Century

Discussant: Kathleen Bailey, BOSTON COLLEGE

Paul Hollander, UNIVERSITY OF MASSACHUSETTS, AMHERST
Intellectuals and Dictators: Political Hero Worship and the Discontents of Modernity

Holly Case, CORNELL UNIVERSITY
Remembering Totalitarianism in Central Europe

Mark Kramer, HARVARD UNIVERSITY
Soviet Union's Declining Dictators: From Stalin to Gorbachev

10:50 AM — COFFEE BREAK

11:05 AM — SESSION II

Avatars of Communist Dictatorships

Discussant: Julian Bourg, BOSTON COLLEGE

David Brandenberger, UNIVERSITY OF RICHMOND
Stalin and the Muse of History: The Dictator and His Critics on the Editing of the 1938 Short Course on the History of the All-Union Communist Party (Bolsheviks)

Bogdan C. Iacob, IMRE KERTÉSZ KOLLEG, JENA
Comparing Gheorghe Gheorghiu Dej and Nicolae Ceausescu: The Fate of Stalinism in Romania

Jeffrey Herf, UNIVERSITY OF MARYLAND
At War with Israel: East German Anti-Zionism from the Anti-Cosmopolitan Purges to 1989

12:40 PM — LUNCH BREAK

2:00 PM — KEYNOTE ADDRESS

Explaining Stalin: 60 Years since the Dictator's Death

Vladimir Tismaneanu, UNIVERSITY OF MARYLAND COLLEGE PARK

Book Launch & Autograph Session, Vladimir Tismaneanu, *The Devil in History: Fascism, Communism and Some Lessons of the Twentieth Century* (University of California Press, 2012)

3:00 PM — COFFEE

3:15 PM — SESSION III

Fascism and the Politics of Charisma

Discussant: Vlad Perju, BOSTON COLLEGE LAW SCHOOL

Simonetta Falasca-Zamponi, UNIVERSITY OF CALIFORNIA, SANTA BARBARA
A 'Beautiful' Dream: Mussolini's Delirium of Omnipotence

Constantin Iordachi, CENTRAL EUROPEAN UNIVERSITY
Comparing Fascist Autobiographies

Dennis Deletant, GEORGETOWN UNIVERSITY
Ion Antonescu: The Temptation of Fascism in Romania

5:00 PM — RECEPTION

6:00 PM — DINNER & KEYNOTE ADDRESS

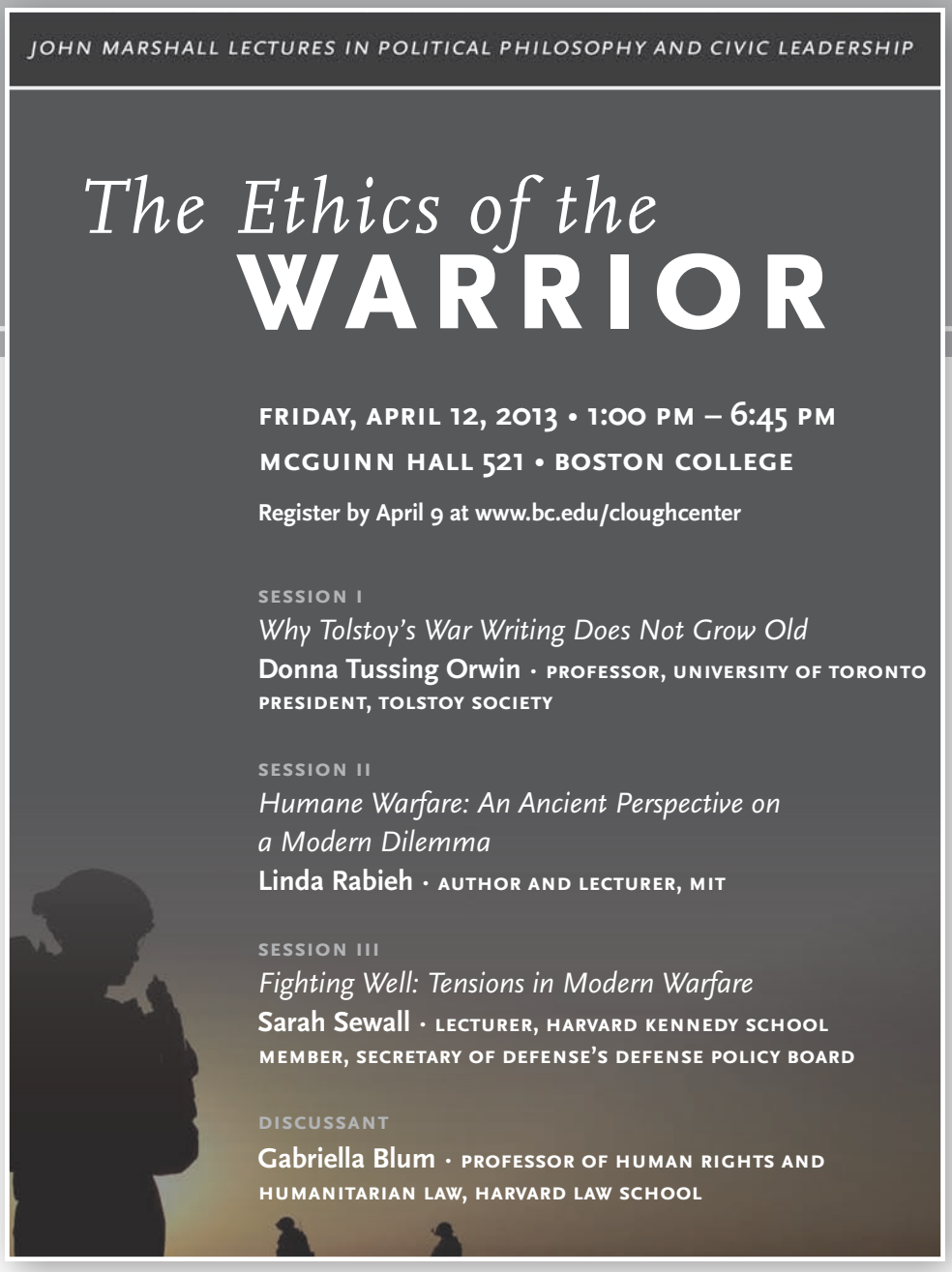
Horia-Roman Patapievici
Reflections on Dictatorship and the Mindset of a Free Government

About the Keynote Speaker

For complete bios of all the conference participants, please visit www.bc.edu/cloughevents.

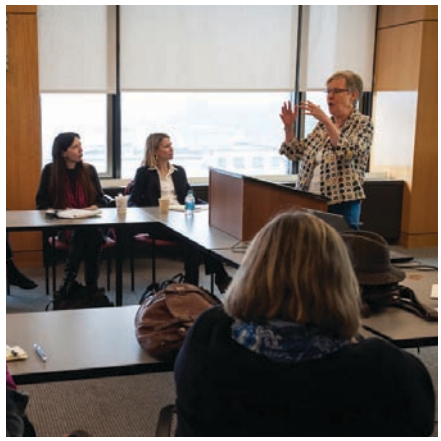
Horia-Roman Patapievici is a Romanian physicist and essayist who served as the head of the Romanian Cultural Institute from 2005 until August 2012. He is one of Europe's most distinguished public intellectuals. Between 2000 and 2005, he was a member of the National Council for the Study of the Securitate Archives, supporting more openness regarding the files of the Securitate. He is a graduate of the University of Bucharest. His works include *Discernment of Modernization* (2004) and *Beatrice's Eyes* (2004).

Vladimir Tismaneanu is professor of politics and Director of the Center for the Study of Post-communist Societies at University of Maryland College Park, President of the Presidential Commission for the Analysis of the Communist Dictatorship in Romania (April 2006–March 2007), and since April 2007, Chairman of the Presidential Consultative Commission for the Analysis of the Communist Dictatorship in Romania. Major publications include *Reinventing Politics: Eastern Europe from Stalin to Havel* (2003) *Fantasies of Salvation: Democracy, Nationalism, and Myth in Post-communist Europe, Princeton* (1998), *Stalinism for All Seasons: A Political History of Romanian Communism* (2003).



BY ADAM RATHGE AND ANDRE GREGORI

How can the soldier fight humanely, honorably—and to win? That's the complicated topic explored by our three distinguished speakers at the "The Ethics of the Warrior" colloquium hosted by the John Marshall Lectures on Political Philosophy and the Clough Center for the Study of Constitutional Democracy. Sarah Sewall, lecturer at Harvard's Kennedy School and member of the Secretary of Defense's Defense Policy Board, explores "fighting well" in contemporary circumstances. Donna Tussing Orwin, Professor at the University of Toronto and President of the Tolstoy Society, clarifies Tolstoy's understanding of war. Linda Rabieh, a lecturer at MIT and author of a book on Plato and cour-



At this symposium, part of the John Marshall Lectures in Political Philosophy and Leadership, the scholars address whether or not a soldier can fight humanely, honorably, and to win.

age, examines a classical outlook. A closing discussion is introduced by Gabriella Blum, Professor of Human Rights and Humanitarian Law at Harvard Law School.

After Donna Tussing Orwin's wonderful opening lecture on Tolstoy and war, Professor Linda Rabieh's presentation drew upon from research concerning Plato's accounts of courage and the education necessary for vigorous republican citizenship. She argued that while ancient Greek philosophers generally did not offer an extended study of the military ethos, they can still teach us about the foundations for a sound military ethics.

Professor Rabieh contended that replacing actual military activity with robots or machines could deprive future generations the opportunity to develop and exercise human virtues that provide shining examples of virtue for the rest of us. Inspired by Plato's teachings, she asserted that we should question the overuse of drones in considering the qualities that can be instilled in the young. We should thus be more conscious and conscientious about valuing not only the consequences of heroism and courage, but the excellence that makes such actions possible, particularly the capacity to face up to dangers resolutely without coming undone.

For Sarah Sewall, the third presenter, the ethics of the battlefield is an important question that has unfortunately not been the subject of a meaningful national conversation. Part of the difficulty of starting a conversation about this "rarified" question stems from the diverse interpretations given to the terms "warrior" and "ethics." As such, the responsibility for battlefield decisions must be borne not by the soldier alone, but also by those who would have the soldier sent to the battlefield. In other words, it must be borne by the whole culture that decided to go to war. It is only when the public realizes its responsibility for the lives of the civilians that war has claimed—it is only when it realizes that those deaths lie at its door—that it will be able to engage in an adequate conversation about procedure, because it will realize that it also has a stake in protecting civilians. Once the public is finally confronted with its responsibility for the lives of civilians in addition to the lives of its soldiers, it will be in a

better position to balance the risk to its soldiers with the lives of civilians. A meaningful national conversation about the ethics of the warrior is only possible if it incorporates these concerns.

Gabriella Blum closed the Colloquium by concentrating on a theme that enlivened the day's discussions: the old and the new—what has changed about war, and what has remained constant. Pointing to the three other speakers, Blum began by observing what might have been impossible sixty years ago: "How cool it is to have an event on war that's all girls!"

Blum noted that in broad outline two fundamental features of warfare have remained constant. First, from the earliest days, wars have had rules. Blum did not use the world "rules" in a legal sense; she meant, rather, that from the earliest days an ethic of war has been a necessity. This arose not simply from a desire to protect the other; rather, the rules of war were born out of the self-interest in optimizing the activities of soldiers. A good commander, for example, would want his soldiers to spend their time preparing for the next battle, rather than raping and pillaging. Second, Blum offered that the notion that war should be "even" has never been the ideal. War has always been about dealing decisive blows from a great distance. As technologies have changed, this has become increasingly possible.

This new model of warfare of decreased risk coupled with decisive damage may bring about new models of courage. Perhaps the modern hero is no longer a Greek champion, but rather a geek engineer—no longer an Achilles, but rather a graduate from MIT. By this speculation, Blum meant not only that the modern hero will be the scientist who designed our accurate weapons; but rather, the people who design new schools or build hospitals in impacted areas.

Our instinct is to say that war should hurt in order to matter. But the place of war, Blum warned the audience, is less exotic. War is no longer a great dramatic event—it is a great policing operation. War no longer fits the paradigms of the United Nations Charter. For America, war may still happen overseas. However, across the world it is increasingly in people's backyards. In this new context, will we truly want war to hurt? Perhaps what we will need are more effective policing methods.

In this world where war is becoming increasingly routine, we will have to reimagine what success will mean. The traditional conceptions of victory as either destruction of the other side or its surrender will not suffice. Success will inevitably be defined more specifically, more tailored to particular circumstances. In this new reality, a traditional conception of victory could imply that it never be reached.

ABOUT THE AUTHORS

Adam Rathge is a Ph.D. Candidate in History at Boston College and a Clough Center Graduate Fellow. Andre Gregori is a J.D. Candidate at Boston College Law School.

Conference Program

THURSDAY, NOVEMBER 29

1:00 PM — SESSION I
Why Tolstoy's War Writing Does Not Grow Old
Donna Tussing Orwin, UNIVERSITY OF TORONTO

2:15 PM — SESSION II
Humane Warfare: An Ancient Perspective on a Modern Dilemma
Linda Rabieh, MIT

3:30 PM — COFFEE BREAK

4:00 PM — SESSION III
Fighting Well: Tensions in Modern Warfare
Sarah Sewall, HARVARD KENNEDY SCHOOL

5:15 PM — WRAP UP
Convener: Gabriella Blum, HARVARD LAW SCHOOL

6:00 PM — RECEPTION

About the Participants

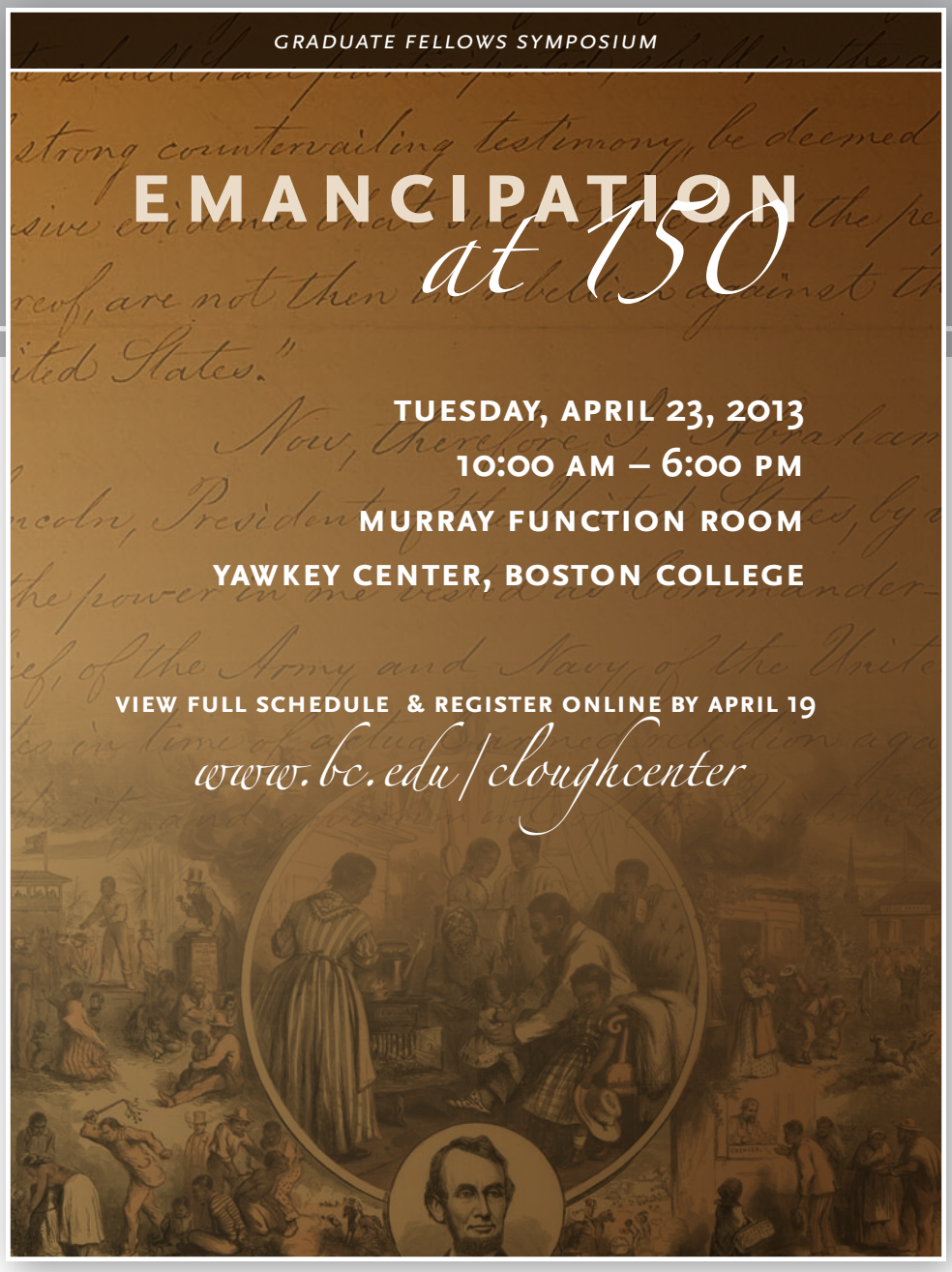
For more information, visit the event page at www.bc.edu/cloughevents.

Sarah Sewall is a lecturer at Harvard's Kennedy School and member of the Secretary of Defense's Defense Policy Board.

Donna Tussing Orwin is professor of Russian Literature and chair of the Department of Slavic Languages and Literatures at the University of Toronto. She also serves as president of the Tolstoy Society.

Linda Rabieh is a lecturer at Concourse, a program at MIT, and author of *Plato and the Virtue of Courage* (2006).

Gabriella Blum is Rita E. Hauser Professor of Human Rights and Humanitarian Law at Harvard Law School.



BY IAN DELAHANTY, ADAM RATHGE, AMELIA WIRTS, AND GRÁINNE MCEVOY

The "Emancipation at 150" Symposium, put together by Clough Center Graduate Fellows, reflected upon the 150th anniversary of the Emancipation Proclamation. It brought together several of the nation's leading scholars to discuss the origins, aftermath, and legacy of the Proclamation, as well as the broader themes of slavery, freedom, and politics. The first two panels of the day focused mainly on the causes, realities, and effects of the Emancipation Proclamation, while the final panel, examined contemporary forms of oppression, racial and otherwise, in the United States.

As the "Emancipation at 150" symposium's first panelists, Professors Paul Finkelman, Thavolia Glymph, and Michael Vorenberg shared their insights on the origins and process of Civil War emancipation. Each panelist approached the subject from a unique perspective that reflected a particular interpretation of how and why emancipation happened and what its meaning was to contemporaries and students of the past alike. Attendees therefore came away from the symposium's leadoff panel with an appreciation for the multiplicity of causes that brought about Civil War emancipation and the various ways in which past and present commentators have defined emancipation's significance.

Opening the panel was Paul Finkelman, the President William McKinley Distinguished Professor of Law and Public Policy and Senior Fellow in the Government Law Center at Albany Law School. A legal and constitutional scholar, Finkelman pitched his talk as an explanation of not only how President Abraham Lincoln arrived at the decision to issue the Emancipation Proclamation but also why that document had, in the words of the distinguished historian Richard Hofstadter, "all the moral grandeur of a bill of lading." Finkelman ceded the podium to Thavolia Glymph, Associate Professor of African & African American Studies at Duke University. Glymph's talk examined emancipation, in her words, "from the bottom." While acknowledging the importance of Lincoln's path to the Emancipation Proclamation, Glymph argued that Lincoln himself recognized he could do nothing more to free the slaves than the slaves could do to free themselves. Her paper, then, focused on what enslaved people did to gain their freedom during the war. Rounding out the panel was Michael Vorenberg, Associate Professor of History at Brown University. Like Glymph, Vorenberg described emancipation as a process with different beginnings and endings depending on whose experiences were in question. But Vorenberg's talk sought most of all to address the question of when emancipation "reached achievement." His answer challenged the typical confines of emancipation studies, urging the audience to conceive of emancipation as an integral event within a broader history of African-American citizenship.

The afternoon session of the symposium began with a panel of guests exploring various aspects of "The Aftermath of Emancipation." Moderated by Professor Heather Cox Richardson of Boston College, Matthew Pratt Guterl (Brown University), Richard Blackett (Vanderbilt University), and Sven Beckert (Harvard University) cogently and succinctly analyzed the wide ranging effects of emancipation on intersections of money, power, land, and labor in the United States, the Caribbean, and around the world.

Professor Guterl began the panel by problematizing the periodization of emancipation, particularly questioning whether emancipation lacks a clear end. If we view the Emancipation Proclamation as part of a longer, wider picture of slavery, how might it change the way we understand it? While the pull of focusing on a single event like the Emancipation Proclamation is strong, he posits, we might reach a more complete understanding by viewing it as part of a longer, protracted struggle. Richard Blackett followed Guterl with a generally extemporaneous dialogue on the nature of post emancipation struggles. Drawing on a vignette about a graduate student's observation of Barbadian migrants confronting structures that appeared much like slavery in Liberia, Blackett stressed that the road to freedom following emancipation went off in many directions, but he argues most of them ended in conflicts over the need for land and the need for labor. In large measure, this resulted both from a dearth of proposals developing land redistribution for Freedmen and a failure to imagine possible alternatives for labor substitution on the part of slaveholders. Sven Beckert concluded the panel by extending the problems of emancipation in the United States to a global scale. Professor Beckert, contends that 1863 and what followed marked one of the most important moments in the history of global capitalism. His argument rests on the idea that the greatest problem for capitalism has always been the transformation of the global countryside, including both laborers and land. Thus, because emancipation in the United States forced a fundamental change in the production of cotton—arguably the world's most important industry in the mid-nineteenth century—Beckert argues we must understand emancipation from a truly global perspective.

Combined, these three presentations nicely complimented each other. By exploring the meanings of emancipation, its geographic and temporal boundaries, and the role it played in shift-

ing various intersections of money, power, land, and labor the panelists offered a clearer picture of both its broad scope and the reverberations of its aftermath. They exposed both its profound impacts and subtle vicissitudes, much to the pleasure of a large and captivated audience.

The final panel, Contemporary Issues of Oppression, used the occasion of this meaningful anniversary to examine current realities of oppression in the United States. Jamal Greene, a professor at Columbia Law School, gave a talk entitled, "Badges and Incidents of Slavery." The landmark Supreme Court Decision, *Jones v Alfred H. Mayer Co.* coined this powerful phrase when it upheld the Civil Rights Act of 1866, which made it illegal for private parties to discriminate in land sales on the basis of race. To argue a case today on the basis of "badges and incidents of slavery" is nearly unheard of. But, Greene argued, there is something powerful about that idea, as slavery still mars our shared public life. We should refer to the 13th Amendment's insistence that "neither slavery nor involuntary servitude [...] shall exist within the United States" when we make cases for alleviating slave-like conditions. While we may not get far using such an argument in court, the 13th amendment provides a powerful moral idea that can help to motivate movements to end discrimination and oppression today. Kaia Stern, the director of the Prison Studies Program at Harvard University, examined another legacy of the 13th Amendment. Though the 13th Amendment seems like profound statement about the absolute eradication of slavery, it actually has within it an important qualification. The complete text of Article 1 of the 13th Amendment reads "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to its jurisdiction." The story of the prison system in the US is a frightening one. At the beginning of the 20th century, one in one thousand Americans were imprisoned. Now it is one in 31. What makes this system so troubling is that, in many ways, modern prisons use slave labor. Many prisoners today do forced labor for little or no pay, and in fact are even considered to be property of the US government. Stern argues that this paradigm is in direct conflict with our human rights commitments. Charles Mills, professor of philosophy at Northwestern University, concluded the panel by giving a talk entitled, "Achieving Racial Emancipation: Ten Widespread Illusions." Dr. Mills argued that there are pervasive illusions that most of us uncritically take to be true about racial inequality in the U.S.

Professor Dylan Penningroth, Associate Professor of History at Northwestern University, brought the "Emancipation at 150" symposium to a close with a superb keynote lecture entitled "Black Inheritance: Rights and Genealogies After Slavery." Penningroth's central argument was that this socio-legal history of African-American inheritance is an unexplored and profoundly significant component of post-Emancipation black life. He pointed out that the familiar legal history is that of the legal system's increasing hostility or indifference to African-American rights in the Reconstruction period and well into the 20th century. In this arena, black citizens engaged in legal disputes that pitted them against white individuals or interest groups as criminal defendants or as plaintiffs in cases challenging civil rights violations. Although this story is true, Penningroth argued that it is an incomplete version of African-American socio-legal and civil rights history in the late-19th and early-20th centuries. It elides the story of ordinary African Americans negotiating legal systems as freedmen and women in order to assert their rights in private matters such as inheritance, marriage, and divorce. By examining the proceedings of lower, county-level courts and exploring the complexity of intra-black legal relations, however, Penningroth's work aimed to illuminate the birth and maturation of a black legal and political culture in the immediate post-Emancipation period.

ABOUT THE AUTHORS

Ian Delahanty, Adam Rathge, and Gráinne McEvoy are Ph.D. Candidates in History at Boston College. Amelia Wirts is a Ph.D. Candidate in Philosophy at BC. Ian, Adam, Gráinne, and Amelia are also Clough Center Graduate Fellows.

Conference Program

TUESDAY, APRIL 23
MURRAY FUNCTION ROOM, YAWKEY CENTER

9:30 AM — CONTINENTAL BREAKFAST

10:00 AM — OPENING
Vlad Perju, BOSTON COLLEGE LAW SCHOOL AND DIRECTOR, CLOUGH CENTER
David Quigley, DEAN OF THE COLLEGE OF ARTS AND SCIENCES, BOSTON COLLEGE

10:15 AM — PANEL I
The Origins and Process of Emancipation
Moderator: Cynthia Lyerly, BOSTON COLLEGE
Paul Finkelman, ALBANY LAW SCHOOL
Thavolia Glymph, DUKE UNIVERSITY
Michael Vorenberg, BROWN UNIVERSITY

11:45 AM — LUNCH

1:00 PM — PANEL II
The Aftermath of Emancipation
Moderator: Heather Cox Richardson, BOSTON COLLEGE
Sven Beckert, HARVARD UNIVERSITY
Richard Blackett, VANDERBILT UNIVERSITY
Matthew Pratt Guterl, BROWN UNIVERSITY

2:30 PM — COFFEE

2:45 PM — PANEL III
Contemporary Issues of Oppression
Moderator: Jonathan Trejo-Mathys, BOSTON COLLEGE
Jamal Greene, COLUMBIA LAW SCHOOL
Charles Mills, NORTHWESTERN UNIVERSITY
Kaia Stern, HARVARD UNIVERSITY

4:30 PM — KEYNOTE ADDRESS
Dylan Penningroth, NORTHWESTERN UNIVERSITY
Introduction by **Mary Sarah Bilder,** BOSTON COLLEGE LAW SCHOOL

6:00 PM — RECEPTION

About the Keynote Speaker

For complete bios of all the conference participants, please visit www.bc.edu/cloughevents.

Dylan Penningroth is an associate professor of history at Northwestern University and a research professor at the American Bar Foundation. He specializes in African American history and in U.S. socio-legal history. His first book, *The Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South* (2003), won the Avery Craven Prize from the Organization of American Historians. His articles have appeared in the *Journal of American History*, the *American Historical Review*, and the *Journal of Family History*. Penningroth's awards have included a National Endowment for the Humanities fellowship, a National Science Foundation fellowship, the Huggins-Quarles, a Weinberg College Teaching Award, a McCormick Professorship of Teaching Excellence, and a MacArthur Foundation fellowship.

He received a B.A. from Yale University and an M.A. and a Ph.D. from Johns Hopkins University. From 1999 to 2002 he was Assistant Professor of History at the University of Virginia.

Penningroth is currently working on a study of African Americans' encounter with law from the Civil War to World War II. Combining legal and social history, the study explores the practical meaning of legal rights for black life. His next project is a study of the legacy of slavery in colonial Ghana.

Junior Fellows Program

The Junior Fellows Program (JFP) provides a wide variety of opportunities for undergraduate scholarship pertaining to the study of constitutional democracy. The JFP hosts members-only events and discussions, providing a unique forum for intellectual discourse. Additionally, Junior Fellows have privileged access to private events sponsored by the Clough Center, enabling undergraduate students to interact first hand with some of the most distinguished political science scholars in the country. The 2012-2013 Junior Fellows are:

EMMANUEL DELADOUCETTE

JORDAN DORNEY

CHRISTOPHER FITZPATRICK

ALEXANDRA FRUGONE

LUCAS HARTY

OH SUNG KWON

WILLIAM LARKIN

ALEJANDRO DANIEL LOPEZ

ANTHONY NWOKEDI

MATTHEW PALAZZOLO

ANDREW SCHOFIELD

ANDREW KENNETH SLADE

CHRISTINA SPILIAKOS

Clough Center Junior Fellows: My Experience

BY CHRISTOPHER FITZPATRICK

Over the past four years at Boston College, my affiliation with the Clough Center has played a central role in my academic and professional endeavors. In my freshman year, Professor Ken Kersch—my Civil Liberties instructor and then Director of the Center—encouraged me to join the Junior Fellows Program. At once, I recognized a unique opportunity and jumped at the chance to participate. Though I had high hopes at the time, I could not have imagined the tremendous impact that the Clough Center would have on my undergraduate experience.

My involvement with the Center took on many forms. I served as Undergraduate Assistant to the Center Director, Coordinator of the Junior Fellows Program, and a Senior Editor of the Clough Journal. As a result, I was fortunate to have access to the many fascinating and distinguished guests that the Center brought to Boston College. Equally enlightening were the relationships that I developed with affiliated professors, who encouraged me to pursue my academic goals and were invaluable mentors to my fellow undergraduates and me.

Additionally, the Clough Center provided generous support through its Civic Internship Grants program, which enabled me to serve in two foreign internships—with the Irish government and the U.S. Department of State. These positions strongly influenced my thesis work and professional ambitions, reinforcing my desire to pursue a career in government. Without the Center's financial support of civic service work, many undergraduates—myself included—would be unable to take full advantage of their time at Boston College.

All of these unique opportunities were instrumental to my academic and professional life, but the Clough Center provided an even greater gift. By serving as a forum for scholarly discourse, the Center facilitated profound conversations among the Junior Fellows, professors, and distinguished guests. These discussions informed my scholarship and broadened my understanding of law, politics, and inter-

national relations. They also built a strong community of dedicated undergraduates who share a passion for learning, united in our appreciation for academic inquiry.

My story is not unique among the Junior Fellows or other undergraduates who are involved with the Clough Center. It provides ample opportunities for students to access a level of scholarship otherwise reserved for graduate students and professional academics. Under the new leadership of Professor Vlad Perju, the Center is entering an exciting chapter in its already distinguished history, with a promising future of new and exciting experiences for BC students. I regret that I must graduate and miss out on the remarkable things to come.

I would conclude by noting what I consider the most important aspect of the Clough Center. Through its Civic Internship Grants program and its commitment to investigation of political democracies throughout the world, the Center plays an essential role on the Boston College campus by instilling in young students an appreciation for public service—not necessarily by pursuing a career in government as I plan to—but simply by being informed and active citizens. In 1956, John F. Kennedy expressed a similar vision in his famous Jesuit Ivy address at BC Commencement exercises. He remarked, "I would like to emphasize the obligation of all who have had the benefit of your training, to assume their proportionate share of the burden of self-government." The Clough Center for the Study of Constitutional Democracy provides such training at a very high level. As a result, I am confident that those students fortunate enough to work with the Center during their time at BC will be uniquely prepared for civic service and for citizenship in a fast-paced global community.

Clough Undergraduate Journal

As one of the undergraduate programs sponsored the Clough Center, the *Clough Undergraduate Journal of Constitutional Democracy* seeks to provide an interdisciplinary reflection on the promises and problems of constitutional democracy both domestically and internationally. As with past issues, the current edition of the Clough Journal features articles from undergraduate students at Boston College and Georgetown University. We also received a number of submissions from other universities including Fordham University and the University of Virginia. It is our hope that we can continue this relationship with other universities and encourage undergraduate students to explore the topic of constitutional democracy by submitting their work to the Clough Journal.

This year, the Clough Journal published its fourth issue with a number of insightful articles on the topic of constitutional democracy ranging from the prospects of democratic consolidation in Chile to the implications of far-right victories in Europe's most recent general elections. In addition, two articles deal with broader questions of personal rights and the role of natural law in American constitutionalism. We received a record number of submissions this year and the articles featured in this issue represent the very best work of undergraduates who submitted their research papers and chapters of their theses. Each was carefully selected by the editorial board for its content and relevancy to the topic of constitutional democracy and we believe this year's issue is the best thus far.

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CULTURE CLASH RHETORIC AND FAR-RIGHT PARTIES IN EUROPE'S 2012 GENERAL ELECTIONS
Narintohn Luangrath

Graduate Fellows Program

The Clough Center welcomes Boston College graduate students conducting research on any aspect of constitutional democracy to participate in its Graduate Fellow Program. The Center appoints Fellows from among graduate students in the social sciences (Economics, Political Science, Psychology, Sociology) and the humanities (Classical Studies, English, History, Philosophy, Theology), as well as the other professional schools.

The program fosters an interdisciplinary dialogue among graduate students studying the issues of constitutional democracy, broadly understood, in the United States and the world. In addition to its other objectives, the program offers a forum for Fellows from an array of disciplines to present research and receive critical feedback from other graduate students.

The 2012-2013 Graduate Fellows are:

IAN DELAHANTY

History, Ph.D. Candidate

Ian Delahanty is a Ph.D. candidate in the history department at Boston College whose research focuses on the Civil War and emancipation. His dissertation, "The American Irish, Slavery, and the Civil War," examines how Irish Americans responded to and shaped the debate over slavery in Civil War Era America, illuminating the ideas and events that influenced Americans' acceptance of emancipation during the conflict. The project shows how both transatlantic movements, such as abolitionism and Irish nationalism, and American circumstances, including Irish Americans' labor conditions and interpretations of the Constitution, deeply divided the American Irish on the question of freedom as the Civil War progressed. It argues that these divisions were emblematic of deeper tensions in the North over the purpose and consequences of ending slavery. Ian's research reflects his broader interest in the dynamic between national and transnational events, ideas, and lives during the Civil War Era.

CRAIG GALLAGHER

History, Ph.D. Candidate

Craig Gallagher is a Ph.D. candidate in the History Department at Boston College, whose research focuses on Atlantic politics and trade among European empires in the late-seventeenth and early-eighteenth centuries. In particular, he is interested in the presence of foreign mer-

chants and officials in certain colonies during the so-called "Age of Mercantilism", when trade was supposedly restricted to people born either in the home kingdom—England, the Netherlands, France—or in that kingdom's colonies. By focusing on Scots, French Huguenots and the Dutch—whose activities most often crossed imperial boundaries—Craig intends to demonstrate the complicated constitutional relationship between metropolitan commercial policy and colonial authorities, who were often unwilling to exclude lucrative foreign trade to satisfy the arcane legislative restrictions of the mother country.

ROSALIA GRECO

Economics, Ph.D. Candidate

Rosalia Greco is a Ph.D. student in the Economics Department and her research interests are political economy and applied economics. She holds a B.A. in Economics and Public Policy Evaluation from the University of Palermo (Italy) and a M.Sc. in Economics and Social Sciences from Bocconi University. Her current research studies how politicians' incentives affect austerity fiscal policy during recessions, and how this affects income distribution and inequality. More broadly, she is interested in the role of culture and institutions in the determination of economic outcomes.

ELIZABETH HARMER DIONNE

Political Science, Ph.D. Candidate

Elizabeth Dionne is currently a Ph.D. student in the Political Science Department at Boston College. She holds a B.A. in English literature and political science from Wellesley College, an M.Phil. in political theory from the University of Cambridge, and a J.D. from Stanford Law School and has published law review articles on Mormon polygamy and obscenity law. Her current research interests are at the intersection of American political development and public law. Current interests include disparate legal treatment of religious minorities, the bureaucratic functioning of the Supreme Court, and the administration of special education law.

KIARA L. KHARPERTIAN

English, Ph.D. Candidate

Kiara Kharpertian is a Ph.D. candidate in the English Department and studies American literature with an emphasis on contemporary fiction of and about the American West. Broadly, she is interested in the environmental, cultural, and geopolitical intricacies of place and how these issues register as literary habits and tensions. Currently, she is at work on a dissertation that reads American Western literature as an exploratory mechanism for the patterns and consequences of labor as a function of class in space.

AMY LIMONCELLI

History, Ph.D. Candidate

Amy Limoncelli is a second-year Ph.D. student in the History Department. She studies twentieth-century British political, cultural, and imperial history with an emphasis on the postwar period. Her recent work involves the decolonization of the British Empire and Britain's changing world role in relation to the development of international institutions.

JOHN JAMES LIOLOS

Juris Doctor Candidate

John Liolos is a third year student at the Boston College Law School. He holds a B.A. in History and Philosophy from Boston College. He has published law review pieces on the International Criminal Court and constitutional developments in the wake of the Arab Spring. His current research interests primarily center on legal history, constitutional law, and constitutional theory.

JOHN LOUIS

Political Science, Ph.D. Candidate

John Louis is a Ph.D. candidate in the Political Science Department and holds a B.A in Political Science and Economics from Hampden-Sydney College. His research interests are American Political Development with a particular focus on 19th century national state building and infrastructural power. He is beginning a study of the U.S. Postal System from the Constitutional Convention through the Jefferson Administration. He also serves as a teaching assistant in the International Studies Program at Boston College.

MICHAEL KEBEDE

Juris Doctor Candidate

LIAM MARTIN

Sociology, Ph.D. Candidate

Liam Martin is a Ph.D. candidate in the Sociology Department, studying the 'punitive turn' both in the United States and overseas. His focus is the broad social and historical context of prison growth, asking, for example, why it has often coincided with increasing inequality between rich and poor, and been distinctly racialized throughout the Western world: concentrated among African Americans and Latinos in the United States, foreigners and immigrants in Europe, and the indigenous peoples of Canada, Australia and New Zealand. This large-scale orientation frames a program of research and teaching currently concerned with stepping outside the university, confronting the lived realities of mass incarceration, and foregrounding the perspectives of those most directly affected by the prison system.

GRÁINNE MCEVOY

History, Ph.D. Candidate

Gráinne McEvoy is currently a Ph.D. candidate in History at Boston College. She graduated from the University of Edinburgh in 2005 with a Joint Honors degree in History and English Literature, and from Trinity College, Dublin in 2006 with a master's degree in Modern Irish History. In 2007 she received a scholarship from the Irish Fulbright Commission to undertake doctoral work in the U.S., and has been an Irish Studies Fellow at Boston College since 2008. Her dissertation is entitled "The Morals of Migration: Immigration, Restriction, and American Catholic Social Thought, 1917-1965." It examines the development of a Catholic philosophy on immigration during the period of immigration restriction in the United States, and the role that Catholic intellectuals and social critics played in the development of ideas on restriction, citizenship, and national belonging.

SETH MEEHAN

History, Ph.D. Candidate

Seth Meehan is a Ph.D. candidate in History at Boston College. His dissertation examines the theological consequences of church disestablishment by analyzing the changing lived religious experiences among the Congregational laity in Massachusetts from 1780-1850. The laity were members of churches that traditionally benefited the state's establishment system that constitutionally required towns to support "public Protestant teachers of piety, religion, and morality." Even before formal disestablishment in 1833, Congregationalists had to adapt to the gradual loss of compulsory public funding in the face of ever-increasing religious diversity. Seth's project demonstrates how they sought to move beyond a strict adherence to their covenant theology and to re-engage with their community through voluntary associations.

SAMANTHA A. MIKO

Juris Doctor Candidate

Samantha Miko is a third-year law student at the Boston College Law School and managing editor of the *Boston College International & Comparative Law Review*. Her research interests include fragmentation of the international system as discussed in her "Note, Norm Conflict, Fragmentation, and the European Court of Human Rights," 36 B.C. Int'l & Comp. L. Rev. (forthcoming). Samantha received her B.A. in 2010 from the College of the Holy Cross, where she studied political science.

SHANNON MONAGHAN

History, Ph.D. Candidate

Shannon Monaghan is a Ph.D. candidate in the History Department at Boston College. Her research focuses on transnational and transcultural modern European history, with a particular interest in the First World War and interwar period. Broadly, she is interested in the political decision-making of European governments and societies during the First World War and its aftermath. Shannon also maintains specific research interests in the reintegration of war veterans into European political and cultural discourses during the interwar period.

ALEXANDER NOONAN

History, Ph.D. Candidate

Alexander Noonan is Ph.D. candidate in the History Department at Boston College. His primary research focuses on the relationship between political violence, American foreign relations, and national security in the late nineteenth and early twentieth centuries. His dissertation uses the concept of emotion and emotional responses to analyze anarchist assassinations and their influence on American foreign relations and national security. His cases include the assassinations of Tsar Alexander II, Presidents James Garfield and William McKinley and explore how they shaped debates about anarchist restriction, international cooperation, and protection for political officials.

AMARA NWANNUNU

Juris Doctor Candidate

JOHN O'TRAKOUN

Economics, Ph.D. Candidate

John O'Trakoun is currently a Ph.D. candidate in the Department of Economics at Boston College and holds a B.A. in International Studies and a B.S. in Statistics from American University in Washington D.C. His research interests are in international economics and political economy. His current research analyzes the effect of global price uncertainty in exacerbating intrastate civil conflict, as well as contagion effects of corruption amongst countries conducting trade.

MATHEW PATELLA

Political Science, Masters student

Matthew Patella is an M.A. student in Comparative Politics at Boston College. His main interest of research is the interaction between civil military organizations and the government, specifically in relation to conducting a war. He is also interested in constitutional development in newly developing nations, and the creation of new democracies.

ADAM RATHGE

History, Ph.D. Candidate

Adam Rathge is a Ph.D. candidate in the History Department at Boston College. His dissertation project aims to fill a major lacuna in the historiography on marijuana prohibition in the United

States by exploring the origins and transformations of the social movements and regulatory processes that controlled cannabis at the state and local level from the late nineteenth century until the federal government's passage of the Marihuana Tax Act in 1937. He will answer a number of major questions about how and why states across the country regulated cannabis before the federal government, and what affect, if any, these processes had on the development of subsequent federal regulations. This research is particularly crucial, because unlike the opiates and cocaine, cannabis was excluded from the nation's first major prohibitive drug legislation (the Harrison Narcotics Act of 1914), leaving individual states responsible for the construction, passage, and enforcement of prohibitive measures related to cannabis use until 1937.

MOLLY SCHRANZ
Juris Doctor Candidate

KIMBERLEY STEWART
Political Science, Ph.D. Candidate
Kimberley Stewart is a Ph.D. candidate in the Political Science Department, specializing in political theory. Her dissertation is on promises and contracts in the writings of Jean-Jacques Rousseau, with a particular emphasis on his work *Émile, or On Education*. The goal of her project is to answer the question why people keep the 'social contract' and other promises necessary for social and political life. She holds a B.A. in philosophy from the University of Winnipeg.

CLAYTON TRUTOR
History, Ph.D. Candidate
Clayton Trutor is a Ph.D. candidate in the History Department at Boston College. His dissertation examines the cultural and material impacts of professional sports team relocations and professional sports league expansions, a phenomenon scholars have described as "franchise free agency," on American cities in the latter half of the twentieth century. Through the prism of professional sports, his dissertation addresses key debates in US political, social, and urban history. The southward and westward trajectory of the lion's share of postwar team relocations and expansions both paralleled and accentuated the divestment from the urban north in favor of the "business friendly" Sunbelt. The relocation of professional sports teams was a product of and contributor to both deindustrialization and the "urban crisis" that characterized America's cities beginning in the late 1940s.

GARY WINSLETT
Political Science, Ph.D. Candidate
Gary is a first year Ph.D. student in Political Science at Boston College and specializes in international relations. His background is in political science and economics. Gary's research interests include international political economy as well as Turkish and American foreign policy.

AMELIA WIRTS
Philosophy, Ph.D. Candidate
Amelia Wirts is a Ph.D. candidate in the Department of Philosophy at Boston College. Her areas of specialization are moral and political philosophy and Philosophy of Law. She is currently the managing editor of *Philosophy and Social Criticism*, and her current work focuses on the meta-ethical assumptions of contemporary contract theory in political philosophy.

List of Accomplishments

Here you will find a list of Clough Graduate Fellow accomplishments from June 2012 to May 2013, including conference presentations; publications; and awards, prizes, and grants.

CONFERENCE PRESENTATIONS

Ian Delahanty, History

- Organizer, "Emancipation at 150" (academic symposium), the Clough Center for the Study of Constitutional Democracy, Boston College, Chestnut Hill, Massachusetts, April 23, 2013
- "Immigrants in a Time of Civil War: The Irish, Slavery, and the Union, 1845-65," (invited lecture) Works in Progress Lecture Series, Roger Williams University, Bristol, Rhode Island, February 28, 2013
- "Embracing Emancipation in the Civil War: The American Irish as a Case Study," Boston College History Department Workshop, Chestnut Hill, Massachusetts, September 28, 2012
- "Irish Americans, Abolitionists, and the Cause of the Civil War," Society of Civil War Historians Biennial Conference, Lexington, Kentucky, June 15, 2012
- "'We want no slave lecturing here': Young Ireland, Great Britain, and American Slavery," Gorsebrook Research Institute Conference, Halifax, Nova Scotia, June 8, 2012

Amy Limoncelli, History

- "Imperial 'Experts'?: The British in the Early United Nations," 2012 Britain and the World Conference, at University of Edinburgh, Scotland, June 21-23, 2012

John Louis, Political Science

- "The Quest for Universal Coverage: Congress and the Politics of U.S. Postal Development," New England Political Science Association, Portland, Maine, May 2013
- "Managing Reform: Authoritarian Regimes' Economic Performance Strategies," with coauthors David Deese and Gary Winslett, Midwestern Political Science Association Conference, Chicago, Illinois, April 11-14, 2013
- "Infinite Money and Infrastructural Power: An Empirical Analysis of the Relationship Between War, Debt, and Taxes in Early Modern England 1689-1789," Northeastern Political Science Association Conference, Boston, Massachusetts, November 15-17, 2012

Liam Martin, Sociology

- Organizer, "Emancipation at 150" (academic symposium), the Clough Center for the Study of Constitutional Democracy, Boston College, Chestnut Hill, Massachusetts, April 23, 2013
- "The Social Logic of Recidivism: Cultural Capital from Prison to the Street," Eastern Sociological Society Annual Meeting, Boston, Massachusetts, March 21-24, 2013

Gráinne McEvoy, History

- "Crusade for a Christian and Democratic Attitude Toward Immigration: Education, Enlightenment, and the American Catholic Philosophy on Immigration Reform, 1952-1965," Organization of American Historians Annual Meeting, San Francisco, California, April 11-14, 2013
- "'Lend Lease' Chaplains: American Catholic Bishops and the Cross-Border Apostolate to Mexican Migrant Workers, 1945-1964," Borderlands and Transnationalism Workshop, at York University, Toronto, Canada, October 19-20, 2012

Seth Meehan, History

- Organizer, "Emancipation at 150" (academic symposium), the Clough Center for the Study of Constitutional Democracy, Boston College, Chestnut Hill, Massachusetts, April 23, 2013
- "Disestablishment and Division: Congregational Church Architecture in Massachusetts, 1780-1860," American Society for Church History, Portland, Oregon, April 4-7, 2013
- "Temperance or Abolitionism: Congregational Moral Reform in the Disestablishment Era," Conference on Faith and History, at Gordon College, Wenham, Massachusetts, October 4-6, 2012

Shannon Monaghan, History

- "Lawsuits and State Creation: Irish WWI Veterans and the 1936 Supreme Court Rent Case," Second Annual Berkeley International and Global History (Big-H) Graduate Student Conference: Actors and Agency in the International Past, at University California-Berkeley, Berkeley, California, March 16, 2013

Alexander Noonan, History

- "'Locking the Stable Door After the Horse is Stolen:' American Debates over Efforts to Restrict Anarchist Immigration, 1890-1903," Society for Historians of American Foreign Relations Annual Meeting, Arlington, Virginia, June 21, 2013
- "'Unconscious of their doom:' Monarchs and Republicans as victims of 'infamous' crimes," interdisciplinary conference on Royal Loss: Untimely Deaths, Public and Private Mourning, and the Monarchs Who Never Were, at York University, York, England, November 10, 2012

Adam Rathge, History

- "Far from the Border: The Origins of Cannabis Prohibition in Massachusetts, 1906-1917," Under Control?: Alcohol and Drug Regulation, Past and Present, at the London School of Hygiene and Tropical Medicine, London, England, June 21-23, 2013

Clayton Trutor, History

- "Cleveland: 'The Kardiac City' in the Age of Professional Sports Franchise Free Agency, 1967-1980," The Urban History Association Conference, at Columbia University, New York, New York, October 28, 2012
- "Comeback City: The Rise, Fall, and Rebirth of Cleveland in the Age of Professional Sports Franchise Free Agency, 1945-1996," The Policy History Conference, Richmond, Virginia, June 8, 2012

Gary Winslett, Political Science

- "Managing Reform: Authoritarian Regimes' Economic Performance Strategies," with coauthors David Deese and John Louis, Midwestern Political Science Association Conference, Chicago, Illinois, April 11-14, 2013
- "It's Not the Water; It's What the Water Does: A Means-Centered Analysis of Riparian Relations," at the Third Annual Boston University Graduate Research Conference in International Relations "Fragmentation and Fault Lines," at Boston University, Boston, Massachusetts, February 22-23, 2013
- "Shared Nuisance Versus Not My Problem: How Transnational Groups Influence Bilateral Security Relations," at the Northeastern Political Science Association, Boston, Massachusetts, November 15-17, 2012
- "Shared Nuisance Versus Not My Problem: How Transnational Groups Influence Bilateral Security Relations," at the International Security Studies Section of International Studies Association and the International Security and Arms Control Section of American Political Science Association, at Duke University, Durham, North Carolina, October 26-28, 2012

Amelia Wirst, Philosophy

- Organizer, "Emancipation at 150" (academic symposium), the Clough Center for the Study of Constitutional Democracy, Boston College, Chestnut Hill, Massachusetts, April 23, 2013
- "A Duty of Restitution," the Human Rights – In and After Conflict workshop, sponsored by The Oxford Program on Ethics, Law, and Armed Conflict at Merton College, Oxford, England, March 22-28, 2013
- "The Role of Normative Principles in Non-Ideal Theory: A Critique of Amartya Sen's Comparative Approach in *The Idea of Justice*," Northern New England Philosophical Association Conference, at University of Massachusetts-Lowell, Lowell, Massachusetts, October 19-20, 2012

PUBLICATIONS

Ian Delahanty, History

- "Young Ireland, Great Britain, and American Slavery," *Britain and the World* (forthcoming)

John Liolos, Law

- "Erecting New Constitutional Cultures: The Problems and Promise of Constitutionalism Post-Arab Spring," *Boston College's International & Comparative Law Review* 36 B.C. Int'l & Comp. L. Rev. 219, 2013

Liam Martin, Sociology

- "Broken Prison System Needs Reform," *Boston Herald*, April 6, 2013

Gráinne McEvoy, History

- Review of Bernadette Whelan's *American Government in Ireland, 1790-1913: A History of the U.S. Consular Service in Irish Studies Review* 21.1, February 2013

Seth Meehan, History

- "A College of Ours": *The Illustrated History of Boston College*, 1863-2013 (Chestnut Hill, Mass: Linden Lane Press, forthcoming)
- Review of "Portugal, Jesuits, and Japan: Spiritual Beliefs and Earthly Goods" in *Archivum Historicum Societatis Iesu* (Rome, Italy: Archivum Romanum Societatis Iesu, forthcoming)
- "Work & Days: First Graduates," *Boston College Magazine*, Summer 2013 (forthcoming)
- "Snapshot: Diploma," *Boston College Magazine*, Spring 2013 (forthcoming)
- "First Sight," (feature, cover story), *Boston College Magazine*, Winter 2013
- "Heroic Study," (prologue) *Boston College Magazine*, Winter 2013

Samantha Miko, Law

- Comment, "Al-Skeini v. United Kingdom and Extraterritorial Jurisdiction under the European Convention for Human Rights," *Boston College's International & Comparative Law Review* 35 B.C. Int'l & Comp. L. Rev., 2012
- Note, "Norm Conflict, Fragmentation, and the European Court of Human Rights," *Boston College's International & Comparative Law Review* 36 B.C. Int'l Comp. L. Rev., May 2013

Shannon Monaghan, History

- "Whose Country, Whose Soldiers, Whose Responsibility? First World War Ex-Servicemen and the Development of the Irish Free State, 1923-1939" in *Contemporary European History* (forthcoming)

Alexander Noonan, History

- "'A New Expression of that Entente Cordiale?' Russian American Relations and the Fleet Episode of 1863," in *Civil War, Global Conflict*, edited by Simon Lewis and David Gleason (Columbia, S.C.: University of South Carolina Press, forthcoming)

Gary Winslett, Political Science

- "Party Competition as a Driver of Foreign Policy: Explaining Changes in the British Labour Party's Immigration Policies and the Turkish AKP's Approach to Cyprus" in *Journal of Advanced International Studies*. Vol. 4, Summer 2012, pg. 127-153

AWARDS, PRIZES, AND GRANTS

Amy Limoncelli, History

- Council for European Studies Pre-Dissertation Research Fellowship, Summer 2012

Liam Martin, Sociology

- Graduate Student Paper Award, Society for the Study of Social Problems, Crime and Juvenile Delinquency Section, 1st Place
- Graduate Student Paper Award, Society for the Study of Social Problems, Law and Society Section, 2nd Place

Gráinne McEvoy, History

- John Higham Travel Grant, Organization of American Historians-Immigration and Ethnic History Society, to fund travel to the annual meeting of the Organization of American Historians in San Francisco, April 2013

Seth Meehan, History

- Dissertation Fellowship, Office of the University President, Boston College, Chestnut Hill, Massachusetts, June 2012-May 2013

Alexander Noonan, History

- Visiting Research Student, IDEAS, London School of Economics, London, England, January-April 2013

Adam Rathge, History

- Ferenc Gyorgyey Research Travel Grant, Yale University, for one week of funded research at the Harvey Cushing/John Hay Whitney Medical Library, New Haven, Connecticut, March 4-8, 2013

Gary Winslett, Political Science

- Critical Language Scholarship, United States Department of State, to study Turkish in Ankara, Turkey, Summer 2013
- Bradley Grant, Political Science Department, Boston College, for language training in Turkey, Summer 2013

The Graduate Fellows Program at the Clough Center will be entering its third year with a roster of 22 graduate students from the departments of Sociology, Philosophy, Political Science, Law, English, Economics, History, and Theology. The 2013-2014 Graduate Fellows are:

RACHEL BALL
History, Ph.D. Candidate

EMILIE DUBOIS
Sociology, Ph.D. Candidate

MICHAEL FRANCZAK
History, Ph.D. Candidate

ROSALIA GRECO
Economics, Ph.D. Candidate

DAVID HARKER
Sociology, Ph.D. Candidate

JONATHAN HODDENBAGH
Economics, Ph.D. Candidate

JOHN HUNGERFORD
Political Science, Ph.D. Candidate

CONOR KELLY
Theology, Ph.D. Candidate

KIARA KHARPERTIAN
English, Ph.D. Candidate

MAY KHOURY
Law, J.D. Candidate

MATTHEW KRUGER
Theology, Ph.D. Candidate

YAEL LEVIN
Political Science, Ph.D. Candidate

AMY LIMONCELLI
History, Ph.D. Candidate

JOHN LOUIS
Political Science, Ph.D. Candidate

LIAM MARTIN
Sociology, Ph.D. Candidate

GRÁINNE MCEVOY
History, Ph.D. Candidate

SETH MEEHAN
History, Ph.D. Candidate

SHANNON MONAGHAN
History, Ph.D. Candidate

JESSE TUMBLIN
History, Ph.D. Candidate

PAUL VAN ROOY
Philosophy, Ph.D. Candidate

GARY WINSLETT
Political Science, Ph.D. Candidate

AMELIA WIRTS
Philosophy, Ph.D. Candidate

SARAH WOODSIDE
Sociology, Ph.D. Candidate

Graduate Fellows: My Experience

BY IAN DELAHANTY

One of my favorite things to do when coming across a new book is to flip immediately to the "Acknowledgments." There, I find an odd sense of joy in discovering the people and institutions that allowed the author to spend years of his or her life traveling to archives, combing through research files, and pecking away at a keyboard in order to produce what I hold in my hands. As a general rule, I find that the more people (whether academic colleagues, friends, or family) and the more institutions (whether funding agencies, archives, or libraries) thanked by the author, the more enriching I find that book to be. Reflecting on my time as a graduate student in the history department at Boston College, I see my experience with the Clough Center as its own "Acknowledgments" section of my Ph.D.

As a source of funding for my scholarship, the Clough Center has been both timely and extraordinarily generous. Essential visits to archives in Northern Ireland and Ireland during the early stages of my research in the summer of 2010 simply would not have been possible without the Clough Center's assistance, nor would have invaluable research trips to places like Carlisle, Pennsylvania and Springfield, Illinois. With the research more or less complete the following year, I was ready to set aside the dissertation for a few months, take up my usual summer work landscaping, and pay the bills—that is, until a stipend from the Clough Center allowed me to put down the shovel and start digging into my documents. When I finished a draft of my dissertation in the summer of 2012 and was itching to present some of my findings at academic conferences in Halifax, Nova Scotia and Lexington, Kentucky, the Clough Center was there yet again.

But the Clough Center was infinitely more than a means to a bed in Carlisle's Motel 6. It was also an intellectual stimulant, offering the chance to meet engaging and, quite frankly, brilliant people. Over the past four months alone, I have had the privilege to hear from two former members of the President's Council

on Bioethics, a recipient of the Nobel Prize in Economics, a recent advisor to the Secretary of Defense, and a current MacArthur Fellow, to name but a few of the distinguished speakers brought to Boston College by the Clough Center. Such talks have provided "brain food" while also aiding me in the classroom. Two days before a planned lecture in my global history course on the rise of fascism, I attended a panel on "The Politics of Charisma" as part of a Clough Center-sponsored symposium on twentieth-century dictators. After a near sleepless night spent tinkering with my lecture based on what I learned at the symposium, my students were treated to a far more insightful explanation of *Mein Kampf*'s significance in interwar Europe and, new to the lecture, a look at Mussolini's artistic side.

More than anything else, though, the Clough Center has introduced me to a smart, fun, and productive group of graduate students from across disciplines—the Graduate Fellows—who share an interest in constitutional democracy, broadly conceived. Reading papers on how shared waterways affect international relations; the origins of cannabis regulation in Massachusetts; and the problems of and possible solutions to recidivism in the penal system has been a strangely satisfying respite from writing lectures and revising the dissertation. Much of this satisfaction comes from the knowledge that an hour or two spent on providing constructive criticism for a peer will not go to waste. The Graduate Fellows' writing group has been the genesis for editorials in the *Boston Herald* and *New York Times*, as well as papers delivered at international conferences and published in scholarly journals. Not only have the Graduate Fellows taught me a good deal about subjects I would have otherwise known little about, but also they have shown me the promise of interdisciplinary collaboration.

A few weeks ago, the Clough Center hosted a symposium on "Emancipation at 150." The symposium gathered together an internationally renowned group of historians, legal scholars, philosophers, and sociologists to discuss the origins, aftermath, and legacy of emancipation during the American Civil War. As a Civil War historian, I was particularly impressed by the event, all the more so since it was a brainchild of the Graduate Fellows. Panelist after panelist began their remarks by thanking the Fellows for inviting them to take part in the symposium, and every panelist, faculty member, and student that I spoke with after was deeply impressed by the breadth and depth of the discussion. Such acknowledgement of the fruits of our humble efforts was a fitting capstone to my experiences with the Clough Center as a graduate student.

Clough Center Spotlight: Hidetaka Hirota, Ph.D.

The Clough Center affords many wonderful opportunities for the Boston College Community. Here, Seth Meehan, coordinator of the Clough Graduate Fellows Program, details how the Center enriched the graduate school experience of Hidetaka Hirota, a BC History Ph.D., current post-doctoral fellow in the Department of History, and incoming scholar at Columbia University's Society of Fellows in the Humanities.

BY SETH MEEHAN

In the fall of 2005, Hidetaka Hirota arrived at Boston College as a doctoral candidate in the History department. He had previously conducted his undergraduate research at Fairfield University and at Sophia University in Tokyo, where he received his bachelors of arts in Foreign Studies. After successfully defending his dissertation, "Nativism, Citizenship and the Deportation of Paupers in Massachusetts, 1837-1883," in 2012 and earning a postdoctoral fellowship at Boston College for 2012-2013, Hirota will begin work as one of five scholars in the Society of Fellows in the Humanities at Columbia University in September.

From 2009-2011, as a doctoral candidate, Hirota received support from the Clough Center that enabled him to spend his summers researching and writing his important dissertation. Historians have long identified anti-Asian racism on the West Coast, and the passage of the Chinese Exclusion Act of 1882, as the origin of American immigration control. Hirota, however, persuasively argues that some of the roots of border control in America lay in earlier state-level policies on the East Coast that were driven by anti-Irish nativism and economics. He supports this argument with a careful reading of primary sources such as the records of state immigration officials and charitable institutions held at archives in Massachusetts and New York, the records of poorhouses in Dublin, Cork, and Belfast, and local newspapers and British consular records possessed by the British National Archives and the Liverpool Record Office, the research of which and the careful consideration of it was partially underwritten by the summer stipends awarded by Clough Center. The value of Hirota's work has been also recognized by the American Historical As-

sociation, Organization of American Historians, Immigration and Ethnic History Society, Gilder Lehrman Institute of American History, Massachusetts Historical Society, Cushwa Center for the Study of American Catholicism, American Society for Legal History, and Japanese Association for American Studies. Boston College presented Hirota with the Donald and Helene White Dissertation Prize in 2012 as best dissertation produced that year at the University.

In April 2013, the Clough Center awarded Hirota a travel grant so that he could attend the annual meeting of the Organization of American Historians in San Francisco. Attending this conference, Hirota reports, enormously facilitated the preparation of his current book project, *Before Ellis Island: The Origins of American Immigration Policy*, which is an expanded version of his dissertation exploring the history of American immigration law and policy, especially in relation to American citizenship and democratic principles. He learned some of the "inspiring perspectives on the latest research" while attending panel presentations on "Ethnicity, Race, and Citizenship," "Immigration and Immigrant Detention," "From Illegal Aliens to Illegal History," "Migration Policy History," and "Trans-Pacific Citizens." In addition to meeting with an interested senior book editor from the University of North Carolina Press, Hirota continued his research after the conference at the National Archives in San Bruno, California, a visit that confirmed his dissertation's contention that state-level precedents greatly informed the later development of federal immigration policies.

Despite his demanding research, teaching, and conference obligations, Hirota has nonetheless found ways to contribute to the Clough Center since defending his dissertation. He attended a meeting of the Graduate Fellows as a part of a panel of accomplished editors and authors to speak of his experiences with publishing his articles in the *Journal of American History* and the *Journal of American Ethnic History*. The staff at the Clough Center wishes Hirota sustained success in all his endeavors and looks forward to a continued relationship in the years to come.

ABOUT THE AUTHOR

Seth Meehan is a Ph.D. Candidate in History at Boston College and the coordinator for the Clough Center Graduate Fellows Program.

2012-2013 Travel Grants

The Clough Center awards a limited number of ad hoc grants to faculty, undergraduate, and graduate students during the academic year to enable qualified scholars to travel and undertake work related to the Center's mission. Such work includes travel for attendance at conferences, research, and other relevant endeavors. During the 2012-2013 academic year, travel grants were awarded to:

GABRIELLA AGRANAT-GETZ

RICHARD ALBERT

SCOTT CUMMINGS

IAN DELAHANTY

ERICA FOSS

ELISE FRANKLIN

CRAIG GALLAGHER

DANIELLE GERARD

JARED HARDESTY

ALEXANDER HAWLEY

HIDETAKA HIROTA

SAMUEL JONES

MICHAEL KEBEDE

JAMES LONG

NARINTOHN LUANGRATH

SETH MEEHAN

SHANNON MONAGHAN

AOIFE O'LEARY

ADAM RATHGE

WALTER RODRIGUEZ

JOHN SIMON

CLAYTON TRUTOR

GARY WINSLETT

AMELIA WIRTS

Clough Center Spotlight: Travel Grants

BY AOIFE O'LEARY

The 2013 Insight Dubai Conference was a rewarding experience that would not have been possible without the support of the Clough Center for the Study of Constitutional Democracy. Along with our fellow conference participants, we had the privilege of listening to speakers from diverse occupational backgrounds discussing topical issues related to politics in the United Arab Emirates, women's leadership in government, non-governmental organizations in the Middle East, and human trafficking into the Gulf States. We developed a greater appreciation and nuanced understanding of Shari'a Law and its application in different Middle Eastern countries. Apart from listening to the speakers, we found that interacting with the young women who came from all over the world to the conference was equally rewarding. The Insight Dubai Conference is a good opportunity for college-aged women to contextualize their academic study of Islam and Middle East politics within a greater socio-political context achieved through interacting with native Emiratis, discussing issues related to women's rights with a diverse group of speakers and presenters, and visiting the UAE national parliament in Abu Dhabi.

Clough Center Spotlight: Travel Grants

BY JOHN SIMON AND WALTER RODRIGUEZ

With the generous support of the Clough Center, a delegation of four first-year law students created an international spring break pilot program to work with the Bureau des Avocats Internationaux (BAI) office in Port-au-Prince, in conjunction with the Institute for Justice & Democracy in Haiti. The product of the trip is a report documenting a pattern by the Haitian government, through the national police force, and the United Nations Peacekeeping troops (MINUSTAH), of intimidating, harassing, and illegally arresting and abusing protestors at peaceful demonstrations. Such actions were direct violations of the Haitian people's right to freely assemble, and were accomplished by questionable interpretations of the constitution. What we found upon arrival in Haiti were an impoverished, free, and proud people in the midst of a tropical cell. Words nor photos can describe the sound of hope and despair we encountered.

Our research led us from the doors of Parliament where we met Parliamentary president Alexis Jean Tholbert and to the streets of Port-au-Prince where we marched with civil society leader Guerchang Bautista and MOLEGHAF organizer, David Oxygen. We spent countless hours interviewing military and law enforcement personnel from various United Nation member states such as France, Canada, and Brazil at Delta Camp, their Haitian headquarters. In the little free time between interviewing, writing and navigating our way through the unmarked streets of Port-au-Prince, we sat huddled around a radio listening to our colleagues debrief the media about the ongoing trial of Haiti's former dictator, Jean-Claude "Baby Doc" Duvalier.

Our research in Haiti revealed that even the simplest issues lay at the center of a complicated web of international finance and politics. Conversations amongst the members of the team produced heated debates about the proper role of U.S. foreign policy in the Caribbean. We returned home with a new found respect both for each other and the lawyers working non-stop to secure the rights of the Haitian people; more importantly we learned that an interpretation of a word could provide the tools necessary to oppress a people. With this realization came a new respect for our profession, and the important role lawyers must play in questioning authority, preserving dignity of all people, and safeguarding liberty for the oppressed.

Civic Internship Grants

Consistent with the Center's mission to support students committed to service to others, the Clough Center provides grants to Boston College undergraduates for what would be otherwise uncompensated part-time or full-time work on behalf of government, non-profit, or other civic organizations during the summer. The 2012 Civic Internship Grants that have been awarded are:

JANE BARRY '14

District of Columbia Public Schools Data and Accountability Office

Jane Barry served the District of Columbia Public Schools in their Data and Accountability office. This office works to assure teachers are performing at the highest level and also works to assure the best education for every student in the District. Jane worked in this office through a program called Urban Education Leaders Internship Program and engaged in tasks ranging from data analysis to data base development and curriculum specification.

JAMES BAYLOR '14

Clerk of Courts Department, Newport Courthouse

James Baylor interned at the Newport Courthouse in the Clerk of Courts department in Newport, RI. James was given the opportunity through the Rhode Island State Government Intern Program. Working in the Courthouse as an intern, he sat in on court proceedings, assisted in administrative duties, assisted the court clerk in the courtroom, and helped in conducting research for judges. As an intern working in civic administration, James received firsthand knowledge of how courts and the judiciary system work at the state and local levels. He also gained an understanding of courtroom etiquette and how judges oversee their courtrooms.

SAM DOUGHERTY '13

The Bureau of Legislative Affairs in United States State Department, Washington, DC

Sam Dougherty served as an intern in the Bureau of Legislative Affairs in the U.S. State Department. The Bureau of Legislative Affairs acts as a liaison between Congress and the State Department, advises the Secretary of State and her staff on legislative strategy, and organizes interactions between Congress and State, including Congressional testimonies, briefings for members of Congress, and staff meetings. As an intern, Sam helped the Bureau's Legislative Officers arrange meetings, create itineraries for Congressional delegations, and coordinate policy statements involving other bureaus within the State Department.

CHRISTOPHER DUFFY '13

Office of United States Senator Richard Blumenthal (D-CT)

Christopher Duffy served as an intern in the office of U.S. Senator Richard Blumenthal in Hartford, Connecticut. Senator Blumenthal's committee assignments include the Judiciary Committee and the Armed Services Committee. A highly regarded public servant in Connecticut, he also served as the state's Attorney General for twenty years. As an intern in Senator Blumenthal's office, Christopher conducted research and performed a variety of tasks related to constituent services, outreach, and correspondence management.

CHRISTOPHER FITZPATRICK '13

Department of State at the United States Embassy, Dublin Ireland

Christopher Fitzpatrick served as an intern with the Department of State at the U.S. Embassy in Dublin, Ireland. Aided by his previous internship experience with the Irish government, Chris was able to collaborate with a team of U.S. diplomats on issues pertinent to relations between the two countries. In particular, he was responsible for participating in meetings, drafting briefings on U.S.–Irish affairs for policymakers, and interacting with foreign representatives as well.

MICHAEL FOLEY '13

Offices of Senator John Kerry (D-MA) and Governor Deval Patrick (D-MA)

Michael Foley served as an intern in the Boston Office of Senator John Kerry of Massachusetts. Michael was charged with researching pending issues, volunteering in the Boston area, and drafting constituent responses. In addition, Michael served as a Legislative Intern in the Government Affairs Office of Governor Deval Patrick. Michael's work included attending hearings, researching pending issues, and helping to reach out to state lawmakers in order to urge their support of the Governor's legislative agenda.

ELIZABETH ANNE GAVIN '14

Office of Congressman Stephen Lynch (D-MA)

Elizabeth Gavin served as an intern in the office of Congressman Stephen Lynch of Massachusetts's 9th congressional district. Lynch is the co-chair of the Task Force on Terrorism and Proliferation Financing and co-founder of the Congressional Labor and Working Families Caucus. Elizabeth assisted with constituent inquiries and casework, providing the constituents of the 9th district with an amplified voice. In addition to general administrative tasks, she learned about issues of civic and global importance.

CHRISTOPHER GRIMALDI '15

Office of New Jersey Governor Chris Christie (R-NJ)

Christopher Grimaldi interned with New Jersey Governor Chris Christie's Office of Press and Communications at the State House in Trenton, NJ. His responsibilities included serving the Governor's Press Secretary as a medium between the press and the Christie Administration. He liaised with various media outlets, completing various research projects on an as-needed basis, and aided in the preparation of official statements. Through his work, Christopher had the opportunity to attend press conferences held by Governor Christie while experiencing the socio-political dynamic that exists between the public, media, and governmental affairs.

LEE HILL '14

Garda Siochana Inspectorate

Lee Hill served as a civil justice intern in Ireland's Garda Siochana Inspectorate the summer of 2012. The Garda Siochana Inspectorate is an administration tasked with overseeing the activities and strategies of the Garda Siochana, Ireland's police force. As an intern, Lee assisted in the

drafting of a formal report concerning the activities of the Garda Siochana. The report focused on resource allocation, police tactics, and other issues affecting public safety. He was also responsible for collecting, organizing, and synthesizing information across multiple policing jurisdictions in order to present a consolidated report to the Minister of Justice.

SAM KENT '13

Center for Complex Operations

Sam Kent interned at the Center for Complex Operations (CCO), a congressionally-mandated center within the Institute for National Strategic Studies, which is housed at the National Defense University. The Center studies the planning, coordination, and execution of the complex set of overlapping civil-military activities in order to identify best practices, enhance training and education, and improve interagency operations. As an intern, Sam primarily conducted research and interviews for CCO publications and projects, as well as assisted in organizing CCO workshop seminars, and attended conferences taking place in D.C. as a CCO representative.

MATTHEW LIBER '15

House Committee on Ways and Means, United States House of Representatives, Washington, D.C.

Matt Liber served as an intern with the House Committee on Ways and Means and assisted the front office staff members in completing their daily demands, such as preparing the committee room for hearings, managing committee hearings, and assisting the various members of the Committee. Additionally, he was assigned to work with various subcommittees, such as Oversight and Trade, and completed assigned tasks.

NARINTOHN LUANGRATH '14

Irish Human Rights Commission

Narintohn Luangrath worked as a research assistant at the An Coimisiún Um Chearta An Dune, or the Irish Human Rights Commission in Dublin, Ireland. The IHRC was established in 2000 to promote and protect the human rights of those in Ireland. In collaboration with the An Garda Síochána (Irish police force), European Roma Rights Centre (ERRC), and Helsinki human rights watchdog groups (among others), the IHRC responds to human rights abuse cases filed by or on behalf of displaced persons who have relocated to Ireland. The IHRC promotes human rights in law, policy, and practice. Specifically, Narintohn researched how the IHRC works with the aforementioned groups when responding to human rights abuses concerning the new Roma population in Ireland.

KADIE MAHER '14

Urban Education Leaders Internship Program

Kadie Maher worked an associate with the Urban Educational Leaders Internship Program (UELIP), serving at the Washington, D.C. Public School System Central Office. She was on a team that collaborated with education leaders and agency heads to propose innovative solutions to the education gap. As an intern, Kadie had the opportunity to develop specific projects, ranging from special education to legal research, and engage in professional development programming with leaders in government, nonprofits, and businesses.

JENELLE MCNEILL '14

Office of Governor Deval Patrick (D-MA)

Jenelle McNeill interned with the Government Affairs team in Governor Deval Patrick's executive office in Boston, MA. The Governor's internship program strives to provide an education experience for all interns, and in doing so, allows intern to experience the day-to-day work with the Government Affairs office as well as participate in larger events throughout the State House. As

part of her responsibilities, Jenelle summarized legislative requests sent to the office and drafted reports for the Governor's executive team. Jenelle also spent time attending Senate and House sessions, reporting on the status of important bills being debated. Jenelle worked collaboratively with other interns as well as full time State House state and was given the opportunity to better understand the inner workings of state government and learn firsthand about the public sector.

STEPHANIE RICE '13

United States House of Representatives Committee on Financial Services

Stephanie Rice served as an intern in the House Committee on Financial Services. She worked under the Staff Director and Chief Counsel for the Minority, Jeanne Roslanowick, chaired by Rep. Barney Frank of Massachusetts. As an intern, Stephanie assisted with clerical and administrative responsibilities, working on research projects with the legislative staff, particularly in reference to drafting regulation for the Dodd-Frank Wall Street Reform and Consumer Protection Act.

NATALIE ROY '14

Office of State Senator Karen Spilka (D-MA)

Natalie Roy interned in the office of State Senator Karen Spilka in Boston, MA. Natalie's work for the Senator included general administrative and clerical duties such as answering phones and processing constituent correspondence. In addition, Natalie was responsible for researching policy issues, drafting letters, and writing testimony.

BRANDON SHORT '14

Kings County District Attorney's Office, Brooklyn, New York

Brandon Short served as an intern at the Early Case Assessment Bureau (ECAB) of the Kings County District Attorney's Office. In this capacity, he was part of a screening team comprised of assistant district attorneys, paralegals, and interning legal assistants, which screened all incoming cases in the borough of Brooklyn to prepare them for arraignments. He conducted interviews with arresting officers and civilian witnesses in order to determine the facts of the case and determine which charges to include in the lawsuit of a given defendant.

SARAH SLATER '13

Council on Hemispheric Affairs

Sarah Slater worked at the Council on Hemispheric Affairs (COHA), an organization committed to monitoring events affecting Latin America and encouraging constructive dialogue and policies in the region. Serving in the capacity of a research associate, Sarah wrote letters to the editor and drafted press memoranda several times a week. While working closely with Larry Birns, the organization's director and an authority on the region, she conducted in-depth research for longer analysis pieces for publication on COHA's website and its bi-weekly publication, the *Washington Report on the Hemisphere*.

MADELINE WALSH '14

United States Department of State, Office of Global Women's Issues

Madeline Walsh worked at the Office of Global Women's Issues at the United States Department of State Office, which was created by the Obama Administration in 2009. Its purpose is to make the advancement of women's rights a cornerstone of U.S. diplomatic and foreign policy. Madeline's responsibilities included participating in socioeconomic and human rights research, collecting data, drafting reports, and attending training sessions.

Public Interest Law Scholar Grants

Consistent with the Center's mission to support students committed to service to others, the Clough Center provides grants to Boston College first and second-year law students for uncompensated public interest work, in the United States or abroad, during the summer. The 2013 inaguaral Public Law Scholar grants have been awarded to:

RAYMOND BURKE

BC Law Class of 2014

Raymond Burke graduated cum laude from Boston College in 2005 with a B.A. in Theology. This summer, Ray will advocate for low-wage workers through an internship with Justice at Work in Boston, MA. Justice at Work provides labor and employment legal services to support the organizing efforts of immigrant worker centers in Eastern Massachusetts and Rhode Island. Ray will field phone calls and e-mails from organizers, interview workers in Spanish, research the law, liaison with government agencies and private lawyers, and help represent workers at all stages of litigation. His priority will be to help develop Justice at Work's Small Claims Project, which provides direct representation in small claims court and training to organizers and workers about how to effectively use small claims court to vindicate wage and hour rights.

KELLY DEES

BC Law Class of 2014

Kelly Dees earned her B.S. in economics with minors in Spanish and International Development and Humanitarian Assistance at the University of Florida. Working with local politicians, environmental engineers, urban planners, and local activists inspired her to attend law school. This summer, Kelly will be working for the Environmental Protection Agency on a wide array of assignments, ranging from drafting information requests, administrative orders, and civil complaints. The EPA works diligently to produce regulations that limit pollutants to ensure progress toward cleaner production methods and a cleaner environment. By producing such regulations and bringing enforcement actions against violators of the environmental statutes, the EPA works to ensure that the health, safety, and welfare of the people is protected.

JESSICA L. FRATTAROLI

BC Law Class of 2014

Jessica Frattaroli graduated from Boston College in 2009 with a B.A. in history. This upcoming summer, she will be a 3:03 intern with the Suffolk County District Attorney's Office in the Boston Municipal Court. She will also be participating in the BCLS Attorney General Clinic during the 3L year. At Boston College Law School, she is a note editor for the *International and Comparative Law Review*, and was also the President of the Public Interest Law Foundation during

the 2012-2013 school year, and on the Pro Bono Board. This summer she will travel to Poland and Germany with the FASPE (Fellowship at Auschwitz to Study Professional Ethics) fellowship program to study legal ethics.

GABRIEL GILL-AUSTERN

BC Law Class of 2015

Gabriel Gill-Austern completed his undergraduate studies at Whitman College and received degrees in Politics and Sociology. Gabriel has demonstrated a commitment to public service, having completed internships in the Massachusetts House of Representatives, the Walla Walla City Attorney's Office, Senator John Kerry's office in Washington, D.C., and the Middlesex District Attorney's Office. This summer, Gabriel will intern with the Massachusetts Attorney General's Office in the Criminal Bureau to advance his understanding of the intricacies and complexities of state prosecutions.

ANDREW HAILE

BC Law Class of 2015

Andrew Haile grew up in Hudson, Ohio and attended Middlebury College, where he earned a B.A. in English with a minor in French. This summer, Andrew will be serving with the International Organization for Migration (IOM) in Geneva, Switzerland, in its Office of Legal Affairs. IOM is a large intergovernmental organization that seeks to promote humane and orderly migration between countries. It has 149 member states that contribute funding and staff to the organization and which, in turn, receive assistance with issues related to refugees, internally-displaced persons, asylum, anti-human trafficking, and other aspects of forced migration.

MATTHEW HARRIS

BC Law Class of 2014

Matthew Harris holds a B.A. in Liberal Arts from St. John's College, where he studied philosophy and the history of math and science. He is an articles editor on the *Boston College Law Review*. This summer, Matthew will be an intern with the Committee for Public Counsel Services at the Quincy District Court. As an intern, he will argue bail hearings in the Quincy District Court. He will also conduct legal research to assist public defenders with their cases. In addition, he may serve as second-chair on trials.

STEPHENIE JOHNSON

BC Law Class of 2014

Stephenie Johnson earned her undergraduate degree at Rhodes College. This summer, she will intern with the Lawyers' Committee for Civil Rights Under Law in Washington, D.C. As a legal intern, she will advocate for and alongside parents, caregivers, and children and help communities understand the importance of parental empowerment through the Parental Readiness and Empowerment Program (PREP). PREP seeks to improve K-12 student performance, retention, and access to equal educational opportunities for low-income and minority children. Through PREP, she will have direct contact with parents specifically, providing them access to information regarding their children's rights and the necessary skills to increase their children's educational success.

STEPHEN KELLY

BC Law Class of 2014

Stephen Kelly was born in Costa Rica and grew up in the United States, Germany, and Mexico. He graduated from New York University with a B.S. in Economics and honors in History in 2007. This summer, he will travel to Guatemala to work with organizations and disenfranchised populations to identify ways in which the benefits and protections of international treaties such

as CAFTA-DR have failed to reach the populations whom many of its provisions where meant to empower. This will be a multi-faceted inquiry as these questions are affected by international public law, foreign domestic law, local customs and extrajudicial dispute resolution, and the transnational effects of the laws and regulations of major markets.

LILLIAN KHOURY

BC Law Class of 2015

Lillian Khoury, a native of Aleppo, Syria, received a B.A. in Government from Harvard University and M.A. in Geopolitical Studies from the Université Paris-1 (Panthéon-Sorbonne) and the Ecole Normale Supérieure. This summer, Lillian will intern at the United States Department of Justice in Washington, D.C. She will be working on the development and implementation of criminal justice assistance programs in foreign countries at the Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT). The goal of these programs is to enhance the capabilities of foreign judicial institutions and their law enforcement personnel, so they can effectively partner with the Department of Justice in combating terrorism, trafficking in persons, organized crime, corruption, and financial crimes.

BENJAMIN LEVINE

BC Law Class of 2015

Ben Levine is originally from New York City and attended the University of Rochester where he majored in History and Religion. This summer, Ben will work at Timap For Justice, a non-governmental organization based in Sierra Leone. As part of his work this summer at Timap he will be training paralegals on running mediations and other legal issues including contracts and family law. Besides working directly with clients, he will be conducting program evaluation to better understand how Timap can expand their impact to provide increased access to legal services throughout the country.

NICOLE POTEAT

BC Law Class of 2015

Nicole Poteat moved to Boston from her hometown of Southern Pines, North Carolina in 2007. She attended Harvard University and graduated with a B.A. in Government with a secondary concentration in Photography in 2011. This summer, she will serve as a legal intern at the Aids Action Committee of Massachusetts. The organization is a leader in the fight against HIV/AIDS and New England's largest AIDS service organization. Nicole will assist the legal department in providing direct representation to AAC clients in a wide range of civil legal matters such as housing, discrimination, consumer affairs, and benefits.

TERE RAMOS

BC Law Class of 2014

Tere Ramos is a graduate of Wellesley College, and has an M.S. degree from the Georgetown School of Foreign Service. In 2009, Tere left her career in intellectual property law research and decided to devote her life to special education and disability advocacy, specializing in helping underserved populations. She founded Special Education Advocates, a special education advocacy focused on serving minority groups. This summer, Tere will work as a student lawyer at the Disability Law Center in Boston. The Disability Law Center is the protection and advocacy agency for Massachusetts residents with disabilities. Tere will assist staff attorneys in providing legal services to eligible citizens in the areas of special education, housing, medical and social security benefits, as well as denial of their civil rights because of their disability.

People

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