



## ARTHUR LIMAN PROGRAM

# Public Interest Newsletter

### The Liman Program Helps Envision the Constitution in 2020

For this year’s annual colloquium, the Liman Program joined forces with the American Constitution Society (ACS), its Yale Chapter, the Open Society Institute, and Yale Law School for a conference, “The Constitution in 2020”, held at Yale Law School on April 8th–10th. Several hundred scholars, students, activists,

seekers in Washington, DC, spoke about how that concept could be exclusionary, whereas focusing on the “dignity” of all persons provided a broader argument for fair process for his clients. Lisa Powell echoed Jawetz’s concerns as she described her work in Seattle at the Northwest Immigrant Rights Project, where she helps

with Disabilities in Education Act (IDEA).

In contrast, Bob Hoo has been able to use the concept of inclusion as a public interest advocate working with a legal services program and with a grassroots housing coalition to pass municipal inclusionary zoning ordinances in California. That approach requires communities to insist—when they grant building permits—that developers build a certain amount of low-income housing, thus helping to make a community more affordable to individuals across a range of incomes. Hoo noted that the coalition has

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Conference panel on Sunday afternoon. Left to right: Tom Jawetz, Lisa Powell, Deborah Cantrell (moderator), Bob Hoo, Josh Civin and Cyd Fremmer.

undocumented immigrant women subjected to domestic violence demonstrate their eligibility under federal law for special visas that permit them to remain in the United States. Powell reflected on how her clients’ access to these visas depended on statutes and regulations that cast other

lawyers, and judges gathered for a series of discussions about the contours of a progressive vision for the Constitution. Mirroring the structure that the Liman Program and the ACS had followed in a joint Public Interest Reading Group in Fall 2004, the conference was organized around four broad themes: Social & Economic Inequality, Liberties & Communities, New Politics, and America In the World.

This year’s Liman Fellows lead a session on “Setting the Agenda: Making the Constitution New” in which they explored how their work intersected with constitutional law. Picking up on a discussion earlier in the conference about the salience of “citizenship,” Liman Fellow Tom Jawetz, who works with asylum

undocumented immigrants as perpetrators of violence. Hence, some needy individuals were positioned as worthy because other needy individuals were considered undesirable.

Cyd Fremmer, who works with juveniles in Boston’s delinquency system, picked up on the concern that security and safety are also prominent themes in her work. She described how school administrators are quick to justify their disciplinary decisions on the ground of safety (for other students, for teachers) and are quick (too quick, in her view) to implement zero tolerance policies about various forms of misbehavior. Fremmer has found it difficult to counter safety arguments as she tries to protect students’ access to education under the Individuals

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Members of the Liman Program community gather at this spring's conference.



Dean Harold Koh with Liman Fellows Josh Civin and Cyd Fremmer.

## The Liman Program

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highlighted how the people who benefit from increased low-income housing are all members of a community, which has as neighbors not only high income wage earners who might commute to jobs elsewhere but also a host of people who work in the community supplying needed services. Hoo discussed how his group had designed a communications campaign to foster a sense that a larger group “belongs” in the community. For Hoo, the focus is on local legislation, rather than constitutional law or federal statutory regimes, as a technique for bringing about positive change.

Josh Civin, in turn, reminded the audience of the continued role that constitutional doctrine plays in public interest advocacy. He discussed his work on affirmative action in education as part of the NAACP Legal Defense and Education Fund's project to implement the Supreme Court's decisions in *Grutter v. Bollinger* and in *Gratz v. Bollinger*. Josh talked about the organized effort by opponents of affirmative action to limit the meaning of those rulings. Josh also underscored the ongoing importance of race-conscious policies in a social order still marked by many racial and class-based divides.

In addition to this session, the Fellows ran break-out discussions that helped current law students from around the country think about how they might frame public interest careers. Further, the Liman Fellows were joined by several Liman Undergraduate Summer Fellows coming from Yale, Brown, Barnard, and Harvard. Through all of these many conversations, the Fellows highlighted the necessary interplay of changes made locally, nationally, and globally.

Judith Resnik and Dennis Curtis hosted the Program's annual dinner at their home, where Liman Fellows, the Undergraduate Summer Fellows, Liman family members, and friends of the Liman Program were joined by other conferees.



Friends of the Liman Program, from left to right: Estelle Margolis, Dean Megan Barnett, Jack Zeldes, Nancy Zeldes, Emanuel Margolis.



From left to right: Lewis Liman, Lisa Cohen Liman, and Yale Law School Professor Reva Siegel, faculty chair of the Law School's ACS chapter.



Arthur Liman Professor Judith Resnik at Sunday's dinner with some of the Summer Fellows.

## Mid-year Reports from 2004–05 Liman Fellows

### Josh Civin

NAACP Legal Defense & Education Fund, Washington, DC

With support from a Liman Fellowship, Josh began working as an assistant counsel at the NAACP Legal Defense and Educational Fund, Inc. (LDF) in October 2004. For over six decades, LDF has been at the forefront of the struggle against racial discrimination and exclusion in education, employment, and other contexts. Josh's project focuses on the Supreme Court's landmark decision in *Grutter v. Bollinger*, 539 U.S. 306 (2003). Despite the Court's reaffirmation of the ongoing importance of affirmative action, organizations such as the Center for Individual Rights and the Center for Equal Opportunity are continuing to campaign against affirmative action.

Since October, Josh has been monitoring the strategies that some anti-affirmative action groups are using to pressure colleges and universities to abandon race-conscious programs. In LDF's view, this concerted campaign against modest uses of race has widened the already sizable gaps in minority access to higher education, particularly for African-Americans. Josh and his colleagues are exploring innovative strategies to support the legality of comprehensive solutions to close these gaps as they work with college administrators and other campus constituencies to help withstand legal challenges brought after *Grutter*. In particular, Josh has been involved in efforts to marshal the increasingly impressive social science evidence demonstrating the benefits of classroom diversity. He is reviewing other programs aimed at nurturing minority students, such as scholarships, internships, research fellowships, and academic enrichment programs.

Josh is also tracking the actions of federal and state agencies to ensure that they do not take steps to make it more difficult to eliminate discriminatory

barriers to equal opportunity. Challenges to *Grutter* have focused recently upon filing complaints for compliance review with the U.S. Department of Education's Office of Civil Rights (OCR). Because responding to an OCR investigation requires significant time and expense, the threat of such scrutiny has persuaded some colleges to end race-conscious programs prior to release of any formal findings by the government and sometimes even before a formal investigation is launched.

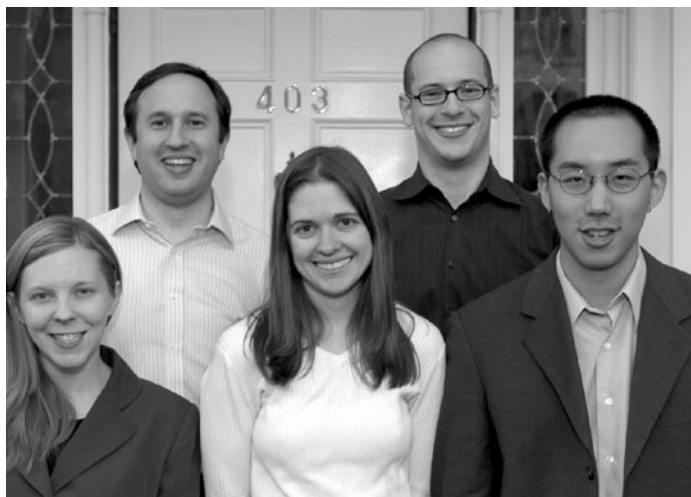
Josh has been involved in litigation defending race-conscious policies in other contexts as well. Josh worked on an amicus brief that LDF filed in the U.S.

District Court for the District of Columbia in support of the U.S. Small Business Administration's Section 8(a) program, an educational and training initiative designed to promote entrepreneurial opportunities among economically and socially disadvantaged small businesses. The government is defending against a challenge to the program's constitutionality by DynaLantic, a contracting company. DynaLantic is represented by the Center for Individual Rights, the group that also challenged the University of Michigan's admissions policies.

In LDF's amicus brief, Josh and his colleagues argued that *Grutter* provides support for the constitutionality of the Section 8(a) program's efforts to eliminate barriers to minority business development, many of which are the vestiges of discrimination sponsored or sanctioned by the federal government. This case, like *Grutter*, deals with a challenge to a narrowly tailored program

that, in the words of the amicus brief, seeks to "enhance the legitimacy and effectiveness of critical government institutions, provide training to future national leaders, and contribute to desegregating participation in a core realm of civic life."

Another example comes from a case in the U.S. District Court for the Eastern District of New York. The case began in 1996, when the U.S. Justice Department sued the New York Board of Education, alleging discrimination against Blacks, Latinos, Asians and women in the hiring of school custodians. The Board settled with the Justice Department in 1999 and agreed to give permanent positions



2004–05 Liman Fellows. Back row: Josh Civin, Tom Jawetz. Front row: Lisa Powell, Cyd Fremmer, Bob Hoo.

with retroactive seniority to those affected by the discriminatory hiring practices. A group of white custodians subsequently challenged the lawfulness of the settlement; they claimed that it discriminated against white men. They, too, are represented by the Center for Individual Rights. In 2003, the Justice Department signaled that it was unwilling to defend the full complement of remedies negotiated by the previous administration. In response, LDF and the ACLU Women's Rights Project intervened on behalf of two separate groups of beneficiaries of the settlement agreement. LDF represents ten Black and Latino school custodians

who risk losing all of the relief granted under the terms of the settlement, including their permanent employee status, their seniority, and ultimately their jobs. In sum, Josh, LDF and other civil rights groups are supporting efforts by employers, universities, and others to achieve what the Supreme Court endorsed in *Grutter*: “[e]ffective participation by members of all racial and ethnic groups in the civic life of our Nation.” 539 U.S. at 332.

### Cyd Fremmer

EdLaw Project, Boston, MA

Cyd’s plan for her fellowship with the EdLaw Project was to help bridge the gap between criminal representation, educational advocacy, and social services for Latino youth in Boston. By joining EdLaw, which already works in partnership with the juvenile public defender of Massachusetts, and then forging connections with particular social services organizations and with the Department for Youth Services, Cyd hoped to help create a system in which a youth’s needs could be identified and addressed in an holistic manner, legal and lay advocates working in concert to provide the necessary social services for a youth to succeed.

The EdLaw Project, which just celebrated its fifth birthday, was born from an awareness that an astounding proportion of youth involved in the juvenile justice system have educational needs that go unmet, and that continued failure to meet these needs perpetuates disenfranchisement, poverty, and a cycle of incarceration, release, and re-incarceration. Cyd’s plan had three main components: (1) to extend EdLaw’s reach through provision of direct representation in school discipline and special education proceedings for individual clients, with a special focus on the Latino population in Boston (a third of whom drop out of high school); (2) to work with the staff of carefully chosen social services organizations and with the Department

of Youth Services (DYS), training them in how to interpret school issues (e.g. to consider whether a child’s disruptive behavior stems from academic frustration and might be better addressed by additional academic supports than by repeated suspensions) and in the rights of students; and (3) to work directly with parents, training them about their children’s rights and assisting them to speak on behalf of their children.

But one part of her plan—direct representation of clients—has thus far consumed much of her time. This front line experience allows Cyd the opportunity to explore how special education law and discipline policies work in practice, and therefore is an appropriate predicate to her efforts to train others. But the amount of time devoted to direct representation is also a function of the largely unmet needs in which Cyd can make only a dent. Every time the phone rings (and Cyd reports it rings all day long), another parent and child have a compelling story and a lack of knowledge that makes it appropriate for Cyd to try and provide immediate help.

Cyd’s clients tend to fall into three categories: children in need of special education services who are not receiving sufficient or appropriate services; children facing suspension or expulsion; and children in need of special education services who are facing suspension or expulsion. The latter have special legal protections under the Individuals with Disabilities in Education Act (IDEA). The children range in age from six to eighteen. Approximately two-thirds are Spanish-speaking. Approximately two-thirds are already court-involved. Most are the victims of trauma: witnesses to shootings, domestic violence, civil wars in their native lands. The majority are male. All are poor. Their stories paint an unflattering picture of the public schools in Boston.

For example, “David,” who is eighteen years old and a junior in high school, is unable to read. He was diagnosed with dyslexia in fourth grade but never

received a consistent, structured, rule-based reading program of the kind recommended for dyslexic children. By law, a child with special needs must have an Individualized Education Program (IEP) to create benchmarks the child should reach each year. David had an IEP but not one that responded to his needs. For example, a goal stated was his need to “learn to summarize” but the IEP neglected to mention that he was unable to decode even simple words. This December, the school district finally agreed to contract with a specialist for twenty hours of reading instruction. Happily, David progressed two years worth—from pre-K to second grade—in twenty hours. He said it was a “miracle.” But the twenty hours ended, and the district has refused to extend the contract. David is now, again, without services. Cyd has filed a complaint with the Bureau of Special Education Appeals (BSEA) alleging that the school’s failure to provide a reading program violates David’s rights under the IDEA.

Another poignant case is that of “Michael,” who arrived in Boston from Puerto Rico two years ago. Michael spoke no English but was placed in a regular eighth grade classroom that had no bilingual support. His father requested that he receive a special education evaluation; Michael had received such services in Puerto Rico. Instead of the 45 days required by law for such an evaluation, it took over a year to have the testing done. When Michael moved to the ninth grade, he began receiving some help but he was also suspended repeatedly. In May 2004, he was told he could not return to the building. No expulsion hearing was ever held, a violation of IDEA. Cyd has filed a complaint with the BSEA regarding Michael’s exclusion from school, and the school district recently re-evaluated Michael and determined that he suffers from a severe language-based learning disability and needs significantly more services than he had been receiving. He is being home-tutored while a placement in a new school is found for him.

The individual cases make clear that systemic change is needed. In Cyd's experience, schools are so concerned with keeping costs low that they often ignore the procedural and substantive rights of the students. Compliance with federal, state, and district-wide regulations is often lacking, as these laws are sometimes seen as obstacles to the efficient administration of a school rather than as protocols that have been crafted in an effort to protect against discrimination and unjust treatment.

Given the lack of information about the rights that exist, Cyd has made it a priority to join with social services organizations and with the Department for Youth Services (DYS), in the hopes of empowering and educating parents to advocate on their own behalf and on behalf of their children. Cyd has collaborated with DHS in several forms, including attending weekly case review meetings at the several Day Reporting Centers in Boston, where youth who are committed but not held in locked facilities report each afternoon. These meetings provide an opportunity to educate the DHS workers about the rights of their clients, who may need special education services but not be so identified.

Cyd worries about what will happen to her clients after her fellowship year ends. In the coming months, Cyd plans to shift her focus from direct representation to more intensive collaboration and training. While individual outcomes remain an important measure of success, in order for the project to have a lasting impact, it must give organizations and communities a more profound understanding of the ways in which their children need to be better served by the public schools, and it must give these organizations and communities the tools they need to advocate for change.

## Robert Hoo

Legal Services of Northern California,  
Sacramento, CA

Robert has been working with two organizations, Legal Services of Northern California (LSNC) and the Sacramento Housing Alliance (SHA), to promote inclusionary housing programs in the Sacramento region. Legal Services of Northern California is a federally-funded legal aid organization that has long been based in Sacramento; LSNC provides legal assistance to indigent clients in 23 northern California counties. The Sacramento Housing Alliance is a small nonprofit dedicated to increasing housing opportunities for low-income and homeless individuals. SHA was formed fifteen years ago by a coalition of community groups and affordable housing developers to provide unified advocacy regarding housing issues. "Inclusionary housing," also known as inclusionary zoning, refers to policies that require housing developers to set aside a certain percentage of new units for low-income families. These policies can accomplish two important goals: increasing the supply of affordable housing and promoting economically integrated communities.

Since Robert was born and raised on the East Coast, he spent the first few weeks getting acclimated to Sacramento and meeting people who are involved in local housing and land use policy. In a country described as divided between red states and blue states, cities and suburbs, and coastal regions and the interior, Sacramento is on the frontier. In the 2004 election, John Kerry outpolled George W. Bush in Sacramento County by 1,118 votes—a difference of 0.23 percent.

Sacramento is also on the frontier of growth in California. Sacramento is located in the Central Valley, which is one of the two cheapest places to find housing in California. As a result, the region has been growing at a rapid pace. The median resale price of a single family home in Sacramento has increased by over 50

percent in the last two years. Developers are preparing to meet the demand by building tens of thousands of homes in the coming years. For example, Rancho Cordova, a small city of about 50,000 people situated about ten miles east of downtown Sacramento, has plans to add 37,000 new homes in the next decade, which will allow it to grow by 2050 to a projected population of 350,000.

All of this housing growth places Sacramento on yet another frontier—the frontier of land use patterns in America. What will the Sacramento region look like in 2050? It could be filled with multi-ethnic, mixed-income communities with housing opportunities for its diverse residents. Or, it could follow the development patterns that typify much of the country, with poor central city areas surrounded by affluent and exclusive suburbs that impose long commutes on many workers.

From the outset of his fellowship, Robert was placed at the center of the struggle to determine the direction of land use and housing growth in Sacramento. For two years, LSNC and SHA had been negotiating with developers and county officials on a proposed inclusionary housing ordinance for the unincorporated areas of the county. The ordinance would require that fifteen percent of new housing construction be set aside for low-income families. Robert's responsibilities included providing legal and technical support regarding the proposed ordinance, planning community events to rally support, dealing with public relations, and recruiting low-income residents to become centrally involved in the effort. One unique feature of the proposed ordinance was that it aimed to provide housing for extremely low-income individuals, defined as people whose income is at or below thirty percent of the area median income. Addressing the housing needs of this population requires greater resources and often encounters greater opposition. As a result, however, the homeless community mobilized in support and many formerly homeless men and women volunteered for the campaign.

Robert's work was aided by state law, which requires cities and counties to plan for the projected future need for affordable housing (the plans are called "housing elements.") Therefore, county officials felt obliged to adopt some type of inclusionary policy to comply with these requirements. Many developers, who are a dominant business interest in the region, were opposed to inclusionary housing but willing to accept some ordinances, those that housing advocates found too weak. The competing interests of developers and the affordable housing coalition clashed for some two years and the County Board of Supervisors took no action.

By the fall of 2004, the Board of Supervisors began to see the need to respond to the concerns. In its final session of the year on December 1, 2004, the Sacramento County Board of Supervisors adopted the first inclusionary housing ordinance in the nation to target the needs of extremely low-income families. The new ordinance applies to the unincorporated areas of Sacramento County. However, the local Building Industry Association filed a legal challenge in March of 2005 and argued that the ordinance amounted to an illegal taking. LSNC is serving as counsel for SHA and others who have intervened on behalf of Sacramento County. The state Attorney General has also recently intervened on the side of Sacramento County.

The City of Sacramento also has an inclusionary housing ordinance (which is in many ways superior to the County's new ordinance, although it does not target extremely-low income families), as do a few other cities in the region. However, newly incorporated cities outside of the city, like Rancho Cordova, are not covered by the laws and do not have measures in place to require affordable housing and mixed-income communities in new developments. The remainder of Robert's fellowship is now focused on promoting inclusionary policies in such areas. For example, Robert is meeting with local religious and community leaders to build a broad-based coalition and is attending

meetings of the planning commission to keep tabs on the emerging land use policies of the new cities.

### **Tom Jawetz**

**Washington Lawyers' Committee for Civil Rights & Urban Affairs, Washington, DC**

Since November 2004, Tom has been working with the Immigrant and Refugee Rights Project (IRR Project) of the Washington Lawyers' Committee for Civil Rights and Urban Affairs (Washington Lawyers' Committee) in Washington, D.C. Tom's fellowship project involves three related tasks. First, Tom is providing direct legal representation to several indigent individuals who are seeking asylum in the United States. Tom also helps other individuals obtain pro bono representation from volunteers at private law firms. Second, Tom is working at the Arlington Immigration Court with members of the public interest community, and private immigration practitioners to design and implement a weekly legal orientation and screening program that will orient pro se respondents to the removal process. The program will identify individuals who are eligible for relief from deportation and are unable to hire a private attorney. Third, Tom is monitoring recent legislative and regulatory activity and helps coordinate community responses to changes that are already being implemented. These three tasks have one overarching goal: to ensure fair process in immigration proceedings.

The group with which Tom works, the Washington Lawyers' Committee, has served both individuals and groups for more than 35 years. The Lawyers' Committee has handled over 5,000 civil rights cases related to employment, housing, and public accommodations. In 1978, the Washington Lawyers' Committee created its IRR Project to focus on the rights of immigrants and refugees.

During the first half of Tom's fellowship, he learned how to do initial

intake interviews and met dozens of individuals seeking asylum who were unable to afford counsel. Although some of these individuals have not yet applied for asylum, most were already facing removal proceedings, for which asylum is a defense. Unlike criminal defendants, individuals facing deportation may have representation only if they provide their own attorneys; in practice, many individuals are forced to defend themselves against trained government trial attorneys. A person fleeing persecution may not speak English, may distrust government figures, and may be suffering from physical and psychological distress. Thus, a removal hearing can be a difficult, if not terrifying, experience. The presence of a lawyer for such a person can make an enormous difference, in process as well as outcome.

Through the network of volunteer attorneys that work with the IRR Project, many of the individuals interviewed by Tom are now represented by counsel in their removal proceedings, and some have already been granted asylum. Moreover, Tom has provided continuing substantive, procedural, and strategic advice to many volunteer attorneys who are handling cases in conjunction with the IRR Project.

When Tom initially proposed his project, he intended personally to represent many individuals in the Arlington Immigration Court to gain some familiarity with the Immigration Judges and the local practice rules. However, because of the way in which immigration courts schedule cases, the merits hearing often does not take place for many months. As a result, Tom has been able to represent a limited number of people in such hearings. In one case, a woman from Gabon had spent nearly three months in a Virginia state jail when Tom became her lawyer. Like many asylum seekers who end up confined in jails across the country without ever having committed a crime, Tom's client had expressed a fear of returning to her home country when she arrived at the airport. She was placed in the custody of

the Department of Homeland Security (DHS), notwithstanding the fact that she possessed a valid visa to enter the United States. She was held without bond. Tom was able to win a request for her to be paroled, but DHS required her to post a bond of \$3500. With no family in the United States, she was unable to pay, but Tom raised \$1500 in donations. He successfully petitioned DHS to reduce the bond amount to \$1500 and, after spending five months in jail, Tom's client was released. In May, Tom presented his client's case in Immigration Court, where his client successfully obtained protection from having to return to her home country.

In addition to defending against removal, Tom has helped clients file affirmative applications for asylum. Whereas defensive applications are decided by an Immigration Judge in a trial-like setting, asylum applications are decided by an Asylum Officer following a "non-adversarial interview." An attorney can be instrumental in helping to gather, organize, and present the evidence in support of the application, as well as in responding to particular concerns raised by the asylum officer. In one case, Tom's client hoped to obtain asylum because he was a member of the opposition party in Cameroon, was active in a local human rights organization, and was consequently arrested and tortured on numerous occasions. When Tom first met his client, the client had not secured an interpreter for the interview and had not had any of his documents translated from French to English. (At the Asylum Office, it is the applicant's responsibility to provide an interpreter, and any document that has not been translated into English can be rejected.) Tom succeeded in obtaining a one-month continuance so that he could marshal volunteers to translate the client's documents. One volunteer also served as the interpreter at the asylum interview. Although the case was not successful at the Asylum Office, Tom has secured pro bono representation for the individual at his Immigration Court hearing.

Tom has also made progress in the creation of the Immigration Legal Orientation and Screening Program. In designing the Program, Tom met with immigration advocates in the public interest community as well as members of the private bar who coordinate pro bono representation. Tom also spoke with advocates in other immigration hubs—Miami, Philadelphia, and San Francisco—to learn about how pro bono programs work in those cities. Tom participated in one day of screening in New York, where a similar project has been operating successfully since 1992.

After modifying the Program in light of what he had learned, Tom presented his ideas to the Arlington Immigration Court and received a positive response. Screenings began on May 5, and now take place every Thursday at 1:00 pm in the Immigration Court. Additionally, Tom regularly appears at Master calendar hearings with other volunteer attorneys to observe those proceedings, and screen pro se individuals. Because the Program is expected to increase the number of individuals in need of pro bono representation, Tom intends to work with the IRR Project to develop methods to recruit and to train more volunteer attorneys. One person who has obtained representation through the Program is a 14-year-old girl from El Salvador who was placed in removal proceedings when she entered the United States via Mexico to join her family. If returned to El Salvador, the girl will have no one to care for her.

Finally, Tom has been monitoring recent legislative and regulatory proposals on asylum; he is particularly concerned about an expected regulatory change that would restrict the discretion of Immigration Judges to grant continuances. Such a change will reduce the amount of time that unrepresented indigent individuals have to obtain counsel. The change may also make it harder for private law firms to handle cases on a pro bono basis because their attorneys may have too little time to prepare the case. Tom helped to organize

a group of individuals and organizations who are concerned about fairness in immigration court hearings, and the group has approached Attorney General Alberto R. Gonzales for a meeting to discuss the issue.

### **Lisa Powell**

**Northwest Immigrant Rights Project,  
Seattle, WA**

As the Liman Fellow at Northwest Immigrant Rights Project (NWIRP), Lisa Powell specializes in U visas, created to protect immigrant victims of certain crimes. NWIRP was founded in 1984 and is Washington's only legal services program specifically for low-income immigrants. Each year, NWIRP serves approximately 30,000 people from more than 150 countries, through direct legal services, advocacy, and outreach. With that volume, NWIRP does more such work than any other non-profit immigration service provider in the country.

Immigrants who are victims of crimes like domestic abuse are often in a complex position. Many may suffer in silence, afraid that if they talk to police, the police will report them to the immigration authorities. Sometimes, abusers exploit their victims' immigration status by threatening to report their victims to immigration authorities if they talk to police or seek other assistance. Frequently, the abuser and the victim come from the same country. The victim may fear that if she talks to the police, both the victim and abuser will be deported, and then the victim may be vulnerable to retaliation in her home country.

The U visa, created by the Victims of Trafficking and Violence Protection Act of 2000, responds to these situations by providing protection to immigrant victims of domestic violence, rape, human trafficking, attempted murder, kidnapping, and torture. Although the government has not yet issued regulations for the U visa, immigrants who demonstrate prima facie eligibility can

receive legal immigration status and work authorization. Under the statute, which is also designed to enable prosecution of crimes against immigrants, immigrants who receive U visas must have been helpful to or be willing to help with the investigation or prosecution of the crime committed against them.

As NWIRP's U visa attorney, Lisa spends the majority of her time providing direct legal representation to immigrants. Lisa represents clients both in affirmative applications for relief (for people not in immediate danger of deportation) as well as for people in removal (deportation) proceedings. The majority of Lisa's U visa clients are from Latin America, and they are predominately women who were victims of domestic violence, rape, child molestation, kidnapping, and attempted murder.

Through an intake process established by a unit of NWIRP, Lisa first assesses a person's eligibility for a U visa and then decides whether the case is appropriate for NWIRP to take. When Lisa directly represents clients, she works with them on their personal declarations about the crime committed against them and about their cooperation with the prosecution. The government also requires a law enforcement official to certify the applicant's cooperation. Lisa has worked very successfully with prosecutors and police officers to obtain certification of her clients' cooperation. Additionally, Lisa strives to ensure that clients are connected with any other services they need, such as domestic violence or sexual assault counselors, crime victims compensation, and pro bono lawyers who can help with public benefits, divorce, or any other legal questions clients might have.

An example of one of Lisa's cases is that of "Vivian" from Argentina. During his prosecution for a very serious assault against Vivian after they had separated, her estranged husband reported Vivian to immigration. Vivian, a resident of Oregon, was in the immigration detention center in Tacoma, Washington, a regional immigration jail that isolates detainees

from their families and from traditional pro bono immigration service providers in Seattle — making it very difficult for them to retain legal counsel and fight their cases. Lisa assembled and filed a U visa application for Vivian with assistance from her daughter in Oregon and the prosecutor, who was incensed that Vivian was about to be deported. About a week later, Vivian's stay of removal was granted, and she was released and went home to her children. Recently, she received work permission and immigration status under the U visa program.

This past winter, Lisa helped another client, "Liliana," who was ordered removed without her knowledge after a raid of her workplace in 1998. Liliana's family sought help from NWIRP when Liliana was jailed in the Tacoma detention center. Lisa learned that Liliana had suffered abuse by her estranged husband, and she was eligible to apply for a U visa. Because of the procedural posture of Liliana's case, Lisa first had to ask the immigration judge to reopen the matter and to stay Liliana's removal. The immigration judge granted Lisa's motions in February 2005, and Liliana returned home to her two daughters. Liliana's U visa application remains pending.

Because U visas are a relatively new form of immigration relief, many immigrants, immigration attorneys, and service providers know little or nothing about the procedures to obtain them. Thus, Lisa has developed educational materials in English and Spanish to let potentially eligible people know how to apply, how to write a declaration, and how to get the relevant documentation. NWIRP has also received a grant from the Department of Justice to do outreach about services for victims of domestic violence, and the outreach coordinator regularly provides information to community groups throughout the state. The outreach coordinator is working to have client education materials translated into other appropriate languages, including Russian, Korean, and Japanese. Additionally, Lisa has met

with agencies providing services to the LGBT community to raise awareness about the U visa and to reach out to victims of same-sex domestic violence and hate crimes. Finally, Lisa has created materials that lawyers can use to prepare U visa applications. Lisa works with other attorneys representing clients in U visa cases, providing training, sample generic application packets, and technical assistance.

Lisa also has been involved in thinking about how the statute works. For example, both advocates and the government were interpreting a provision of the U visa statute to exclude certain applicants. Lisa wrote an analysis and convinced immigration experts that their interpretation was wrong, and they are correcting materials they disseminate.

Lisa hopes to convince the government that her interpretation is correct as well. Additionally, Lisa testified before the Washington Senate Judiciary Committee about a bill to clarify that local police should not inquire about immigration status and should not enforce federal civil immigration laws unless required to do so under federal law. Lisa recently participated in meetings sponsored by the American Immigration Law Association to discuss these issues with relevant government representatives.

Unfortunately, Lisa cannot possibly represent all of the potential U visa clients who seek help from NWIRP. A pressing concern of Lisa's project is how to meet such needs after her fellowship year ends. She has shifted her focus to increasing NWIRP's capacity, in part through providing continuing legal education classes to lawyers handling U visa cases.



## Introducing the 2005–06 Liman Fellows

*The following Yale Law School graduates will begin their public interest law fellowships in the Fall of 2005.*

**Jorge Baron** is a 2003 graduate of the Law School. Thereafter, he clerked for the Honorable Betty Binns Fletcher on the Ninth Circuit. Jorge has returned to New Haven and will work with New Haven Legal Assistance on a project to train immigrants and criminal defense counsel on the consequences related to immigration that stem from criminal convictions. Jorge plans to explore how to mitigate some of those consequences. Jorge's work is part of a larger national effort among legal services providers to deal with the intersection of criminal, civil, and immigration law.

**Kim Pattillo Brownson** is a 2002 graduate of the Law School. Kim clerked for the Honorable Louis Pollack in the Eastern District of Pennsylvania and then for the Honorable Dolores Sloviter on the Third Circuit. Kim is currently an associate at the Wilmington, Delaware office of Skadden. Kim's fellowship will be at the ACLU of Southern California in Los Angeles. She will devote her time to enforcement of a settlement in *Williams v. State of California*, a class action that challenged California's failure to provide adequate classrooms and educational materials. One of the schools covered in the settlement is one at which Kim's mother worked.

**Eliza Leighton** is a 2005 graduate of the Law School. She will spend her fellowship year at CASA of Maryland and will work with residents of Langley Park, Maryland, a community primarily composed of low-wage immigrant residents. CASA of Maryland has recently helped organize three groups: a tenant group, a mobile food vendor group, and a group of day laborers. Eliza will help those groups identify common legal problems and will assist them in devising advocacy strategies.



*2005–06 Liman Fellows, from left to right: Eliza Leighton (holding her daughter, Aviva), Sofia Yakren, Jorge Baron (holding his daughter, Isabella). Not pictured: Kim Pattillo Brownson, Holly Thomas.*

**Holly Thomas** is a 2004 graduate of the Law School who is clerking for the Honorable Kim Wardlaw on the Ninth Circuit. Holly will work at the NAACP Legal Defense Fund in its New York office where she will focus on the issue of juveniles serving sentences of life without possibility of parole (LWOP). Holly's project will center on two states, Louisiana and Mississippi, both of which allow juveniles as young as 15 to be sentenced to LWOP and both of which have a history of racial disparity in sentencing. Holly plans to gather sentencing data in order to educate the media and the public about LWOP and to develop a litigation strategy challenging the appropriateness of such sentences.

**Sofia Yakren** is a 2004 graduate of the Law School. She is currently clerking for the Honorable Nancy Gertner in the District of Massachusetts. Sofia will spend her fellowship year at the Urban Justice Center in New York. Using the Americans with Disabilities Act, she will address the New York City Human Resource

Administration's failure to permit the mentally ill to use public assistance and Medicaid benefits to cover mental health services. Sofia's project builds on preliminary work already underway at the Urban Justice Center.



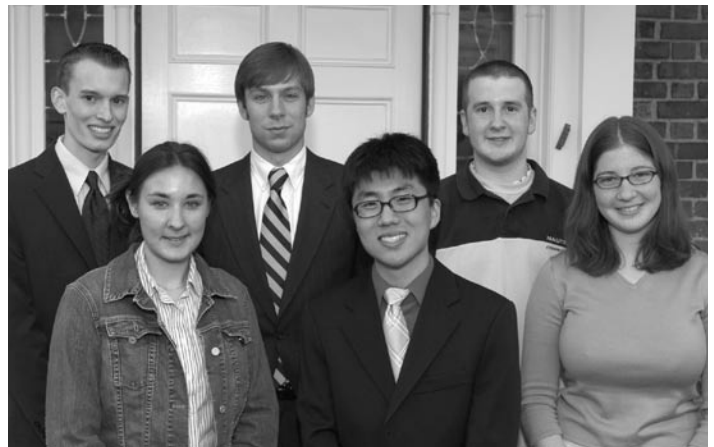
2005 Barnard Summer Fellows. Left to right: Maria Fitzgerald, Mila Gorokhovich, Manmeet Bindra.



2005 Brown Summer Fellows. From left to right: Rachel Lauter, Emma Reborn, Maura Finigan, Xaykham Khamsyvoravong.



2005 Harvard Summer Fellows. Back row: Lina Tetebaum, Rob Rogers. Front row: Andrea Yang, Cindy Nguyen.



2005 Yale Summer Fellows. Back Row: Josh Johnson, Julian Darwall, Drew Alt. Front row: Mateya Kelley, Robert Lee, Rachel Goodman.

## 2005 Liman Undergraduate Fellows

*With the generous support of Doug Liman and the Liman Family Foundation, we funded 17 undergraduate summer fellows from Barnard, Brown, Harvard, and Yale to spend this summer working in the public interest. The fellows and their host organizations are listed below. Next summer the program will expand to include students from Princeton.*

### Barnard College

Manmeet Kaur Bindra ('05), Human Rights First, New York  
 Maria Fitzgerald ('06), Sanctuary for Families, New York  
 Lyudmila Gorokhovich ('06), Global Youth Action Network, New York

### Brown University

Maura Finigan ('05), USPIRG, Washington, DC  
 Xaykham Khamsyvoravong ('06), Rhode Island Legal Services, Providence  
 Rachel Lauter ('06), Bay Area Legal Aid, San Francisco  
 Emma Reborn ('06), Education Law Center, Newark

### Harvard University

Robert Rogers ('07), Legal Aid Society of New York, New York  
 Elina Tetebaum ('07), The Forensic Panel, New York  
 Cindy Nguyen ('06), San Diego Volunteer Lawyers' Program, San Diego  
 Andrea Yang ('06), Greater Boston Legal Services, Boston

### Yale College

Drew Alt ('05), Political Asylum/Immigration Representation Project, Boston  
 Julian Darwall ('06), National Center for Youth Law, Oakland  
 Rachel Goodman ('05), Business and Professional People for the Public Interest, Chicago  
 Joshua Johnson ('06), ACLU of Texas, Austin  
 Mateya Kelley ('05), Illinois Coalition for Immigrant & Refugee Rights, Chicago  
 Robert Lee ('05), Electronic Frontier Foundation, San Francisco

## 2005-06 Public Interest Fellows from Yale Law School

*The Liman Program is one of several fellowship programs that help new lawyers begin work in the public interest.*

*We are pleased to recognize the following Yale Law Students who have received public interest fellowships for this year.*

### Bernstein Fellowship

- Sari Bashi '03  
*Center for the Legal Protection of Freedom of Movement, Tel Aviv, Israel*
- Avani Mehta Sood '03  
*Center for Reproductive Rights, International Legal Program, New York, NY, and New Delhi, India*

### Robert M. Cover Fellowship In Public Interest Law

- Giovanna Shay '97  
*Yale Law School, New Haven, CT*

### Equal Justice Works Fellowship

- Abja Miha '05  
*Sanctuary for Families, New York, NY*

### Georgetown University Law Center Women's Law & Public Policy Fellowship

- Jennifer Hunter '03  
*National Women's Law Center, Washington, DC*

### Hearst Corporation First Amendment Fellowship

- Justin Peacock '02  
*Hearst Corporation, New York, NY*

### Liman Fellowship

- Jorge Baron '03  
*New Haven Legal Assistance, New Haven, CT*
- Kim Patillo Brownson '02  
*ACLU of Southern California, Los Angeles, CA*
- Eliza Leighton '05  
*CASA of Maryland, Takoma Park, MD*
- Holly Thomas '04  
*NAACP Legal Defense Fund, New York, NY*
- Sofia Yakren '04  
*Urban Justice Center, New York, NY*

### Minnesota Advocates for Human Rights Wellstone Fellowship

- Laura Provinzino '03  
*Minnesota Advocates for Human Rights, Minneapolis, MN*

### Natural Resources Defense Counsel Fellowship (co-sponsored by Altshuler, Berzon, Nussbaum, Rubin & Demain)

- Scott Shuchart '03  
*Natural Resources Defense Council, San Francisco, CA*

### Skadden Fellowship

- Katie Eyer '04  
*Center for Lesbian and Gay Civil Rights, Philadelphia, PA*
- Jennifer Sung '04  
*Brennan Center for Justice, New York, NY*
- Max Weinstein '05  
*Brooklyn Legal Services, Brooklyn, NY*

### Updates from Former Liman Fellows

**Kristen Jackson**, who remains with her host organization, Public Counsel in Los Angeles, was selected to participate in the inaugural year of the Access & Fairness Leadership Academy—an innovative program sponsored by the State Bar of California. Aided by an advisory committee of federal magistrate judges, state court judges, private attorneys, public interest lawyers and law school representatives, the Academy provides leadership training to a group of attorneys from diverse backgrounds who want to become leaders and serve local or underserved communities. The Academy runs four workshops throughout the year. Kristen, who has just finished her year, reports that the highlights included attending the State Bar's public-interest oriented "Pathways to Justice" conference and meeting with the incoming president of the ABA at the State Bar Leadership Forum in San Diego.

**Serena Hoy** has returned to Washington, DC, where she is counsel to Senator Harry Reid, the Senate's Democratic whip. She focuses on issues related to the judiciary, including immigration, constitutional law, and civil rights and civil liberties.

*Your financial support of the Arthur Liman Public Interest Program means that more attorneys and students will be able to work on pressing legal issues in the public interest. We ask that you contribute to the dedication and energy of those benefited by the Liman Fellowship and Fund.*

Please consider the following donations:

\$100    \$250    \$500    \$1,000    \$2,500    \$5,000

Other: \$ \_\_\_\_\_ (\$50,000 supports a fellow for a year.)

I would like to make a multi-year pledge of \$ \_\_\_\_\_ to be paid in \_\_\_\_\_ installments.

I would like my donation to be made in honor of/in memory of \_\_\_\_\_.

Update my mailing address as follows:

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Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

*Please make your charitable donation payable to the Arthur Liman Public Interest Program, which is a 501(c)(3). Donations should be mailed to:*

Arthur Liman Public Interest Program  
Room M36  
Yale Law School, P.O. Box 208215  
New Haven, CT 06520-8215



You may also contribute to the Undergraduate Summer Fellowship Program by sending donations directly to the participating undergraduate institution. Designate your donation as support for the Liman Undergraduate Summer Fellowship. The Liman Program coordinates donations for Yale College Summer Fellows.

