

## LEARNING LAW IN NAMIBIA

By Andrew Ardinger '09 (BA '06)

**L**ast December, I

BUMPED INTO TWO FRIENDS OUTSIDE THE LAW SCHOOL. ONE SUGGESTED WE GRAB A SANDWICH. “I can’t swing lunch today,” I said. “But, hey, when we’re in Namibia?” • The casual glibness of my remark underscored how fortunate the three of us felt that we would be spending the second half of spring semester immersed in international human rights law, working on a variety of projects in and around Namibia’s capital, Windhoek. The experience that we shared with seven other International Human Rights (IHR) Clinic students, a coordinator, our instructor Professor Barbara Olshansky ’85, and clinic fellow Kathleen Kelly seemed so distant then but feels so indispensable today. • In Namibia, we not only addressed pressing legal issues, we also experienced the country. We visited the dunes at Sossusvlei, rode next to elephants in Etosha National Park, and watched rhino, zebra, and wildebeest drink from watering holes. We got to know University of Namibia students, as they attempted to teach us the local language Oshiwambo and some phrases in Damara and Afrikaans. On Sundays, we ate grilled meats at a weekly *braai*. The bungalows we called home for our six-week stay were comfortable and wired for Internet access. Despite its size, Windhoek retains the feel of a small colonial town where it seems everyone knows everyone else, so by the end of our time there, it felt like home. • The first part of the semester was spent at Stanford preparing for the trip. We discussed the possibilities and pitfalls inherent in various approaches to international human rights work, explored social and political issues unique to Namibia, and began laying the foundation for the work that we would do once there. • For one project, Josh Kretman ’09, Bola Olupona ’09, and I worked with the Legal Assistance Centre, a Namibian NGO, in its efforts to invalidate water-extraction permits that the government had granted a Canadian uranium mining company. While Namibia is rich in uranium, it is not rich in water—a vital tool for extracting uranium ore. Despite the shortage of water, the company had received rights to remove 1 million liters of water per day that flowed beneath the dunes of the Namib Desert where only squat succulents and blue beetles seemed to survive. • Worse still, the area designated for mining included major portions of one of Namibia’s most prominent national parks, home to the iconic red dunes. The short-term economic interest in ex-

tracting uranium, with its invasive removal processes, stood in direct opposition to Namibia’s long-term interest in developing its eco-tourism industry, and to the welfare of those who call the region home.

A new democracy and a developing nation, Namibia achieved independence from South Africa in 1990. However, laws that had been in place over the preceding decades under South African rule were still being used as Namibia developed its own laws. Such was the case with the water law: Although Namibia had passed an enlightened Water Resources Management Act in 2004, difficulties in executing that law meant it relied upon the old South African water law, promulgated and passed for a physical and political climate completely different from present-day Namibia.

Despite these contradictions, I was impressed by the lack of cynicism in the government officials with whom we interacted. They treated the litigation as a collaborative effort to determine the contours of the legal regime governing water, and the mining controversy an opportunity to assess and weigh the comparative advantages of water extraction for mining to the nation as a whole. Ultimately, a court invalidated the permits. Now, when



BARBARA OLSHANSKY '85, ANDREW ARDINGER '09 (BA '06) AND JOSH KRETMAN '09 MEETING WITH NAMIBIA'S OMBUDSMAN JOHN WALTERS

mining companies apply for permits, the process will prove much more rigorous and include all stakeholders—local communities, the government, NGOs, and the mining concerns—in a greater

capacity than before. I have faith that as laws and regulations regarding water usage develop, they will reflect more fully Namibia's public interest.

For my second project, Josh and I, with a University of Namibia LLM student, drafted legislation that would implement Namibia's obligations under the Convention Against Torture. Josh and I researched our way through the libraries at Stanford, the University of Namibia's Human Rights and Documentation Centre, and the Namibian Parliament. We reviewed legislation from several countries, as well as the effectiveness of such legislation and, more importantly, where and when and how it had broken down. We combed through years of newspaper reports to ascertain how, if, and when torture or other cruel, inhuman, or degrading treatment arose in the Namibian context, and we surveyed the current law of Namibia to look for gaps that could be filled. Finally, we met with the national ombudsman, the person in charge of investigating reports of government impropriety in Namibia. He suggested we edit the draft legislation into short, medium, and long versions for the Law Reform and Development Commission (LRDC), the body in charge of drafting laws for consideration by Parliament.

Our research and drafting finally complete, we presented our findings to the LRDC on our last full day in Namibia. The commission included the prosecutor-general, the ombudsman, and other high-ranking officials. I spoke to the assembled dignitaries, falteringly at first, and then answered questions.

Before we left, Tousy Namiseb, the head of the commission, addressed the group. "This is a blessing," he said, pointing to our draft. Then, while detailing plans to workshop and edit the bill, he turned to us and added, "You are a blessing." I hope it does not come across as overstatement to say I felt the same way about my experiences with the IHR Clinic.

To learn more about the IHR Clinic and to view a slideshow from the Namibia project, please go to [www.law.stanford.edu/clinics](http://www.law.stanford.edu/clinics). **SL**

## POINT OF VIEW

### Does Media Consolidation Stifle Viewpoints?

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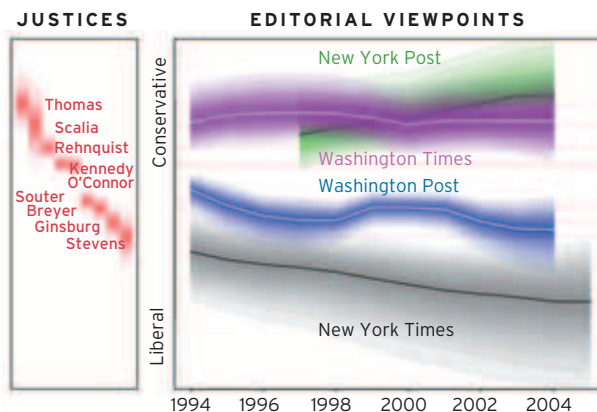
decisions after the data have been systematically gathered and analyzed. This difficulty of evaluation suggests a type of precautionary principle: Incremental, as opposed to wholesale, modification of federal regulation facilitates policy evaluation.

Last, our study sheds light on and informs what factors the FCC should consider in applying its waiver policy to the likes of Rupert Murdoch. Whether media consolidation stifles viewpoints may ultimately turn on the minutiae of the ac-

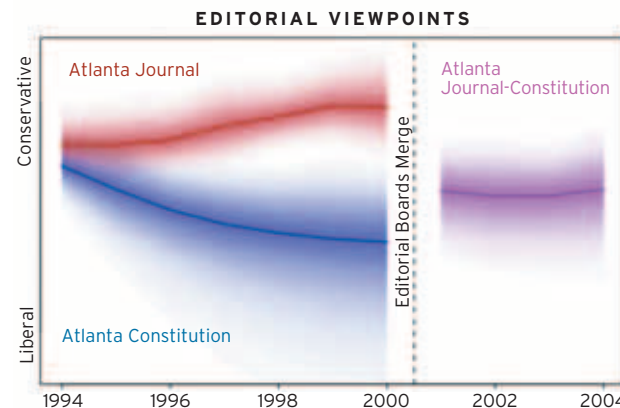
quisition: e.g., the terms of organizational restructuring, guarantees of editorial independence, and employment conditions.

That's the trouble when you face the data. It might show you that the devil's in the details.

*This piece was co-written for the Stanford Lawyer by Daniel E. Ho, assistant professor of law and Robert E. Paradise Faculty Fellow for Excellence in Teaching and Research, Stanford Law School; and Kevin M. Quinn, associate professor, Department of Government and Institute for Quantitative Social Science, Harvard University. The article is forthcoming in the Stanford Law Review and is available at <http://dho.stanford.edu/>. **SL***



**FIGURE 1: Estimates for Viewpoints for Select Newspapers and Supreme Court Justices.** The left panel presents the median viewpoint estimate for each justice of the natural Rehnquist court. On the same scale, the right panel presents the viewpoints of *The New York Times*, *New York Post*, *Washington Times*, and *Washington Post* over time, based on each paper's editorials. The solid lines represent our median estimate of editorial viewpoints, and the colored bands visualize the uncertainty of those estimates. The *New York Post* is estimated starting in 1997 because electronic versions of the paper were unavailable earlier.



**FIGURE 2: Editorial Viewpoints for Atlanta Journal, Atlanta Constitution, and the combined Atlanta Journal-Constitution.** This figure illustrates the divergence in viewpoints between the two editorial boards prior to merging. After the merger, the viewpoint of the combined board falls between that of the two former papers. As in Figure 1, the solid lines represent median viewpoints, and the color shading captures the uncertainty in estimates.