



Dr. Janet Martinez new Director at Gould

In September, 2005 the SLS Faculty confirmed Dr. Janet Martinez as both the new Director of the Gould Negotiation and Mediation Program and a Senior Lecturer at SLS. Jan brings a rich combination of experience and scholarship to Stanford. On the experience side, Jan not only practiced law for ten years, in the McKesson Corporation's corporate counsel's office, but also spent eight years as a facilitator and mediator of high-level, complex international disputes. In the area of scholarship, in addition to her J.D., Dr. Martinez has a both a Masters degree in Public Policy from the Kennedy School of Government at Harvard, and a Ph.D. from MIT in Public Policy, International Environmental Policy, and International Dispute Resolution. Her rare combination of both legal and policy dispute resolution experience, and her knowledge in the highly interdisciplinary fields related to legal dispute resolution made her a stand-out candidate for the job.

Dr. Martinez is no stranger to Gould: she has been teaching packed classes in Negotiation, Advanced Negotiation, and Mediation for the past three years at here. Gould's first director, Maude Pervere, says of Martinez, "Jan is the perfect combination of smart and idealistic, experienced and well-prepared, strategic and empathetic. She constantly seeks new challenges for herself and our students, and brings great new strengths to our Program."

Janet Martinez returned to the West Coast in 2002, after ten years in Cambridge, where she first studied under and then worked with many of the luminaries in the field of dispute resolution. While studying at Harvard and MIT, Jan became a Senior Associate at Lawrence Susskind's Consensus Building Institute, where she managed, facilitated, and co-mediated multi-year global projects involving trade, development and the environment.



Among other major projects, Jan helped to bring together global environmental interests and various state actors to advance the dialogue that ultimately led to the Kyoto Protocol on climate change. Susskind credits her with an expert ability to help representatives get beyond their formal claims, thereby allowing the parties in many instances to make progress.

In addition to Jan's facilitation and mediation work, she has served as an arbitrator for the Center for Public Resources
— continued on page 4 —

Welcome Back to News from Gould

We are pleased to provide you with this second edition of News from Gould. The newsletter describes programs and developments related to the work being conducted at the Martin Daniel Gould Center for Conflict Resolution Programs at Stanford Law School.

In these newsletters, we will update you on the courses that we are offering, executive education opportunities and other developments of interest. This newsletter focuses predominantly on research conducted by the Class of 2002 Fellowship in Conflict Resolution winners and special events from the Negotiation seminar courses.

CLASS OF 2002 FELLOWSHIP WINNERS REPORT ON RESEARCH AND EXPERIENCES

Congratulations to Kaush Arha ('05), Peter Koski ('05), and Tehila Sagy (SPILS '05), the recipients of this year's SLS Class of 2002 Fellowship in Conflict Resolution. The winners stood out among many high quality applicants, indicating the Law School's growing interest in the field of conflict resolution. All three of the 2005 winners have proposed projects addressing issues of global importance, including international trade, human rights, and refugee rights. Fellowship funds will allow them to engage in innovative hands-on research, grounding

their analysis of resolution mechanisms in an interdisciplinary study of specific communities in conflict.

Peter Koski will use Fellowship funds to continue his research on "barefoot" lawyers' efforts to create a grass-roots legal infrastructure in Dalit (Untouchable) villages in Gujarat, India. Peter spent several weeks last winter performing ethnographic research in the region, documenting the systemic discrimination and abuses suffered by the Dalits, who work as bonded laborers

— continued on page 4 —

Project at the ICC

By: Anna Adeola Makanju

In the spring of my 3L year, I was funded by the Class of 2002 Fellowship Program, in part, to clerk in the Office of the Prosecutor of the International Criminal Court (ICC). The ICC is a post-conflict institution where cases land after all existing dispute resolution mechanisms have failed. Ideally, the ICC should act as a deterrent or an alternative to military intervention, though the Court's fiercest critics argue that legal intervention where conflicts still rage or the dust has barely settled may exacerbate or reignite the violence. I watched this debate play out in my summer with the ICC.

While the ICC Prosecutor's Office has divisions that fulfill the typical prosecutorial functions of investigation, evaluation and preparation of trials, the ICC also has a Jurisdiction, Complementarity and Co-operation Division. This division first researches the judicial systems of the countries in question to determine whether the nation is "willing" and "able" to undertake its own prosecution: only if it isn't can the ICC step in. Second, this division's job is diplomatic: to work with International Organizations, NGOs and governments in order to facilitate the Court's work. The Prosecutor himself must somehow balance diplomacy and a quest for peace with justice.

One must remember that the ICC lacks an enforcement mechanism. The Bush administration's opposition to the Court prevents the ICC from being able to rely on UN peacekeeping forces or Security Council action, the two avenues available to the ad-hoc tribunals (ICTY and ICTR.) Instead, the Prosecutor's Office must somehow secure a minimum of state cooperation to investigate and arrest perpetrators

– not an easy task when an ICC prosecution is essentially an indictment of that government as incapable of handling the horrible crimes occurring in its own territory.

While my obligations of confidentiality prevent my reporting fully, while at the ICC I worked primarily on issues related to the ongoing Ugandan civil war between Joseph Kony's Lord's Resistance Army (LRA) and the Ugandan government. One UN report describes today's LRA as having "...no discernible political agenda and surviving through a vicious cycle in which children are abducted, brutalized and are forced to become soldiers or 'wives' of LRA commanders and sent back to carry out the next wave of terror and abductions." This pattern has created a heartbreaking dilemma where civilians are brutally murdered, disfigured or tortured by LRA fighters who are often children from the very village they are forced to attack. Killing these fighters may mean you are killing children, maybe your own.

The Ugandan situation illustrates the delicate balance that the ICC Prosecutor must draw. While the Court is investigating serious crimes committed by both sides, the LRA remains the focus of the investigation as they have committed the gravest atrocities. However, the ICC must be careful, for focusing its investigation on the LRA has created a perception among Ugandans that the ICC may be a tool of the current administration, which itself has been implicated in human rights abuses. On the other hand, without cooperation from the Ugandan administration, there is no way to guarantee the short term safety of the staff or the long-term safety

of the witnesses, not to mention the arrest of the suspects. The Prosecutor must also interact continuously with local NGOs, as well as spiritual and local leaders who can reach the local population, in order to maintain multilateral credibility. Much of this work is done in secret to protect those who would endanger their lives by promoting the Court's mission.

At the negotiating table, the LRA and Ugandan President Museveni are struggling to negotiate a workable combination of amnesty and prosecution. The ICC must decide how those decisions will affect the Court's. If the LRA offers peace only in return for complete amnesty, should the Court nevertheless prosecute the LRA's leadership? The brutalized Ugandan people want an end to the conflict as soon as possible; many do not understand or trust the Court. The ICC investigation is seen as a barrier to peace; many –fear that the rebels will not stop their attacks unless the ICC withdraws. This has increased pressure on the Museveni government to turn its back on the ICC. Many NGOs have also spoken out against the investigation.

What is the Court to do in this situation? The Prosecutor must continuously communicate with the local government, global and local NGOs, ICC member states and international organizations, and make an assessment of how his actions will affect the situation on the ground. A single careless phrase taken out of context could reignite the conflict, and backing down at the wrong time could erode the Court's ability to be effective in the future. When I left the ICC, this saga was still playing out ■

Pervere Retires as First Director

At the end of August, 2005, Maude Pervere retired as the first Director of Gould's Negotiation and Mediation Program. Pervere was responsible for building and managing the teaching side of the conflict resolution programs at Gould, and for overseeing the renovation of the Gould Center for Dispute Resolution. The following are parts of an interview with Maude:

What made the development and extraordinary growth of the Gould Program possible?

First, we inherited the good will for a conflict resolution program fostered by both the extraordinary faculty involved in Stanford's Center on Conflict and Negotiation (SCCN – which remains the other half of the Gould Center). Then the key gifts to this program were the vision of Dean Paul Brest and the generosity of Joseph Gould and his family. Paul had been thinking and teaching about the lawyer as a problem-solver for some time. He was passionate about expanding the education of lawyers as highly skilled, constructive counselors at SLS. He asked me to outline a negotiation program to succeed Bob Mnookin's, with excellence as our only constraint.

Paul worked tirelessly in support of the program. With gifts from John W. Ford and the Hewlett Foundation, Paul created the Judge John W. Ford Chair in Dispute Resolution in order to give our program firm grounding in both theory and research. Then Director of Rand's Institute for Civil Justice and USC Professor Deborah Hensler was the perfect fit for the Ford Chair, and has been a great partner in this work ever since. About the same time, a \$1 million gift from Joseph Gould enabled us to remodel and furnish what is now the Martin Daniel Gould Center for Dispute Resolution Programs at SLS.

Beyond great institutional support, I think that the key to our success has been in designing a strong curriculum, hiring truly great lawyers with very diverse practice experience, and training each lawyer for a semester before the lecturer begins teaching our students. We also meet regularly as a teaching team and each new teacher

contributes to our curriculum, so that we can truly say what we teach reflects what's happening in practice today. We've grown slowly and have been lucky to have very few departures, so we have a strong, stable faculty of excellent attorneys who are trained and thoughtful about their teaching and also very familiar with the dispute resolution research and literature.

Finally, the Gould family made an amazing \$5 million gift to endow conflict resolution programs at SLS. This gift has ensured Gould's endurance and anchors our role in the University.

What were the greatest challenges you faced in putting together the Gould program?

(laughing) I'd say the greatest challenges were the mushrooms on the ceiling and walls of Gould before the remodeling began. But the initial Gould gift enabled us to take the building back to the studs, and to rebuild it with all of the old detail, so that we now have a Center with all the conveniences of the most modern classroom, but the charm of a great house from the 1930's.

What do you expect for the future of Gould?

This is a great time for Gould. Our faculty and program are strong, experienced and well respected throughout the Law School. Jan Martinez is the perfect new Director: She brings a deep, varied combination of highly relevant experiences to Gould. Her knowledge in science, economics, and public policy, especially in the areas of the environment and international trade are a perfect fit for the University's new initiatives.

In addition, members of the Gould Team are already working closely with Larry Marshall [the new Dean of Clinical and Public Interest Programs] to increase the coordination of our curricula. Dean Kramer has been wonderfully supportive of new initiatives directed at increasing our students' ability to be leaders in the legal arena. Gould is also in a perfect position to help design and implement courses

appropriate for the larger University's graduate program, where the new initiatives focus on interdisciplinary approaches to issues students will encounter in their professional lives.

What's next for you?

Excepting for raising our sons, I know this was the best job I'll ever have. I have loved working with every member of our teaching Team, and it's hard to imagine not working with such wonderful people forever. However, the time has come for me to do something different. My short-range plan is to say "no" to everything new for a year. I'm eager to spend more time with my family, especially my mom who, though 85, is still going strong, and to be able to travel. I'll continue my volunteer work, part of which is helping to run a documentary film series focused on issues of diversity. Finally, I want to pursue my passion for photography. I find that standing still and watching light change instills in me a frame of mind and perspective that I appreciate more each day ■

— continued from page 1 —

for farm owners from the upper caste. Poor, rural attorneys have undertaken a local campaign to improve human rights by providing legal literacy and legal representation. Peter will return in May to track developments in two labor strikes facilitated by these “barefoot” lawyers. He also plans to attend arguments in the prosecution of several employment discrimination and land reform cases scheduled to come before the Gujarati courts. Peter’s research will give him the opportunity to evaluate the efficacy of the “barefoot” lawyers’ approach to the resolution of long-standing cultural conflict, providing insight on paths to the implementation of international human rights. He hopes to share the results of his work through publication and the preparation of reports for international legal aid foundations and NGOs, as well as in a forum open to the Stanford University community.

Fellowship funds will help Kaush Arha to continue research on the impact of WTO Panel Decisions on continuing

New Director at Gould

— continued from page 1 —

and taught courses for many public and private institutions, including the World Bank, the Commission for Sustainable Development, the World Wildlife Fund, and the United Nations.

While in Cambridge, Jan taught negotiation at Harvard Law School as well as Quantitative Methods and Decision Analysis at Harvard Business School. She worked with Prof. Jim Sebenius to manage the development of the 900-student Negotiation Seminar for HBS, and played a similar role in other negotiation-related courses at HLS, the Kennedy School and MIT. As Howard Raiffa put it, Jan seemed to be involved with every program in the Cambridge environment dealing with the theory and practice of negotiations and conflict management.

Jan now teaches week-long executive education courses with Jim Sebenius, among others. In addition, Jan, Ted Parson (now a Prof at U. of Michigan) and Mehrdad Baghai jointly developed and perfected a

world agricultural trade negotiations. An agreement on agriculture is integral to the successful completion of the Doha Round of Trade Negotiations, and Kaush’s work focuses on the key role that growth in the WTO’s institutional capacity could play in easing countries into more equitable trade policies. To this end, he is working with Stanford Professor Tim Josling, Senior Fellow at the Stanford Institute for International Studies, to provide concrete recommendations for resolving the real and perceived inconsistencies between negotiation and litigation within the WTO’s dispute resolution system. His award will enable him to conduct in-person interviews with key stakeholders at the International Trade Consortium Conference in Seville, at European Union offices in Brussels, and at the U.S. Trade Representative’s offices in Washington, D.C. The study will follow up on research Arha and Josling have been conducting for the past two years. Their findings will be presented at various national and regional Trade Policy Seminars, including one at SLS next year.

Tehila Sagy will use Fellowship funds to travel to Ghana in order to analyze the mechanisms for civil and criminal

Climate Change exercise currently in use at SLS, which Sebenius views as “perhaps the most sophisticated and complex negotiation simulation in existence.” The simulation reflects some of Jan’s knowledge of Kyoto and is based on an integrated economic and environmental design. Now our Advanced Negotiation students are profitably challenged by its real-world-based coalitional and analytical hurdles.

Dr. Martinez’s dissertation and core interest is in innovative methods for resolving high-stakes policy controversies. She plans to initiate a forum at Gould for discussing current disputes, bringing together real-world actors and scholars from around the University. Watch the Gould website [<http://www.law.stanford.edu/programs/academic/gould/>] for news of events this Spring.

For more information about Dr. Martinez’s background, see <http://www.law.stanford.edu/directory/profile/41/Janet%20Martinez/>. ■

conflict resolution in a Buduburam refugee camp there. Tehila first visited the refugee camp during J-term 2005, when she traveled to Ghana along with 7 other SLS students as part of a joint SLS - Harvard internship program focused on securing sanitation and improving access to health care for the poorest populations of the region. Her work there inspired her to accept a legal internship this coming summer with WISE, an NGO that has developed, in consultation with UNHCR, a collaborative program aimed at strengthening refugee protection through a combination of economic, legal, and psychological support. She will work with Liberian refugees at the Buduburam settlement, mainly with survivors of sexual and gender based violence. Her ethnographic and qualitative research is on how legal structures influence refugees in exile, focusing specifically on how conflict resolution mechanisms reflect refugees’ perceived safety. Tehila has been accepted to the JSD program at Stanford and her research will serve as a base for her thesis.

The Stanford Community has a lot to look forward to in the way of talks, presentations, and papers from these dedicated and motivated scholars. Look for updates regarding their experiences and lessons in future newsletters.

About the Fellowship:

The Class of 2002 Fellowship in Conflict Resolution honors the memory of victims of the tragedy of September 11, 2001, and the life work of negotiations professor Steven Neustadter, who passed away in January 2002. These two events had a significant impact on the Law School community during 2001-02. At the close of that academic year, the Class of 2002 decided to create a distinctive, lasting gift for the Law School by establishing a fund, with support of the Law School’s Alumni that would support Stanford students pursuing projects in conflict resolution. Each year members of the Class of 2002 supervise the distribution of the fellowship awards. ■

Three New Lecturers Join Gould Team

Maude Pervere's retirement and Jan Martinez's promotion to the Director's position left some openings in the Gould Negotiation and Mediation Teaching Team, which we were lucky to fill with wonderful great new recruits.



Michael Dickstein has his own firm, Dickstein Dispute Resolution, based in San Francisco and Toronto, where he offers mediation, arbitration and consulting services on a wide variety of employment, commercial, contract, personal injury and class action disputes to a worldwide clientele. National Co-Chair of the Workplace Section of the Association for Conflict Resolution's Advisory Board, Michael also writes, speaks and teaches extensively on workplace issues and dispute resolution. A cum laude graduate of both Harvard College and Harvard Law School, Michael had an extensive litigation practice in commercial, employment, and large class action cases as a partner with Heller, Ehrman, White & McAuliffe before he turned his professional attention to third party work. Michael will be teaching negotiation during the J-term 2006.



Jessica Notini has had her own mediation firm for ten years. She offers extensive mediation, facilitation, training and consultation services to a wide variety of public, private and governmental clients, both in the U.S. and abroad. Jessica already teaches negotiation and mediation at Hastings College of the Law, and has taught negotiation at U.C.'s Boalt Hall. Jessica is currently President of the Board of Directors of the Association of Dispute Resolution of Northern California (NCMA), and a member of the California State Bar's ADR Committee. A summa cum laude graduate of the University of Michigan, Jessica practiced environmental law before turning to her third party practice. Jessica will be teaching mediation during the J-term.



David Johnson will be teaching negotiation during the spring term 2006. Most recently with Morgan, Lewis, Dave has practiced corporate, litigation and intellectual property law for over 20 years, from 1996-99 with Fenwick & West, and since then serving as general counsel for several Silicon Valley high-tech firms: Speedera Networks, MG Taylor Corporation, and All Advantage. Dave moved to the Bay Area from Florida in 1992 to pursue a J.S.D. in Law and Policy at SLS, which he intends to complete during his time with us.

As in the past, each of our new recruits will be training with Gould's Director and other members of the Team this Fall, in preparation for teaching their courses in 2006 ■

Fellowship Recipient Teaches Negotiation Skills to Youth

As part of my Class of 2002 Fellowship in Conflict Resolution, I adapted a multi-party, multi-issue negotiation exercise developed when I was at the Kennedy School for Public Policy, for high school seniors at Nevada Boys' State. The Nevada Boys' State (NBS) program strives to create an understanding of and appreciation for our democratic form of government while encouraging a commitment to future service. The students are placed in community teams that model the cities of Nevada. Each team works together to solve problems unique to their community. Students experience the democratic process by participating in elections, drafting legislation, working in committees, and lobbying for their interests. A variety of speakers address the delegates, and workshops are presented on various issues in government and politics.

The main objective of the exercise that I facilitated was to teach high school seniors the negotiation

skills necessary for dealing with complex public policy issues. At the Kennedy School, two colleagues and I designed a seven-party, five-issue negotiation exercise specifically tailored to the kinds of problems policy makers face in government, which we could also present at Nevada Boys' State. The agenda is complex, requiring participants to identify their own priorities and those of other parties from among competing issues and to build coalitions with participants of like interests.

The negotiation exercise was divided into three phases that took place throughout the week so that the citizens, city councils, and mayors all played some role in developing their city's plan of action and negotiation strategy. The exercise culminated in Carson City, Nevada, with a two-hour negotiation. The mayors began the negotiations with cordiality, but—as the negotiations progressed and they realized that one city would have to be

left out of the final agreement—the negotiators became more aggressive, though ultimately coalition-building prevailed. Unfortunately (though perhaps fortunately from a pedagogical perspective), the excluded mayor stormed out of the room, and it took us twenty minutes to track him down!

Ultimately, the high school participants learned a lot about negotiations and conflict resolution—about the importance of building coalitions with like-interested parties and of identifying others' interests, strengths, and weaknesses early on in negotiations. Above all, they learned that the optimal, or sometimes only, value-creating policies create winners and losers; those tough decisions require skilled, principled negotiators to protect the interests of their constituents while still maximizing the overall social utility of the project. I expect to repeat the project in the future ■

Peacemaker Courts in Arizona

By: Deji Olukotun

When I first arrived in Window Rock, Arizona in the summer of 2002 I felt as if I'd entered an entirely different world. The landscape was breathtakingly jagged and inventive, the people looked different, and the language was like nothing I'd heard before. This was the ancestral homeland of the Navajo Nation. The Navajo's Supreme Court met in a trailer. My job was to update a survey of their common law.

By the end of that summer, I'd learned not only about the Navajo common law, but also about the even more fascinating Navajo Peacemaker Courts. These Courts are a community-based dispute resolution system that incorporates traditional Navajo values in order to arrive at a mutually beneficial solution for the victim and the offender. Sometimes called an aggressive restorative justice model, the system employs a Navajo elder as the court who negotiates between the disputing

parties and their assembled social networks. I returned home to California with this amazing concept and a hunger to learn more.

The Class of 2002 Fellowship in Conflict Resolution provided me with the opportunity to return to Arizona to continue my studies. Back in Window Rock, I spoke with some of the creative proponents of the Peacemaker System, who shared with me both some of the possibilities of Peacemaker Courts, and admitted some shortcomings. I learned about notions of Native American sovereignty and the Navajo's ongoing struggle to maintain their culture in the midst of an aggressive Western consumer culture. Several of the leaders shared with me their memories of the Peacemaker courts from long ago, and some directions in which they would like to see the Courts develop.

The Peacemaker Courts are expanding into the local schools and the Peacemaker elders are looking at possible legal incorporation as a means of providing some political clout. Where elders were traditionally only male, but women are now included. The Navajo Nation Council and community leaders are attempting to introduce legislation to provide clearer rules for the Courts to replace the looser existing guidelines.

I am now in South Africa using the lessons I learned from the Navajo Nation to study local community courts here. I hope to begin a dialogue between both groups to explore their shared experiences. ■

What is Gould?

“Gould” is The Martin Daniel Gould Center for Conflict Resolution Programs, the heart of dispute resolution programs at Stanford University. A historic landmark at Stanford, the Gould Center was remodeled in 1998 thanks to a generous donation from Joseph B. Gould. It now houses classrooms and meeting rooms, offices and an expansive garden that provide an ideal forum for integrating theory and practice in conflict resolution.

In addition to providing classroom and meeting space for most of the dispute-resolution programs at Stanford, the Gould Center houses two dispute resolution programs at Stanford Law School: the Negotiation and Mediation Teaching Program, and the Stanford Center on Conflict and Negotiation (SCCN).

The Negotiation and Mediation Teaching Program offers small, highly interactive seminars in Negotiation, Mediation, Advanced Negotiation, and Dispute Resolution Systems Design to more than 200 Stanford Law School students annually. The SCCN is an interdisciplinary center for the study of conflict and conflict resolution that brings together students and faculty from all parts of the University who share an interest in conflict resolution theory and practice in domestic and international domains.

Gould Center Faculty and Staff

Simão Ávila: Senior Labor and Employment Lawyer in the Office of the General Counsel, University of California. Sim was formerly the managing partner of Littler Mendelson’s San Jose and Oakland Offices. He specializes in workplace conflict resolution and labor negotiation. Sim teaches the Negotiation Seminar.

Dana Curtis: Recently named by the *L.A. Daily Journal* as one of California’s “Top 50” neutrals, Dana is a mediator in private practice and former Circuit Mediator for the U.S. Court of Appeals for the Ninth Circuit in San Francisco. In addition, she designs and conducts mediation training for judges and lawyers nationwide. Before becoming a mediator, Dana practiced commercial and employment litigation with McCutchen, Doyle, Brown & Enersen in San Francisco. Dana teaches the Mediation Seminar.

Jan Martinez: MPA from the Kennedy School of Government at Harvard University; PhD candidate in Public Policy, 2004 at MIT. At Harvard, Jan taught in the Program on Negotiation at the Law School and at the Kennedy School of Government, and managed and taught in the Business School’s extensive negotiation program. Jan formerly practiced law in the general counsel’s office of McKesson Corporation and now facilitates complex multiparty international disputes. She teaches the Negotiation and Advanced Negotiation Seminars.

Ralph Pais: One of two managing partners at Fenwick & West, a leading Silicon Valley firm, Ralph specializes in negotiating life, science, and technology transactions worldwide. He has been teaching negotiation to lawyers, clients, and students for the past 20 years. He teaches the Negotiation Seminar.

Stephanie Smith: Founding Director of the U.S. Hewlett and Compton Foundations. Stephanie was formerly a partner at the law firm of Jackson, Tufts, Cole, & Black. Stephanie teaches Systems Design and the Negotiation Seminar.

Ana Maria Ponce: Program Administrator and Building Manager. Ana Maria is responsible for supporting all of the teachers and classes that are taught at the Gould Center.