Berkman releases major broadband study for FCC

On Oct. 14, the Berkman Center for Internet & Society at Harvard University released a major study on broadband deployment and usage throughout the world.

The center conducted an independent review of existing literature and studies about global broadband usage, following a request this summer by the Federal Communications Commission (including Chairman Julius Genachowski ’91). The project, designed to inform the FCC’s efforts in developing a National Broadband Plan, resulted in a 232-page report, “Next Generation Connectivity: A review of broadband Internet transitions and policy from around the world,” that was made available for public comment on the FCC’s website in October.

HLS Professor Yochai Benkler ’94 headed the project and discusses the report’s findings. >> SEE Q&A ON PAGE 3

HLS convenes national roundtable on proxy access

Corporate governance experts discuss shareholder empowerment

A group of about 40 prominent members of the nation’s legal, financial, regulatory and academic communities gathered at HLS on Oct. 9 to participate in a Proxy Access Roundtable, sponsored by the HLS Program on Corporate Governance.

The purpose of the roundtable was to discuss whether shareholders of public companies should have the right to nominate director candidates on company ballots which are distributed to shareholders with the companies’ annual reports—what corporate governance professionals refer to as “proxy access.”

The roundtable was organized to help meet the program’s goal to encourage discussion and debate on important corporate governance issues, including the Securities and Exchange Commission’s recent proposal to allow proxy access.

HLS Professor Lucian Bebchuk, left, with John Wilcox, head of corporate governance, GWM Group

Annette Nazareth, partner, Davis Polk & Wardwell

Investors, Isaac Corré ’89 of Eton Park Capital Management and Roy Katzovicz of Pershing Square Capital Management, who were generally in favor of allowing shareholder access to the proxy ballot. Also participating were many with a corporate perspective, such as Bob Mendelsohn ’71, former CEO at Royal and Sun Alliance Insurance Group, Ted Mirvis ’76 of Wachtell Lipton and Toby Myerson ’75 of Paul, Weiss, who stressed the potential costs of proxy access reform.

The roundtable also included two former commissioners of the Securities and Exchange Commission and a former head of the SEC’s Division of Corporation Finance, as well as prominent academics...
**BRIEFS**

**Wilkins receives J. Clay Smith Award**

Professor David Wilkins ’80, faculty director of the Program on the Legal Profession, received the first-ever J. Clay Smith Award from Howard University School of Law for his work on the status and development of African-Americans in the legal profession. He received the award on Oct. 23 at the Wiley A. Branton Symposium at Howard, where he was also the keynote speaker.

**Most powerful in D.C.**

Elizabeth Warren, HLS professor and chair of the Congressional Oversight Panel on TARP, was recently named one of the 50 Most Powerful People in D.C. by GQ magazine. This biennial list, as determined by a poll of journalists, members of Congress, lobbyists and other politicians, ranks political figures in Washington, D.C., based upon their influence and clout. Additionally, on Oct. 14, Warren received the 2009 Lelia J. Robinson Award from the Women’s Bar Association for her groundbreaking work in the legal profession and for being a role model for women in the legal profession.

**Donahue receives honorary degree**

Charles Donahue, HLS’s Paul A. Freund Professor of Law, was selected to receive an honorary doctorate from the Université de Paris II: Panthéon-Assas for his contributions to the field of legal history. Donahue was recognized for his seminal 696-page investigation of medieval marriage practices and laws titled “Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts.”

**Ramanathan named executive director**

Erik D. Ramanathan ’96 was named executive director of the HLS Program on the Legal Profession and its Center on Lawyers and the Professional Services Industry. His research focuses on the role, structure and practice dynamics of in-house legal departments; the relationship between in-house attorneys and law firm counsel; and the evolution of private sector pro bono commitments and diversity initiatives. He is investigating the globalization of public- and private-sector law practice as well as the economic factors that drive the evolution of the legal profession. He is particularly focused on involving current and future legal practitioners in proactively shaping and reinventing their profession. Before joining HLS, he was senior vice president, general counsel, secretary and chief compliance officer of ImClone Systems.

**Fried co-chairs lobbying task force**

Professor Charles Fried will serve as one of two Republican co-chairs of a new bipartisan ABA administrative law section task force examining possible improvements to lobbying regulation. The task force will look at deficiencies in current rules governing lobbying and suggest improvements. Also serving on the four-person task force are two Democratic members, including Joseph Sandler ’78.

**Patients with passports**

A paper written by Assistant Professor I. Glenn Cohen ’03, “Protecting Patients with Passports: Medical Tourism and the Patient-Protective Argument,” was selected for presentation at the 2009 Health Law Scholars Workshop, co-sponsored by the American Society of Law, Medicine & Ethics and the Saint Louis University School of Law Center for Health Law Studies. Cohen was named co-director of HLS’s Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics this year.

**A woman of justice**

Clinical Professor Deborah Anker LL.M. ’84, director of the Harvard Immigration and Refugee Clinical Program, was named a 2009 Woman of Justice. The award, co-sponsored by Massachusetts Lawyers Weekly, the Women’s Bar Association and the Massachusetts Association of Women Lawyers, recognizes women who have made meaningful and inspirational contributions to justice and social advocacy. Last year, Anker received the Elmer Fried Excellence in Teaching Award from the American Immigration Lawyers Association.

**‘Show me the money’**

Tom Cruise, who played a Harvard Law-educated sports agent in the 1996 film “Jerry Maguire,” was a special guest in Professor Bruce Hay’s Entertainment Law class on Oct. 5. Appearing in class with Hollywood attorney Bertram Fields ’52, who presented firsthand knowledge of Hollywood practices and highlighted several of the foremost legal processes concerning the entertainment industry, Cruise lingered for an hour after class to talk with students.

**Minow announces new fellowships**

Stipends will support public service

In October, Harvard Law School announced the creation of the Holmes Public Service Fellowships, which will fund one year of public service work for approximately 12 graduating students during 2010-2011. Each fellowship will pay up to $35,000 to support a year of postgraduate legal work at a nonprofit or government agency anywhere in the world.

“In this difficult economic time, we want to support students in every way that we can, and we also want to offer legal assistance to those who are most vulnerable,” said Dean Martha Minow. “These fellowships will make it possible for more students to offer direct legal assistance to people in communities around the world and at the same time address the fact that funding for public service and public interest work jobs is especially in short supply right now. I am proud that with this program, we can support our soon-to-be-graduates in their efforts to help others.”

Named in honor of the long public service career of Justice Oliver Wendell Holmes Jr. LL.B. 1866, the fellowship is designed to cover basic living and health care expenses for current third-year HLS students who can show the support of a sponsoring organization, such as a nonprofit, government agency or one of the in-house HLS clinical programs that provide direct legal assistance to clients. The recipients of the fellowships will be announced in the spring of 2010.

The new fellowships supplement a range of existing programs at Harvard Law School designed to enable law students to choose public service careers, including a number of fellowship programs available exclusively to HLS students for public interest work. Harvard Law School’s loan repayment program is one of the most generous of its kind. And, last year, the law school launched the Public Service Initiative, a pilot program which gives tuition breaks for students who commit to a minimum of five years of public service work after law school.

The law school also offers Summer Public Interest Fellowships, which allow any student to receive funding for low-paying or no-paying summer public interest jobs.
Outliers and open access

At the request of the Federal Communications Commission, Professor Yochai Benkler ’94, faculty co-director of the Berkman Center for Internet & Society, headed a major Berkman Center study this summer on global broadband deployment and usage. In a Q&A with HLT, Benkler discusses the report’s findings.

Why is the FCC asking for this report now?
In the American Recovery and Reinvestment Act, Congress asked the FCC to produce a national broadband plan. Something like this is going on in many places around the world, as countries are transitioning to what is generally called “next generation connectivity.” This mostly means much higher speeds and ubiquitous access, so that, essentially, we will be seeing speeds that are 10, 20, 50 times the speeds that we’re currently looking at, within three to 10 years in different places. And we’re looking to a world where we all walk around with devices that connect us to this capability seamlessly, anywhere, anytime. The question facing all of these countries is, How do we get there as quickly as possible, with the best terms for consumers, without too much inequality in the ability to get to that set of capacities? That’s the challenge for the FCC, and that’s the challenge for regulators throughout Europe and in Japan. Several countries have already been through this process of next generation planning; several countries are currently in the midst of it, as is the United States. What the FCC asked us to do was find out what has happened in other countries. Our basic charge is to figure out how we learn from both the current plans and the experience of other countries, so that we don’t make our mistakes, and so that we can correct our own mistakes by looking at what they did well. That’s the purpose of this report, within the context of the national broadband planning exercise.

What were the key takeaways?
I think there are two pieces of news that will be most salient for people as they look at this report. The first is a response to the question, How are we doing? The answer is that we’re overall middle-of-the-pack, no better.

The second responds to the question, What policies and practices worked for countries that have done well? The answer to that is, there is good evidence to support the proposition that a family of policies called “open access,” that encourage competition, played an important role.

First, there have been many arguments about whether the United States is doing just fine or whether we should be concerned. During the presidential campaign, Barack Obama expressed concern with the idea that the United States would be a muddling performer, and that we needed to do better. One of the things that we’ve done is developed much more nuanced and multidimensional benchmarks than have been used in the past to allow us to answer the question, Is the United States in fact performing weakly? What we found across many dimensions on fixed and mobile penetration—that is to say, how many people have capacity—as well as on other core measures—particularly different approaches to measuring capacity, such as speed and prices—that we’re very much in the middle of the pack. We’re somewhere in the third quintile of the OECD countries, which is not fundamentally different from what some of the more widely cited existing benchmarks show. We went well beyond simply accepting the existing benchmarks and statistics, like those of the OECD, however. We undertook additional new research, our benchmarks have many more dimensions, and we correlated independent studies with existing benchmarks to evaluate the level of confidence we can have in the findings.

I think a more important aspect of our benchmarking exercise is not so much what it shows us about the U.S., which is to confirm the image that we already know, but to actually give us a much more nuanced view of what the performance of other countries has been, so that we can now say, if you want to look at the Nordic countries, Norway isn’t actually like Sweden. Sweden is a good performer on all dimensions. Norway has higher prices. We can now make that differentiation. Until now, people have looked at Italy and said, “Oh, Italy has low penetration; it’s not a good market.” But actually, using our benchmarks, you can that see Italy is a very good performer on mobile broadband. So, our new benchmarks give us a much more nuanced ability to target different countries for different kinds of observations so that we can interpret what lessons to take from their experience. At the end of the day, looking at other countries isn’t about a competition—who is first, who is second—it’s about whom we can learn from, what different aspects of their performance and of their practices we can borrow or avoid to make our own performance better. Our benchmarks actually provide a more nuanced and complete view of that answer than anything that’s been available up until now.

What about the second key takeaway, what you called in the report “the most surprising finding”?
Yes, the single most surprising and important finding of this study is that there is more or less universal agreement outside of the United States that a family of regulatory policies called open-access regulation has played an important role in successful performance on broadband penetration in the first generation. Not only was this important in the first generation, but it turns out that transposing the experience from the first generation to the next generation plays an absolutely central role in contemporary planning exercises throughout Europe and in Japan. It’s surprising because, in the U.S., discussion of open-access policies is largely a thing of the past. It used to be the main innovation of the 1996 Telecommunications Act that was passed by an almost unanimous Congress, but was the subject of hard-fought battles between the incumbents and the FCC through the courts throughout the late ‘90s. It was then abandoned by the FCC in 2001 and 2002, and in U.S. policy debates has not really been considered part of the set of questions we need to think about ever since.

What surprised me was how much of an outlier the U.S. is in terms of even thinking about open access, whereas it is the central question everywhere else. Because we were so surprised at finding that this was the central issue, we ended up spending a lot more time than we had anticipated trying to collect the evidence and validate this belief. We’ve done very detailed case studies in 14 countries on their competition and access policies. We’ve done analyses down to the level of each company and its strategic response. We went into the
Andrew Kinard ’12 had been in Iraq just six weeks when his U.S. Marines unit, on foot patrol in the Al Anbar province, was ambushed. Kinard was standing atop a 155 mm artillery shell when it detonated; he required 67 blood transfusions that first day and went into cardiac arrest several times. When he awoke from a coma in a naval hospital in Maryland a month later, Kinard learned he’d lost both his legs.

A 2005 graduate of the U.S. Naval Academy, Kinard spent seven months recovering. One day, during his physical therapy at Walter Reed Army Medical Center, a visitor struck up a conversation and asked about his career plans; Kinard said he was considering law school. The visitor, it turned out, was Jim Haynes ’83, general counsel to the Department of Defense, and soon Kinard was interning at the DOD’s Office of Legislative Counsel. Kinard, who’d made many friends in D.C., seriously considered Georgetown Law. But Harvard presented opportunities he couldn’t turn down, he says. The 1L experience reminds him of his first year at the Naval Academy, including the bond that develops among students thrown together into a new environment. That bond is strongest, perhaps, with three other 1Ls, recent military veterans who served in Iraq and Afghanistan: John Doyle, Elliott Neal and Eric Powell.

Compared with the demands of their military experience, they’re finding the pressure of law school not so bad. “It’s very relaxing,” jokes Neal, who served as a U.S. Army lieutenant in Afghanistan and is now a captain in the Army Reserve. “I tell people that after the Army, it’s like Club Med. I’m not getting woken up at 6 a.m. by reveille.”

The vets bring a different perspective to class, as in the recent discussion (in a criminal law course) on the use of deadly force by police. Says Powell: “I brought up that I have training in that domestically and internationally, and that there are different rules in each about when to use deadly force.” Powell joined the Navy in 2005 after graduating from Harvard, motivated by his respect and admiration for the military.

The others, who had similar motivations for their service, have found HLS very receptive. Kinard, a native of Spartanburg, S.C., whose tuition is covered by the Veterans Administration, says, “It’s completely 180 degrees from what I thought. It really is a testimony to the HLS administration and what they want this school to be.”

Powell and Doyle are participating in the new Yellow Ribbon Program, in which the
federal government matches contributions made by schools to pay for the education of eligible veterans. HLS is contributing the maximum amount to cover the full cost of tuition and fees. “I can’t imagine something HLS could do after that fact to make me think it’s not a welcoming place for veterans,” says Doyle, who grew up in Wisconsin and worked shoeing horses before enlisting in 2005. He graduated from the Army’s Airborne School and serving in the elite Special Forces, which specialize in unconventional warfare and foreign internal defense. (Foreign internal defense includes working with indigenous forces and the incumbent government against insurgencies.)

Doyle trained the United Arab Emirates counterterrorist forces and then spent a year in northern Iraq. “The overriding goal was not just to get a specific mission done but to get it done through Iraqi forces so they could learn how to do those things on their own,” explains Doyle, who after the Army spent a year in Colorado skiing and climbing, and who is interested in returning to Iraq to work in commercial development.

The cultural differences were often striking. “We were out in the middle of the desert one day, and you couldn’t see anything on any horizon, just sand in every direction,” recalls Doyle, who says he speaks “functional” Arabic. “We were driving along and saw an Iraqi guy in the middle of the desert, raking the sand. Of course you have to stop—it’s suspicious. Plus we were just dying to know how he got out there and what he was doing. He said he was preparing the ground so that when Allah saw fit to bring the rain, something could grow there. Wild.” Doyle says he’s settled quickly into life at HLS, including joining a group of dog owners trying to get Somerville to provide off-leash hours for dogs in some of the city parks.

Neal, who grew up in a tiny town in Missouri, jokes that he was accepted to Harvard College “because they have geographic affirmative action: ‘They needed a few good hicks, and I fit the bill.’ A graduate of the Army’s Airborne and Ranger schools, he did ROTC as an undergraduate and now is an ROTC instructor at MIT. “I was taught by guys who’d led men in Iraq and Afghanistan. It seemed so gripping, I thought. That’s what I want to do,” says Neal, who was accepted to HLS for the class of ’08 but deferred for four years so he could fulfill his military obligation.

In 2007, Neal served eight months as company executive officer in the Korengal Valley, one of the most conflict-ridden areas of Afghanistan. “In military terms, my company was ‘in contact’ with the enemy every day, so it was a little stressful,” he says. He also served in Jalalabad as a civil affairs officer for the region, assisting in building the infrastructure of Afghanistan, and considered staying in the military instead of matriculating at HLS. “It was the most engaging time of my life. I cannot imagine a civilian job that could be so engaging, except maybe as an entrepreneur,” says Neal, who is funding his education partially through the GI Bill and calls himself “an open book” as far as his career plans.

Powell was drawn to the Navy because of its approach to leadership and management. Boot camp was exactly like the movie “Full Metal Jacket,” he says, “demanding in ways I hadn’t been challenged before.” Assigned to intelligence work, his first overseas deployment was to Bahrain with the Fifth Fleet, where he led a team that provided intelligence to U.S. and coalition forces. He then served on the USS Nimitz, a nuclear-powered aircraft carrier with 5,000 sailors and Marines based out of San Diego, where, as a tactical action officer, he reported directly to the captain for defense of the ship. During Powell’s 30 months with the Nimitz, it was deployed to the Arabian Gulf for Iraq and Afghanistan missions and to the western Pacific.

Powell, who’s interested in national security issues and counterterrorism, doesn’t find the 1L year overwhelming. As for being cold-called in class, he says, “It was not long ago that the captain on the USS Nimitz would cold-call me and base a serious decision on my answer.”

Kinard, who doesn’t know his career plans yet, says he’s making the most of every opportunity: “I come here every day saying, ‘I’m not entitled to anything because of my service, my disability, my background.’”

Overheard, under oath | Professors testify

“We urge the commission to reject the kind of policy responses that many, including the U.S., have encouraged—moratoria on international adoption, restrictive regulations that require holding children while searches for in-country homes are conducted and prohibitions on the private intermediaries that often function as the lifeblood of such adoption. These policies simply punish unparented children by denying them adoptive homes. We urge you to embrace policy responses which punish those who violate the laws against kidnapping and baby-buying by enforcing and, where needed, strengthening such laws.”

HLS Professor Elizabeth Bartholet ’65 Faculty director of Harvard Law School’s Child Advocacy Program, testifying before the Inter-American Commission on Human Rights on Nov. 6 regarding the “Human Rights of Unparented Children and International Adoption Policies” in the Americas. Bartholet argued that restrictions on ethical international adoption violate children’s basic human rights by condemning them to damaging institutions or to the streets.

First, overwhelmingly, most of the ways in which young people use digital technologies are positive. These technologies have become part of the fabric of the life of young people. Most young people, at least in the United States, do not distinguish between their ‘online’ and ‘offline’ lives. As a result, many of the good things that have gone on offline also happen, in one form or another, online; so, too, do many of the bad things that happen in everyday life play out also online.

We should fundamentally be talking about ‘bullying,’ not ‘cyberbullying.’”

HLS Professor John Palfrey ’01 Faculty co-director of the Berkman Center for Internet & Society and vice dean for library and information resources at HLS, testifying before the House Subcommittee on Crime, Terrorism, and Homeland Security on Sept. 30 regarding two pieces of legislation designed to address cyberbullying and other online safety issues for children. In 2008 Palfrey headed the Internet Safety Technical Task Force, a group of academics, child safety experts and executives of technology companies that produced a report assessing the risks faced by youth on social networks.

Visit from a ‘Public Citizen’

At HLS, Nader urges students to question authority

In an Oct. 30 talk at Harvard Law School, Ralph Nader ’58 recalled his time as a law student and editor of the Record, where he published his first piece on consumer protection. He implored students to use their imaginations to solve problems facing this country, and to question government and the school’s administration. “You don’t have any idea how you are respected when you speak out collectively as law students,” he said.
Asking about ‘don’t ask, don’t tell’
Panelists assess the fallout from military policy

EXPERTS ON THE MILITARY’S “don’t ask, don’t tell” policy and veterans who served under it drew a standing-room-only crowd at HLS on Oct. 15, during a panel discussion sponsored by the student organization Lambda and moderated by Dean Martha Minow.

Passed by Congress in 1993 after an earlier attempt to allow gays and lesbians to serve openly was unsuccessful, “don’t ask, don’t tell” stipulates that the military must discharge those “who demonstrate a propensity or intent to engage in homosexual acts” because they "would create an unacceptable risk to the Armed Forces’ high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.”

As she recapped the policy, University of California Hastings College of the Law Professor Elizabeth Hillman, a military historian and a U.S. Air Force veteran, expressed the frustration and the desirability of open access, and the downsides of open access, and that it would be a mistake to simply ignore it as though there were no choice to be made, as we look forward to next generation connectivity, about whether or not we change direction. In the future we’ll be able to develop a more complete set of thoughts about what the implications are, but that’s not what our remit from the FCC is or was. Our remit was to look at the facts. That's what we've tried to do, and I think we've done a good job of it.

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political economy in each of these countries, between incumbent and the regulator and the courts. And what we found is that where open-access policies were not only enacted formally, but actually pursued by an engaged regulator, we saw new competitors entering the market, usually more innovative and agile than the incumbents. In most of these countries, these competitors continue to be very important players and seem to really separate out the markets where there are high speeds and low prices from the markets where there are low speeds and high prices.

We then did a very detailed company-level pricing study, looking at the closest analogues of next generation connectivity in all of these countries. We had data on offerings from 59 companies across these countries. The image is very captivating. In the one-third of the graph that is occupied by low speeds and high prices, we see most of the U.S. companies and most of the Canadian companies, with minor exceptions. What characterizes the North American markets is that they rely heavily upon the competition between a cable incumbent and a telephone incumbent. They don’t have open-access policies that are effectively enforced. They exist formally in Canada but are not effectively enforced there, for the prices there are the highest in the OECD for the relevant kind of access.

When we look at the very other end of the graph—the countries that have the highest speeds and the lowest prices—in each of these cases, there is an incumbent telephone company, and usually a cable company, but there is also a clutch of competitors who entered over the last seven or eight years using open access to build their own competing advantages—agile, innovative competitors that catalyze the market.

And then we also did some econometric reanalysis of the existing, most recent data on unbundling, which is one particular kind of open access, and penetration per 100, and again we found evidence in support.

So, our review of the international experience suggests that the U.S. is looking in a different direction from many other countries. And as best we can tell from the evidence, these other countries are not wrong to interpret their success as having been influenced to a significant degree by the adoption of open-access policies.

What do you anticipate will be the implications of this report?

We really have been trying to focus on getting the facts right rather than spinning out the implications. I think the Federal Communications Commission made a very smart choice to take this report in draft form and put it out for public comment, precisely so that we can get input on the research and its implications from many diverse sources and perspectives.

I’d say the minimum implication is that we need to think about the feasibility of open access, the desirability of open access, and the downsides of open access, and that it would be a mistake to simply ignore it as though there were no choice to be made, as we look forward to next generation connectivity, about whether or not we change direction. In the future we’ll be able to develop a more complete set of thoughts about what the implications are, but that’s not what our remit from the FCC is or was. Our remit was to look at the facts. That's what we've tried to do, and I think we've done a good job of it.
Lanni, Stephenson gain tenure; Gregory appointed assistant clinical professor of law

Adriaan Lanni and Matthew Stephenson '03 have been promoted to tenured professors of law at Harvard Law School, and Lecturer on Law Michael Gregory '04 has been appointed as an assistant clinical professor of law.

The promotions were approved by vote of the HLS faculty. “I couldn’t be more delighted to announce these outstanding appointments,” said Harvard Law School Dean Martha Minow. “Adriaan Lanni is one of the world’s leading experts on the ancient legal systems of classical Greece and Rome, which she researches with fresh insights informed by contemporary legal theories, and she is a treasured teacher who brings her deep knowledge of ancient systems and of relationships between law and society to her criminal law with vigor and imagination.

“Matthew Stephenson’s interdisciplinary scholarship has blended law and political science to shed new light on important questions of administrative procedure, separation of powers and our judicial institutions.

“And Mike Gregory has been instrumental in building a unique clinic here focusing on the needs of children traumatized by violence and abuse, with an eye to how schools, courts, legislatures and communities can help meet their unique needs. All three of these experts are also first-rate teachers, as our students well know, and superb colleagues who build communities within the school. We are wonderfully fortunate to have them on our faculty.”

The promotions and the newest appointment follow other recent faculty appointments. Professors Henry E. Smith and Lawrence Lessig were appointed last year. Professors Jesse Fried ’92 and David Kennedy ’80 joined the faculty this fall.

Proxy access

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from law schools around the country.

Chairing sessions during the debate were Professor Lucian Bebchuk LL.M. ’80 S.J.D. ’84, Professor Robert Clark ’72 and Professor Howell Jackson ’82. Listening in on the debate were senior staff members from the SEC and Congress.

From the first session, battle lines were drawn. Jay Eisenhofer, co-founder and managing director of Grant & Eisenhofer, explained that “the fundamental premise behind proxy access is that shareholders do not have sufficient influence over composition of boards of directors. … Proxy access is the mechanism that will help provide that influence, and it will be a good thing for corporate governance and management of these corporations.” Byron Georgiou ’74, who has recently been appointed as a member of the Financial Crisis Inquiry Commission (which, he explained, gave him a “particular interest in the area”), expressed the view that “moving in the direction of giving shareowners a larger voice in the governance of corporations ... is an experiment well worth trying. There’s really very little risk.”

On the other hand, Joseph E. Bachelder III ’38, founder of the Bachelder Law Firm, suggested that “the object of good corporate governance is the profitable operation, short term and long term, of a business enterprise ... The object of corporate governance is not to create a paradigm for democracy.” And James Morphy ’79, a partner at Sullivan & Cromwell, questioned arguments that reform is called for by the financial crisis: “I would love to have a vote by hands at some point of the people in this room who believe that if proxy access, in whatever form you want to imagine, had been passed in 2003, the financial crisis would have been averted.”

No matter what action the SEC takes on proxy access, the organizers of the Proxy Access Roundtable considered the roundtable a resounding success. As Dean Minow concluded, “Proxy access reform is absolutely going to happen in one way or another, and [the Proxy Access Roundtable has] the opportunity to help shape the discourse.”

In addition to Professors Bebchuk, Clark and Jackson, Harvard Law School faculty and affiliates participating in the Proxy Access Roundtable were Professors John Coates, Allen Ferrell ’95, Jesse Fried ’92, Mark Roe ’75 and Guhan Subramanian ’98, as well as Visiting Professors Alma Cohen and Leo Strine, and the co-executive directors of the HLS Program on Corporate Governance, Scott Hirst LL.M. ’01 and Holger Spamann LL.M. ’01 S.J.D. ’09.
The pastoral grounds of MooseHill Farm in Sharon, Mass., became a fictitious central Asian country called Kerplakistan on Oct. 17 as more than 35 HLS students participated in a staged humanitarian crisis simulation, sponsored by the Human Rights Program. Students participated in the daylong field exercise, a mandatory component of the Humanitarian Protection in Situations of Armed Conflict and the Human Rights and the Environment courses. Students were given information about the fictitious country, which included a complex political history, evidence that violence was starting to spread and potential environmental abuses. Students were assigned roles and engaged with actors in the project, which is designed to give students a grasp of the challenges of conducting field research in complex humanitarian crises.

Conducting field research, Kathleen Gibbons '11, Deena Quitman ‘10 and Charline Yin ‘11 interview Alesia De Vincentis ‘10, a former electric company employee who may have knowledge of corporate human rights abuses.

Titus Lin ‘10, Kathleen Cui ’11 and Marissa Vahlsing ‘11 interview Lecturer on Law Bonnie Docherty ’01, a village farmer with information about alleged human rights abuses.

Mario Aprotesi ’11, Ariella Rosenberg ’10 and Shu-Yin (Tina) Yu ’11 interview Leigh Sylvan ’09, a village resident suspicious of the human rights investigators.

Anna Rückheim and Mona Williams ’11 represent the International Committee of the Red Cross, one of several organizations students were assigned to portray as part of the exercise.

As students investigate whether human rights violations have occurred in the village, a destroyed schoolhouse shows evidence that a bombing may have taken place.

Photographs by Eric Grignol