Legal education is in a period of profound and much-needed change. That was the unanimous assessment of a group of experts at FutureEd 2, a conference at Harvard Law School in October that attracted more than 150 legal educators, practitioners and businesspeople from around the world.

Yet how, exactly, law schools will be different in five or 20 years is less clear, although there are many suggested paths, ranging from a greater emphasis on global education to more practical training for budding lawyers. And, at the same time, there are strong voices urging law schools to maintain what’s best about traditional legal education even as they undergo reform.

“The overarching theme was that this was really an important moment, and there’s a growing realization that legal education really needs to change in important ways,” said Professor David Wilkins ’80, faculty director of Harvard Law School’s Program on the Legal Profession, which hosted the conference, the second in a three-part series co-sponsored with New York Law School to explore the current state of legal education and help shape its future.

The conference provided the opportunity to gather examples of reforms and innovations, as well as solicit recommendations for reform.

Proposals for improving legal education ranged from more distance learning to more experiential learning in various forms.
Tribe returns to Harvard Law School
Carl M. Loeb University Professor Laurence H. Tribe ’66, who most recently served as the first senior counselor for access to justice in the Justice Department, returned to the Harvard Law School faculty in January. He will resume teaching in the 2011-12 academic year. Recurring symptoms of a benign brain tumor first diagnosed and treated in 2008 led Tribe to inform HLS and the Justice Department in mid-September that he would cut short the two-year leave he took to serve in the Obama administration, in order to resume a treatment regimen at Massachusetts General Hospital.

Fellowship of trust (and estate)
HLS Professor Robert H. Sitkoff was elected an academic fellow of the American College of Trust and Estate Counsel, a national professional organization of lawyers who specialize in trusts and estates. Sitkoff, co-author of “Wills, Trusts, and Estates,” the leading American casebook on the subject, was recognized for his outstanding contributions in scholarship, teaching, lecturing and professional activities.

Freeman selected as ACUS member
This fall, Jody Freeman LL.M. ’91 S.J.D. ’95, the Archibald Cox Professor of Law at HLS, was selected as a public member of the Council of the Administrative Conference of the United States, an independent agency of the U.S. government tasked with improving the efficiency and fairness of federal agencies. Freeman most recently served as White House counsel for energy and climate change.

Repercussions of robo-signing
At a hearing on the TARP Foreclosure Mitigation Programs, Visiting Professor Katherine Porter ’01 testified on how the allegations of legal errors in the foreclosure process may impact housing markets. Porter argued for an increase in legal requirements for foreclosures, given widespread allegations of paperwork problems and procedural irregularities.

Advice for future social entrepreneurs: “Go for it”
Beginning in 2013, Harvard Law School’s new Public Service Venture Fund will provide $1 million per year in grants to support new and recent graduates who will be working for public service employers, and also to support those who want to start their own organizations.

As a first in a series of workshops and panels designed to foster an entrepreneurial spirit, the Dean’s Office and the Bernard Koteen Office of Public Interest Advising sponsored a November “Conversation Between Social Entrepreneurs” with Alan Khazei ’87, co-founder of City Year, and Brooke Richie ’04, founder and executive director of the Resilience Advocacy Project.

Dean Martha Minow, who introduced the panelists, said the fund was inspired by alumni such as Khazei and Richie. “People come to Harvard Law School with dreams about how the world could be different,” said Minow. “We are committed to making it possible for students to pursue those dreams.”

Khazei praised HLS for starting the fund and said he hoped other schools would follow its example. Reflecting on his own experience starting City Year with Michael Brown ’88, he said their HLS education opened many doors. Intellectually, they were strongly influenced by HLS Professor Frank Michelman ’60, Professor David Rosenberg’s course on core theory, and the idea of civic republicanism as promulgated by then Visiting Professor Cass Sunstein ’78.

Richie’s program, located in New York City, is working to fight intergenerational poverty, by training low-income teens to serve as advocates for other low-income youth. Richie came to HLS knowing she wanted to start an organization that would connect the law to the idea of resilience.

It was HLS Professor Lani Guinier’s Community Lawyering class that helped her take the next step. Among other things, the class taught her to rethink the role of the lawyer and see “a facilitator and a problem-solver, an advocate who empowers his or her clients, rather than [the attorney as] the sole expert in the room,” she said.

Although Khazei and Richie are at different stages in their careers—22 years after he founded City Year, Khazei now heads an advocacy organization called Be the Change—in many ways their advice to the room full of students was similar. Khazei advised finding a partner and building a team. Richie discussed the importance of networking and knowing where your organization fits into the existing world of nonprofits. Both stressed the importance of taking full advantage of Harvard’s resources, urging students to talk to as many people as possible about their ideas, to help develop them before they leave HLS, and to find mentors.

“Three years after launching the Resilience Advocacy Project, Richie said the most difficult thing is “the balancing act I have to engage in on a daily basis: fundraising, managing staff, standardizing programs, building an institution.” Khazei agreed. His advice for students who want to be social entrepreneurs was simple: “Go for it.” You’ve got to have a passion, he added. “But if you’re passionate about it, take the risk. It’s hard. But you get to be your own boss, and more important, you get to pursue your dream.”
Wilkins makes the case for educating global lawyers

David Wilkins ’80 delivered a lecture, “Making Global Lawyers: Legal Education, Legal Paradox, and the Paradox of Professional Distinctiveness,” to mark his appointment as the Lester Kissel Professor of Law.

Wilkins began his Oct. 19 lecture by noting that today’s legal world is often seen either as undergoing a fundamental paradigm shift or as “just business as usual.” He cautioned that while it’s too early to tell which of these views is correct, “it’s probably unlikely to be either.”

Wilkins observed, “We’re seeing big trends that have been going on long before the crash of 2008, that were accentuated by the crash and that are likely to have important implications for everything we do.” He provided several examples of these changes, including the globalization of economic activity, the rise of information technology and the blurring together of the categories of knowledge that we have come to rely on at least since the 19th century.

According to Wilkins, the institutionalization of legal practice and its globalization have moved the profession from firms that are sealed off tightly from one another to much more fluid networks, leading to intense competition across global markets.

Despite these changes, he said, it’s important to recognize that most lawyers around the world continue to practice in ways that are very similar to the ways in which lawyers practiced a century ago, through solo or small firm practice. Nevertheless, Wilkins observed that recently, we have seen the rise of large law firms, and the rise of in-house counsel, which has moved from a U.S. to a global phenomenon. He cited India’s Tata Group as an example.

Wilkins also noted that the market for lawyers is changing dramatically. There used to be relatively few lawyers concentrated in bounded geographic areas, and lots of policies that restricted competition. Today, we have what some economists call “winner-take-all competition,” he said, both for clients and for lawyers, and we have seen the “rise of market practices.”

But complexity increases demand, and Wilkins predicted an increased demand for what lawyers do. The bad news for attorneys, he said, is that many people are competing for this work—and they are not all lawyers. Technology will further decrease the need for “bespoke” legal services. And at the same time, the demand for an increasingly mobile legal workforce is emerging.

This raises an array of important questions for legal education, Wilkins said, including whether the purpose of this education is to socialize students into this new world or challenge it.

“Should we embrace the market, fight it or try to lead it?” he asked.

How we figure out the answers, said Wilkins, is important not just for us but also for society because of the role lawyers will continue to play in the development of the modern state.

Palfrey proposes a new information environment

In a November lecture marking his appointment as the Henry N. Ess III Professor at Harvard Law School, Professor John G. Palfrey ’01 called for a new legal information system grounded in a set of open data.

Palfrey, who is also the vice dean for library and information resources at HLS, delivered the lecture to a standing-room-only audience in the Caspersen Room in Langdell Hall.

Introducing the lecture, Dean Martha Minow noted that the award of the Ess Professorship to Palfrey “is especially wonderful” because Ess, like Palfrey, was extraordinarily devoted to the collection and preservation of law books. Ess, a 1944 graduate, bestowed his rare book collection, doubling HLS’s collection of legal books printed before 1501 and making Harvard’s the largest trove of early English law books in the world.

“If Ess had the persistence and vision to collect special legal materials, John Palfrey has the persistence and vision to reinvent what legal materials will be like and how people will access them in this very exciting and challenging age,” Minow said.

In his lecture, Palfrey proposed a new legal information environment that is predominantly digital in nature, which draws from advances in cloud computing, the digital naming systems and youth media practices, as well as classical modes of librarianship.

He explained how this new digital era grows out of a long history of evolution in the publishing of legal information over more than 900 years: “Now, we are embarking upon an equally ambitious venture to remake the legal information environment for the 21st century, in the digital era. A new legal information environment, drawing comprehensively from contemporary technology, can improve access to justice by the traditionally disadvantaged; enhance democracy; promote innovation and creativity in scholarship and teaching; and promote economic development.”

Palfrey acknowledged that a new information environment also will have unintended and sometimes negative consequences. “This trajectory toward openness is likely to change the way that professionals and the public view the law, and the process of lawmaking hierarchies between those with specialized knowledge and power and those without who will continue its erosion.”

He concluded by discussing how, unlike the physical library in Langdell Hall, the structure of the digital information environment has not yet been thoughtfully designed. “Our students just as frequently come in through our virtual front door as our physical front door,” he said. “I think what we need is a design charrette to build this new, thoroughly connected system of legal information for a hybrid age, for a digital-plus era.”
For 100 years, the Ames Moot Court Competition has showcased the most talented oral advocates to attend Harvard Law School. Today the competition draws standing-room-only crowds to Austin Hall as two 3L teams compete for the coveted recognition of their advocacy skills from a panel of eminent jurists. Making the final round of the competition is one of the school’s highest honors.

Arguing mock cases has been an integral pedagogical component of legal education since Harvard Law’s earliest days. Early on, professors dissected cases to show students the value of techniques in argument and analysis. These exercises eventually grew into faculty-run moot courts. By the 1830s, students had formed law clubs to discuss and argue cases, as had been done at the Inns of Court in England since the beginning of the English legal profession.

This year marks the centennial anniversary of the establishment of the formal moot court competition at HLS created in honor of James Barr Ames LL.B. 1872, dean of the law school from 1895 to 1910.

Chief Justice John G. Roberts Jr. ’79 of the U.S. Supreme Court presided at the Ames final round on Nov. 16. He was joined by Judge Julia Smith Gibbons of the U.S. Court of Appeals for the 6th Circuit and Judge Diana Murphy of the U.S. Court of Appeals for the 8th Circuit. This year’s case, McBride v. United States, was written by Tejinder Singh ’08.

The Ames Moot Court Competition Celebrating a century

![The Ames Moot Court Competition](image)

![The 2010 Ames Competitors](image)

![The 2010 Ames Participants](image)

![The Crowd](image)

![The Board of Student Advisers](image)

![The Best Team](image)

*For video coverage, go to: [bit.ly/AmesMoot2010]*

*Photographs by Phil Farnsworth*

Former California State Sen. Sheila Kuehl ’78 won Best Oralist in the 1977 final round of Ames. Other past winning oralists include Judge H.J. Friendly, 1927; U.S. Supreme Court Associate Justice Harry Blackmun, 1932; Professor and former Dean of Stanford Law School Kathleen Sullivan, 1980; and Massachusetts Gov. Deval Patrick, 1981.

A student prepares for his day in the Ames Courtroom in a classroom in Austin Hall.

Before the creation of the Ames competition, HLS students, as early as 1825, met in clubs to practice arguing cases. Future Supreme Court Justice Louis D. Brandeis LL.B. 1877 was a member of the Pow-wow Law Club, pictured here.

A bequest in honor of James Barr Ames LL.B. 1872, dean of HLS from 1895 to 1910, pictured here, formalized the moot court competitions at HLS.

Early arrivals at the 1971 Ames competition.

For video and images from the archives, go to http://bit.ly/ameshistory
Counsel for the situation
Coleman’s career celebrated

William T. Coleman Jr. ’43 (’46), the venerable civil rights lawyer who served as a lawyer in Brown v. Board of Education, as counsel to the Warren Commission and as secretary of transportation in the Ford administration, was a guest speaker at HLS on Dec. 1.

The event, sponsored by the Charles Hamilton Houston Institute for Race and Justice at HLS, celebrated Coleman’s nearly 70-year career and his recently released memoir, “Counsel for the Situation: Shaping the Law to Realize America’s Promise.”

Coleman was introduced by Dean Martha Minow and his daughter Lovida Coleman, who said her father, through his work at the NAACP Legal Defense Fund, “brought the promise of equality of opportunity closer to reality for many others.” She said, “He is still in pursuit of the perfection of that promise.”

Coleman, now 90, recalled vivid details of his extraordinary career. He told a packed room that there is still work to be done to fulfill the promise of civil rights in this country.

Coleman graduated at the top of his class at Harvard Law School and was the first African-American to serve as a law clerk at the U.S. Supreme Court. He clerked for Associate Justice Felix Frankfurter LL.B. 1906. He was the second African-American to serve as a U.S. Cabinet secretary, when he was appointed secretary of transportation in 1975.

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Of the 30 proposals, five or six will be highlighted at the final conference next April at New York Law School. But, as HLS Dean Martha Minow urged, during an address to the group, law schools should not abandon what they do so well: “Sharp analysis, teaching people to think hard through a problem by taking it apart, questioning assumptions, tracing consequences of potential avenues of response—these are the hallmarks of legal education.”

Driving much of the conference agenda was the rapid globalization of economic and government relationships, as panelists from law schools around the world discussed how to best educate lawyers for an increasingly interconnected and interdependent international environment. Birte Gall, director of the International Exchange Program at Bucerius Law School in Germany, noted that her school requires students to spend a semester studying abroad, in order to understand the law of a different jurisdiction, to develop personally by living in a foreign culture and to begin building a network of international colleagues.

Other topics included the problem of retaining women in the legal profession, especially women of color; “cradle to grave” professional development; and Harvard Law School’s new model for a public service venture fund to support the launch of public service careers to encourage students to begin thinking about their legal careers more entrepreneurially.

Since American legal education is still widely regarded abroad as the best, other nations are looking to the U.S. to lead the way in legal education reform. Many foreign law schools are seeking accreditation from the American Bar Association, a proposal that ABA President Stephen Zack—one of four ABA officials attending FutureEd 2—asked panelists to explain why ABA accreditation was so important to them.

“The U.S. as a country, and its legal system, are profoundly influential around the world,” responded C. Raj Kumar LL.M. ’00, who spearheaded the effort to establish India’s first global law school, the Jindal Global Law School, and serves as its dean. “There is also great interest among lawyers around the world to measure up to the kind of ‘best standards’ that the legal profession has been fostering in the U.S.” Kumar added that it is important for the ABA to send the “right signal” to lawyers and governments around the world that the U.S. is not engaging in protectionism with regard to legal services.

Willkins said the conference exceeded his expectations on many fronts, including the high level of engagement among the participants: “I can’t claim to know what it was like when Christopher Columbus Langdell was operating, but there is a willingness now to re-examine what’s happening in law schools in relation to tremendous changes in legal practice around the world, in a way I’ve never seen before.”
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experts, government officials and scholars, including EPA Administrator Lisa Jackson, Presidential Science Adviser John Holdren, Founding EPA Administrator William D. Ruckelshaus ’60 and White House Council on Environmental Quality Chair Nancy Sutley.

Harvard Law School Dean Martha Minow opened the conference with a welcome address, and HLS Professor Jody Freeman LL.M. ’91 S.J.D. ’95, who most recently served as White House counselor for energy and climate change, served as a panelist and moderator. Panelists highlighted the EPA’s past achievements and analyzed its future environmental, economic and political challenges.

Former Vice President Al Gore, who spoke during the conference’s luncheon, celebrated the EPA’s accomplishments, discussed the global climate crisis our world is facing and emphasized the need for U.S. policymakers to step up as global environmental leaders.

From left: HLS Professor Jody Freeman, EPA Administrator Lisa Jackson and HLS Dean Martha Minow

Suk gains tenure as a professor of law at Harvard

JEANNIE SUK ’02 has gained tenure as a professor of law at Harvard. She is the first tenured Asian-American woman at the law school.

Suk—which whose research interests are criminal law and procedure, family law, art law and entertainment law—joined the law school faculty as an assistant professor in 2006. She currently teaches courses on criminal law and on performing arts and the law.

“Jeannie Suk’s imaginative, probing, and sometimes provocative scholarship builds bridges between criminal and family law, between law and the humanities, and between theory and practice,” said HLS Dean Martha Minow. “Her superb teaching and intellectual leadership model the life of the mind, and I know her colleagues and students are thrilled to celebrate the recognition of her accomplishments signified by her promotion.”

Suk is author of two books, “Postcolonial Paradoxes in French Caribbean Writing” (Oxford University Press, 2001) and “At Home in the Law: How the Domestic Violence Revolution Is Transforming Privacy” (Yale University Press, 2009). Her book “At Home in the Law,” which examines how legal feminism is transforming privacy in the home through the regulation of domestic violence, won the Herbert Jacob Book Prize from the Law and Society Association this year.

In 2009, Suk was awarded a Guggenheim Fellowship to research the legal construction of trauma and was the inaugural Senior Fellow of the Humanities Center at Harvard. Her third book, “The Trauma Society,” is forthcoming.

Last year, Suk co-wrote a highly influential article in the Stanford Law Review (vol. 61, issue 5, March 2009) arguing that American fashion designers should have their designs protected by law against close copies.

Suk—who immigrated to the United States from Seoul, South Korea, as a child—received her bachelor’s degree in literature from Yale University. She earned her doctoral degree from Oxford University as a Marshall Scholar and went on to attend Harvard Law School on a Paul and Daisy Soros Fellowship. She has served as a law clerk to Justice David Souter ’66 on the U.S. Supreme Court and to Judge Harry T. Edwards on the U.S. Court of Appeals for the D.C. Circuit.

Giannini appointed clinical professor of law

TYLER GIANNINI has been appointed a clinical professor at Harvard Law School. He was formerly a lecturer on law at HLS. Giannini—who teaches in the fields of business and human rights and on Alien Tort Statute litigation, as well as on the link between human rights and the environment—is also clinical director of HLS’s Human Rights Program. He is a specialist on Burma, Southeast Asia, and South Africa. He joined HLS as a clinical advocacy fellow in the HRP in 2004, was appointed as a lecturer on law in 2006 and became director of the International Human Rights Clinic in 2007.

Giannini’s theories of tort liability have played a significant role in holding corporations responsible for the human rights ramifications of their enterprise activities. As one of the architects of the Doc v. Unocal litigation concerning the Yadana gas pipeline in Burma, he helped develop the concept of corporate ATS litigation, one of the most important vehicles for modern international human rights law reform.

“Tyler Giannini is a creative thinker and pioneer in the development of theories of liability in the field of human rights,” said HLS Dean Martha Minow. “His work has guided IHRC and our clinical students in groundbreaking and influential work in human rights advocacy. He was already a key member of our community, and I am delighted that Tyler joins our permanent faculty.”


Prior to joining Harvard Law School, he co-founded and co-directed EarthRights International for a decade in Chiang Mai, Thailand.

Giannini is a 1992 cum laude graduate of the College of William and Mary, where he majored in history and government with an emphasis on international relations. He holds a Master of Arts in foreign affairs and a law degree from the University of Virginia.

To view videos of the conference go to: http://bit.ly/EPAat40

To view articles from EPA®40 please visit: http://bit.ly/EPA40Articles

To view photos from EPA®40 please visit: http://bit.ly/EPA40Photos
Veteran of war and service
Susan McGarvey LL.M. ’11

pointing authority for military commissions. During her time as spokesperson, the constitutionality of military commissions was in question and the abuses at Abu Ghraib prison in Iraq had come to light.

“There definitely was a lot of attention on detainee policies and practices, and how we could say they were treated at Guantánamo,” recalls McGarvey, who was commissioned in the Navy after graduating from Notre Dame Law School in 1998.

In 2006, McGarvey found herself in an equally intense situation, in Iraq, serving as Navy JAG officer in the Regime Crimes Liaison Office under the State Department. Her role was to assist the investigative judge in Iraq’s inquisitorial legal system to build a case against Hussein for war crimes related to the slaughter of primarily Shia Iraqis in southern Iraq in 1991. She interviewed people on the Iranian border who’d lost family members, while the U.S. military’s mass grave unit unearthed bodies of the slain.

For the two years prior to coming to HLS, McGarvey advised the admiral in charge of Carrier Strike Group 3 aboard the USS Stennis on such issues as ethics, law of armed conflict, rules of engagement and law of the sea. Her service has also taken her to Naples, Italy, where she prosecuted a hashish ring at the U.S. Navy base, and Kosovo, where she worked in NATO command on the politically complex prosecution of Kosovar Albanians on charges of murdering collaborators of Slobodan Milosevic. “It was there that I was able to find the area of law that I work in now and love, which is international humanitarian law,” says McGarvey, who is concentrating in that area in the LL.M. program.

McGarvey never planned to stay in the Navy past her initial three-year commitment, but she loves it so much she can’t see retiring until she’s put in 20 years. For now, she’s enjoying her studies, including Constitutional Norms in Times of Emergency with Visiting Professor Sanford Levinson and Prosecuting Transnational Criminal Organizations with Philip Heymann ’60.

“We’re going to figure out how to dismantle the Mexican drug cartels,” she says.

“The climate here is almost overwhelmingly welcoming,” says McGarvey of HLS. “There’s a lot of interest in and applications to the JAG Corps, which is great to hear.”

U.S. Navy Lt. Cmdr. Susan McGarvey LL.M. ’11 was in the courthouse when Saddam Hussein was on trial for the Anfal campaign, the genocide of Kurds that he ordered in the late 1980s.

A glass wall separated the direct participants in the trial from the observers, including McGarvey, who was there as the Navy’s legal representative. On Nov. 5, 2006, Hussein was found guilty of charges in a prior proceeding, the Dujail trial, and he was hanged on Dec. 30, 2006.

Observing the Hussein trial was just one extraordinary experience in McGarvey’s legal career as a JAG officer in the U.S. Navy.

With the legality of detaining accused terrorists at Guantánamo Bay under intense scrutiny in 2004, McGarvey was official spokesperson for the Office of Military Commissions, while also serving as a legal adviser to retired U.S. Army Maj. Gen. John Altenburg, ap-