New appointments to the faculty

DEAN MARTHA MINOW recently announced three new appointments to the faculty: Tomiko Brown-Nagin as a tenured professor of law, Daniel Nagin as a clinical professor of law and Chief Justice Margaret Marshall as a senior research fellow and lecturer. Boston entrepreneur John Williams ’79 was named the law school’s inaugural Expert in Residence. “Each of these appointments is exciting for the school—strengthening the connections between the law school and the world of practice,” said Minow. “Tomiko Brown-Nagin is a superb scholar of civil rights law and history, with rich knowledge of pathways for law and social change. Daniel Nagin’s deep commitment as an advocate and wisdom as a clinical teacher will advance students’ opportunities to make a difference in our community while learning how to lawyer with care and sophistication. As inaugural Expert in Residence, John Williams brings outstanding expertise as an entrepreneur and social innovator precisely as we seek to equip students to explore new ventures and innovations. Chief Justice Margaret Marshall galvanized groundbreaking reform of the Massachusetts judicial system, and her intellectual leadership on the court and in practice is legendary. How terrific it is to welcome each of them here!”

“I know that the students have gone through rounds and rounds of moots and that none of them were like the real thing. For all of you in the audience who think you could have done a better job, come up front and give us a try.”

—Justice Sonia Sotomayor at the 2011 Ames Moot Court Competition

During Reunion Weekend in October, Justices David Souter ’66 and Stephen Breyer ’64 reminisced about their Harvard Law School years and their time on the Court.

During the many years they served together as associate justices on the U.S. Supreme Court, David Souter ’66 (left) and Stephen Breyer ’64 (right) were often mistaken for each other by members of the public. But the mix-up reached an amusing apogee about a decade ago, when Breyer was invited to lunch by Justice Sandra Day O’Connor’s clerks, and one clerk asked him, “Are you and Justice Breyer often confused?” At HLS Reunions Weekend, Justices Breyer and Souter (who retired from the Court in 2009) exchanged good-humored banter and insights about their service on the nation’s highest court.
Sullivan on public counsel committee

The Massachusetts Senate appointed Clinical Professor RONALD SULLIVAN ’94, director of Harvard Law School’s Criminal Justice Institute, to the Committee for Public Counsel Services, a 15-member body appointed by the Massachusetts Supreme Judicial Court that oversees the provision of legal representation to indigent people in criminal and civil court cases and administrative proceedings. He joins Professor CAROL STEIKER ’86 on the committee.

Students testify on health care, renewable energy

On Nov. 8, EMILY SAVNER ’13 of the Harvard Law School Center for Health Law and Policy Innovation testified at a regional listening session convened by the U.S. Department of Health and Human Services on the health services that should be included as part of a federally mandated set of health services for uninsured Americans.

RACHEL HERON ’12, an Environmental Law and Policy Clinic student, presented a three-hour oral argument on a motion for summary judgment in a precedent-setting administrative proceeding concerning the right of renewable energy companies to conduct business and install solar energy systems in Massachusetts.

Anderson named to trust commission

Visiting Professor ROBERT ANDERSON, a member of the Minnesota Chippewa Tribe, was named to a national commission that will undertake a comprehensive evaluation of the Department of the Interior’s trust management of nearly $4 billion in Native American trust funds. Anderson worked at the Interior Department from 1995 to 2001 as associate solicitor for Indian Affairs and as counsel to the secretary of the Interior on Indian law and natural resource issues.

Kennedy receives honorary doctorate

In December, Professor DUNCAN KENNEDY received an honorary doctorate from Sciences Po in Paris. Kennedy, whose scholarship has focused on juridical thought and economic analysis of the law, was recognized as one of the founding members of the Critical Legal Studies movement in the United States. Past recipients include Italian Prime Minister Mario Monti; Edmund S. Phelps, winner of the 2006 Nobel Prize in Economics; the late Vaclav Havel, former Czech president; and former President of Brazil Luiz Inácio Lula da Silva.

Exemplars of good legal writing for 2011


Building the 21st Century Financial System

HLS’s PROGRAM ON INTERNATIONAL FINANCIAL SYSTEMS co-hosted the 14th annual “Symposium on Building the Financial System of the 21st Century: An Agenda for Japan and the United States,” on Nov. 4 to 6, with the International House of Japan.

OGLETREE REFLECTS ON OBAMA’S NARRATIVE

Professor CHARLES OGLETREE ’78 delivered a three-part lecture on Barack Obama ‘91. The lecture, titled “Understanding Obama,” was delivered in three parts: “From Barry to Barack,” “The Emergence of Race” and “The Conundrum of Race.” Established in memory of the late Nathan Huggins, a distinguished historian of African American history, the lecture series was developed to gather scholars from around the country to discuss topics related to African American history.

HARVARD LAW TODAY

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OGLETREE REFLECTS ON OBAMA’S NARRATIVE

Professor JOHN COATES presented testimony at a hearing of the Senate Committee on Banking, Housing & Urban Affairs’ Subcommittee on Securities, Insurance and Investment on Dec. 14, in an open session hearing titled “Examining Investor Risks in Capital Raising.” He discussed themes related to pending proposals to revise securities laws. Coates recommended that any adopted proposal contain a sunset period, with the SEC directed to study the effects during a test phase. “The laws should end unless the SEC could be able to satisfy itself that the benefits are outweighing the costs of the changes,” said Coates.

PRIZE WINNER: The Education Law Association awarded the Steven S. Goldberg Award for Distinguished Scholarship in Education Law to Dean Martha Minow’s most recent book, “In Brown’s Wake: Legacies of America’s Educational Landmark.” In the book, Minow explores the repercussions of the Supreme Court’s landmark decision in Brown v. Board of Education and argues that the case resulted in a number of positive transformations that reverberated well beyond school systems.
Promoting awareness of disability issues

Professor William Alford ’77, who serves on the board of the International Special Olympics, met with U.N. Secretary-General Ban Ki-moon in November to discuss disability issues. Last year, a major new study, “World Report on Disability,” published by the World Health Organization and the World Bank, put the number of people with disabilities at 15 percent of the world’s population. Alford said the goals of the meeting were to bring more attention to disability issues and to underscore ways in which the Special Olympics’ work lines up with the secretary-general’s focus—in particular the U.N. Millennium Development Goals, which include eradicating extreme poverty. Alford is a co-founder, with Michael Stein ’88, of the HLS Project on Disability.

SPREADING WORTHY IDEAS

Food Law Society co-sponsors TEDx conference on food policy

How do modern dietary patterns lead to disease? What should we eat? Those were some of the questions raised on Oct. 21 when the Harvard Food Law Society co-sponsored a “TEDxHarvardLaw” event. The conference was sponsored in name by Technology, Entertainment, and Design (TED), a nonprofit focused on spreading ideas through conferences that can be viewed online for free. Focused on food policy and public health, and the legal and policy approaches to increasing the supply of and demand for healthy foods, the event was launched on Oct. 20 with a speech, “The Sugar Epidemic: Policy vs. Politics,” by Dr. Robert Lustig, who argued for a paradigm shift in the public policy approach to obesity. Conference speakers included Dr. Walter Willett, chair, Department of Nutrition, Harvard School of Public Health; Doug Rauch, former president of Trader Joe’s Co.; Dr. David Ludwig, a Harvard researcher who focuses on childhood obesity; and Susan Prolman, executive director of the National Sustainable Agriculture Coalition. The event was designed to share the innovative strategy devised by HLS students and their community partners, including City Life/Vida Urbana and Greater Boston Legal Services. The multi-pronged strategy relies on neighborhood canvassing, attempting to change the law by bringing cases before the Massachusetts Supreme Judicial Court, drafting new laws to better protect tenants, landing significant verdicts against banks for not taking care of foreclosed-on properties, and helping people buy back foreclosed-on homes at prices they can afford. Among this year’s speakers was Nick Hartigan ’09, a former Harvard Legal Aid Bureau student who in 2008 co-founded Project No One Leaves with David Haller ’09.

In the dock: Jack Abramoff

Center for Ethics kicks off lecture series

 Appearing at Harvard Law School a year and a half after being released from federal prison, Jack Abramoff expressed a desire to thwart the political corruption he once infamously practiced. The Dec. 6 event was sponsored by the Edmund J. Safra Center for Ethics, whose director, HLS Professor Lawrence Lessig, interviewed Abramoff, a former lobbyist who pleaded guilty in 2006 to charges of fraud, tax evasion and conspiracy to bribe public officials. “His experience has an enormous amount to teach us,” said Lessig, the author of “Republic, Lost: How Money Corrupts Congress—and a Plan to Stop It,” which tackles the institutional corruption of Congress and the role that special interests play on Capitol Hill.

LADY GAGA Launches ANTI-BULLYING FOUNDATION WITH BERKMAN CENTER

In November, Lady Gaga, the Grammy Award-winning artist, partnered with HLS’s Berkman Center for Internet & Society (and the John D. & Catherine T. MacArthur Foundation and the California Endowment) to launch the Born This Way Foundation, a nonprofit that will support programs and initiatives aimed at mentoring teenagers and combating bullying. With the goal of “establishing a community worldwide that protects and nurtures others in the face of bullying and abandonment,” the foundation will utilize digital mobilization as one of the means to create positive change.
IN THE SHOWDOWN round of the Ames Moot Court Competition on Nov. 17, two teams of 3L students presented arguments before a distinguished panel of judges headed by U.S. Supreme Court Justice Sonia Sotomayor.

The students tried to persuade the judges to change the law of the land in the fictional case of United States v. Garfield. The petitioner, Otis Garfield, who claimed in an online dating profile that he had been awarded the Navy Cross for service as a SEAL in the first Gulf War, was convicted of violating the Stolen Valor Act, which punishes lies about receiving military honors.

The questions the teams had to address on appeal were whether the Stolen Valor Act is invalid as applied to the petitioner under the First Amendment and whether the petitioner is entitled to resentencing because the district court deprived him of his right to speak at sentencing, in violation of the Federal Rules of Criminal Procedure.

This year’s judges included Chief Judge Frank H. Easterbrook of the U.S. Court of Appeals for the 7th Circuit, and Peter J. Rubin ’88 of the Massachusetts Appeals Court, who taught a course, Criminal Investigations and Police Practices, at the law school this fall.

The petitioner’s team, The John McCarthy Roll Memorial Team, was named after the late jurist who served for almost 20 years on the U.S. District Court for the District of Arizona. Roll was killed by a gunman in Tucson last January at a constituent outreach event for U.S. Rep. Gabrielle Giffords. The respondent’s team, The Belva Ann Lockwood Memorial Team, was named after a trailblazer in the legal profession and the first woman to graduate from a national law school.

Bloggimg the final round

A minute-by-minute account of Ames 2011

The Harvard Civil Rights-Civil Liberties Law Review provided a live blog of the questions and arguments made during the final round of the 2011 Ames Moot Court Competition. Throughout the night, CRCL members reported on the proceedings while readers responded to polls, answered trivia questions and submitted questions for the justices.

8:09 All rise ...
8:16 Judge Easterbrook: Is there a First Amendment problem with the Olympic Committee preventing the use of the Olympic rings?
8:17 Oralist Jessica Palmer: The difference relates to the nature of the U.S. government attempting to preserve a symbol, but the symbol in this case is a military medal.
8:19 Not sure if it’s coming through on the live feed, but everyone in the room is just terrified of Easterbrook right now.
8:31 Judge Sotomayor and Easterbrook hammering the next oralist on mistating a holding. Not a good start.
8:36 Who is winning so far? Petitioner - 0%, Respondent - 5%, Justices - 95%
8:37 Oralist Adam Hallowell: We satisfy the plain error framework also. Proper approach in this case is presumption of prejudice in allocution.
8:37 Judge Easterbrook is citing “Catch-22” in a mock Supreme Court case.
8:37 Any mere mortal would have been shaken by all this. Hallowell has ice water in his veins.
8:38 Yes, can anyone have imagined “Catch-22” coming up in this proceeding? Absolutely - 33% Are you serious? - 67%
During her day-long visit to the law school on Nov. 17, Justice Sonia Sotomayor had lunch with faculty members and met with student groups, including La Alianza, the Women’s Law Association and the 1L Section 3 class.
FROM MILITARY SERVICE TO HLS

Bronze Stars and Yellow Ribbons

Ten U.S. Marines and Army soldiers, all of whom served in the wars in Iraq or Afghanistan—some in both—are among this year’s entering class at Harvard Law School. Five are part of HLS’s Yellow Ribbon Program, through which the U.S. Veterans Administration matches the amount a law school offers to pay for a veteran’s tuition and expenses. HLS is one of very few schools making the maximum commitment—50 percent—which means, with the VA’s match, these veterans attend for free. Here are profiles of two of the 10 veterans: Joseph Kearns Goodwin ’13 and Kenneth Anthony Laretto LL.M. ’12.

Joseph Kearns Goodwin

JOSEPH KARNS GOODWIN ’13 was just a few months out of Harvard College, living with his family in Concord, Mass., when the terrorists struck on Sept. 11, 2001. The next day, Goodwin headed to the nearby military recruiting center in Billerica and joined the Army.

Goodwin was inspired to enlist because the country would need the service of its young people, and because he “realized [he’d] been afforded basically every advantage you can get from a free and prosperous society,” as he said on the “Charlie Rose” program in 2009, where he appeared with his mother, historian Doris Kearns Goodwin.

After basic training, including airborne training, Goodwin soon found himself in Baghdad, where he spent 13 months in charge of 31 soldiers as a combat platoon leader with the Army’s 1st Armored Division. He completed his military commitment after four and a half years and was happily ensconced in civilian life, working for NBC Universal in New York City and contemplating law school, when he was recalled by the Army and sent to Afghanistan in 2008.

While Goodwin had experienced the war in Iraq at the ground level, in Afghanistan he got invaluable perspective at the highest levels, serving as an adviser to the director of strategic communications for both the U.S. and NATO missions there. Although he never expected to spend six years of his life in the military, he doesn’t regret it.

“In all my experiences in the military, I got a lot more out than I put in,” says Goodwin, who was awarded the Bronze Star medal for exemplary performance in combat. The women and men he served with ranged in age from 18 to 40 and represented every race and socioeconomic background, he says. “Everybody exhibited a level of competence, compassion and dedication, not only to what they were doing but to each other, which is massively impressive,” he says. “It reaffirms your faith in people.”

His experience in Afghanistan cemented his decision to study law. Missing the deadline for applying to HLS, Goodwin spent his 1L year at Suffolk University Law School before transferring this year to Harvard. Having worked on several political campaigns, including as chief of staff for Steve Pagliuca’s campaign for U.S. Senate in 2009 (where he met his wife, Victoria [Bonney] Goodwin), Goodwin is not ruling out a political career for himself.

“As the command battalion’s judge advocate, Laretto oversaw the detainee facility and ensured that its conditions complied with the Geneva Conventions as well as any military order that applied. He adjudicated cases in which locals were seeking damages under the Foreign Claims Act, and also served as the liaison with local judges, assisting in setting up a criminal court.”

“Having been places in the world where you see how much of a positive impact a caring and effective government could make,” he says, “it would be pretty rewarding to be part of that.”

Kenneth Anthony Laretto

KENNETH ANTHONY LARETTO LL.M. ’12, who graduated with distinction from Stanford Law School in 2002, was just about to finish his clerkship at the U.S. Court of Appeals for the 3rd Circuit when he decided to seek a commission in the U.S. Marine Corps. “I was just about to turn 28, and practically speaking, it was the last opportunity to join the military before I became too old,” he recalls. “So I decided to do it.”

An Army brat who grew up in northern Virginia while his father was stationed at the Pentagon, Laretto is a magna cum laude graduate of Brown University with a double major in history and musicology. After graduating from basic training in Quantico, Va.—where he learned the combat skills required of every Marine—he completed the Basic Lawyer Course at the Naval Justice School in Newport, R.I., and quickly found himself doing all the tasks of a general practice attorney, from wills to divorces and custody cases, for Marines stationed at Camp Pendleton, Calif.

A year later, he was headed to Al Qaim, Iraq, with the 1st Battalion, 4th Marines, in support of Operation Iraqi Freedom. By the time his battalion arrived, most of the heavy combat was over, and their mission was focused more on achieving security and stability.

As the command battalion’s judge advocate, Laretto oversaw the detainee facility and ensured that its conditions complied with the Geneva Conventions as well as any military order that applied. He adjudicated cases in which locals were seeking damages under the Foreign Claims Act, and also served as the liaison with local judges, assisting in setting up a criminal court.

“You have to have a functioning court system, you have to have the rule of law integrated with the judiciary, and a lot of that is linking people together and setting ground rules,” says Laretto. “We can teach Iraqi police all the American law enforcement standards we want, but when it comes down to it, the Iraqi judges understand the nuances of the [civil] code and how the police need to operate within it.”

After seven months in Iraq, his battalion returned to the United States, and he prosecuted criminal cases for six months before being named deputy staff judge advocate for the Marine Corps Recruiting Command in Quantico, where he advised the commander on legal matters related to recruitment. When he was chosen for the Marines’ Advanced Degree Program, he chose HLS for an LL.M. because of its strength in national security and international law. He’s also getting a graduate degree in national security policy at Georgetown University’s School of Foreign Service, and he is looking forward to a long career in national security policy and law, both in the Marines and in post-military federal government service.
Tomiko Brown-Nagin appointed professor of law

Tomiko Brown-Nagin, a leading expert on legal history, education law and civil rights, will teach at Harvard Law School next fall, as well as serve as an affiliate of the history department in Harvard University’s Faculty of Arts and Sciences. She is currently the T. Munford Boyd and Justice Thurgood Marshall Distinguished Professor of Law and professor of history at the University of Virginia, where she co-directs the Legal History Colloquium and teaches courses on American social and legal history, constitutional law, education law and policy, and public interest law.

She has written widely on legal history and civil rights, including numerous law and history journal articles, book chapters, essays and book reviews. Oxford University Press recently published her book, “Courage to Dissent: Atlanta and the Long History of the Civil Rights Movement,” a work about three generations of lawyers and community-based activism during the civil rights era. Brown-Nagin is currently working on her second book, a biography of Constance Baker Motley, the civil rights lawyer, politician and federal judge.

Prior to joining the University of Virginia’s faculty in 2006, Brown-Nagin held associate professorships in law and history at Washington University in St. Louis. She also has held the Samuel I. Golieb Fellowship in Legal History at New York University School of Law.

Brown-Nagin holds a J.D. from Yale, where she served as an editor of the Yale Law Journal; received an M.A. and a Ph.D. in history from Duke University, where she held a James B. Duke Endowment Fellowship and received a Spencer Foundation Dissertation Fellowship; and earned a B.A. in history, summa cum laude, from Furman University, where she was awarded the Harry S. Truman Scholarship.

Daniel Nagin named clinical professor of law

Daniel Nagin, a tireless advocate for low-income communities, will join the Harvard Law School faculty as a clinical professor of law this summer. He will direct community-based lawyering at HLS’s WilmerHale Legal Services Center.

Nagin is an associate professor on the General Faculty at the University of Virginia School of Law, where he founded and directs the Family Resource Clinic. His teaching and research interests include clinical education, social welfare law and policy, and asset accumulation for low-wealth communities.

Nagin, who joined the University of Virginia faculty in 2006 as an assistant professor and was promoted to associate professor in 2009, previously served as a lecturer in law at Washington University in St. Louis, where he was administrative director of and lectured in the Civil Justice Clinic. A frequent continuing legal education presenter on topics related to public benefits law, he has received the Virginia Statewide Legal Aid Conference’s Goldberg v. Kelly Lives Award for achievement in the area of public benefits advocacy and Washington University’s Access to Equal Justice Award for public interest advocacy work in the St. Louis community.

Prior to entering teaching, Nagin worked for nonprofit and legal aid organizations, where his advocacy work focused on the legal needs of homeless people and people living with HIV/AIDS.

Nagin holds a B.A. in history and government, Phi Beta Kappa and with distinction in all subjects, from Cornell University; an M.A. in education from Stanford University; and a J.D. from the University of Chicago Law School.

Chief Justice Margaret H. Marshall joins faculty

Margaret H. Marshall, who served more than a decade as chief justice of the Massachusetts Supreme Judicial Court, joins the faculty at Harvard Law School this spring as a senior research fellow and lecturer. A national spokesperson on the importance of independent state courts, she will teach a reading group on Judicial Independence, Judicial Ethics and the First Amendment.

Appointed as chief justice in 1999 by Gov. A. Paul Cellucci, Marshall was the first woman to serve as chief justice and the second woman appointed to serve as an associate justice in the court’s long history. During her 14 years on the court before stepping down in December 2010, she wrote more than 200 opinions, including the landmark opinion in Goodrich v. Department of Public Health in 2003, which made Massachusetts the first state to legalize same-sex marriage. Marshall is credited with modernizing the Massachusetts judiciary, spearheading a plan in 2002 to revolutionize the administration of the trial courts.

Born and raised in South Africa, Marshall obtained her baccalaureate in 1966 from the University of the Witwatersrand in Johannesburg. While an undergraduate, she was elected president of the National Union of South African Students, at the time a leading anti-apartheid organization. She earned a master’s degree in education at Harvard in 1969 and a J.D. from Yale in 1976.

Marshall practiced law for 16 years in Boston. In 1992, she was appointed vice president and general counsel of Harvard University, the first woman to hold that position. She has served as president of the Boston Bar Association, president of the U.S. Conference of Chief Justices and chair of the board of the National Center for State Courts. She is a fellow of the American Academy of Arts and Sciences.

John Williams is Expert in Residence

John Williams ’79, a Boston entrepreneur, was appointed as the law school’s inaugural Expert in Residence. The EIR program has been created in partnership with the university-wide Harvard Innovation Lab (i-lab), in Allston, a new initiative that fosters team-based and entrepreneurial activities and deepens interactions among Harvard students, faculty, entrepreneurs, and members of the Allston and Greater Boston communities.

Williams is a partner at the Bridgespan Group, a nonprofit firm that works with organizations and philanthropists to scale their impact, enhance their effectiveness and help strengthen their leadership. He has been a strategy consultant at Bain & Co., a software marketer, a senior executive at American Express, and an early dot-com entrepreneur and CEO. He received an M.B.A. and J.D. from Harvard in 1979.

The program will invite entrepreneurs, venture capitalists, lawyers, and other experts to the HLS campus and the i-lab in Allston to mentor and advise students.

“Each of these appointments is exciting for the school—strengthening the connections between the law school and the world of practice.”
— Dean Martha Minow
The event, “A Conversation with the Justices,” was moderated by Harvard Law School Dean Martha Minow. Before 500 HLS alumni and guests, the justices discussed issues small and large, from technology (Breyer is a fan, while Souter famously is not) to their opinions on the appropriateness of examining legislative intent in interpreting the law.

The easygoing friendship between the two was apparent. Asked by Minow to recall their first meeting, Souter said they met when he was appointed by President George H.W. Bush to the U.S. Court of Appeals for the 1st Circuit, where Breyer was chief judge. Breyer kidded that Souter didn’t do much work; Souter responded that Breyer wasn’t a very efficient boss.

If you want to know what a Supreme Court justice thinks, find out what his law professors thought 40 years earlier, Breyer suggested, giving a nod to those who influenced him, including former HLS Professor Clark Byse. His property professor, A. James Casner, may have been responsible for Breyer’s appointment to the 1st Circuit Court of Appeals, he added: In 1980, Breyer was chief counsel to the U.S. Senate Committee on the Judiciary, working closely with Sen. Edward M. Kennedy. One day, a constituent of Kennedy’s had a property law question, and the senator asked Breyer if he knew anything about “shifting uses.” The senator was amazed when Breyer admitted he did; the next thing Breyer knew, he was on the appeals court.

The justices agreed that examining legislative intent is an important tool in interpreting the law when the language alone is not enough; analysis of the purposes and consequences of a particular interpretation is also useful, they said. Breyer referred to the controversial 2010 case Citizens United v. Federal Election Commission, in which there were strong competing constitutional interests between equality and liberty. When there is no simple doctrinal means for resolving that tension, it is entirely appropriate to examine the consequences of privileging one over the other in coming to a resolution. On another controversial issue—whether the U.S. Supreme Court should refer to the laws of other nations in reaching its own decisions—the justices agreed that it often is appropriate to do so, and indeed is necessary in an increasingly globalized world.

Breyer said that he wrote his latest book, “Making Our Democracy Work: A Judge’s View,” not just for those who are judges and lawyers but for the 308 million Americans who are not. He wanted to examine why, even when such unpopular decisions as Bush v. Gore are issued, the citizenry does not erupt in armed revolution. Souter, quoting William Safire, said that this acceptance results from people recognizing that the high court—even when it does something controversial—arrives at its decisions in good faith. Breyer noted several times that it is unsurprising that people in such an enormous and diverse nation would express such a variety of opinions on important matters of law and politics, and that the high court is a reflection of the polity.