Law Week 2010, sponsored by the College of Law Potter Law Club, was an impressive event that brought in a variety of interesting and influential speakers and culminated with the Wyoming Supreme Court and the Tenth Circuit Court of Appeals oral arguments.

The highlight of the oral arguments was 3L Joleen Mossoni Polk arguing a case in front of the Tenth Circuit Court of Appeals on behalf of the Defender Aid Clinic. Mossoni Polk, the Student Director of Defender Aid, argued a federal habeas petition for a clinic client. It is important to note the difficulty of a habeas case. Cases such as these are the hardest ones to win and where other people might have given up with a slim chance of success. Mossoni Polk proved her hard work and dedication by representing her client well prepared and to the best of her considerable ability. As Dean Steve Easton notes, “There is no possible way that he [the client] could have been better represented than he was by our Defender Aid Clinic and its Student Director.”

When asked about her experience, Mossoni Polk says, “It was an immense honor to have the opportunity to argue in front of such a distinguished panel of respected Judges. Not a lot of people get to have that opportunity, especially when they are still in law school.”

Mossoni Polk is no stranger to arguing in court. She also had the opportunity to argue another federal habeas case this summer in front of the U.S. District Court for the District of Wyoming. That experience helped her to know what to expect. She also gives an immense amount of credit to her fellow students. Many of the other students in Defender Aid have worked on the briefs, and she had a great support system of volunteers that helped her to prepare by quizzing her with possible questions and scenarios. Due to all this help, there wasn’t a question asked that she wasn’t
prepared to answer. Defender Aid Clinic Supervisor Dianne Courselle observes, “The thing that is the most important to note is how incredibly dedicated she was and how much work she put into the case. It really set her apart. She took everything as seriously as possible and did what it took.”

Not only did the experience demonstrate the talent and hard work of Mossoni Polk, it also showcased the Defender Aid Clinic and reinforced the importance of clinical work for law students. “The clinical experience is definitely different than sitting in law school. It is really easy to read a book and memorize a law, but being on the spot and actually putting that knowledge into practice is an invaluable experience. You learn so much when you get that practical, hands-on experience,” says Mossoni Polk. Arguing the case was “definitely a different experience because at the end of the day the client is dependent on the outcome of your success. It’s not like a test where you are the only one that suffers the consequences of your performance. This affects someone else’s life.”

The opportunity to serve as the Clinical Director for Defender Aid has also had an effect on Mossoni Polk. She says, “It has really put law school into perspective for me. It has shaped a lot of what I want to do in my career afterwards as I hadn’t really considered criminal law before.” Additionally, she recommends participating in the clinical programs to her fellow students. “Our law school is remarkable in that there are so many clinical opportunities. I think a lot of people might shy away from the extra work that you do for a clinic, but it has really changed the course of my career and I have learned so much. I really encourage other students to take advantage of the opportunity. Arguing is definitely the highlight moment of Defender Aid. It makes the mundane tasks of preparation and the hard work all worth it.”

Making a difference and helping people are vital aspects of the Defender Aid Clinic. In arguing before the Tenth Circuit, Mossoni Polk not only represented her client, but she was a shining example of the caliber of the clinic, her colleagues and fellow students, the faculty and the law school. The positive feedback received after the argument has been monumental. It has reinforced the good reputation of the clinics being able to help people with 100% dedication, and showcase the caliber of legal professionals that emerge from this institution.

The College of Law clinics offer myriad opportunities for Wyoming law students to appear in court. Just recently, third-year law student Jessica Frint gave “a terrific oral argument before the Wyoming Supreme Court,” says faculty supervisor Stew Young. As part of the Prosecution Assistance Program, Jessica took on the oral argument in In the Matter of C.G., a juvenile case that occurred in Natrona County. Young says, “She acquitted herself quite well before the five justices; they all asked a number of great questions and Jessica answered each one with sound arguments and impressive knowledge of the record. Upon finishing, those in the audience could tell that Jessica had impressed the justices, and that she represented UW Law School well.”

Wyoming Welcomes Visiting Professor Bob Golten

By Anetra Parks

The University of Wyoming College of Law welcomes Visiting Professor Bob Golten. Professor Golten teaches International Human Rights Law, a seminar course for second- and third-year law students (see photo below). The course introduces students to the international human rights documents, the rights of marginalized communities, including indigenous peoples, and the political and societal issues raised in this context.

Professor Golten received his A.B. from the University of Michigan with honors in economics and his J.D. from Harvard Law School. Golten has dedicated his legal career to public service. His past experiences include: working for the federal Justice Department, working as a public defender, working as a county attorney, and working as an environmental litigator for the National Wildlife Federation (NWF).

Golten founded and directed the NWF Natural Resource Litigation Clinic at the University of Colorado Law School (CU Law), worked in private practice with a Colorado
firm specializing in natural resources and Indian Law, and initiated and was the director of the American Indian Law Clinic at CU Law. He served as the interim director of the Law Support Center of the Native American Fights Fund.

Prior to coming to Wyoming, he taught courses in international human rights law, mental health law, natural resource law, professional responsibility, and American Indian Law in three different law schools in Washington, D.C. and Colorado.

While at the University of Denver (DU), Professor Golten founded the Center for International Human Rights Law and Advocacy (Center) in 1998. The Center is an interdisciplinary international human rights clinical program in which law and graduate students in international studies worked on international human rights violations, mostly in developing countries. In connection with their cases, students traveled to many countries, including Nigeria, Kenya, Uganda, El Salvador, Nicaragua, Guatemala, Belize, Honduras, Uzbekistan, Nepal, Bangladesh, Bosnia and Croatia. The Center’s major case work in North America is on behalf of the Steering Committee of The American Boarding School Healing Project. The Center and its students, along with several pro bono attorneys, also represented Asylum Seekers in the Denver metro area.

Golten has transplanted the Center and its human rights caseload to the University of Wyoming College of Law. Golten says, “I moved the Center with the hope that it will eventually become a permanent institutional fixture at UW.”

“Professor Golten’s moving of his Center to the University of Wyoming presents amazing opportunities for our students,” Dean Steve Easton noted. “Our students will be working on substantial international human rights cases under Bob’s direction. This will be a wonderful contribution to our efforts to provide our students with real world experience with and for real clients.”

Aside from teaching, Golten spends his time in Laramie getting to know his students one-on-one. He finds it helpful to learn about students, where they come from and the context in which they learn. “I’m careful not to be too intrusive,” says Golten, “but I like to know what their interests are and get to know them on a personal level so that it is more of a peer relationship rather than a hierarchal relationship.”

Golten is originally from the south side of Chicago and attended law school on the G.I. Bill. Golten enjoys spending time with his wife, Joan Brett, who is an attorney and business owner. Joan created the Culinary School of the Rockies, which she sold to new owners in July. Recent avocational experiences include a week-long bike trip across Italy where the couple biked 20 to 30 miles each day.

At the College of Law, Professor Golten and Professor Noah Novogrodsky will teach a Practicum in which they expect Wyoming law students to handle human rights cases and projects, as well as represent asylum seekers fleeing persecution in their home countries.

We have a new look!

The College of Law joined the campus community in launching a new official website that captures the university’s branded image and showcases its projects, people and priorities.

The college’s revamped website, at www.uwyo.edu/law, is part of a university-wide effort to provide added website functionality to address user needs -- including enhanced security features and ADA compliance. UW Law participated in Phase 1 of the upgrade; additional upgrades to the university site, developed by the university’s Institutional Marketing Department with assistance and support from the President’s Office, Institutional Marketing Committee and Information Technology, will roll out in phases over the next several months with completion scheduled for fall 2011.

A special thanks to the College of Law’s own Vonnie Jenkin and Lori Lewis for all the hard work they did on the law school’s website!

Wyoming Law Students to Represent UW at the Pace National Environmental Law Competition

By Tina Oestreich (J.D. Candidate, Class of 2011)

The University of Wyoming College of Law’s 2010 intraschool Pace competition, sponsored by Holland & Hart, LLP, was held on September 27–28th. In addition to oral advocacy, the intraschool competition also contains a
writing component, testing the competitors’ ability to write cohesively as a group. This year’s intraschool competition involved a problem dealing with the Clean Water Act. While there were several strong teams competing, third-year law students Jeremy Shufflebarger, Devon Stiles and Justin Hesser (pictured above) will represent UW at the Pace National Environmental Law Moot Court Competition at Pace Law School in White Plains, N.Y., accompanied by faculty advisor, Assistant Professor Sam Kalen. The national competition will take place on February 24–26, 2011, with 72 schools competing. The 2011 national competition concerns a Resource Conservation Recovery Act problem.

At the national competition three adverse teams argue the issues, reflecting the fact that environmental litigation frequently involves multiple parties—the government, a public interest group and a member of the regulated industry. Competitors are judged on skills in appellate brief writing and oral advocacy involving issues drawn from real cases, providing firsthand experience in environmental litigation. Those with the highest combined scores for both the written brief and oral argument advance to succeeding rounds. There is no second or third place. Judges choose one team among the final three as the 1st place winner. At last year’s competition the University of Wyoming was one of the national finalists along with the University of Houston Law Center. Lewis and Clark Law School’s team took first place. Since 1989, student advocates from across the United States and Canada have participated in this event. The competition draws more than 200 competitors from diverse law schools and 200 attorneys who serve as judges for three days of oral arguments.

Law Students as Graduate Assistants for the College of Law and the School of Energy Resources

By Marilyn McDonald

During the last two years the wind-energy project at the College of Law has assisted the Legislative Service Office (LSO) in researching and drafting legislation. This year, second year law student Crystal McDonough (pictured above with Prof. Dennis Stickley) presented her proposals to the Legislature’s Interim Judiciary Committee and Wind Energy Task Force. She answered questions and gave her opinions on issues related to limitation of eminent domain for wind collector systems and provided a further definition of wind energy rights as either severable or appurtenant to the surface estate.

Crystal is currently working with Professor Dennis Stickley and Lilly Sharpe at the LSO to finalize a draft bill to define wind energy rights, which will be considered by the Joint Judiciary Committee at their next meeting on November 13.

Crystal’s involvement is part of the Graduate Assistant Program in Energy and Natural Resources Law. She is one of four students who have Graduate Assistantships funded by the School of Energy Resources. The other students are Adam Davenport, Kacie Czapla and Tina Transtrom.

Adam is working on water issues with Professor Larry MacDonnell. Kacie is assisting with research on uranium mining. Tina is working with Professor Deb Donahue and Professor Sam Kalen to provide guidance to landowners on energy development.
Crystal moved to Laramie with her family in order to attend law school. Her three children attend schools in Laramie. Whilst travelling along the interstate highway to Cheyenne, her youngest daughter, age four, wanted to know which one of the wind turbines on the landscape did Mommy work on! It seems wind energy is spoken of a lot in the McDonough household.

**Rothgerber Competition Results**

Congratulations to the following law students who reached the final rounds of the UW College of Law’s Rothgerber Johnson & Lyons Trial Advocacy Competition (Rothgerber Competition):

First Place Team: Joleen Mossoni Polk, Kevin Walton, John Brodie, and Trevor Schenk.

Second Place Team: Sean Belliveau, Jessica Van Norman, John Blomstrom and Tina Oestreich (team pictured above).

The two teams are eligible to compete in the American Association for Justice (AAJ, formerly ATLA) regional Student Trial Advocacy Competition in March 2011. The Student Trial Advocacy Competition (STAC) takes place in 14 regions across the country, with over 100 law schools participating. Each competing team consists of four students, who perform as lawyers and witnesses in a civil case tried before a panel of practicing lawyers or judges.

Wyoming chooses its representatives through an intra-school trial competition, the Rothgerber Competition, during the fall semester. This intra-school competition is sponsored by the Casper law firm of Rothgerber Johnson & Lyons LLP.

The AAJ seeks to inspire excellence in trial advocacy through training and education for both law students and practicing attorneys. The association accomplishes this goal in part by sponsoring the National Student Trial Advocacy Competition, an annual nationwide mock trial competition. The competition is an exceptional opportunity for law students to develop and practice their trial advocacy skills before distinguished members of the bar and bench.

**Dean Steve Easton** is the coach for the Rothgerber Competition. Third-year law student **Rennie Polidora** organized the intraschool competition in her role as Board of Advocates Vice President.

**Seven Weeks in the Life of a 1L**

*By Lindsey Krause (J.D. Candidate, Class of 2013)*

My life as a 1L began on August 23rd, 2010. It wasn’t nearly as scary as I had expected. Orientation was so exhausting that the first day of school seemed like a piece of cake. I overhear 3Ls saying that they are so happy that they are not in our shoes.

Flash forward seven weeks. I require multiple calendars because there is no way to fit everything I have to do into just one. There is no room left in my brain to remember anything else. I find any joke made about law hilarious. The phrase “reasonable person” is constantly rolling across my tongue as I struggle to fully grasp the meaning of it in the context we are studying. I feel frustrated. I am close to tears because I just cannot recall the simplest of things. As a professor calls on me in class, everything I read the night before drains from my memory. I am a deer in headlights.

Showers and laundry are now considered a well-earned study break. Catching up with non-law related friends and family is strictly reserved for when walking to and from school, and the gym is no longer to keep in shape, but a sanctuary to let off steam.

At UW, the Socratic Method is in full force. One professor uses a random name generator called “The Hat.” At the sound of a drum roll before a name pops up on the screen, my blood pressure spikes.

My case law books are a maze of rainbow-colored highlighting. The coordination of it is something that is a mystery to all but me. One can never have too many highlighters. I know what I’m putting on my Christmas wish list.
As much as I can complain about how exhausted, stressed and worn-out I am, I would not change it for the world. I love it here. Sometimes, I have to take the time to remember why I came to law school. The professors work us hard, but will also take the time to explain a concept that was over my head during class. My time-management skills are more fine-tuned than I ever thought possible. And although the Socratic Method seems terrifying, it prepares me for life as an attorney. When I graduate, I will have the courage and confidence to represent my clients zealously in court.

At Wyoming, I have a terrific group of classmates who have become lifelong friends. I feel their support when I am crumbling under the pressure. They remind me to separate law school from lives outside these sandstone walls.

In seven short weeks, I’ve experienced many wonderful opportunities. I met the Chief Justice of the Wyoming Supreme Court. I attended a lecture by the former Attorney General. I listened to a discussion panel of the Wyoming Access to Justice Commission. And I was able to hear oral arguments in front of the Wyoming Supreme Court and the Tenth Circuit Court of Appeals in our very school. I am looking forward to the next three years and I know they will be filled with rich opportunities for learning and lasting friendships.

Alumni News

Earlier this year, Dave Palmerlee (J.D. ’72) of the Buffalo law firm Palmerlee and Durrant, LLC was elected as Treasurer of the UW Board of Trustees. Laramie attorney Warren Lauer (J.D. ’80) was reelected as the board’s secretary. Appointed by the governor with consent of the Wyoming State Senate, the board consists of 12 members appointed to six-year, staggered terms. As UW’s governing body, the trustees have a broad range of responsibilities including major policy and budgetary matters affecting the university.

On October 18th, Matt and Stacey Obrecht, both 2006 alumni, welcomed their second son, Evan Alexander. Evan weighed 8 pounds 12 ounces and was 21 inches tall. Sammy is adjusting to being a big brother wonderfully and is really great with Evan, who he calls his “little bubba.”

The South Carolina Public Defender Association named Elizabeth (“Besty”) Anne Franklin-Best (J.D. ’01) as the association’s 2010 Lawyer of the Year. The award was presented to her on Tuesday, September 28, 2010, during the association’s annual conference in Myrtle Beach. It is the highest honor which the association presents. Betsy is an appellate defender with the South Carolina Commission on Indigent Defense (SCCID). The SCCID “extends its hearty congratulations to Betsy for this esteemed recognition.” In addition to receiving her juris doctor degree from the University of Wyoming College of Law, Betsy also received a master’s degree in philosophy from UW in 1997.

The Laramie law firm Pence and MacMillan LLC recently announced that Devon P. O’Connell (J.D. ’00) is now a certified mediator.

The Wyoming State Bar honored Wyoming native Mel Orchard (J.D. ’92), a partner with the Spence Law Firm, with a Leadership Award. Past state bar president Joseph B. Bluemel (J.D. ’96) noted that “Leadership Awards are an important recognition of our members’ commitment to the communities in which they live and practice to better their respective communities and improve the quality of life for those who live there.”

Senior Partner Phil Aidikoff and UW College of Law alumna Katrina (nee Runyan) Boice (J.D. ’07) of the law firm Aidikoff, Uhl & Bakhtiari won a huge award on behalf of their client Larry Hagman (commonly known as “J.R” in the 1980s series “Dallas). A securities arbitration panel ordered Citigroup to pay $1.1 million in compensatory damages — slightly less than the $1.345 million they had requested — as well as $439,000 in legal fees to Larry Hagman and his wife Maj. In addition to those damages, the panel ordered Citigroup to pay $10...
million in punitive damages to charities chosen by Mr. Hagman. A story about the award appeared in the New York Times on October 9, 2010.

In 2011, Scott W. Skavdahl (J.D. ’92) will assume the full-time position of federal magistrate for the U.S. District Court of Wyoming. Skavdahl is currently one of the three judges for Wyoming’s 7th Judicial District Court, Natrona County. His last day as a state district court judge is Jan. 31st, 2011.

At the recent state bar convention, the Wyoming State Bar presented Larry Wolfe (J.D. ’80) and Walter Eggers (J.D. ’97), both of the law firm Holland & Hart LLP, with Pro Bono Awards. Justice E. James Burke (J.D. ’77), Chair of the Access to Justice Commission, presented the awards to Wolfe and Eggers for their “efforts in facilitating the passage of a civil legal services funding bill in the 2010 Legislative session.” The bill established Wyoming’s first state-wide legal services program, which is run by the non-profit corporation Wyoming Center for Legal Aid.

Several of the 2010-2011 officers and bar commissioners for the Wyoming State Bar are College of Law alumni: President-Elect Eric E. Jones (J.D. ’97) of Wheatland; Vice President C. John Cotton (J.D. ’83) of Gillette; Secretary/Treasurer Patrick W. Korell (J.D. ’91) of Torrington; Devon P. O’Connell (J.D. ’00) of Laramie, newly elected bar commissioner for the 2nd Judicial District; and Patrick E. Carpenter (J.D. ’98) of Gillette, newly elected bar commissioner for the 6th Judicial District.

The Cheyenne law firm Parsons & Cameron PC is pleased to announce the addition of its newest associate, Wendy Ross (J.D. ’10) Wendy passed both the Wyoming and Colorado bar exams and the firm is “very proud of her.”

Do you have alumni news to share? Please email us at lawmain@uwyo.edu. We’d love to hear from you!

Memorials

Fred W. Phifer, 1952 Alumnus

Fred W. Phifer (J.D. ’52) (pictured above) passed away peacefully in Ft. Washakie, Wyoming on Wednesday, September 15, 2010 from complications of a long-term illness. He was 81.

Fred W. Phifer was born on April 28, 1929 in Wheatland, the eldest son of Wood and Margarite (Boles) Phifer. He graduated from Wentworth Military Academy in Lexington, Mo., in 1947 where he learned to fly. He received his law degree from UW in 1952.

His family said Mr. Phifer loved to fly and to drive his cars, was an avid reader, loved operas and musicals, enjoyed golfing, good food, and movies. His dog Bo, a terrier, was his constant companion.

He practiced law for over half a century, primarily in Wheatland, but also in Colorado for a brief stint. He served as County Attorney for Platte County from 1974 to 1978. The highlight of his career was successfully arguing a case for the Toltec Watershed Improvement District in front of the United States Supreme Court in 1973.

Survivors include four sons, Wood and his wife Linda of Memphis, Tenn., Brook and his wife Judy of Littleton, Colo., Sky and his wife Jan of Lander, and Star of Salt Lake City, Utah; four grandchildren, Mary of Lander, Nicholas of Littleton, Colo., Cody of New York City, N.Y., and Alex and his wife Delphine of Lander; one great grandson, Sebastian of Lander; cousin Thomas K. Phifer of Gilbert, Ariz.; brother-law Phillip and his wife
Phyllis Shopbell of Granite Bay, Calif.; sister in law Helen Lavin of Weslaco, Texas; former wives, Virginia Anderson of Wheatland, Terri Thompson of Washington state, and Susan Denker of Cheyenne; two step-children, Cheryl Deuel and husband Woolsey of Guernsey and Scott Woolsey of Wheatland.

He was preceded in death by his first wife, Mary; grandson, Matt, and brother, Zack.

Memorials may be made through the Platte County Library Foundation, 904 9th Street, Wheatland, WY 82201, or with the Alzheimer's Association at alz.org.

**Shawn L. Barlow, 2002 Alumnus**

**Shawn Barlow** (J.D. '02) (pictured below) passed away on September 19, 2010. He was in good health and the news of his passing shocked family, friends, and the community. His death was determined to be of natural causes.

During his third year of law school, Shawn was the student director of the Prosecution Assistance Clinic and successfully argued a published appellate case before the Wyoming Supreme Court. He also worked in the Laramie City Attorney’s Office. Upon graduation, Shawn moved home to Turlock, California and in 2003 obtained his dream job as a prosecutor in the Stanislaus County District Attorney’s Office. Shawn strongly believed that “evil prevails when good men do nothing” and relished his job as a Deputy DA.

For the past three years, Shawn was the Major Narcotics Vendor Prosecutor prosecuting major narcotics sales and related crimes. He excelled as a trial attorney and was well respected by law enforcement and legal community. Shawn most recently ran for Turlock City Council and was at his happiest. Shawn loved music, concerts, Buddy Holly, Johnny Cash, rebuilding his 1958 Chevy Truck, books and politics. He excelled in sports and was an avid Dodgers, Lakers, Rams and LA Kings fan. Shawn is survived by mother Glenda Catanzarite-Pometta (David), father Dan Barlow (Maria), step-father Pat Catanzarite (Jill), step-brother Joseph Tone (Mary), fiancée Lindsey Robbins (J.D. '02) and several family members.

**Externship provides up-close look at Tribal Court system**

By Jared Miller (J.D. Candidate, Class of 2012)

Before I arrived at my externship with the Shoshone and Arapaho Tribal Court, I anticipated 10 relaxing weeks spent observing the court system and learning from the judges. With only one year of law school under my belt, how much help could I be? By summer’s end I expected to be well-practiced at brewing coffee and running the copy machine for the court staff.

On my first day, clerk Katrina Washakie met me at the front counter and informed me that the work day started at 8 a.m. -- not 9. I was late. She handed me two thick court files and showed me how to access the court’s divorce-decree template. “The first thing we’re going to have you do is divorce some people,” Katrina said. Was she joking? I couldn’t tell.

It turns out, she was not. I spent my first two days obsessing over my first-ever draft legal orders. Working in a small jury room that I had converted into an office, I triple checked the custody status of each child, and made sure property was assigned precisely as the judge’s notes instructed. On the third day, Katrina poked her head into the jury room. Plopping three hefty files on my desk she said, “You’re going to need to pick up your speed.” So much for copies and coffee.
The Shoshone and Arapaho Tribal Court exercises jurisdiction over most legal matters on the Wind River Indian Reservation in Wyoming. Located at the foot of the Wind River Mountains in Fort Washakie, the Court operates under the sovereign authority of the Northern Arapaho and Eastern Shoshone tribal governments, and interprets statutes codified in the Shoshone and Arapaho Tribal Law and Order Code and the Northern Arapaho Code.

By law, the court supports a three-member bench. Chief Judge John R. St. Clair (J.D. ’73) is a graduate of the University of Wyoming College of Law, and has been chief judge since the late 1980s. He also wrote most of the modern tribal code. Associate Judges Ed Miller and Richard Ferris are respected members of the tribes and former longtime law enforcement officers.

For the most part, Tribal Court felt much like a state or federal court -- but not always. Because parties in Tribal Court often represented themselves, the judges tended to adopt a less formal approach than is typical in state and federal courts. The judges also had a tendency to listen long and hard to anyone who wanted to speak in court, including audience members with some stake in the case, before handing down their decisions. In fact, litigation sometimes felt more like mediation than an adversarial contest. The litigants I spoke to said the system promotes fairness and healing between the parties.

Associate Judge Ed Miller said he favors this more laid-back approach because it reduces the intimidation factor for some litigants, making the court more accessible to the public. “That’s the way it should be,” Miller said. “It’s their court.”

One feature of Tribal Court I did not expect was the number of non-Indian civil litigants. In fact, non-Indians file the vast majority of non-domestic civil claims in Shoshone and Arapaho Tribal Court. Most plaintiffs are companies turning to Tribal Court for relief from tribal members who owe a debt. Court records show that non-Indians tend to win such cases, perhaps explaining why the number of civil suits between non-Indian plaintiffs and Indian defendants have more than doubled since 2002.

Which is why I found it somewhat puzzling that non-Indians routinely and aggressively reject Tribal Court jurisdiction when they are named as defendants. Tribal courts enjoy limited jurisdiction over non-Indian defendants, and plaintiffs lately have been turning to the Tribal Court for redress in tort matters arising on the Wind River Indian Reservation. But non-Indian defendants in those cases have fought hard to avoid facing a judgement in a non-white court.

After a 12-week externship, I certainly was no expert in tribal law or federal Indian law. But I did enjoy an up-close look at the court and lots of time with the judges and the court staff -- enough to realize that Katrina Washakie isn't quite the taskmaster I first thought! In fact, she and the other court staff were incredibly professional and patient with me. Regrettably, I did not learn how to use the copy machine.

Gender Based Crimes and Sexual Violence Against Women in Democratic Kampuchea: The Application of International Jurisprudence by the Extraordinary Chambers in the Courts of Cambodia

By Carina Ostberg (J.D. Candidate, Class of 2012)

I traveled to Cambodia in late May of 2010 to conduct research on international criminal law and sexual violence against women. Specifically, I sought to understand how prevalent gendered crimes and sexual violence against women were during the Khmer Rouge (KR) regime, and whether the Extraordinary Chambers of the Court of Cambodia (ECCC) would adopt the jurisprudence of other international courts, recognizing these crimes as war crimes and thereby opening their doors for prosecution of the suspected parties.¹ My research was enabled by generous financial support from the University of Wyoming College of Law, and a grant from the Women’s Studies Program and the Susan McKay Fund.

I was assisted in my research in Cambodia by Youk Chang and Anne Heindel of the Documentation Center of Cambodia (DC-Cam). Through them I was able to meet and talk to several other people working with legal matters relating to the KR and the ECCC. Among the people I met were Beini Ye of Deutscher Entwicklungsdienst (DED) and Cambodia Defense Project (CDP), a

¹ I have chosen to discuss sexual violence and gendered crimes as two separate issues for reason which will become clear as the report develops.
civil party attorney. Ms. Ye was an exceptionally valuable contact for me since her main focus is on women's rights and issues, and she is representing women who themselves were victims of sexual violence and other gendered crimes under the KR. I also had the great fortune to meet Mr. Paolo Pastore Stocchi an investigator, researcher and analyst with the ECCC. Meeting with Mr. Stocchi was invaluable for my understanding of the Court, its inner workings and reasoning.

The ECCC is a hybrid tribunal, meaning it has adopted a mixture of both domestic and international laws. It was established in 2005 with the goal of bringing justice to the people of Cambodia for the atrocities committed by the KR between 1976 and 1979. The focus of the tribunal is the prosecution of the top tier of the KR. However, since the death of Pol Pot in 1998, it is improbable that more than six defendants will appear in front of the Court.

Historically, sexual violence is not something which is discussed in Cambodia, a patriarchal society where women’s rights and worth have not been held in high regard. If a woman was raped there was no redress, and she was expected to keep her experience to herself in order not to shame her family. The notion that rape is an embarrassment to the victim’s family still exists in Cambodia today, and is one of the reasons no one really knows how many women were subjected to sexual violence under the KR. Women are still reluctant to step forward, some 30 years after the KR was ousted, to talk about their experiences in fear of disgracing their families.

I initially had difficulty accepting that sexual violence and rape are unlikely to be prosecuted before the ECCC. There is no question that countless women were raped during the KR regime. As is often the case, there are no exact numbers as to how many were victimized. However, the reason sexual violence went unreported under the KR regime is more complicated than women not wishing to dishonor their families and suffer societal stigmatization. The main reason seems to have been the official KR policy of “moral offenses” which made being the victim of rape a crime punishable by death in itself.

Even though the ECCC has adopted jurisprudence which recognizes sexual violence as a crime and the Court itself has investigated the occurrence of sexual violence against women under the KR, my conclusion is that it is unlikely prosecutors will bring either sexual violence or other gendered crimes in front of the Court.

Even though moral offenses included more than sexual conduct crimes, the threat of death for a rape victim who reported the crime was real and ever present. Like so many other matters in life, all interactions between women and men were controlled and regulated by the KR. If sexual interactions occurred outside of the premise of what was approved, it was regarded as a moral offense and thus punishable by death. Whether or not the conduct was consensual was wholly irrelevant. To make matters worse for the victimized women, both parties who participated in the offensive conduct were punished by death.
As a result, many women were immediately killed by their perpetrators to ensure that no witnesses were left.

By extension, it meant that the women who were fortunate enough (if one can speak of fortune in a context such as this) not to be killed by their assailants were effectively forced into silence by the far-reaching shadow of the moral policy offense. If they spoke up, they were certain to be killed. If they remained silent they at least had a chance of survival.  

Just as the policy of moral offenses kept women from seeking justice under the KR regime, it has proven to be an unsurpassable obstacle for justice today. As previously mentioned, the ECCC recognizes sexual violence as a crime, and the court itself has investigated and interviewed rape victims from the KR era. Technically, since the Court has investigated the occurrence and hence put sexual violence within the scope of investigation, the door should be open to prosecute rape cases. In spite of this, however, since the official policy of moral offenses clearly stated that any unapproved sexual interaction was a crime under KR rules, and was consistently punished, the evidentiary hurdle is simply too great to be surpassed. Put differently, there are very few survivors or perpetrators of sexual violence of the KR era left to provide evidence to the Court.

But this is not necessarily the end of the matter. There are factions within the community of civil party attorneys who are hopeful that sexual violence and rape may find their way into court under the broader scope of gendered crimes. The main focus for these crimes, both from the Court’s investigators and civil party attorneys, is on forced marriages. The concept of forced marriages is not something which is unique to the KR. On the contrary, forced marriages have been used in other conflicts as a means to divide and conquer, and it is recognized as a war crime by the Special Court for Sierra Leone.

In Sierra Leone the crime of forced marriage has been distinguished from other gendered crimes such as sexual violence or sexual slavery due to the broad scope of forced marriages compared to other gendered crimes. There are also significant differences between forced marriages as implemented in Sierra Leone and the way such arrangements were executed under the KR. In Sierra Leone, women were forced to marry enemy soldiers, often times as a reward of sorts for the soldier. The practice was used as an efficient way to break down an existing social structure by either uprooting the woman and relocating her into a new community, or by alienating her from her existing community by the fact that she literally was forced to sleep with the enemy.

Though these women were indeed forced to marry against their will and systematically abused by their “husbands,” they still obtained a certain degree of freedom which is associated with being a married woman: they ran their own households, raised their children, and lived with their husbands in a traditional family structure. In short, life may not have been much different (or worse) than it was for women in traditional marriages.

The forced marriages under the KR, on the other hand, did not share any of these features. The greatest difference was that both men and women were forced to marry. By choosing partners for the people, the KR managed to break down both traditional family and community structures. Once a couple was married they were not allowed to live together but were only allowed monthly...

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4 According to ECCC rules, an issue which has been officially investigated by the court becomes “within the scope of investigation.” Once established as within the scope of investigation, issues can be brought in front of the court. It is still at the liberty of the court whether or not they will accept the claims.


6 “Accordingly” in this case meaning that the parties involved were killed on sight at the time of discovery.

7 Personal interview with Paolo Pastore Stocchi; 21 May 2010.

8 As the first International Tribunal to do so, ECCC allows for civil party litigants to file claims with the court. As a result, there are a plethora of civil attorneys working in Cambodia on behalf of potential civil litigants.

9 Information from personal interview with Beini Ye; 26 May 2010.

10 Like the ECCC, the Court of Sierra Leone is a hybrid tribunal.

visits. These visits were strictly monitored to ensure that the couples filled their duty to the state, i.e., engaged in sexual interaction to guarantee procreation.

Though forced marriages may seem like a possible way of placing gendered crimes and sexual violence in front of the Court, there is one final barrier which would have to be overcome. As stated above, in order for any claim to be heard by the Court, it has to fit within the scope of investigation. Based on current actions by the Court, this is unlikely to happen. Gendered crimes and sexual violence are not currently prioritized by the prosecution. The burden of proof appears to be too high, and there are so many other crimes and human right violations that the prosecution seeks to address.

Nevertheless, there remains a possibility that gendered crimes and sexual violence will be heard by the Court. Currently it is only hearing claims relating to incarcerated defendants, but the investigation of additional cases has begun with the scope of investigation thus far being confidential. If these investigations were to include gendered and sexual violence crimes, it is more likely that claims of gendered crimes (forced marriages) will be heard over those of sexual violence. Since official KR policies existed in the form of moral offenses and forced marriages, the marriage policy may actually help the prosecution meet its burden of proof, whereas the policy of moral offenses effectively stops all claims of sexual violence before they are heard.

If the ECCC were to open its docket to gendered crimes, even if the success of such prosecution is less than certain, I believe it would be of tremendous benefit for Cambodia and the way these crimes are viewed in contemporary society. Women and girls in Cambodia are largely marginalized: their rights are being overlooked and ignored. One example is the relatively new phenomenon of *bauk*, where young men get together in groups of five to ten and either pick up a sex worker, or “the girl next door” take her to a hotel and then proceed to gang rape her. This is, unfortunately, becoming a common practice, and when confronted with their actions the perpetrators are mainly of the opinion that their conduct is perfectly acceptable. Though the underlying reasons for this aberration are many, one of them is arguably the low value of women in Cambodian society and the marginalization of sexual violence against them.

I believe that if the ECCC were to prosecute gendered crimes and sexual violence, it would serve as a very strong condemnation of those crimes and set an important precedent to domestic courts that crimes against women and girls are serious matters that should be pursued by the justice system. One effect of bringing justice to the Cambodian people for the atrocities committed against them by the KR is the model of legal practice it demonstrates in a country where the rule of law is still in its infancy. The Court has a magnificent opportunity to shape the way Cambodians perceive their judicial system and the faith they put in the rule of law. By demonstrating that no claim is too small and no group too insignificant the ECCC can improve the lives of ordinary Cambodians by demonstrating that a functioning judicial system works for all people and their rights, not only those of privilege.

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12 According to Mam, official KR policy meant that men, women and children had separate living accommodations to discourage family bonds from forming. Only non-relatives were allowed to care for the young in order to ensure that loyalty was given to the state before anything else.

13 Paolo Pastore Stocchi.

14 Literally meaning *plus* in Khmer, indicating the practice of sexual intercourse between one woman *plus* however many men choose to participate.
Bar Exam Results for Recent Grads

The College of Law would like to congratulate the following 2010 graduates who passed the July 2010 bar exam:

Arizona
   Birthe Stenderup Christensen

Colorado
   Scott Keola Cadiz
   Jose Manuel Colon
   Kristin Erika Drennan
   Benjamin Marion Hewett
   Jason Michael Legg
   Kathryn Marie Strobel
   Anna Catherine Swain

Iowa
   Christyne Marie Martens

Utah
   Marca L. Tanner

Wyoming:
   Brett Adam Befus
   Teresa Joy Cassidy
   Ann Elizabeth Davey
   Timothy Allen Eagler
   Ryan L. Ford
   Johnathan Ruel Gordon
   Elizabeth Bellamy Grill
   Kara Lorraine Ellsbury (nee Hunter)
   Brendon Elisha Kerns
   Benjamin Aaron Kinney
   Ronald Jay Lopez
   Brian James Marvel
   Clayton Miles Melinkovich
   Joshua John Merseal
   Carissa Dawn Mobley
   Tucker J. Ruby
   Jodi Dreher Shea
   Garren Andrew Stauffer
   Teresa Sue Thybo
   Candace Brook Vasko
   Robert John Walker

A special congratulations to those brave souls who took two bar exams and passed!

Wyoming and Colorado
   Justin Ashkhan Daraie
   Maryt Louise Frederickson
   Megan Elizabeth Ihle
   Kerry Elizabeth Luck-Torry
   Aaron John Lyttle
   Erin Kelly Murphy
   Emily Jon Nelson
   Ryan James Polk
   Wendy Susan Ross
   Janae Elizabeth Ruppert
   Temple Leigh Stevenson
   Joshua Abraham Tolin
   Aaron Lee Tomisich
   Neal Joseph Valorz

Wyoming and Wisconsin
   Aaron Bruce Marcoux
Class of 2010 Graduation Gift

By Deb Person

The graduating class of 2010 left their legacy this year to the law library. The 3L class voted to upgrade study room 123 across from the library’s circulation desk. For many years this room housed the Westlaw and Lexis computers, but with wireless internet throughout the library and a shortage of space for group work within the library, it was converted to an additional group space. Over time room 123 grew to be one of the most heavily used rooms in the library, but the furnishings were admittedly leftovers from the Westlaw/Lexis room and other items collected from the library’s public areas.

The 3L class refurnished the room to foster use as an Interview Room in addition to its current use as study space. The walls were freshly painted and the carpets cleaned. In addition to the new furniture, there is a white board cabinet that can be closed when not in use. To reinforce the idea of this room as an interview space, the Career Library materials were relocated here from the college’s administrative office space.

The Class of 2010 seeks to highlight the work of our student authors over the years by building a collection of casenotes, comments, and articles that our current students and alumni published while they were still attending law school. Anyone wishing to donate their work to this new collection may forward their articles to Deb Person in the Law Library with a note indicating that they are student-authored work. These pieces will be collected in our new Interview Room donated by the Class of 2010.

Call for Student and Alumni Publications

The George William Hopper Law Library has initiated two new projects to collect and maintain publications from our students and alumni. We will be contacting authors who contributed to the Wyoming Law Journal, Land and Water Law Review or the Wyoming Law Review during their student years. If you have a preprint of your published work, please consider forwarding it to the Law Library with a brief note identifying it as a student-authored work. These pieces will be collected in our new Interview Room donated by the Class of 2010.

In a separate initiative, the Library is also collecting articles published by alumni since graduation. We invite contribution of preprints of alumni publications, or, if preprints are not available, a citation to the articles would be helpful as well. For those authors whom we are able to identify, we will attempt a personal contact, but the process of collecting names of alumni with published works is less precise, so if we are unsuccessful in locating you, your contact is especially appreciated.

Any contributions to either of these collections may be sent to Deb Person at the Law Library, College of Law or emailed to dperson@uwyo.edu. We are very excited to watch our archive of student and alumni publications grow. The Library and the College look forward to celebrating the successes of our alumni with our new collections.
Student Leaders

Do you ever wonder who some of the movers and shakers of the law school are? The students who volunteer endless hours to make sure events like Law Week are a huge success? The Potter Law Club is the law school’s student bar association. The student leaders for the 2010-2011 academic year are the following students:

- **Marianne Shanor** - President
- **Travis Koch** - First Vice President
- **Scott Murray** - Second Vice President
- **Stacia Berry** - Secretary
- **Zach Chapman** - Treasurer
- **Nick Haderlie** - Public Relations
- **Gregg Bonazinga** - Student/Faculty Liaison
- **Jared Wrage** - ABA Representative (pictured above)

**PLC is holding elections this week for student leaders for the 2011-2012 academic year.**

The following students are elected representatives from the Class of 2013:

- Honor Code Representative: **Alan Dees**
- Library Liaison: **Sabrina Sameshima**
- Computer Representative: **Jeff Slade**
- 1L Representatives: **Marci Crank** and **Jeremy Gross**
- Tenure Faculty Representatives: **Kendall Laws** and **Christopher Sherwood**

The following third-year law students serve on the Board of Advocates, the student-run group which organizes all competitions at the law school.

- Board of Advocates President: **Ashli McGee**
- Vice President, Pace Environmental Moot Court (sponsored by Holland & Hart LLP): **Tina Oestreich**
- Vice President, Rothgerber, Johnson & Lyons Trial Advocacy: **Rennie Polidora**
- Vice President, Philip C. Jessup Cup International Law Moot Court: **Ava Bell**
- Vice President, Pence and MacMillan Client Counseling and Client Counseling Regional: **Marty Wootton**
- Assistant to the Vice President of Client Counseling: **Shannon McDonald**
- Vice President, Brown, Drew & Massey Moot Court: **Jessica Frint**

Community Involvement

- Prof. Dona Playton along with four law students—**Pamela Faris, Brynn Hvidston, Toni Britton** and **Meggan Hathaway**—will judge the *We the People: The Citizen and the Constitution* competition at the Laramie Senior High School for Cory Scimeca’s Advanced American History class.

For a full list of all student organizations and their leaders, please visit the law school’s [website](#).
Faculty News

Jacquelyn L. Bridgeman, Professor of Law

On January 1, 2011, Professor Bridgeman will become the Associate Dean for Academic Affairs.

John M. Burman, Carl M. Williams Professor of Law & Ethics and Faculty Supervisor of the Legal Services Clinic

Publications:


Presentations:

John Burman Ethics Hour, CLE, Sheridan County Bar Association (Oct. 2010).

Honors:

At this year's state bar convention, the Wyoming State Bar presented Professor Burman with its President's Award. Past bar president William (Bill) L. Hiser identified “John Burman's commitment to being a lawyer who teaches others how to be lawyers and his devotion to pursuing what is ‘right’ and ‘ethical’--not just what is legal--as the core of Burman's outstanding contribution to the legal profession” for over 20 years.

Michael C. Duff, Associate Professor of Law & Director of Academic Support Program

Publications:

Union Salts as Administrative Private Attorneys General, 32 Berkeley J. EMP. & LAB. L. ______ (forthcoming 2011).


Stephen Easton, Dean & Professor of Law

Publications:

M. Dee Pridgen, Associate Dean for Academic Affairs and Carl M. Williams Professor of Law & Social Responsibility

Publications:


Notably, Dee Pridgen will be stepping down as the Associate Dean after eight years of service to the law school. Dee will continue to teach on the law school’s faculty in her area of renown: consumer protection law.

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Matt Wilson, Assistant Professor of Law

Publications:


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Stewart M. Young, Assistant Professor of Law & Faculty Supervisor of the Prosecution Assistance Program

The law school is proud to announce that Prof. Young passed both the Colorado and Wyoming bar exams. The dean was said to have overheard Young say, “I will never do anything like this again,” on about July 26th.

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Note from the Editor

I will soon be passing the publication-torch of responsibility to our new Director of External Relations and Special Assistant to the Dean, Christine Michel. It has been a pleasure writing and editing the *Docket* and *Counsel* and I will continue to contribute. Leaving the heavy lifting to Christine, I hope to be able to meet with more of you one-on-one in order to increase employer relations for the law school’s Career Services Office. If you need an intern, extern or new attorney, please contact me so that I can get the word out to students and alumni. All the best, Anetra Parks (aparks1@uwyo.edu) (307-766-4074).

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UW College of Law
Dept. 3035, 1000 E. University Ave.
Laramie, WY 82071
lawmain@uwyo.edu