Co-Presidents’ Column: Facing the Challenges to Legal Education and the Legal Profession

Raquel Aldana, University of the Pacific McGeorge School of Law, and Steven W. Bender, Seattle University School of Law

The theme of the 2010 SALT Teaching conference, “Teaching in a Transformative Era: The Law School of the Future,” gave us an opportunity to begin to address the deep challenges facing legal education and the profession. Recent trends in law school admissions and news stories about the state of affairs of the legal profession have brought to light the urgency for progressive law professors—e.g., members of SALT—to weigh in to ensure that longstanding values that matter to us are rescued responsibly in this new climate of austerity.

The New York Times reported on August 23, 2011, in a story titled “Addressing the Justice Gap,” that four-fifths of low-income people have no access to lawyers when they need...
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one. This article does not even address the middle-class justice gap, but if you simply Google “legal representation for the middle class,” plenty of stories turn up lamenting the lack of access to lawyers for the middle class and reporting on attempts by the profession—such as unbundling of legal services—to make lawyers more affordable and more relevant to the lives of people. Simultaneously, the dwindling number of high-paying private firm jobs, combined with shrinking state and federal budgets, and less foundation money overall to fund public interest law, means that too many recent law graduates are not getting jobs. According to the same New York Times story, only around two-thirds of law school graduates in 2010 got jobs for which a law degree was required, the lowest rate since 1996; in real numbers, this is close to 15,000 lawyers who, the New York Times concludes, “could be using their legal expertise to help some of those who need representation.”

The problem, of course, is that overwhelmingly these recent graduates must bear a high debt burden and most are not really all that prepared, on their own, to provide the kinds of needed legal services to underserved populations who must face divorces, child support disputes, home foreclosures, bankruptcies, landlord-tenant disputes, consumer fraud, and immigration proceedings without lawyers. Here is where law schools and law professors are brought into the picture, often not at all in the best light. As David Segal noted in a January 8, 2011, New York Times article titled, “Is Law School a Losing Game?” law schools are faulted for the debt burden, and would-be-lawyers are cautioned against law school as the new financial trap, akin to the mortgage debacle that defrauded many consumers into the worst decision of their lives. Would-be-lawyers are starting to listen, it seems.

This year, nationally, there were 11.5% fewer applicants to law school; the hit for some law schools was even greater (30% and above) as some more highly-ranked law schools increased their class size to deal with cuts in public funding for higher education and raided other law schools for students. If this trend continues, some law schools will fail. Some, including SALT members, may see this as good. Market-based forces will force law schools to compete and redefine themselves, which ultimately could mean an ostensibly cheaper and better product for law students and clients. This might be true if law schools were businesses and legal services an assembly-line profession. Think about what will be sacrificed in the race to the bottom that law schools and the legal profession are facing. One obvious target is security of position, which is faulted for the rising cost of legal education without sound data to back up the claims. Another target is legal scholarship. Much has been said about the alleged questionable benefits and the enormous costs of scholarly production in law schools. Indeed, a notable voice in this rhetoric is Chief Justice John Roberts, who once said “Pick up a copy of any law review that you see and the first article is likely to be, you know, the influence of Immanuel Kant on evidentiary approaches in 18th-century Bulgaria, or something, which I’m sure was of great interest to the academic that wrote it, but isn’t of much help to the bar.” (See http://www.acslaw.org/acsblog/law-prof-ifill-challenges-chief-justice-roberts%E2%80%99-take-on-academic-scholarship)

We agree with Justice Roberts on one thing: Law professors should be concerned that their work is relevant to the bar, and they should aim to influence law, but we vehemently disagree that philosophy or comparative perspectives are irrelevant to the development of law. This is an anti-intellectual statement at its core, and it reveals the direction that law schools and lawyers are headed if we allow this type of rhetoric to cheapen our education mission and our profession. Instrumental considerations, such as student debt and skills-based teaching, do and must matter; these are integrally tied to access to justice concerns. Highly-indebted recent law graduates who are not prepared with lawyering skills to represent underserved clients can do little to close the justice gap. But SALT also believes that law is a dignified profession, which is ultimately about justice, which is more than solely providing rote and routine legal services. Lawyers can shape law, inspire legal reform, and improve societies. This is a worthy and noble investment. And we must ask: Why aren’t the states funding higher education and law schools? How will law professors teach and write in bold and creative ways without academic freedom protection? Why isn’t there a civil Gideon? Yes, we law schools and we law professors must do our part. We must think about how we can improve how we teach and help our graduates achieve their dreams and goals. But don’t expect us to stop fighting for values that make our profession life-changing for individual clients and collectively transforming for societies.

As we transition from our co-presidency and leave you in the wonderful, caring hands of Co-Presidents-Elect Jackie Gardina and Ngai Pindell, we also urge you to join us in this crucial debate. Your membership in SALT, which is not solely your financial support but also your creativity and energy, is needed now more than ever. Thank you.
Executive Director

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deans negotiate their fair share of tuition revenues with university presidents without the prestige of valued scholars as teachers? If deregulation ensues, will that experiment eliminate teaching as a full-time job at many law schools beyond the reach of a living wage and the protections of academic freedom that are needed to critique our society? Will increased use of adjuncts and retired practitioners eliminate faculty from the important tasks of setting curriculum and educational policies? Are we the last generation of full-time dedicated law school teachers? If that is true, what will happen to our rebellious voices?

As we enter this difficult and complex last year of the ABA’s comprehensive review of these standards, we need your membership more than ever. For the last four years, SALT has been supported by capacity-building grants from the Open Society Institute, which enabled the organization to grow with professional staff, a new website, improved outreach and communications with members, and a litany of social justice and inclusiveness campaigns. The OSI grants are over now, so SALT is asking you—members, lapsed members, and friends within the academy—to take a moment to join SALT, renew your membership, and your commitment to the organization. We need paid memberships to continue on this path. Since SALT membership is on an academic year cycle, all memberships, except for lifetime ones, ended on August 31, 2011.

Over the summer, we instituted a new membership structure to conform membership fees to positions within the academy, ending the practice of pairing fees with salary. We thought this was a fairer way to assess dues. A full explanation of the new dues structure is available on the SALT website, and is included in my Membership article, also in this issue. Take a moment to join SALT now, online or by downloading a membership form, so that together, we can continue the important work of this organization. The faster we meet our membership goal, the sooner I can stop nagging!

Our activist social justice work continues. In addition to challenging SB 70 in Arizona, SALT joined as amicus in the challenge to the even more horrendous anti-immigrant legislation passed in Alabama. We are monitoring the repeal of “Don’t Ask Don’t Tell,” coming full circle after years of pursuing fairness and equity through the FAIR v. Rumsfeld challenge to the Solomon Amendment, insisting on amelioration on all of our law school campuses, and now pressing for anti-discrimination guidelines to make repeal effective for all servicemembers and applicants. In May, SALT joined with 42 other organizations to oppose the Prop 8 proponents’ motion to vacate Judge Walker’s decision in Perry v. Brown, the decision that invalidated Prop 8, to the detriment of gays and lesbians living in California.

In addition to our social justice work, SALT cares about who is admitted to law school, what is taught, and who is teaching. Who is Admitted to Law School: SALT’s commitment to improving access to legal education and to the profession is central to its mission. SALT has critiqued the over-reliance on LSAT scores in admissions processes, which work to the detriment of many applicants of color; joined as amicus in Grutter v. Bollinger (2003) before the U.S. Supreme Court, which upheld diversity as a valued criterion in law school admissions; and has been pressing the ABA Standards Review Committee to view all of the proposed changes to law school regulation—institutional bar pass rates, student learning outcomes, faculty recruitment and retention—with an eye towards how they will affect the diversity of the legal profession. We partnered with Professor Conrad Johnson at Columbia Law School’s Lawyering in the Digital Age Clinic to produce “A Disturbing Trend in Law School Diversity,” http://blogs.law.columbia.edu/salt, originally launched in January 2008 and updated in January 2010, to demonstrate how, despite an increase in the number of seats available in law schools, African-American and Mexican-American applicants are not gaining admission. With the economy so shattered, SALT is working with pre-law advisors to better counsel college students of color about the strategies needed to prepare and apply to law schools.

What is Taught: SALT collaborated with Golden Gate University School of Law to collect and edit “Vulnerable Populations and Transformative Law Teaching: A Critical Reader,” published by Carolina Academic Press (March 2011), offering twenty-one essays connecting race, gender, nationality, sexual orientation, and disability to economic vulnerability to inspire law teachers and students to question their perceptions and experiences about who creates and interprets law, and who has access to power and the force of law.

SALT runs biennial teaching conferences with themes of social justice, equity, and inclusiveness. New casebooks, articles, and treatises are incubated at each conference. Our last conference, “Teaching in a Transformative Age: The Law School of the Future,” held on December 10-11, 2010, attracted more than 230 law faculty from around the world with upcoming publication of articles in two major law reviews. Watch the SALT website for announcements for the 2012 SALT teaching conference, which is already in the planning stages. Our 2012 Social Justice and Public Interest retreats—Cover, Amaker, and Grillo—are also in the planning stages, with dates set and Yale and Vermont working on Cover, Loyola-Chicago working on Amaker, and Golden Gate taking the lead for Grillo.

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Who is Teaching: Access to the legal profession also means bringing more people of color into law school teaching and administration. For eight years, SALT has offered a junior faculty development workshop at the annual LatCrit teaching conference, guiding fellows, graduate students, and pre-tenured faculty through the maze of unwritten rules about tenure. In June 2009, SALT launched its New Teachers’ Pipeline Committee, which hosts regional workshops at which practitioners of color, women, lesbian and gay attorneys, and other under-represented groups can learn about careers in legal academia, ranging from adjunct teaching to doctrinal and clinical positions to administration. SALT presented “How to Become a Law Professor” at the National Black Law Students Association in Houston in March 2011, and sponsored others over the spring and summer in Ft. Lauderdale, New York, Boston, and Chicago, with our partners Nova Southeastern University Broad Law Center, CUNY Law School and its Center for Diversity in the Legal Profession, Northeastern University School of Law, John Marshall Law School, and Northern Illinois University College of Law.

Through the biennial “Promoting Diversity in Law School Leadership” workshops, co-sponsored with Seattle University School of Law and the Korematsu Center, SALT focuses on how to bring more people of color, women, lesbian and gay, and other non-traditional law professors into deanships. The next Deans’ Workshop, scheduled for September 23-24, 2011, brings in University of Washington School of Law as a new co-sponsor.

Take a moment now to consider an academy without SALT. Then renew your membership!

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SALT Board of Governors Election

Hazel Weiser, Executive Director, SALT

The Society of American Law Teachers is proud to announce the slate of candidates for the SALT Board of Governors. The election will be held at the annual SALT membership meeting on Friday, September 23, at 6:00 pm at Seattle University School of Law, Sullivan Hall, 901 12th Avenue, Seattle, WA, second floor gallery.

Current SALT members are eligible to vote by proxy via email ballot which will be distributed in early September.

SALT Board of Governors Candidate Statements 2011

Emily A. Benfer, Loyola University Chicago School of Law (new candidate)

My goal is to provide law students with 1) a forum for thinking about legal reform, social change, and the growth of public interest law; and 2) the skills and community with which to accomplish their ideas around legal and social change. SALT continues to be an excellent collaborator and resource as I work to achieve both goals. If elected to the Board of Governors, I will work to advance these goals and the SALT mission.

As a member of SALT’s Public Interest Retreats Committee, I worked with SALT to successfully revive the Norman Amaker Social Justice & Public Interest Law Retreat, for which I am the Faculty Advisor. At the Retreat, students—future public interest lawyers—embraced their heightened moral sensibility and the inherent responsibility to advocate for marginalized and disempowered people. These students recognized that they are an important part of a movement to effectuate social justice. I hope to increase the availability of such Retreats across the country. As a Clinical Professor of Law and Loyola’s SALT Representative, I am incorporating innovative techniques, such as interdisciplinary advocacy and cultural awareness, into my teaching. Together, we can improve our ability to provide students—the future stewards of justice—with the guidance and experience they need to participate in this exciting time and to carry society forward.

Thank you for your consideration of my nomination. It would be a great honor to continue this important work and further SALT’s mission as a member of the SALT Board of Governors.

Benjamin Davis, University of Toledo College of Law (re-election)

I have been working with SALT for about four years primarily with the Human Rights Committee. SALT plays an important role in addressing a range of social justice issues. I hope to have a chance to continue to do that work. I have been teaching 11 years with the last 7 at the University of Toledo College of Law. My principal work with SALT has been with regard to confronting and seeking accountability for US torture. I have also enjoyed working on the LGBT issues, Immigration issues, blogging at the SALT blog and doing other work affecting human rights from time to time.

Olympia Duhart, Nova Southeastern University School of Law (re-election)

Working on SALT’s Board of Governors for the past three years has put new meaning in the term “Labor of Love.” Yes, it’s been a lot of hard
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work, but I’ve loved every minute of it.

It’s been a unique honor to work side-by-side with such bright, exciting and dedicated professionals. SALT’s commitment to teaching excellence, diversity and justice reflects the goals of my own career. My scholarship focuses on government accountability, particularly the state’s responsibility to marginalized groups, I serve on the board of advisors for the Institute for Law Teaching and Learning, and I worked for several years with the Florida Innocence Project.

During my term on the Board, I served SALT in many capacities. Along with serving as Chair of the Membership Committee, I worked on the Issues in Legal Education Committee. Furthermore, I organized pipeline Pipeline activities that have opened doors for new faces to join the academy. I also took on the task of co-editing SALT’s new blog, which aims to build bridges between academy intellectuals and the public.

The best way for me to demonstrate my love for the labor is by continuing my service on the SALT Board of Governors. We have made tremendous strides, but there is still a lot of work to do. I look forward to the challenges ahead knowing that I will always find inspiration in the SALT family. I hope to continue SALT’s mission and continue growing as a teacher, scholar, and advocate of justice.

**Solangel Maldonado,**
Seton Hall University School of Law (election after appointment)

It is an honor to be considered for election to the SALT board. I have been working with SALT since January 2011 as co-chair (with Ruben Garcia) of the Equal Opportunity/Affirmative Action Committee and as a member of the Nominations Committee. I am currently working with the Ronald Brown Center for Civil Rights and Economic Development and CUNY’s Center for Diversity in the Legal Profession on a new initiative titled B.A. to J.D. Pipeline to help pre-law college advisors better serve students of color.

I have been working to increase diversity in law schools since I began teaching 10 years ago. I am the founding chair of the Dean’s Diversity Council at Seton Hall Law, an advisory body that works to recruit students from diverse backgrounds and assists student organizations that aim to increase diversity in the profession. I also served as the chair of the Third National People of Color Legal Scholarship Conference in 2010 and currently serve on the New Jersey Supreme Court Committee on Women in the Courts and the Board of Trustees of NJ LEAP, a diversity pipeline program for high school students at Seton Hall Law. My teaching and scholarship reflect my commitment to social justice. I teach LatCrit and Gender & the Law (as well as Torts, Family Law, and Estates & Trusts) and write about the intersection of race and family law.

I would appreciate the opportunity to continue to work with progressive scholars committed to inclusion, diversity, and equality.

**Marc Poirier,** Seton Hall University School of Law (returning to board after hiatus)

I have been active with SALT since 1993, at first around environmental justice. I served on the SALT Board in 2002-2003 until illness forced me to resign. At that time, I focused on Solomon Amendment issues, including the *Rumsfeld v. FAIR* litigation. I have achieved a full recovery, and am participating again in SALT’s LGBT Committee, for example drafting a position paper that ultimately guided SALT’s brief in *Christian Legal Society v. Martinez* (2010). Recent non-SALT advocacy includes amicus briefs before the New Jersey Supreme Court on marriage equality and on regulatory takings. I write in the areas of property theory, environmental justice, law and sexuality, and place and identity.

I would like to rejoin the SALT board because American legal education is in crisis. SALT has been in the forefront of challenging the structure of legal education for excluding minorities, the poor, and women; and for conceptualizing and teaching law in a way that serves the rich and minimizes issues and skills important to progressive legal practice. Nowadays, legal education faces additional challenges. It costs too much relative to job prospects. Tenure is mistakenly viewed as an inappropriate organizational structure. The value of progressive scholarship is questioned. SALT is taking the lead in these struggles, too. I welcome the opportunity to work on them through SALT.

Two other areas are important to me. We sometimes overlook the particular opportunities and challenges faced by those at religiously-affiliated law schools. There is special work to be done here. Also, legal practice is extraordinarily challenging for many; the legal profession faces an epidemic of burnout and addiction. Moreover, in a world where legal practice seems to be in permanent upheaval, individual resilience is key. Legal education needs to address head-on these issues of balance. I will be recognized as a lay Zen teacher in August 2011. I lecture to lawyers and others about contemplative practice, and I advise an ongoing interfaith meditation group at Seton Hall. I will bring this perspective on legal education to the Board.

**Drucilla Stender Ramey,**
Golden Gate University School of Law (new candidate)

Candidate Statements, continued on page 6
Sara Rankin,  
*Seattle University School of Law* (new candidate)  

Thank you for considering me for a position on the SALT Board of Governors. I feel fortunate to have served on SALT’s Subcommittee on accreditation as it relates to bar passage and admissions. I am deeply committed to SALT’s mission of inclusion and excellence in legal education. Before my legal career, I earned a M.Ed. from the Harvard Graduate School of Education, where I focused on education reform. As a practicing lawyer, I devoted significant time to pro bono work for indigent populations and developed training programs for young lawyers who also wished to serve these communities. I specialized in seeking asylum for immigrant women and children on the basis of gender persecution. Over the course of ten years, I won several awards for pro bono service, but more importantly, I learned a great deal from the clients I served and the young attorneys I supervised in the process. At the Seattle University School of Law, I have served on several committees that align with SALT’s mission, including the Social Justice Committee, the Curriculum and Pedagogy Committee, and the PILF Summer Grant Committee.

My scholarship also supports SALT’s mission: I recently wrote an article examining the social and political aspects of legal education reform, and am currently researching two new articles relating to the inclusion of homelessness as a protected category under state hate crime statutes and Medicaid coverage for sexual reassignment surgery. I hope to further my dedication to SALT’s mission through a position on the Board of Governors.

Avi Soifer,  
*University of Hawai’i School of Law* (re-election)  

It truly is a pleasure to report that I have been dean and professor at the William S. Richardson School of Law at the University of Hawai’i since 2003. I previously taught at the University of Connecticut, Boston University, and Boston College, where I was dean from 1993-1998. My teaching and writing are primarily about constitutional law, legal history, cultural studies, and civil rights and civil liberties.

I have been an active member of SALT virtually from its start, and a Board member since 1982. I helped to initiate and organize the annual Robert Cover Public Interest Conference and the Study Group and I have chaired and served on a number of different committees. Until recently, I was also in charge of the annual Salary Survey and I served on the Executive Committee. This all has been done with a great deal of help from my friends, and SALT has been a vital source of wonderful friendships and assistance.

Deleso Washington,  
*Florida A & M University School of Law* (new candidate)  

I am truly honored to have been nominated to serve on SALT’s Board of Governors. At Florida A&M University College of Law, I teach Torts, Race and Law, Bioethics and the Law and Critical Race Theory. My teaching methodology and legal scholarship exemplify the core values of SALT. I am dedicated to increasing minority representation in the legal profession on a daily basis. It is my personal mission to acknowledge alternate realities and create new paradigms that center the historically marginalized by utilizing narrative and deconstructive techniques to teach substantive areas of law. Currently, I am advocating for the integration of critical race feminist theory into medical school curriculum.

My legal and community service include: Moderator for NBA Law Professors Div. “Countering the Crisis in Law School Admissions” (2011); National Steering Com. Member for the Third National People of Color Legal Scholarship Conference (2010)
Breaking In: Committed to Diversity in the Legal Academy

Hazel Weiser, Executive Director, SALT

With a stalled economy, the popularity of seeking a legal education seems to be falling off the charts with numerous articles using a cost-benefit analysis to turn many away from the law. However, we cannot abandon our commitment to diversity in the legal profession and in the legal academy — especially now, when we need more civic leaders to possess the analytical and strategic leadership that a legal education can provide.

SALT remains committed to our mission of bringing distinct voices and perspectives into legal education equipped with a disciplined anti-subordination lens. We invite SALT members to partner with us to organize this year’s “Breaking In: How to Become a Law Professor or Law School Administrator” programs.

We were busy over the summer. In June, SALT partnered with CUNY Law School and its Center for Diversity in the Legal Profession to host a “Breaking In” program at the CUNY Graduate School of Journalism. The day-long program featured the unique voices and stories of Deborah Archer, Kirk Buckhalter, Natalie Gomez-Velez, Donna Lee, Julie Lim, Shirley Lung, Arshad Majid, Patricia Murrell, and Ediberto Roman. Many thanks to Pamela Edwards and Dean Michelle Anderson for their contributions to the program.

In the article below, SALT board member Hope Lewis describes the “Breaking In” program held at Northeastern University School of Law this summer. And on September 16, in Chicago, SALT, John Marshall Law School, and Northern Illinois University College of Law will be hosting the Chicago-based “Breaking In” program at John Marshall. In addition to a discussion of hiring from the dean’s perspective featuring Dean John Corkery, Dean Jennifer Rosato, and Anthony Niedwiecki, moderated by Elvia Arriola, panelists included Allison Bethel, Rogelio Lasso, Jeanna Hunter, Kim Chanbonpin, Yolanda King, Olympia Duhart, Margaret Kwoka, Spearit, and Morse Tan. Many thanks to Kim Chanbonpin, Yolanda King, and Olympia Duhart for organizing this program.

Do you want your school to host a “Breaking In” program? Contact Hari Osofsky, co-chair of the New Teachers’ Pipeline Committee, at hosofsky@umn.edu.
B.A. to J.D. Pipeline Initiative: November Conference on Diversifying the Legal Profession

Solangel Maldonado, Seton Hall University School of Law

We are all concerned by the recent decline in the percentage of African-American and Mexican-American students admitted to law school and the low admission rates of other underrepresented minorities. A shocking 61% of African-American applicants are rejected by every law school to which they apply, as compared to 46% of Mexican-American applicants and 34% of white applicants. (Disturbing Trend in Law School Admissions Chart 6). Law schools’ overreliance on the LSAT, minority students’ lack of relationships with pre-law college counselors, transcripts with few college courses that develop strong writing and analytical skills, students’ unrealistic choices of targeted law schools, and submission of law school applications at the end of the admissions cycle all combine to create a disproportionately high shut-out rate for students of color.

SALT has partnered with The Ronald H. Brown Center for Civil Rights and Economic Development at St. John’s University School of Law, the Dean’s Diversity Council at Seton Hall University School of Law, and the Center for Diversity in the Legal Profession at City University of New York School of Law to increase the pipeline and diversify the legal profession. We have created a new initiative titled “B.A. to J.D. Pipeline: Diversifying the Legal Profession” to educate bar exam administrators, law school admissions officers, and pre-law college advisors about the barriers that students of color face when preparing for, applying to, and gaining admission to law school. The initiative will examine the negative impact that the U.S. News & World Report rankings have on the admission of students of color and explore how the rankings can be reformed to be more inclusive of diversity. It will also work with the regional and national organizations of pre-law college advisors to develop model counseling techniques upon which advisers can rely when advising students of color.

We are currently planning a day-long interactive conference and workshop at St. John’s University School of Law on November 11, 2011. The first part of the conference will demonstrate how the LSAT and the U.S. News & World Report rankings negatively affect the admission of students of color and will explore potential reforms. I am especially looking forward to the second part of the conference, which will include interactive sessions on cultural competency and counseling of students of color. While the audience for this conference is local area bar examiners and administrators, law school admissions officers, and pre-law college advisors, we hope to see many SALT members there.

After the conference, we plan to take this program on the road and participate in the annual national and regional pre-law advisors’ conferences in 2012 and 2013. We also plan to broadly distribute our materials promoting model counseling techniques for students of color to pre-law counselors nationwide.

We are indebted to Professor Leonard Baynes, Director of The Ronald H. Brown Pipeline Initiative, continued on page 9
Great Teacher Keith Aoki’s Legacy to be Celebrated at 2012 SALT Dinner

Ruben Garcia, UNLV Boyd School of Law

Anticipation is building for the 2012 SALT Annual Dinner in Washington, D.C., on January 7. The choice of the late Professor Keith Aoki as the 2012 Great Teacher award recipient will give the evening a reflective tone. Professor Aoki passed away in April, leaving behind a wife and two children and a lasting legacy of scholarship, service and teaching true to the values and attributes of SALT. He will be missed, but at the dinner on the Saturday night of the AALS conference, the memory of his life and work will provide an inspiring reference point for SALT to launch into its agenda for the new year.

With the dinner’s location on the George Washington University campus less than a mile away from the White House, the coming elections in 2012, as well as the role that SALT might play in those debates, will surely be a topic of conversation. The dinner will also provide the opportunity to reflect on changes in the leadership of SALT as we offer hearty congratulations and thanks to our outgoing co-presidents, Raquel Aldana and Steven Bender, and give our best wishes to our new co-presidents, Jackie Gardina and Ngai Pindell. As usual, we will recap the highlights of the past year and the work ahead.

As it is every year, the success of the dinner will be measured by the many new and renewing law schools that support SALT as platinum or gold sponsoring institutions. The list of schools currently sponsoring the dinner is shown in the inset of this article. We are very grateful to all the sponsoring schools, but especially grateful to the platinum sponsors who receive special recognition at the dinner and on the website, besides the table for ten and the full-page ad in the dinner journal. For schools interested in touting their school’s accomplishments, the platinum sponsorship offers great visibility, while at the same time supporting SALT’s work.

A very important way for non-sponsoring schools and individuals to support SALT is to place ads in the dinner journal. The dinner journal is distributed to all attendees of the dinner, which this year should be filled with moving tributes to Keith Aoki, and serves as a reminder of the honoree and all those who stand behind him. In Keith’s case, the journal will contain not only tributes from family, friends and colleagues, but also from the many students who were beneficiaries of his great teaching.

The setting for the dinner at the Cafritz Center at GWU with a unionized caterer fits with SALT’s values and should provide a wonderful and accessible setting for the dinner guests. We are anticipating that the dinner will be sold out, even with a cap on the number of institutional sponsorships that we are selling. Thus, please get your tickets as soon as possible. We also hope that you encourage your friends and colleagues to get their tickets and ads well before the deadline of December 2.

As always, the dinner would not occur without the tireless work of Hazel Weiser and Elizabeth Luzzi in the SALT office, and the committee that I have the privilege of chairing, consisting of Margaret Barry, Steve Bender, Patti Falk and Peter Joy. Please email me (ruben.garcia@unlv.edu) if you have any questions or suggestions for us!
Access to Justice Committee: Progress, Projects, and a New Co-Chair
Doug Colbert, University of Maryland School of Law, and Pamela Bridgewater, American University Washington College of Law

Lawyers’ responsibility, or its neglect, to make justice accessible to all is at the heart of the current housing, budget, health, criminal justice, immigration, environmental and food security crises. In fact, according to the Preamble, paragraphs 1, 6 of the Model Rules of Professional Conduct, lawyers must be more than useful in a time of crisis and should abide by our ethical responsibility as “public citizens.” The ethical rules remind lawyers that they have special responsibilities to the quality of justice. This includes lawyers’ professional obligation to represent people who cannot afford a private attorney. (Model Rule 6.1). The Model Rules also include lawyers’ obligation to address “deficiencies” such as denying access to justice for people who cannot afford counsel (“the poor and those not so poor”). Preamble, paragraphs 1, 6.

Recognizing the critical role legal education plays preparing lawyers to meet their obligations as public citizens with special responsibilities to the quality of justice, and aware of the existing crisis in people’s lack of access to counsel, SALT formed the Access to Justice Committee (AJC) last January 2010. The Committee, led by Doug Colbert (Maryland) and his new co-chair, Pamela Bridgewater (American), is committed to bringing life and meaning to the words of the Preamble of the Model Rules into faculty’s central mission of preparing students for entry to the profession. Access to Justice members explore ways that faculty can integrate in their classes a lawyer’s professional responsibility to public service, and inform students that few lawyers are fulfilling their pro bono duty (at most, only one out of five), despite the overwhelming need for legal representation in underserved populations.

AJC’s educational work over the past 18 months has focused on scholarly activities aimed at making colleagues aware of a lawyer’s ethical duties. Phase one includes a survey of law school literature and online presence to ascertain how access to justice issues are represented to law school students and the public. The committee is also participating in a summer assignment that requires members to describe the opportunities and challenges to incorporate access to justice issues into two courses that we teach. The assignment provides much needed insight into implementation strategies used by colleagues, as well as an opportunity for the Committee to share ideas for connecting a lawyer’s special responsibility values into coursework across the curriculum.

Committee members intend to post their ideas on the SALT website. That way, colleagues teaching the same course can consider and suggest other ways for including the ethics material into their classes and initiating discussion of a lawyer’s ethical duty in public service. The next phase of the project will broaden the scope of the inquiry to include colleagues at our home institutions and beyond.

We hope you will join AJC’s work. Please send your ideas for incorporating a lawyer’s pro bono and public citizen obligations to address an ongoing deficiency in courses you teach about an ongoing deficiency in the civil or criminal legal system. Agree to contribute to the AJC website, should you be contacted about your courses.

This summer, the SALT Board also approved AJC’s efforts to organize support for amicus participation in a pending class action, indigents’ right to counsel at first appearance suit, Richmond v. District Court of Maryland. AJC’s co-chair and SALT board member Doug Colbert is fully familiar with Richmond, having been co-counsel when it was briefed and argued before the Maryland Court of Appeals in January, 2009.

SALT intends to continue its support for the Richmond litigation when it is argued in November; its amicus brief will argue that indigent defendants’ constitutional right to counsel extends to an accused’s first appearance before a judicial officer.

Should you have information, ideas and/or suggestions for the AJC, please contact any of the members: Elvia Arriola, Margaret Barry, Barbara Bernier, Steven Bender, Pamela Bridgewater (co-chair), Ann Cammett, Doug Colbert (co-chair), Tracy Curtis, Camille Nelson, Karla McKanders, and Adele Morrison.
On September 20, 2011, almost eighteen years after Congress enshrined discrimination based on sexual orientation into the federal code, Don’t Ask Don’t Tell will be officially repealed. It will certainly be a day of celebration for the tens of thousands of service members who are currently serving in silence and a vindication for those who were discharged under this discriminatory law. SALT was an active participant in repeal efforts. We were a named plaintiff in **FAIR v. Rumsfeld**; our members petitioned Congress through letters, calls, and direct lobbying; we encouraged President Obama to take direct action to end the discrimination; and each year we reminded law schools of their amelioration responsibilities.

Unfortunately, our work is not done. “The Don’t Ask Don’t Tell Repeal Act of 2010” was a sharp departure from the original bill introduced into Congress in 2005. That bill would have, among other things, prohibited the military from discriminating based on sexual orientation. During negotiations, however, Congress struck the non-discrimination provision from the bill. The provision’s absence creates the possibility that service members could still be discriminated against based on their real or perceived sexual orientation. The Pentagon has stated explicitly that it does not consider sexual orientation a protected class and that it will not alter its Military Equal Opportunity policy to include affirmative protections for gay and lesbian service members.

Moreover, there are other laws that leave full equality unrealized. Article 125 of the USMJ still makes sodomy a criminal offense. Whether it will become a proxy for Don’t Ask Don’t Tell remains an unknown. Married gay and lesbian service members will not be eligible for many of the benefits available to their heterosexual counterparts. The Defense of Marriage Act and other federal laws that describe eligibility for military benefits continue to define spouse as an opposite sex partner. While the service members may no longer be “serving in silence,” their families will continue to be invisible.

Historically, the military has been slow to make change. In 1948, President Truman issued an executive order integrating the services, yet some branches resisted for years and racial tensions remained palpable for decades. The military has been even slower to integrate women and, sadly, sexual harassment remains a serious problem within the services. Whether gay and lesbian service members will face similar obstacles is another unknown. The Pentagon has yet to release the new regulations that will govern the post-repeal service branches and consequently there remain a number of unanswered questions about how they will be treated.

Finally, repeal does not affect the military’s discrimination against transgender individuals under its medical regulations. The military may disqualify a transgender candidate if the potential service member has had any type of genital surgery. Even if the individual has not had surgery but openly identifies as transgender, the military considers this to be a disqualifying psychiatric condition. While it is possible to obtain a medical waiver, there is no evidence that a waiver has ever been granted for a transgender person.

SALT will continue to be vigilant about these issues. We will join other organizations in encouraging President Obama to issue an executive order prohibiting discrimination based on sexual orientation in the military. At this writing, the AALS has not lifted its amelioration requirements and it appears premature to do so in the absence of the Pentagon’s regulations. Even if the AALS lifts the requirement, SALT will continue to encourage law schools to engage in ameliorative actions including educating their gay, lesbian, bisexual and transgender law students about the remaining obstacles associated with military service.

But on September 20, we will also celebrate this small step towards full equality.
Over the summer, the Issues in Legal Education Committee continued its work monitoring and commenting on the proposals being considered by the Standards Review Committee (SRC) of the ABA Section on Legal Education and Admissions to the Bar to revise the ABA law school accreditation standards. As part of that work, the committee submitted a statement opposing a proposal to increase the bright-line bar examination pass rate required to retain accreditation. Currently, the accreditation standards require a law school to produce information on at least 70% of its graduates and demonstrate either that over the past five years 75% of them ultimately pass the bar exam or that its first-time bar exam takers pass at a rate no more than 15% lower than the blended bar pass rate in the reported states for persons who graduated from ABA accredited law schools. The proposed change would raise the overall pass rate requirement to 80% and no more than a 10% differential. SALT opposes this change because increasing the bar pass rate requirements would present a serious threat to the academy’s diversity efforts and is inconsistent with the SRC effort to have schools expand and broaden their assessment strategies to include the full range of student learning outcomes. If the bright-line bar pass rate is raised, the law schools most committed to diversifying the profession may be forced to cut back on their efforts to educate those with lower predictors, and all schools will be encouraged to rely more heavily on the bright-line bar pass statistics and less heavily on developing assessment strategies for other learning outcomes.

Since the beginning of the standards review effort, the SALT Issues in Legal Education Committee has submitted numerous comments in support of the SRC’s development of standards that require schools to expand and broaden their assessment strategies and to more fully integrate instruction in doctrine, skills, theory and professionalism. Many of those suggestions have been adopted by the subcommittee working on the proposed Outcome Measures standards. SALT believes that the proposed change to raise the bar pass rate undercuts the work done on Outcome Measures and subverts the goal of having schools take seriously their obligation to teach and assess students in a wider range of skills and with a variety of methods. As the SALT statement noted, “One cannot press schools to broaden how and what they teach and assess and, at the same time, say that the one thing that really matters — the only thing measured by a bright-line standard — is whether students can answer multiple choice and short essay exam questions that assess a narrow range of the knowledge and skills new lawyers need.”

In its comments to the SRC, SALT also argued that the proposed increase in the minimum bar pass rates will affect the law schools that are most committed to diversifying the profession and that have been willing to accept and educate students who do not have strong predictors of bar passage. Law school diversity has already declined and this proposed change is likely to result in further acceleration of that problematic development. As SALT noted, the “threat to the profession’s diversity is the main reason why, three years ago, the ABA Council chose a cumulative pass rate of 75% rather than an 80% pass rate. No evidence has been offered to support a different decision now.”

For a full text of the statement, go to [http://www.saltlaw.org/userfiles/7-6-11SALTInterpretation301-6.pdf](http://www.saltlaw.org/userfiles/7-6-11SALTInterpretation301-6.pdf).
Human Rights Committee: SALT Signs Amicus Brief Against Alabama Racial Profiling Law
Marjorie Cohn, Thomas Jefferson School of Law

SALT joined 26 other civil and human rights organizations in signing onto an amicus brief in support of the Hispanic Interest Coalition of Alabama’s motion for preliminary injunction against Alabama Governor Robert Bentley to prevent the operation of Alabama’s HB 56, officially known as the Beason-Hammon “Alabama Taxpayer and Citizen Protection Act.” This Act is very similar to Arizona’s SB 1070.

HB 56 empowers Alabama law enforcement officials to take action against an individual who arouses a “reasonable suspicion” that he or she is “unlawfully present” in the United States. Although the Act specifies that law enforcement “may not consider race, color or national origin” in the enforcement of the law “except to the extent permitted by the United States Constitution and the Constitution of Alabama of 1901,” the Act actually requires officers to do just that. There is no way for even the most well-meaning law enforcement official to determine whether an individual is possibly undocumented without making judgments based on apparent race, color and national origin. Officers will necessarily depend on the individual’s ethnicity, skin color, facial features, accent, dress, or some other physical attribute. Moreover, Alabama legislators have acknowledged that the statute was designed to target a specific ethnic group: Hispanics.

Citizenship is not easily ascertainable. It depends on many factors, including the parents’ citizenship, the duration and timing of their residence in the United States, their marital status at the time of the person’s birth, the year in which the individual was born, the place where the person was born, and possibly the date on which a child born out of wedlock was legitimated. None of these factors can be determined in a brief detention in order to constitute reasonable suspicion of unlawful presence.

Arizona Governor Janice Brewer, who signed SB 1070 into law, was asked what criteria will be used to determine reasonable suspicion that a person is not lawfully in the United States. She answered, “I do not know what an illegal immigrant looks like.”

The Alabama Act creates a crime of guilt by association so that any person who associates with someone perceived as possibly undocumented can be interrogated, detained and/or arrested. The new law criminalizes the harboring and transporting of undocumented persons, thus making it a crime to give an undocumented person a ride to church or the hospital. It also makes it a crime to allow an undocumented person to reside in one’s home.

On July 28, 2010, United States District Court Judge Susan Bolton issued a preliminary injunction enjoining enforcement, on preemption grounds, of four sections of SB 1070. They include the provision that would require officers to attempt to determine the immigration status of those lawfully stopped if the officer has a reasonable suspicion the detainee is unlawfully present in the United States. Arizona filed an interlocutory appeal to the Ninth Circuit U.S. Court of Appeals, which held that the United States demonstrated a likelihood of success on the merits of its claims that federal law preempts the verification requirement, as well as provisions that make it a state crime for unauthorized aliens to violate federal registration laws, that criminalize work by unauthorized aliens, and that permit police officers to effect warrantless arrests based on probable cause of civil removability from the United States.

Like SB 1070, HB 56 actually threatens public safety by providing a major disincentive for communities of color to report crimes, including and especially hate crimes, lest they subject themselves to scrutiny by law enforcement.

Moreover, the Inter-American Commission on Human Rights issued a report urging “federal and local authorities to refrain from passing laws that use criminal offenses to criminalize immigration, and from developing administrative or other practices that violate the fundamental principle of nondiscrimination and the immigrants’ rights to due process of law, personal liberty, and humane treatment.” The Commission also “underscored the need to find appropriate ways to amend the law recently enacted in Arizona to adapt it to international human rights standards for the protection of immigrants.”

During the coming period, the Human Rights Committee will monitor and hopefully weigh in on issues involving assaults on civil liberties and human rights. They will likely include immigration matters as well as torture in U.S. prisons such as California’s Pelican Bay State Prison, where inmates have been on a hunger strike to protest being held for decades in solitary confinement, which amounts to torture. We encourage any interested SALT members to join the Human Rights Committee.
A New School Year Means It’s Time to Renew Your SALT Membership

Hazel Weiser, Executive Director, SALT

Last spring, the SALT Board of Governors voted to restructure membership levels to tie dues to position within the academy rather than income. In addition, there are some increases in dues, with the need to move SALT toward becoming a self-sustaining membership organization. We were privileged to have had four years of unrestricted general support funding from the Open Society Institute. That funding permitted SALT to create a national office, hire professional staff, redesign its website, develop new marketing materials, improve communications with members, and raise the visibility and consequently the influence of the organization within the academy and beyond. We are very grateful to the Open Society Institute for its support. However, that funding is now over and with the current economic downturn, it’s difficult to find general operating support for an organization whose primary goals are focused on legal education. Yes, we have an activist social justice agenda, but our influence remains mostly within the academy.

In addition to changing the membership dues structure, we also began our membership drive earlier in the summer to encourage lapsed SALT members to renew their commitment to the organization. We have a lot to accomplish this year, so we wanted the membership drive to be consolidated into the early months of the academic year, freeing our efforts to work on better communication with our members. We have resurrected the SALT reps program to help accomplish this objective.

Over the summer, we sent out more than 250 emails to selected SALT members, both current and lapsed, at the 200 ABA approved law schools and those with provisional status, asking them if they would serve as SALT reps at their institutions. If you received one of these emails, please respond so that we can activate the SALT reps system to work to the benefit of our members, and address the many issues that will be arising as the last year of the comprehensive review of the standards governing law schools begins.

What Do SALT Reps Do?

- Encourage colleagues who are interested in social justice, diversity, and academic excellence to join SALT and renew their membership annually.
- Keep colleagues at your school informed about SALT’s activities and initiatives and promote participation. The weekly electronic newsletter makes being a SALT rep easier than ever.
- Convey to the SALT Board your colleagues’ concerns and relevant issues as they arise at your school.
- Propose policies and programs for adoption by the SALT Board.
- Make recommendations for suitable candidates for election to the SALT Board.
- Encourage public interest-oriented students to attend SALT’s regional public interest/social justice retreats.
- Facilitate participation of your law school in SALT’s Annual Salary Survey.

Contact Hazel Weiser at hweiser@saltlaw.org if you want to be a SALT rep. We want to especially open SALT membership up to legal writing, academic support, and adjunct professors, who often long for professional development opportunities. We are serious about moving SALT membership to new heights this year.

New Membership Levels:

Please review the new membership levels and choose the appropriate one based upon your position within the legal academy.

- Fellows and visiting assistant professors: $55
- Adjunct faculty and retired teachers: $75
- Non-tenure track faculty, librarians, academic support, and staff: $100
- Tenure track faculty: $125
- Tenured faculty and senior administrative personnel: $150
- Lifetime, retiring: $1,200

SALT membership is on an academic year basis. Sign up today and your membership will run through August 31, 2012.
SALT Public Interest Retreats: Coming Soon to a Location Near You

Robert Lancaster, Hebert Law Center, Louisiana State University, and Ngai Pindell, UNLV Boyd School of Law

SALT will continue its sponsorship of three public interest retreats this school year—one in the Midwest, one in the Northeast, and one on the West Coast. During these retreats, law students, faculty and practitioners exchange viewpoints, explore career opportunities, and formulate strategies for social justice. The retreats offer public-interest-minded law school students an opportunity to meet and network with other students from around the country—connections that also provide the foundation for a professional network to support their public interest ambitions as their careers develop.

The Norman Amaker Public Interest Retreat is scheduled for February 24-26, 2012, at Loyola University’s Ecology Campus in Woodstock, Illinois. Professor Emily Benfer at Loyola University-Chicago School of Law is the lead organizer of this retreat.

The Robert Cover Public Interest Retreat will be organized by students at Vermont Law School and will be held in Peterborough, New Hampshire, the weekend of March 2-4, 2012.

The Trina Grillo Public Interest and Social Justice Retreat will be held at Golden Gate University School of Law in San Francisco. Professor Michele Neitz and Leor Neta are the lead organizers and, although the date has not been finalized yet, it will likely be held either the last weekend in February or the last weekend in March. Stay tuned for additional announcements.

SALT 2011-12 Calendar: Enjoy the Benefits of SALT Membership

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<th>Date</th>
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<th>Event</th>
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<td>September 16:</td>
<td>Chicago, IL</td>
<td>Breaking In: How To Become a Law Professor or Law School Administrator, co-sponsored by SALT, The John Marshall Law School and Northern Illinois University College of Law</td>
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<tr>
<td>September 23-24:</td>
<td>Seattle, WA</td>
<td>Promoting Diversity in Law School Leadership, co-sponsored by SALT, Seattle University School of Law, Fred T. Korematsu Center for Law &amp; Equality, and University of Washington School of Law</td>
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<td>October 6-7:</td>
<td>San Diego, CA</td>
<td>SALT-LatCrit Junior Faculty Development Workshop</td>
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<td>January 5:</td>
<td>Washington, DC</td>
<td>Robert Cover Workshop: “The Urgent and Often Ignored Crisis in Political and Civil Rights: Mass Incarceration in Communities of Color,” at the AALS Annual Meeting</td>
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<td>January 7:</td>
<td>Washington, DC</td>
<td>SALT Annual Dinner, honoring Keith Aoki as SALT’s Great Teacher</td>
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<tr>
<td>February 24-26:</td>
<td>Woodstock, IL</td>
<td>Norman Amaker Public Interest Retreat: “Breaking Barriers and Building Bridges: Public Interest Initiatives for a Better Tomorrow,” hosted by Loyola University-Chicago School of Law</td>
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<tr>
<td>February or March</td>
<td>San Francisco, CA</td>
<td>Trina Grillo Public Interest and Social Justice Retreat, hosted by Golden Gate University School of Law</td>
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<tr>
<td>March 2-4:</td>
<td>Peterborough, NH</td>
<td>Robert Cover Public Interest Retreat, organized by the students of Vermont Law School and co-sponsored by SALT and Yale Law School</td>
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