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CARNEGIE Reporter

Educating Immigrant Students

A Letter *from the* PRESIDENT

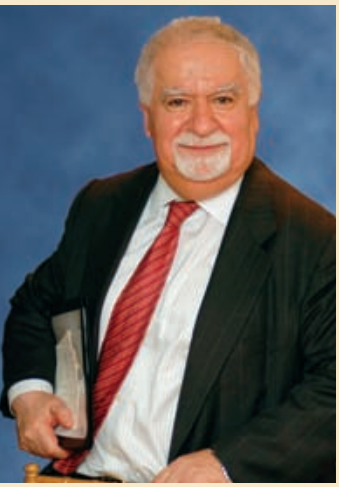

PHOTO BY EVEROD NELSON

The mandate that Andrew Carnegie gave to Carnegie Corporation of New York when he created the foundation in 1911—to promote "the advancement and diffusion of knowledge and understanding"—is broad and focused enough to be always timely. On the other hand, its far-reaching scope also presents a temptation to try to do too much. Over nearly a century of history, the Corporation's staff, leaders, and trustees have tried to achieve a balance that builds on our strength as an incubator of ideas, a convener of scholars, educators, policymakers and others, and as a strategic investor in organizations and institutions that can demonstrably contribute to the betterment of our society. Our framework for these efforts has been, and continues to be, the two major concerns that Andrew Carnegie devoted himself to: international peace and advancing education and knowledge, which remain great challenges to our nation and the world.

While faithful to Andrew Carnegie's interests, we are also mindful of our founder's understanding that conditions affecting our nation and our world "inevitably change," and hence, that at different intervals, it is necessary to stop and take stock. When I came to the Corporation in 1997, it seemed a natural time to do just that, and to focus on questions such as those I raised in my first essay for the Corporation's annual report—a tradition for Corporation presidents—which was entitled *Some Preliminary Thoughts*. These included: "What are some important new issues facing our nation and the world that we should deal with? Where is our comparative leadership advantage? Should we 'go it alone' as we often have in the past or increasingly seek partners?"

Recently, we once again undertook a reassessment of our work. We believed this was necessary because we often have a tendency to equate smoothly running operations with having actually arrived at a great destination. As St. Augustine suggested in musing on the fate of Rome, it may have been a well-run city, but that did not mean—as history clearly proved—that the directions it followed over time were the right ones.

Reexamining our programs at this juncture also seemed appropriate because many of the members of our Board of Trustees have joined us recently, and we were able to take this opportunity to provide them with an in-depth orientation to the Corporation's mission and its work. Carnegie Corporation has always had an exceptional Board of Trustees, and we are now privileged to have, as Board members, three university presidents, three former governors (including one who also served as Secretary of Education), two former international cabinet ministers, the president of a major newspaper company, the former editor-in-chief of a national media corporation, a former U.S. ambassador, and an admiral, along with distinguished business and science leaders. It was important to all of us at the Corporation that our dedicated Trustees, who give us not only their time but also the benefit of their many years of experience, share our deliberations about our programs as we go forward.

Our review process, which was carried out over nearly a year and culminated in a Trustee retreat, showed how much we had accomplished in the past decade but also where we could do better. In addition, we gained insight into what new formats and administrative structure were needed to provide strategic integration of our programs as well as a deepened focus and greater coherence in our grantmaking while at the same time, help us to resist scatteration, intellectual isolationism and programmatic silos. We also reviewed the priorities of our sister foundations on both the national and international scene in order to avoid duplicating their work and to enter into collaborate efforts, when possible.

The result of our reorganization had an additional aim: to allow the president of the Corporation to more directly participate with the program staff in the inception, implementation and plans for evaluating the efforts and initiatives we fund. Another outcome—perhaps influenced by my university experience, where institutions are organized into distinct entities and where faculty often see administrators as disconnected from direct involvement with research and teaching, while administrators perceive faculty as completely unaware of how the university is managed—is that we have eliminated artificial divisions. Now, we will have only two major program entities under National and International rubrics. All program staff will have specific program responsibilities, but the new structure will allow them to work together on a closer basis and be better informed about each other's activities and thus better able to work collaboratively. In addition, all the Corporation's vice presidents (with the exception of our Vice President and Chief Investment Officer) will also have specific program responsibilities.

Furthermore, an important component of our new structure is systemic evaluation of all our programs. During the past several years, we have worked to refine our evaluation efforts and have learned much about how to go about the process in terms of both our national and international grantmaking. We are concerned with understanding both intended and unintended consequences and in analyzing long-term as well as short-term impact. For example, in the case of scholarship and knowledge, the value of work being done is not necessarily tied to immediate impact or practical utility. On the other hand, in terms of our program goals and the grantees we invest in—because we are not the primary actors in whatever efforts we're supporting, we are the facilitators—we know the individuals, organizations and institutions on the national and international scene, we know their records and accomplishments and hence, both we (and they) can have realistic expectations about what their work can achieve. In other words, both the Corporation and its grantees can measure the work of grantees based on *their* objectives, both at the inception and conclusion of a funded undertaking.

Part of our contribution to the work of grantees is to understand that we, like our sister foundations, are in the risk business. All foundations strive to minimize risk, but it simply can't be avoided—nor should it be. What we *can* do is work with grantees to strengthen their proposals and their plans, make sure we all agree on the parameters of the work to be done, the goals being aimed for, and then, at the conclusion of the project, to be objective about assessing what has, or has not been accomplished and absolutely transparent about outcomes and results. We will also continue to be vigorous about communicating our grantees' findings; in doing so, our intention is to highlight their accomplishments, not to showcase the Corporation.

In concluding this letter, let me remind us all that progress begets progress, and one must keep up—perhaps even get a few steps ahead. That is certainly the case with Carnegie Corporation of New York. We have a long tradition of meeting the challenges of our times and of responding to the constant ebb and flow of issues, ideas, problems and solutions that are the hallmark of the era in which we live. It is by encouraging greater collaboration among those who lead and carry out our programs and by working with our grantees to achieve clear, common objectives that we will best honor the wishes and legacy of Andrew Carnegie. He believed that education was the one true bridge to understanding and to informed citizenship and devoted himself to its advancement. Today, there remains no more relevant or timely aspiration.

VARTAN GREGORIAN, *President*

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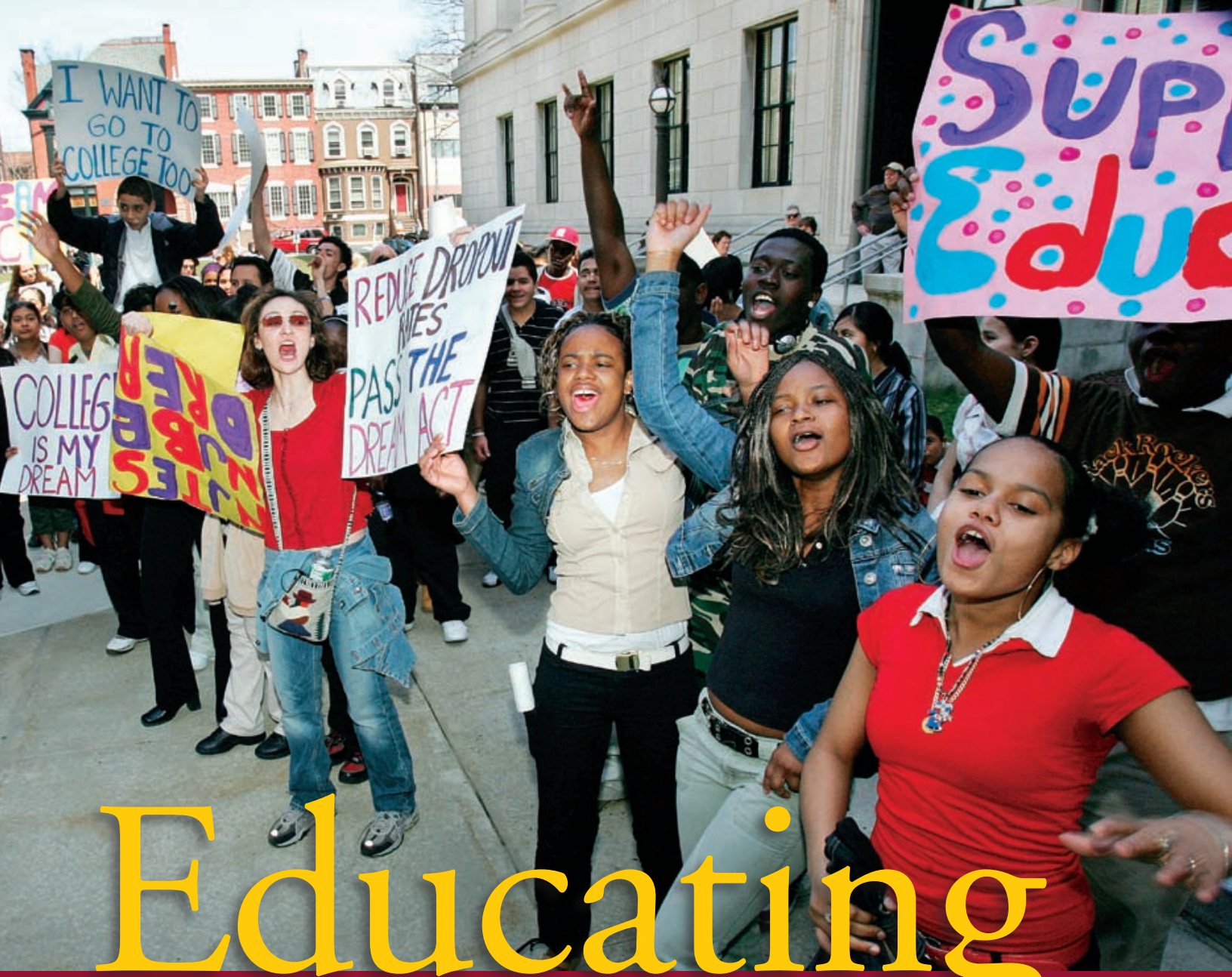
An extended version of the *Carnegie Reporter,* with additional articles, can be found on the web site of Carnegie Corporation of New York, www.carnegie.org



Educating Immigrant Students

by Lucy Hood

Public schools have long been an important component of life for immigrant children in the United States. What about when those students are undocumented?

On February 25, 2007, the honorable William Wayne Justice celebrated his 87th birthday. He's now a little hard of hearing. He walks with a slight shuffle, relies on hand-rails to get safely up and down steps, and he's forgone the sports cars that once took him through the back roads of Texas at breakneck speed. But he's lost none of the passion, the conviction, or the sense of justice (if you will) that he had nearly three decades ago when he ruled in favor of a group of undocumented immigrant children who were effectively excluded from attending the public schools of Tyler, Texas.

In his 39-year tenure on the bench as a U.S. district judge, Justice has presided over several high-profile civil rights cases in which he defied prevailing public opinion and ruled in favor of the disadvantaged, most notably the incarcerated and the young. But he says the case he is most proud of is *Plyler v. Doe* (1982). Justice says he doesn't know exactly how many youngsters have received an education because of that ruling—ultimately upheld by the Supreme Court—but he firmly believes that had the U.S. judicial system barred them from going to school, they would be living very different lives.

ASSOCIATED PRESS

Above: Judge William Wayne Justice At Left: Students and supporters of immigrant rights rally in front of the New Jersey Statehouse in Trenton on March 30, 2006.

And the societal cost would be much greater. "Children raised without any education at all are likely to become burdens on the rest of society," he says. "They won't be able to make any real amount of money unless they get into crime, like dope traffic or something of that sort." And that, he believes, is just as true today as it was when he made his ruling in *Plyler v. Doe*. Simply put, he says, "If youngsters get an education, they can make a living."

Yet doubts about educating undocumented immigrant children are once again becoming part of the subtext in a larger immigration debate, one fueled by strong anti-immigrant sentiments and renewed efforts to send undocumented newcomers back home. This is the third time in the past three decades that the cost of educating undocumented immigrant children has been called into question, says Jeffrey Passel, a senior research associate at the Pew Hispanic Center. The first led to *Plyler v. Doe*. The second—spearheaded in California by restrictive immigration measures included in a statute called Proposition 187—took place in the early 1990s. (The initiative, designed to deny illegal immigrants social services, health care, and public education, passed by a slim margin but was later overturned by a federal court.)

Each anti-immigrant wave, Passel says, has coincided with an economic down-turn. In the late 1990s, for example, the immigrant flow into the United States was going strong. It may have even reached its peak. Then, however, the economy was also doing well and there were relatively few complaints about the presence of undocumented immigrants. There was "huge growth in employment and labor force participation," Passel points out, also noting that "the peak period of immigration coincided with major improvements in the labor force for everybody."

Since then, the landscape has come to resemble that of 1975 when the Texas legislature passed a law that withheld state funding for undocumented students, thereby discouraging local school districts from accepting them. The issue came to a head two years later when the Tyler Independent School District—headed by Superintendent James Plyler—responded to the new law by requiring undocumented immigrants to pay $1,000 in tuition. In September 1977, a class action suit was filed against the school district on behalf of sixteen undocumented children from four Mexican families residing in Tyler— the rose capital of the world.

"The only basis we could figure out for the legislature's decision to pass that law," Justice says, "was just simply prejudice." In his ruling, he declared that undocumented immigrant children are protected under the 14th Amendment, which decrees that no person shall be denied equal protection of the law and no person shall be denied life, liberty or property without due process of the law. "Already disadvantaged as a result of poverty, lack of English-speaking ability, and undeniable racial prejudices," he wrote at the time, "these children, without an education, will become permanently locked into the lowest socio-economic class."

The fifth circuit U.S. Court of Appeals upheld his decision, as did the Supreme Court in a 5-4 decision reached on June 15, 1982. The majority

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opinion, written by Justice William J. Brennan, said that public education "has a fundamental role in maintain-ing the fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests."

Effectively prohibiting undocumented immigrant children from getting an education, the court said, would promote "the creation and perpetuation of a subclass of illiterates within our boundaries, surely adding to the problems and costs of unemployment, welfare, and crime. It is thus clear that whatever savings might be achieved by denying these children an education, they are wholly insubstantial in light of the costs involved to these children, the State, and the Nation."

Even the minority opinion, which said Congress, not the courts, should resolve the issue, acknowledged that "it is senseless for an enlightened society to deprive any children—including illegal aliens—of an elementary education."

History/Numbers

There were no restrictions on immigration to the United States until the Immigration Act of 1875 prohibited people who, according to the 434-page report, *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration* (James P. Smith and Barry Edmonston, Editors; National Academies Press, 1997) were "destitute, engaged in immoral activities, or physically handicapped." That law coincided with the onset of the first large immigration wave, which spanned the late 1800s and the early 1900s and consisted largely of Italians, Germans, Russians, the Irish, and citizens of the former Austro-Hungarian Empire.

By the early 1920s restrictive quotas were put in place that would affect the ebb and flow—mostly the ebb—of newcomers for the next five decades. By 1970, immigrant numbers reached a new low, accounting for one out of every twenty Americans. But legislation passed in 1965 eventually reversed that trend. Amendments to the Immigration and Nationality Act removed long-standing quotas and initiated a second wave of immigration that in many ways is analogous to the first.

Marcelo Suarez-Orozco

COURTESY OF THE NYU PHOTO BUREAU

In 1982, the Supreme Court ruled education to undocumented create a subclass of illiterates and unemployment and

Then—like now—there was widespread concern about the impact immigrants would have on the economy, the workforce, governmental outlays and education. In his book *Schooling of the Immigrant* (published in 1920 as one volume of the Carnegie Americanization Study), Frank V. Thompson cited factors that complicated "the great problem" of immigration in the early 1900s. They included "the preponderance of immigrants from non-English-speaking nations," and "the fact that our newer immigrants have come from countries having a high degree of illiteracy." These concerns proved to be unfounded, however, as foreign-born populations, once shunned for being different and largely uneducated, assimilated into the American mainstream.

"We love immigrants looking backwards," says Marcelo Suarez-Orozco, Courtney Sale Ross University Professor of Globalization and Education at New York University. "When we talk about immigration now, everybody gets glossy-eyed about, 'my great, great grandparents who came from Ireland or from Italy or from Eastern Europe, and they worked so hard, and over time and over the generations, they became Americans, and we're all very proud of them.' And that's the American dream, right?"

But "in the here and now," says Suarez-Orozco, "immigration always, always generates fear and anxiety." Pointing to the example of the U.S. Supreme Court, Suarez-Orozco notes that today, seven of the nine members are either Catholics or Jews. "This would have been unimaginable one hundred years ago when people were saying that Eastern European Jews and Italian and Irish Catholics will never become Americans."

Then—at the turn of the 20th century—the total population of the United States was 76 million. On October 17, 2006 (at about 7:46 a.m.), it hit the 300 million mark. That baby

was probably born in Los Angeles, Suarez-Orozco says, and was probably the daughter of Mexican immigrants. "Probably, her name is Maria…She is the future of America. She is a child of an immigrant. She is a U.S. citizen like you and me."

It has been four decades since the U.S. population hit the last major population milestone—two hundred million in 1967. Ever since, Hispanics have been the fastest growing segment of the population, and much of that growth has been fueled by immigration. Hispanics now account for 14.5 percent of the total population, compared to 4 percent in 1966, and by mid-century, the U.S. Census Bureau predicts they will make up almost one-fourth of the total population.

that denying students would add to crime.

All immigrants—Hispanic and non-Hispanic—make up 12 percent of the U.S. population and 14.7 percent of the labor force. The undocumented amount to an estimated 12 million people—56 percent from Mexico, 22 percent from elsewhere in Latin America, and 13 percent from Asia—and they account for roughly 4 percent of the total U.S. population.

They comprise 5 percent of the civilian labor market, and in certain fields they represent a much higher share—36 percent of all insulation workers, 29 percent of all roofers, 27 percent of all butchers, 23 percent of all dishwashers, 20 percent of all cooks, 19 percent of all parking lot attendants, and 15 percent of all laundry and dry-cleaning workers.

Of the undocumented, 1.8 million are children, another 3.1 million youngsters are the children of undocumented parents, and they face a country that is very different from the one their predecessors knew a century ago.

The immigrant wave of the late 1800s and early 1900s took place during the second Industrial Revolution. (The first took place during the late 1700s through the early 1800s.) It occurred as the idea of mass production was taking hold. And it coincided with "the eve of what would become the greatest generation of wealth in the history of humanity," Suarez-Orozco says. "Immigrants, in a way, got off a boat and into an elevator that was about to move the entire American economy upwards very, very fast." He adds, "The key to the successful integration of immigrants one hundred years ago was 'floorshop' mobility."

What Suarez-Orozco is alluding to is that immigrants working on the assembly lines—or floor shops—of places like the early Ford Motor Company could, with dedication and hard work, earn a place in the American mainstream. In two or three generations, they could become comfortably middle class. A high school education was not necessary, much less a college education.

But the second Industrial Revolution has come and gone, and Ford is no longer a benchmark of success in today's economy. Ford, in fact, recently announced that it had lost more money in 2006—$12.7 billion—than ever before in the history of the company. Four days later, the Intel Corporation announced the development of a new, groundbreaking computer processing chip. The dual developments—Ford's lackluster performance and Intel's new technology—are representative, Suarez-Orozco suggests, of how drastically things have changed. "The jobs that immigrants are going to have in the future are not going to be the jobs that immigrants were able to use a century ago to generate a state of mobility," he continues, adding that today, education is the engine for generating economic mobility. Without it, immigrants will not be able to achieve the same middle-class status as the Irish, Italians, Jews and Poles who came before them. In short, says Suarez-Orozco, "We are asking more of education than ever before."

The Challenge

The Bronx International High School in New York intentionally recruits youngsters who are arguably the most at-risk students in the nation. Virtually all of them are limited-English-proficient; each one had been in the country for four years or less when they were admitted into the school; and upon entry, all of them scored in the bottom quintile of an English language assessment. Ninety percent are economically disadvantaged, and the educational background of each student covers a wide range. They may have several years of schooling in their native language or they may have next to none, and a large percentage of these students tend to be undocumented, which, according to Suarez-Orozco, comes with its own set of fears and uncertainties.

The biggest hurdle for these students, however, is the language barrier. It is, says Suarez-Orozco, the elephant in the room. And the students' biggest obstacle is time. They must master high school English, math, science and social studies, as well as the English language itself, and they must do it in roughly the same four-year period it takes native English speakers. In many cases, they also work to help support their families, and quite often they are the family translator, serving as the key liaison between their parents and myriad clerks, receptionists, administrators,

bureaucrats, etc. "At relatively young ages, they have to navigate the external world for their parents," says Claire E. Sylvan, executive director and founder of the Internationals Network for Public Schools, which provides funding and support for reform efforts in eight New York City high schools.

The American education system is set up to provide a foundation in reading, writing and speaking English in the early grades so that by "the late middle school and high school years we are shoveling content into your head," says Margie McHugh, co-director of the National Center on Immigrant Integration Policy at the Migration Policy Institute, which has received funding from Carnegie Corporation of New York. "That whole theory, or process, breaks down," she suggests, "if the kids don't have English language literacy skills, so we spend a lot of time being mad…and thinking we can do it on the cheap."

Immigrant children who enter American schools at the elementary level are, by and large, in a good position to do well. "That kid is probably going to be fine, unless they're in a really rotten school district." says McHugh. "The bigger issue is the kids who enter the school system in high school." That problem, replete with the language barrier, cultural acclimation, etc., can also be compounded by systemic pressures to meet graduation and testing standards.

You address the problem, she said, partly through the curriculum, but you also need properly trained teachers, you need additional materials, and you need more time. "Unfortunately," McHugh said, "we're practically nowhere on all of those issues."

The Bronx International High School is an exception. The curriculum is designed to meet the needs of recent immigrants. Students are divided into teams; they stay with the same four teachers for two consecutive years; and much of the learning takes place in small groups, in which the more advanced students help those who lag behind. There are specifically designed approaches for students who enter school with vastly different skills levels, and in addition to a teaching staff of twenty, the school has a language development coach, a literacy coach and a math coach who work with teachers. The teachers themselves participate in professional development programs twice a month.

"I don't think you could do this with a bare-bones approach," says Sylvan. "The kids are too much at risk." The school, which has 315 students, receives $2.3 million a year from the New York City Department of Education. That includes federal funding for economically disadvantaged youth and $115,000 in "empowerment" funds, a program that gives principals greater autonomy and additional funding in exchange for a pledge to meet performance goals. In addition, Bronx International currently receives $31,000 in funding raised by New Visions for Public Schools. And the Internationals Network for Public Schools provides upwards of $50,000 a year for teacher training and assessment.

The kinds of supports that are in place at Bronx International are necessary, Suarez-Orozco says, if the United States hopes to prepare immigrant students for a 21st century economy. "Education for the global era cannot be done on the cheap," he declares. "The kinds of interventions that seem to be having great success…take a lot of energy and they take a lot of resources. But if you make the investment, you have wonderful results."

The most telling of those results may be found in a math assignment completed by ninth-grader Michael Valerio, a native of the Dominican Republic who came to the United States three years ago. The assignment included a graphing exercise comparing income with educational attainment. It showed that someone with a master's degree earned an average of $56,800 annually, and someone with less than a ninth grade education earned an average salary of $13,591 a year. The difference? $43,209.

From the top: Antonia Martinez, Alfredo Lopez, and Faviola Lopez Tizcareno

COURTESY OF THE LOPEZ FAMILY

The Lopez Family

The Lopez siblings—Alfredo Lopez, Faviola Lopez Tizcareno, Antonia

Martinez and Noe Lopez—were born in the Mexican state of Zacatecas in the late 1960s and early 1970s. They came to the United States when they were still very young and settled in Tyler, Texas, where their parents, unaware of the events that would unfold in September 1977, rented a home two blocks from the federal courthouse.

Three of the four siblings—Alfredo, Faviola and Antonia—gathered recently in the living room of Faviola's home where the entire Lopez family still lives. The parents, the four children who were born in Mexico, the six who were born in the United States, and sixteen grandchildren all reside in what for some is their adopted home. But for most, it's the only home they've ever known. As Alfredo says, "Now we're from East Texas."

Thirty years ago, however, it didn't feel very much like home. Because the four Mexican-born Lopez children were in the United States illegally, the Tyler Independent School District wanted to charge their parents $1,000 a year for each one of them to attend school. Faced with this seemingly insurmountable barrier, their parents made a bold decision. Along with three other families, they decided to risk both deportation and public scrutiny to challenge the Texas state law that was effectively keeping their children from getting an education.

Judge Justice says he made very clear to all the parties involved that he would not conceal the identities of undocumented immigrants from federal authorities—that, in short, he would not break the law. But it wasn't the federal government he was concerned about. The Immigration and Naturalization Service had a policy, he said, that if an undocumented immigrant was in litigation, he or she would not be deported pending the outcome of the litigation. "I didn't want them to be harassed by the general public," he says, "which they would have been." So he scheduled the initial hearing for 6 a.m. "I had a feeling that somehow or another the reporters would not be there," he says, and he was right. The media was a no-show, and the identities of the four Lopez children, as well as their fellow plaintiffs, remained anonymous for years to come.

The children themselves say that for a very long time they were unaware of their own role in *Plyler v. Doe*. Alfredo was in the second grade at the time, Faviola was in the first, and their sister Antonia was not yet in school. All three would graduate several years later—Alfredo in 1987, Faviola in 1989 and Antonia in 1992—from John Tyler High School. They now have families of their own, they own their own homes, and they abide by a strong work ethic instilled in them by their parents. But it was high school, all agree, that gave them the tools that served them well in the workplace.

"I took up auto mechanics in high school," Alfredo explains. "And that was my deciding factor." He started working at a Sears Auto Center in 1986, his senior year of high school, and he was employed there until 1995, when he started a full-time job for a regional grocery store chain where he now works as a shipping foreman. He's been there for the past 15 years, but without *Plyler v. Doe*, without a high school education, he firmly believes that he would not have had a foothold in the job market.

Antonia works at a local bank, where she's been for the past ten years. Before that, she sold car insurance for four years and she says the business courses she took in high school have helped her the most. "I've seen a lot of people," she says, "who have gone to college to do what I do." Her sister Faviola is now a stay-at-home mom, and she also says the office, typing and computer skills she learned in high school were helpful to her during her ten years as a customer service representative for insurance companies. "If it hadn't been for that," she says, "I would have been working at McDonald's."

Another ripple effect of both her education and on-the-job experience, Faviola says, is a strongly held belief that not educating children—any children—is analogous to the recent spate of statewide efforts to prohibit undocumented immigrants from getting a driver's license. Since eligibility for car insurance depends on a driver's license, the laws have made it a criminal activity for undocumented immigrants to pay for car insurance. "They're still driving," Faviola says, "because it's a necessity. But they're driving without insurance. So who does it help?"

University of Houston law professor Michael A. Olivas compares these issues to Newton's third law of motion. "Whenever there is an action there is an equal and opposite reaction," he says. "It's true in physics and in hydraulics, and it's true in social policy." In this case, he continues, "we've created a criminal class of people…and I think that puts us all at risk." The same action/reaction principles, he says, apply to the millions of children who have undoubtedly received an education since the Supreme Court reached its landmark decision in *Plyler v. Doe*. Ever the scientist, he says, "I don't take time to prove the water is wet. I think it is clearly evident that the students would have been worse off, and this is one of the pieces of evidence that when civil rights litigation wins for the poor, everybody is better off. These children are likely taxpayers."

The Lopez children are, indeed, taxpayers. Two of the four who were part of the *Plyler v. Doe* case are now citizens and the other two have their green cards. Of the ten Lopez children, all but one graduated from high school. All of

them have an impressive work ethic. All but two, who still live with their parents, own their own homes, and their parents now own three, including the one they once rented two blocks from the courthouse. And their children—the grandchildren—intend to take *Plyler v. Doe* one step further.

They want to be doctors, teachers, and entrepreneurs, and more than any other college or university, they want to go to Texas A&M. Nine-year-old David Tizcareno says he wants to be a businessman; his sister, thirteen-year-old Mayra Tizcareno, wants to be a therapist for premature babies, maybe a doctor; nine-year-old Karina Martinez wants to be a pediatrician. Some day she also plans to buy a mansion, one with an elevator her parents can use when they get old. Twelve-year-old Joshua Martinez wants to be a soccer player; thirteen-year-old Kassie Lopez wants to be a language arts teacher; and her sixteen-year-old brother Michael Lopez wants to be a high school social studies teacher.

Economic Impact

Since *Plyler v. Doe*, there have been numerous studies that look at the socio-economic impact of immigrants. The most comprehensive was commissioned by the Congressional Commission on Immigration Reform in the mid-1990s and published in the aforementioned report, *The New Americans*. It looked at immigrant wages, their skill level, their place in the labor market, their tax payments, and their reliance on public services, including education and healthcare, both nationwide and at the state level, in the short term and the long term. Among the report's findings were that "immigrants and their children do not draw more heavily on benefits than the general population." It also found that the immigrant contribution is a net economic gain for the United States that ranges between $1 billion and $10 billion a year.

One of the biggest expenses—in addition to health care—is education. Last year, the total cost of educating the nearly 50 million students enrolled in the nation's 15,440 public school districts was $439.5 billion. Expenditures for immigrant education, however, are unknown. The *New Americans* study put the additional cost of bilingual education at $5.8 billion, but that was ten years ago. At the time, the authors of the report concluded that over a lifetime, the difference balances out. As they complete their schooling and enter the workforce, immigrants begin to repay their debt, and the extent to which they are able to do that plays out the same way it does with native-born Americans.

As young Michael Valerio's math assignment noted, those with a college degree earn more than those with a high school diploma, and those who drop out earn much less and run a much greater risk of becoming a burden to society. Valerio's numbers were somewhat dated, but the same holds true today. For someone with an advanced degree, the average yearly income is $78,093; for a bachelor's degree, it is $51,554; for a high school diploma, $28,645; and for a high school dropout, $19,169.

Many Americans' perception of immigrants, especially those who are undocumented, tends to be that of the uneducated man or woman laying bricks, waiting tables, cleaning floors, and taking care of other peoples' children. In reality, immigrants fit into all educational categories. In general, they are better educated than they were when the current immigration wave began in the early 1970s.

Each decade since, the educational attainment of immigrants has improved. Asian and European immigrant adults are more likely than native-born Americans to have a college education. But the educational attainment of Americans has also improved, and large numbers of recent immigrants have not completed high school, leading to a persistent gap in both education and wages between the native born and the foreign born.

According to a North Carolina report the Hispanic population on the state, this roughly $756 million so in very strict apples-they represented a net However, in terms of they represented $9.2

Hispanic Resident Costs and Benefits to State, 2004

Total Estimated Major Public Costs	$816,559,000
Total Estimated Taxes Contributed	$755,520,000
Net Cost to State *($102 per Hispanic resident)*	**$61,039,000**

Broader Economic Benefits:

- $9.2 billion in total NC Business Revenue
- 89,000 additional jobs
- $1.9 billion in overall statewide private-sector wage savings (1.4% of NC's private sector wage bill)
- Increased labor output for NC industries

REPRINTED FROM *THE ECONOMIC IMPACT OF THE HISPANIC POPULATION ON THE STATE OF NORTH CAROLINA* (JANUARY 2006); USED WITH PERMISSION OF THE AUTHORS AND THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL.

"Immigrant children are more likely than ever before in the history of our country to end up at Harvard University," says Suarez-Orozco. "They are also more likely than ever before in the history of our country to come under the supervision of the criminal justice system."

It costs about $24,000 a year to incarcerate someone in the United States. It costs about $9,000 annually to provide them with a high school diploma. The average per-pupil expenditure varies widely from state to state. In California, which by far has more English-language learners in its school system than any other state, the figure is—at $8,205—below the national average. Arizona also has a high percentage of English-language learners, yet the state's per-pupil expenditure of $5,585 is the lowest in the nation. Washington, D.C. tops the list at $15,864.

on the impact of group contributed in tax payments, to-apples terms, loss of $61 million. economic output, billion in revenues.

There are heated debates in state houses around the nation about how to pay for public schools—whether the money should come from property taxes, income taxes, lottery revenue or vouchers—and what exactly it costs to provide a child with an adequate education. State governments and highly paid consultants have come up with all kinds of dollar figures to address the educational needs of English-language learners and immigrant students. But most of them, says Margie McHugh of the National Center on Immigrant Integration Policy, are arbitrary.

It's analogous to the immigration debate itself, she says, in which politicians are "crudely guessing" at numbers related to what the country needs in terms of visas, immigrant labor and the nation's workforce. They are angling for numbers "the country will tolerate and that advocacy groups will settle for," she suggests. "Let's at least try to figure out what we think the needs are state by state, what the skill sets are that we need, and how we can start to bring in workers that are a match for that."

The same can be said for education policy. "Politically, it's contested ground," McHugh points out, "but it's not really contested in the education world. You need, at minimum, English-as-a-second-language classes…and all the teacher training and preparation that goes with that, along with the work to align the curriculum, and the like."

To merely tweak the current system, experts say, is not enough. To assume that the large costs associated with public education—teacher salaries and either the construction or maintenance of facilities—will stay more or less the same regardless of the immigrant student population is misguided.

"That's business as usual," Suarez-Orozco says, and "the result is that half the Latino kids overwhelmingly of immigrant origin homes are not going to graduate…Those are the buildings and the teachers who are failing huge numbers of children at a time when the U.S. economy has really no space for kids without the entire order of cognitive and meta-cognitive skills that are demanded in a global economy and a global society."

Rich, advanced, post-industrial democracies like the United States, Suarez-Orozco says, cannot have it both ways. "They can't have economies that are, let's say, addicted to immigrant labor without the cost that is associated with large-scale immigration. And by far, the single most important cost associated with large-scale immigration today worldwide is the education of children."

Education is important for many reasons, of course, but in this context, one of its most critical functions is helping to prepare both citizens and residents of the United States for a competitive world economy that is more reliant on highly skilled labor than ever before. But it's also important for what it teaches children about living in a democratic society. Whether immigrants end up staying in the United States or returning to their home countries, says Claire Sylvan, of the Internationals Network for Public Schools, what they learn while they're here about their own rights and the kinds of civic responsibilities that enable a democracy to function is invaluable. "It's a huge question for the survival of democracy in our country and around the world," she says, and it's a process that works both ways. As she points out, "America is very dynamic and always has been, and that's what makes it as rich as it has always been. Every group of immigrants who have come to America and have contributed their ideas, their insights and their intellectual capital has made America stronger. It's not a one-way street."

For Demetrios Papademetriou, president of the Migration Policy Institute, providing immigrant students with access to education is a "no-brainer." Referring to those who drop out and do poorly in school, he says, "It's not that they fail to graduate or that you barely teach them what they need to be taught to survive in today's economy, but you also marginalize them politically and civically."

Recent Studies

In the past decade since *The New Americans* study was released, and especially now that the immigration issue is once again at the forefront of public policy debate, there have been several studies, all of them smaller in scope, that look at the effect immigrants are having in various arenas throughout the country. One of them examines the economic impact that a burgeoning Hispanic population is having in North Carolina, a state that is among the new destinations for immigrants coming to the U.S.

Until the early 1990s, immigrants typically went to places like California, Texas, Florida and New York, but in recent years they've been opting, in unprecedented numbers, for places like Michigan, North Carolina, Tennessee, Georgia and Nevada. "It's now a fifty-state phenomenon," says Michael Fix, vice president and director of studies of the Migration Policy Institute.

In North Carolina, the change has been dramatic. Between 1990 and 2005, the immigrant growth rate was nearly 400 percent, the highest in the nation. According to a report by two researchers at the University of North Carolina at Chapel Hill, most of the immigrant newcomers—or an estimated 76 percent—were undocumented. Commissioned by the North Carolina Bankers Association, the 2006 report, entitled, *The Economic Impact of the Hispanic Population on the State of North Carolina*, looks at the economic impact of the state's Hispanic community, which primarily comprises Mexican immigrants. The state spent an estimated $467 million on educating their children—some 100,000 plus students—in the 2004-2005 school year. In addition, Hispanics drained the state budget of $350 million in health care and corrections costs, bringing the total tax burden to $817 million. At the same time, they contributed roughly $756 million in tax payments, so in very strict apples-to-apples terms, they represented a net loss of $61 million. But in terms of economic output, they represented $9.2 billion in revenues. That figure, the report said, could reach $18 billion by the year 2009. "When you look at the broader economic impact, it clearly outweighs the cost," says James H. Johnson, Jr., William Rand Kenan, Jr. Distinguished Professor of Management at the University of North Carolina at Chapel Hill and a co-author of the report, who calls any investment in the education of the state's Hispanic population "a form of enlightened self-interest."

"It's a competitive issue for me," Johnson says. "We are going to need the talent and the skills of the immigrant population in order to compete in the years ahead." Not to educate them, he adds, "is just a mistake."

The average annual income for Hispanic households in North Carolina is nearly $14,000 less than it is for non-Hispanic households, and more than half the Hispanic population has less than an eighth grade education. Given that the native-born population of the United States is aging, and the demand for labor in the years to come is going to be "tremendous," Johnson says, it only makes sense to educate the state's immigrant children. He goes on to say that if this group is currently contributing $9.2 billion to the state's economy, if their net cost in terms of tax dollars amounts to $102 per person, and their median education is eight years, then consider what the multiplier effect would be if they received high school diplomas and college degrees. "It becomes substantial," he points out. "If you can contribute $9.2 billion now, what could you do if you were well-educated?"

Another study, *Civic Contributions: Taxes Paid by Immigrants in the Washington, DC, Metropolitan Area* (Urban Institute, 2006), came to a similar conclusion by analyzing tax contributions made by the nearly 1.2 million immigrants who live in the Washington, D.C. area. It found a direct correlation between income, tax payments and four key factors—citizenship, legal status, English-speaking ability and education. The report further noted that citizens pay more than non-citizens, documented residents pay more than the undocumented, immigrants with high school diplomas and college degrees pay more than those who do not finish high school, and those who speak English pay more than those who do not.

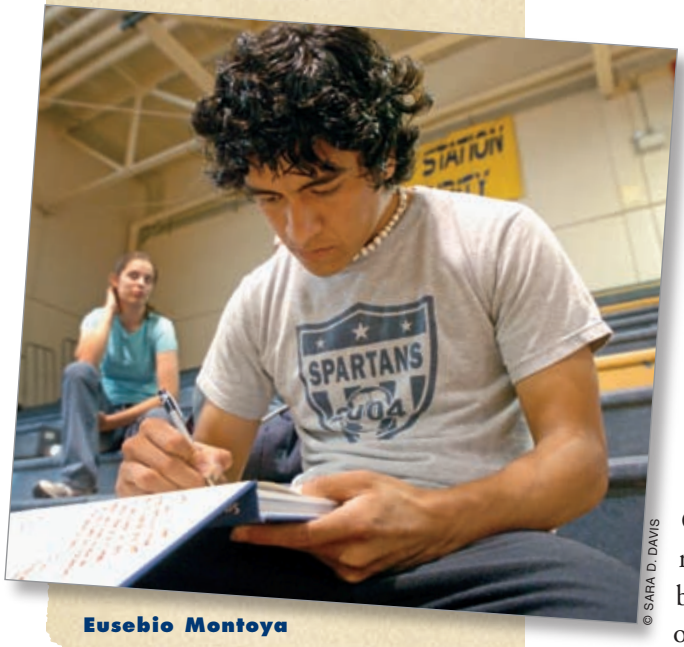
At the high end, immigrants from India, the Middle East and Europe pay more taxes on average than U.S.-born residents. At the low end are immigrants from Mexico, Central America and Sub-Saharan Africa, with households headed by undocumented immigrants paying the least. When the high and low ends are combined, the report found, immigrant tax payments are roughly the same as those of the native born.

In terms of education, there was a similar pattern. Households headed by immigrants with a college degree have an average annual income of $103,000 and an average tax bill of $36,000. Households headed by immigrants who did not complete high school have an average annual income of $47,000 and an average tax bill of $12,000.

The report concludes that ultimately, for the undocumented population, any extension of legal work authorization "would give a substantial boost in tax revenue to jurisdictions across the Washington metropolitan area." It predicted that increasing educational attainment and English language skills would do the same.

The Dream Act

In keeping with the times and the needs of a more highly skilled workforce, the current battle over the education of undocumented immigrants is now



Eusebio Montoya

taking place at the college level. At the national level, efforts have been made in Congress to enact a so-called DREAM Act, which would allow undocumented immigrants to pay in-state tuition if they meet certain criteria—if, for example, they entered the U.S. before age 16 and completed at least two years of college or served at least two years in the military.

Despite several attempts, the DREAM Act has failed to make its way through Congress. At the local level, however, ten states have either passed laws or enacted regulations that allow undocumented high school graduates to pay in-state tuition. In two of those states—Kansas and California—the laws are being challenged. In the remaining 40 states—including North Carolina—undocumented immigrants must pay out-of-state tuition.

That was the case with Eusebio Montoya, who was born in Mexico, came to the U.S. in the fourth grade, and spent the majority of his childhood in the eastern part of North Carolina. By the time he finished high school, he was an honors student who spoke English better than Spanish. Known as Sabs by his friends and family, he was also a stellar soccer player and ultimately received an athletic scholarship from a small university in Florida, but he was unable to attend college in his adopted Tar Heel home.

His mentor throughout high school, an English teacher and soccer coach named Chris Embler, lobbied hard to get Sabs admitted into several North Carolina colleges, but to no avail. Embler also stood by Sabs when in the middle of his senior year, at a time when his college-bound dreams seemed to fade, he abandoned the work ethic he'd adhered to for years, and his 3.8 grade point average started to slide. Sabs was able to snap out of it and persevere, finally receiving the scholarship that allowed him to start his freshman year of college on time. But he is one of the lucky few.

A study by the Migration Policy Institute says there are 360,000 unauthorized high school graduates between the ages of 18 and 24. Of those, an estimated 50,000 are currently enrolled in college. In the next several years, the report says, an additional 715,000 undocumented youngsters will graduate from high school. If, however, they do not have college-bound options, attorney Peter Roos, who specializes in the education of immigrant children, predicts they will be inclined to drop out, and that can have an enormous impact on the rest of the family. "If there is one predictor of this population going to college," he says, "it's that there was somebody else in the family who went to college, a brother or sister who did succeed."

It can also have an impact on other immigrant students in the same school, more than likely an impoverished, underperforming school where post-secondary aspirations are tenuous at best. In such schools, says Roos, it's not unusual for high-achieving kids "to start acting out because a wall has been created and it influences other kids in the school who also turn off."

Without some semblance of a DREAM Act in place, Roos says, students are, in a sense, being "automatically dropped out, and they are going to be a drain on society because uneducated people, for a range of reasons, are not going to be contributors. They are going to be takers. You lose the tax benefits of having educated them and the leadership benefits of having an educated population."

Roos has been representing undocumented immigrant children in the courtroom for at least three decades. He's the lead attorney for "DREAM Act" advocates in Kansas, and he was the lead attorney for the plaintiffs in *Plyler v. Doe*, first in Judge William Wayne Justice's court, then in the court of appeals, and in the Supreme Court.

Roos agrees wholeheartedly with what Justice Brennan wrote in 1982, that the "stigma" of illiteracy would mark undocumented immigrant children for the rest of their lives and that by denying them an education, "we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation."

Roos believes that idea is just as true today as it was then. "We certainly argued, and the Supreme Court noted, that most of these people are going to become permanent residents and ultimately, citizens, and you are shooting yourself in the foot by cutting them off from education." In that regard, though the national debate about immigration rages on, nothing has changed: children are still lining up at the schoolhouse door. How far it will swing open for immigrant students remains to be seen. ■

The Lost (And Found) Voters of Hurricane Katrina

Holding elections after an unprecedented natural catastrophe seemed to present insurmountable challenges. Could the city, the candidates—and the voters—pull it off?

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Retired housewife Beulah Labostrie, veteran teacher Kemberly Samuels and consultant Greg Rigamer experienced different ordeals in New Orleans during Hurricane Katrina on August 29, 2005—but shared similar concerns about the impact of the storm and its aftermath on the political scene in that city. The following tells their story, considers the challenges Katrina created for conducting elections and protecting voting rights and offers an account of the role played by ACORN and other nonprofits in the days before and after the 2006 elections.

Beulah Labostrie

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le problems.

by Robert Rackleff

As the nation learned in shocking detail, Hurricane Katrina smashed into Louisiana and Mississippi from the Gulf of Mexico to create the nation's costliest and most extensive natural disaster ever. The storm killed an estimated 1,836 people—destroying or damaging hundreds of thousands of homes and "laying waste to 90,000 square miles, an area the size of the United Kingdom," according to a U.S. Senate committee report.

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It also laid waste to that region's elections systems, which have yet to recover fully. This situation jeopardized the rights of hundreds of thousands of voters, many of them minorities and poor, and many more of them displaced from their homes. State and local elections officials were overwhelmed by myriad problems ranging from destroyed equipment and voting sites to an inability to locate voters who had left the area. New Orleans was at the center of these elections problems, made urgent because its elections for mayor and other local offices were scheduled for February 4, 2006, barely three months after floodwaters receded and long before even basic utilities like electricity and running water had been restored. Moreover, by the end of 2005, only an estimated 100,000 of the city's 440,000 pre-Katrina residents were back home, and the slow pace of reconstruction promised that not many more would return in time to vote.

Kemberly Samuels

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Greg Rigamer

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By the end of 2005, only an pre-Katrina residents were struction promised that not

Louisiana legislators faced facts and postponed the city's primary and runoff elections until April 22 and May 20. But even these later dates alarmed civil rights and community leaders, who feared that Katrina's depopulation of New Orleans would undo decades of political and voting rights progress made by African Americans there and throughout the state. A coalition of voting rights organizations sued unsuccessfully in federal courts for a further postponement. But they had better luck convincing state and local elections officials to adopt at least some special measures needed to accommodate displaced voters. Then they organized extensive campaigns to reach and mobilize New Orleans voters living in other cities, especially Houston—even arranging for chartered buses to carry them back to the city to vote in their home precincts or at 10 satellite voting centers scattered around Louisiana.

One key organization was ACORN (Association of Community Organizations for Reform Now), which had over 9,000 member-families in New Orleans before Katrina and some 1,200 members of the Katrina Survivors Association afterwards. Though ACORN, like other groups, was hobbled by the hurricane and flooding that scattered its members throughout the country, they received grants from Carnegie Corporation of New York and other funders to help mobilize displaced voters for the 2006 elections.

The Nightmare of Hurricane Katrina

Hurricane Katrina continues to defy description for its unprecedented ferocity and scale. Even the designation of Category 3 hurricane at landfall seems inadequate because of its huge size, which devastated communities over 100 miles from the storm center. By comparison, Hurricane Andrew in Florida in 1992 was a much stronger Category 5 hurricane, but it was more compact and moved quickly over South Florida. Most severe damage from Andrew was within 20 miles of the storm center, and its death toll was 23.

Moving slowly along a broad front, Katrina killed 1,577 people in

Louisiana and 238 in Mississippi, and displaced over 700,000 residents of those two states. The storm destroyed some 300,000 homes and damaged most sewer, water, electrical and gas services to the area; even by the end of 2006, much of this damage still awaited repairs. Beulah Labostrie speaks in awe at the devastation: "It was beyond our comprehension. You couldn't dream such a thing could happen in America," she said.

As the April 22 and May 20, 2006 city elections approached—over seven months after Katrina—New Orleans was still staggering. For example, by early spring:

- Only an estimated 180,000 people lived there, compared to 440,000 before Katrina. Many were returnees, but many others were newcomers attracted by reconstruction jobs. Those still displaced were scattered throughout the country, most notably in Houston, Dallas, Atlanta and Baton Rouge, with the possibility they would never return. One writer called the change: "Big Easy to Big Empty."
- Only about 60 percent of pre-Katrina utility customers had service, while the suppliers struggled to rebuild gas and electric systems in flooded neighborhoods. This was the case in large sections of the predominantly black New Orleans East and the Lower Ninth Ward, where working streetlights and traffic signals were luxuries.
- The city's health care system had collapsed. Only three of its nine hospitals were open, totaling 456 staffed beds, compared to 2,269 pre-Katrina. Fully reopening New Orleans' closed hospitals remains in question due to lack of funds and uncertainty about future population size. With indigent health care especially affected, the poor have often had to seek care in Baton Rouge, 75 miles away. Only about 1,200 of the estimated 4,400 physicians practicing in the city earlier were still working there in spring, 2006.
- With nowhere to deliver most incoming mail and postal workers shortages, residential mail service was nonexistent in most of the city. Many branch post offices were still unusable, and thousands of customers had to trek to a makeshift trailer city next to the Superdome to collect their mail.
- Landline and cellular telephone service was still spotty. New phone books distributed at mid-year by BellSouth had 100,000 fewer residential listings and 17 fewer pages of business listings. Accuracy was also a problem.
- Less than a third of the city's public schools had reopened by late summer, in time for the fall elections. By November 2006 many of the unoccupied school buildings sat virtually untouched and wide open since Katrina. Families with children were especially reluctant to move back to the city, uncertain about the education system's revitalization.
- Violent crime increased as the criminal justice system strained to keep up, to which Governor Kathleen Blanco responded by sending in state police and National Guard troops to help with patrols. Citing high crime and lack of action by government as the city's most important problems, one-third of New Orleans residents polled in October 2006 said that they were either "very likely" or "somewhat likely" to leave within the next two years.

The problems were many and circular, as city leaders coped with debilitating losses of tax revenues by laying off employees, which curtailed vital services, exacerbating the difficulties of living there, which further discouraged residents from coming back and generating sufficient tax revenues.

estimated 100,000 of the city's 440,000 back home, and the slow pace of recon- many more would return in time to vote.

Several stories illustrate the storm's painful consequences for thousands of New Orleanians. Beulah Labostrie, for example, lived all of her 85 years in the Gentilly section of New Orleans, an established neighborhood of African American middle-class families. Widowed, with grown children and grandchildren, she was a stalwart of ACORN's leadership, rising to state president. Although Katrina's floodwaters ruined her home, she felt fortunate that she could move back in only 14 months later, once repairs by her grandsons were finished. Numerous relatives were worse off, especially the elderly ones, with no real way to repair and return. "They're nomads, going from child to child, or relative to relative, with no way to fix up their homes," she said.

Over in the Ninth Ward, veteran teacher Kemberly Samuels and her husband had to leave their flooded home to live temporarily in Houston, where she found ACORN members helping refugees like them and she decided to join. Although Samuels and her husband returned to the city nine months later,

they were unable to renovate, and lived with relatives instead. Their two grown children can't return because they don't have housing. "The recovery is moving too slowly," she said. "There's too much red tape. The working class can't come back."

With some 75 employees in his technology and management consulting firm—specializing in demographic research and data management—Greg Rigamer was hard pressed to salvage his home and business. Both buildings were in heavily flooded areas near Lake Pontchartrain. He relocated to Baton Rouge—buying a house there for temporary lodging, which he furnished with new air mattresses—and began to reassemble his staff, connected at first only by the Internet. Now back in New Orleans, Rigamer has emerged as an expert on the impact of Katrina on voting and population shifts.

With problems so raw and crippling, by early 2006 the challenges seemed insurmountable for holding city elections as soon as February as well as statewide and federal elections in the fall, especially when the goal was to enable full participation by a scattered and demoralized populace.

Preparing for Spring Elections

Civil rights and community groups first tried to postpone the February 4 New Orleans city elections to the fall of 2006, but the date was deemed too late by city and state officials. Nearly all agreed that February was too soon because the city was in such disarray, including the destruction of at least half of its previous polling places. At stake in the city elections was the future of embattled Mayor Ray Nagin, along with City Council members, civil and criminal sheriffs, clerk and other local offices.

Suspicions were rampant that white Louisianans pushed for spring elections to seize control of city offices in the absence of black voters who decided most elections in recent years. For example, Rev. Jesse Jackson called the April 22 election date "a political land grab" similar to alleged disenfranchisement of black voters in Florida in 2000 and Ohio in 2004. Because of growing black voter majorities, New Orleans hadn't elected a white mayor since 1974.

These suspicions were fueled by the lack of solid information about who remained in the city. Many assumed that whites were in the majority and would elect an all-white city government. Estimates varied about who was still a resident, who was only temporarily away and intended to return, and who had moved away permanently—and what the race of these potential voters was. Many people were living in hotel rooms or spare bedrooms. There was no way to obtain systematic data about address changes and, even if those data were in hand, to determine whose change was permanent.

State officials turned to FEMA for its database of 936,000 names of Louisiana residents who received aid, a high number that suggested numerous duplications and inaccuracies. Candidates and campaign organizers were further frustrated by federal privacy rules that prohibited their use of that data base, a prohibition affirmed by a federal judge who ruled that it was not a public record. The judge also denied activists' demands for easier absentee ballot procedures and for out of state voting sites in major cities. In court filings, one group called the cost of transportation to vote in New Orleans "the equivalent of a poll tax."

State and local elections officials countered these legal challenges by preparing a greatly expanded program of outreach and voting resources designed to include voters both in the city and elsewhere—more than tripling previous spending on these measures. Rigamer's company, by then consulting for Louisiana's secretary of state, helped target these efforts. Some of the program's highlights leading up to the April 22 election were:

- Media advertising in other Louisiana cities, Houston, Dallas and Atlanta and eleven other states where evacuees were concentrated.
- Expanded and easier absentee and early voting. To facilitate this effort, the state sent everyone outside the city on the FEMA recipient list a packet of voter information, including instructions for applying for an absentee ballot.
- Coordination with the U.S. Postal Service, which posted information in every branch post office in the nation about absentee ballots and mailing deadlines and lifted the local embargo on political mailings by candidates and organizations.
- Consolidation of the city's previous 275 polling sites into 76 new ones, including two "super sites" that would host over 50 precincts each. New billboards throughout the city displayed a toll-free hotline and web site to contact

New Orleans' previous 275 consolidated into 76 new ones, "supersites" that would host over

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for new precinct locations and other voter information.

■ Setting up of ten early voting satellite centers throughout Louisiana, where displaced voters could vote in person.

■ Additional elections employees at polling centers, including about 100 "greeters" at the super sites with laptop computers to verify registration information and direct voters to their assigned precincts within the super site.

■ In case of legal challenges later, documenting every step of the election, including records of calls to the hotline and hiring a postal tracking service for absentee ballots.

■ Observers from the U.S. Justice Department to monitor compliance with the Voting Rights Act.

Voters leave their new polling place in the Lakeview neighborhood of New Orleans, Saturday, April 22, 2006.

polling sites were including two 50 precincts each.

In all, the spring elections cost about $4 million in mostly state funds, compared to the city's usual cost of about $400,000. FEMA refused to pay any of these costs above the $733,000 needed to replace voting machines and related equipment destroyed by Katrina. Secretary of State Al Ater and others criticized this decision in light of the nearly $8 million that FEMA paid for New York City's 2001 municipal elections after the September 11 terrorist attacks.

The Campaigns

With the basic voting system in place—although still criticized by voting rights organizations and others—the campaigns and voter outreach went into full swing by late winter. National attention was focused on the mayor's race, but the election of a new City Council was also crucial, with multiple candidates for each seat.

Embattled first-term Mayor Ray Nagin faced 22 opponents on the April 22 ballot. His three major opponents were white, most notably Lieutenant Governor Mitch Landrieu, son of the last white mayor of New Orleans, "Moon" Landrieu, and brother of United States Senator Mary Landrieu. The two others were Audubon Nature Institute CEO Ron Forman and Rob Couhig, lawyer and entrepreneur. Nagin was struggling against widespread criticism that he had mishandled the immediate response to Katrina and bungled recovery efforts. Sensing that the incumbent would lose, his major opponents raised and spent record amounts of campaign money—twice as much as in any previous mayoral election. For the primary and runoff, the top five candidates raised a combined total of $10.8 million. Mitch Landrieu spent the most, about $3.9 million, almost twice Nagin's $2.1 million.

However, all candidates faced the same difficulties of campaigning in a city still largely in a state of collapse with few of the usual means in place to identify and communicate with voters. Candidates with enough money could rely on television to air campaign ads, but could not be sure how many voters they reached, despite the ads' high costs. The usual mainstays of direct mail and phone banks suffered from inaccurate address and phone number information; polling was difficult and unreliable for the same reason. Billboards, yard signs and newspaper advertisements proliferated, along with noisy supporters waving signs at major intersections as the election neared.

Candidate forums for displaced voters were held in some major cities, but public turnout was often disappointing. At one forum in Houston in March, the candidates' staffs outnumbered potential voters. Even door-to-door campaigning was difficult for the simple reason that so many homes were empty or destroyed and "walk lists" were unreliable.

The candidates learned as they went, gradually coming to the realization that the best sources of votes were in the city, its suburbs and communities somewhat further out. "In the main, the reality is that most of the voters are right here in Orleans Parish and within 100 miles," one campaign manager told *The Washington Post*. "So we spend our time running up and down the road to Baton Rouge more than anything else."

Determined to achieve a high turnout of displaced and minority voters in spite of every difficulty, dozens of nonpartisan civil rights, community and religious organizations conducted intensive efforts both on their own and collectively. Seventeen of them formed the Louisiana Voting Rights Network to inform voters, monitor the polls and advocate for fair voter registration and elections procedures. Members of the Network ranged from the ACLU and ACORN to the League of Women Voters, People for the American Way, Lawyers Committee for Civil Rights Under Law, National Urban League and NAACP, to name a few. Over 150 volunteer monitors were stationed inside voting sites to observe and help solve problems on election days.

These and other groups made a priority of reaching displaced voters living temporarily out of state by organizing charter buses and caravans of cars to bring them to either the satellite voting sites outside the city or to their home precincts inside the city. Soon after fleeing to Houston, Kemberly Samuels met ACORN members at the disaster recovery center there and volunteered to help. "I haven't missed an election since I turned 18," she said. "It's the only way you can make your voice heard." Many groups helped with the complexities of absentee voting—which involved submitting an application, proving eligibility in some cases, receiving the ballot, filling it out accurately and mailing it on time—relying on a barely functioning local mail system. They even set up fax machine centers throughout the country for submitting absentee ballot applications and ballots, a method approved as an emergency measure.

The groups sponsored candidate forums and rallies. ACORN used its network of members throughout the country to work phone banks and distribute voter information, directly reaching 8,000 voters, by its own estimate. The Louisiana Election Protection program contributed legal resources that ranged from extensive research on absentee ballots to staffing a national hotline to advising potential voters. The National Bar Association recruited volunteer attorneys to help staff the NAACP's Displaced Voter Assistance Centers in 16 cities outside Louisiana.

By then Labostrie was living with a daughter in suburban Metarie, only a few miles from her empty Gentilly home. She helped ACORN keep in touch with other displaced New Orleans voters in order to provide them with accurate information. "All they were hearing was rumors of one kind or another," she said. "People needed somebody to call to find out what was going on and how to get back home." ACORN also held numerous meetings to help people understand how they could vote. "That went really well," she said.

Like the candidates, these organizations learned lessons as they went.

COURTESY OF ACORN.

ACORN staff members welcome voters returning for the April 22, 2006 mayoral election in New Orleans.

Nonprofit groups of cars to bring displaced satellite voting sites

People who turned out for bus rides were enthusiastic, but the numbers were below expectations; many displaced voters chose to drive themselves or ride with others. Samuels was on one of the buses from Houston to a satellite voting site in Lake Charles, Louisiana. It was filled mostly with older voters. "They know what struggles we had to go through to get the right to vote," she said. Election day for her was "bittersweet," she recalled. "I was happy that I could vote, but there were so many people we couldn't reach because of communication problems and transportation problems."

The satellite voting centers were useful but more people preferred simply going home to their New Orleans neighborhoods. During the first few days of early voting and absentee balloting, results fell short of expectation, raising fears that minority turnout would be disappointing and that predictions of black residents losing their voting influence would come true.

Perhaps the greatest handicap was that Katrina had damaged everything from church buildings to office equipment and private vehicles, and forced so many of the groups' members and volunteers to move out of state. For example, ACORN's national headquarters was in New Orleans and required extensive reconstruction. It lost thousands of area members who were forced to relocate. Church congregations and neighborhood organizations were stripped of their members who fled the state, a crippling loss of volunteer resources that persists today. "Even the ministers are dispersed," resulting in a leadership vacuum, Labostrie said. "We need someone to shout real loud."

organized charter buses and caravans residents back to the city or to outside New Orleans so they could vote.

The April 22 Primary Election

On April 22, the city was buzzing with election activities. As many as 50 supporters and candidates could be seen at several major intersections waving signs and shouting encouragement to drivers, who honked their horns and shouted back. Campaign signs of all sizes were everywhere, including over 100 of the state elections division's portable billboards displaying the toll-free number to call for their precinct's new location.

At the smaller precincts, voting was steady and orderly, while at the new combined voting sites, the atmosphere was downright festive. For example, over 50 precincts in the devastated, predominantly black New Orleans East area had been combined into a "super site" at the parish-owned Voting Machine Warehouse on U.S. Highway 90. Cars were parked along the highway and in nearby subdivision streets. Candidates, supporters, election monitors, precinct workers, state elections officials and others converged at the large building—with rows of tables inside, each representing a precinct and staffed by dozens of election workers. Many returnees were reunited with family and neighbors and lingered, swapping stories about Katrina and its aftermath, and sharing their thoughts on the elections. One reporter observed, "It was like a family reunion without the potato salad."

For elections officials, the new and challenging conditions created some problems. Volunteer monitors noted confusion about assigned polling places, names missing from registration lists, balky or nonworking machines and increased police presence, according to the Lawyers Committee for Civil Rights Under Law. But the problems were not serious enough to undermine public confidence in the results, and there was no legal challenge.

As expected, Mayor Ray Nagin came in first, but with only 38 percent of the votes, followed by Mitch Landrieu, with 29 percent. They would face each other in the May 20 runoff. Ron Forman finished third with 19 percent, and Rob Couhig with 10 percent. The rest of the field divided up the remaining six percentage points.

The May 20 Runoff Election

The four weeks between the primary and runoff elections left little time for dissecting what happened and planning a successful strategy. Katrina and the resulting diaspora had taken their toll on black turnout, especially in poor black neighborhoods. Even though blacks were still a voting majority on April 22, they were a smaller majority by six or seven percentage points—enough to decide elections, but a less comfortable margin.

On April 22 turnout was 23 percent below the 2002 mayoral election in predominantly black, middle-class New Orleans East and nearly 40 percent below in the economically depressed Lower Ninth Ward, according to an analysis by John R. Logan, a Brown University sociologist. In contrast, turnout was actually higher in the predominantly white French Quarter and Garden District, which experienced little flooding.

The decrease in black turnout was the result of "an uneven playing field," according to Rev. Jesse Jackson's column in the *Chicago Sun-Times*. "The New Orleans election was held with secret voter rolls. Candidates had no information on where voters around the country lived and could not contact them. Voters heard little about the election; only a few candidates could afford ads in selected cities," Jackson wrote.

Over 21,000 voters cast ballots by mail or early at the 10 satellite voting centers and the city registrar's office.

This was about ten times the usual number, but far short of potential. In fact, given the estimated 200,000 registered voters outside the state, Logan said, "the number of absentee ballots is not impressive." However, nearly one out of five ballots cast was absentee—and over half of absentee ballots in the primary were from black voters—a fact neither candidates nor voting rights organizations could ignore. As a result, ACORN and its partner organizations redoubled their work to expand the number of voters for the runoff and to target voters who had either cast an absentee ballot or had received a ballot but had not mailed it. The state automatically sent absentee ballots to everyone who had requested one for the primary, and the candidates and voter organizations could then use information on these absentee voters for targeted outreach.

While planning the next round of chartered bus trips from Houston and other cities outside the state, organizations also intensified their focus on New Orleans local and area residents with barrages of media advertising and grassroots campaigning. Instead of voting at the Lake Charles satellite center as before, Samuels decided to cast her May 20 vote in person in the city, reuniting with friends and neighbors at her Ninth Ward polling site. Then she returned to Houston, loaded up a U-Haul truck with her belongings and moved in with relatives in the Uptown section of New Orleans.

The May 20 face-off between Nagin and Landrieu showed that racial polarization had set in. About 80 percent of Nagin's votes on April 22 had come from blacks, while about the same percentage of Landrieu's were white. It was a remarkable reversal for Nagin, who in 2002 won with 80 percent of the white vote, and only about half the black vote, against his black opponent. In the 2006 runoff, Nagin appealed openly to black voters, but also to white conservatives, with Republican help. This strategy worked, and Nagin defeated Landrieu by 59,460 to 54,131 votes, confounding most observers who had all but written him off. Reflecting the intensive campaign and mobilization efforts, voter turnout for the runoff increased to over 113,000—about 83 percent of 2002 turnout—buoyed by an increase in absentee ballots cast, mostly from out of state.

But geographic disparities within New Orleans continued to show the lingering impact of Katrina. Voter turnout exceeded 2002 in the predominantly white Garden District and French Quarter—areas least affected by flooding—but dropped 23 percent below 2002 in the predominantly black middle class New Orleans East precincts and nearly 40 percent in the poorer Lower Ninth Ward where flooding had been severe.

The post-Katrina exodus by black residents, especially the poor, has taken a heavy toll on voter participation in New Orleans; many may never return.

The Fall Elections

With the city elections over, New Orleans voter interest flagged in the fall elections—even in the race for the 2nd Congressional District seat held by Democratic Representative William Jefferson, the subject of an ongoing federal corruption investigation. In the September 30 Open Primary, voters selected state senators and representatives as well as the Insurance Commissioner and Secretary of State. They also voted on 13 constitutional amendments, and approved important revisions to the system of levee boards and tax assessors.

The statewide turnout was less than 23 percent of registered voters. Without the mayoral race to motivate them, it was even lower in New Orleans. Only 31,710 voted in Orleans Parish; a dismal 12 percent of all registered voters there cast ballots on September 30, and black turnout was about half of that total.

On November 7, in the Open General Election, voter turnout in New Orleans more than doubled to 71,100 votes, or about 20 percent of registered voters. Voters statewide approved eight constitutional amendments, including consolidating seven Orleans Parish assessors into one, and they elected six members to Congress. The seventh, 16-year Representative William Jefferson of New Orleans, won only 30 percent of the vote and was forced into a December 9 runoff against his nearest challenger, state Representative Karen Carter. Their predominantly black congressional district covers parts of two parishes, and both candidates were

black. The runoff concluded with a surprise victory by Jefferson, re-elected with 57 percent of the votes, reminding many of Mayor Nagin's come-from-behind win barely six months earlier.

Mayor Ray Nagin speaks after being sworn in for a second term as Mayor of New Orleans on Thursday June 1, 2006.

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Throughout the fall, organizations like ACORN had continued their get-out-the-vote efforts as before, but struggled against lower national attention, less compelling races for New Orleans voters and fewer options for convenient out-of-town voting. For example, there were no more satellite voting centers throughout the state. Local voters had to make more of an effort to get to the polls, and the number of absentee ballots cast declined sharply.

Looking to the Future

The post-Katrina exodus by black residents, especially the poor, has taken a heavy toll on voter participation in New Orleans, and there's a serious possibility that most of those living temporarily out of state will never return. National attention and extensive involvement by civil rights and community groups like ACORN and the NAACP had a strong impact on voters and provided a lift to local spirits in the 2006 mayoral race. "With less than half the population [at the time of the mayoral election], to have 80 percent of the votes cast in 2002…clearly that's a significant number," observed Rigamer.

Then came the fall elections. Even with important issues like levee boards before local voters, the sharp falloff of participation in New Orleans was an ominous sign that the surge of voters the previous spring would not soon be repeated. Samuels believes that housing, jobs and services are the answer. "Housing now is so unaffordable. The working class can't afford to move back here," she said, adding that, with so few low-wage workers in the city, "that means that we can't reopen things like hospitals."

The legendary political influence on city, state and presidential elections—once held by residents of the Seventh Ward, New Orleans East and other now-familiar neighborhoods—is no more. Mobilized before by networks of political clubs, churches, civic and civil rights groups, even extended families, these legendary enclaves of civic involvement have taken a huge blow. "The middle class people who were so staunch about voting are gone. A lot of people have lost heart," Labostrie said. "The social and political life centering on churches and clubs in Gentilly is missing," she said. "Katrina destroyed all of that."

While giving credit to the many organizations that pitched in during the 2006 mayoral elections, "the real heroes, of course, were the voters of Orleans Parish, who, despite unprecedented obstacles, honored our democracy by exercising their political voice through the ballot box," the Lawyers Committee for Civil Rights Under Law concluded. Those "heroes" will be sorely tested when elections for governor and other statewide offices take place in the fall of 2007, followed by presidential and other federal elections in 2008. Voter outreach and turnout efforts, election reforms and vigilant protection of voter rights ultimately cannot make up for a permanent loss of population.

For example, Orleans Parish delivered only the fourth highest vote total for a parish in Louisiana in the September 30 election, a precipitous fall from pre-Katrina counts, when the parish routinely had the largest number of voters in the state, and could assert its electoral power, supplying big majorities for statewide Democratic candidates to overcome conservative vote totals elsewhere.

However, in New Orleans, Rigamer doesn't think that the balance of political power will shift as much as feared. About a third of the pre-Katrina population didn't vote anyway, he noted, and returnees tend to be homeowners who vote regularly. "Who's going to come home first, the owners or the renters?" he said.

Central to the restoration of electoral justice and inclusive politics in Louisiana is revitalization of the historic communities of New Orleans. Continued efforts to protect voting rights and mobilize the electorate are very important, but the need for massive reconstruction and renewal of that historic city is urgent and indispensable. It is this factor that will ultimately decide the future of voting rights there. ■

At The Heart of South Africa: A CONSTITUTION A Court

by Kenneth Walker

The foundation of democratic rule in South Africa is its Constitution. The strength and relevance of the Constitution are rooted in the work of the nation's Constitutional Court.

There comes a time during one of Justice Albie Sachs' storied tours of South Africa's new Constitutional Court building when it becomes clear that this is not just another tour, and that Justice Sachs is not just another tour guide.

The ninety-minute tour through the remarkable building is as much a journey through South Africa's history as it is an exploration of architecture. On this day, the tour is being held for visitors from eight different countries, as well as a few South Africans.

Near the end of the tour, Justice Sachs pauses and raises his eyes above the heads of his visitors and fixes his gaze upon a distant place the tourists cannot see. "I have a special feeling of delight whenever I come to work," he says. "Here in the Court, there is an experience of intense satisfaction; a sensation of *infinite* joy." As he speaks, Sachs holds his arms outstretched. More accurately, he holds out his left arm and the stub that remains of the right arm that was blown off—along with his right eye—by a car-bomb assassination attempt by apartheid-era police in 1988.

The tour is a journey through the past—both Sachs' and South Africa's—filled with unspeakable brutality, into a future-oriented present notable for the brilliance of its happy possibilities. Sachs has found this happiness only in the winter of his life. The disabling bomb, a half year in solitary confinement, along with decades in exile fighting the apartheid government, rendered Sachs decidedly stoic and, just recently, he confessed to being uncertain about whether he could express happiness after so many years of dealing with the brutality and violence that had marked his life because of his opposition to apartheid.

But a coincidence of timing has brought him delights he never thought himself capable of experiencing. In many ways, he regards the Constitutional Court as his baby, having guided the process from conception through construction and to which he applies continuing oversight. And now, at the age of 71, Sachs and his partner, Vanessa, have become the parents of a new son, Oliver.

A Design for Transformation

Sachs' tour of the Court, which has received support from Carnegie

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Views of the Constitutional Court of South Africa: The Court building, adorned with signs in the many languages of South Africa; the Court in session; the Great African Steps; President Thabo Mbeki speaking at the opening of the Court building on March 21, 2004.

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Corporation of New York, begins at the heart of the site on what is now called Constitution Hill, but was the location of a prison built in the 19th century that itself "is at the heart of South African history," Sachs explains. "It was a place where everybody locked up everybody. The Brits built the prison to lock up the Boers. The Boers then locked up the Brits, and later the Boers used it to lock up the Africans."

The complex housed three infamous prisons. White inmates were kept in a fortress section. Another prison, "Number 4" as it was called, was known as "the natives'" jail. A women's prison was added in 1909.

Hundreds of thousands of people were jailed in the complex, including two Nobel Peace Prize winners, Nelson Mandela and Chief Albert Luthuli, a former head of the African National Congress (ANC). Mahatma Ghandi also spent time in this prison.

Kenneth Walker, who currently runs Lion House Production, a South African strategic communications firm, has had a distinguished career as a journalist. In the U.S., he worked for ABC News, covering the White House as well as the U.S. Justice Department and also served as a foreign correspondent. Before that, for 13 years he reported for The Washington Star *newspaper, which assigned him to South Africa in 1981 where his work earned several of the most prestigious awards in print journalism. In 1985 he won an Emmy for a series of reports he did on South Africa for the ABC news program Nightline.*

Mandela first visited the prison as a young lawyer defending blacks charged with violating apartheid laws, such as being in the cities without a pass book, or after dark. He was later imprisoned here himself after being arrested for treason. Finally, as president, Mandela visited the site in 1997 to announce the winners of the international competition to design the new Court building.

"Today," Mandela joked during the festivities, "I feel distinctly uncomfortable. Here I am in prison once more, surrounded by judges who were also in prison…As soon as I finish speaking, I want to get out as quickly as possible, in case somebody loses the keys."

Janina Masojoda was a member of the winning design team. Unlike many young South Africans who traveled abroad for education in the waning years of apartheid, Masojoda decided to return to South Africa after receiving a degree in architecture from the Massachusetts Institute of Technology in 1991.

Masojoda says that she and her partner, Andrew Makin, were confident from the start of winning the commission for the first post-apartheid public building to be opened to design competition. There were 150 submissions, including 100 from highly renowned international architects. "For us," she says, "it was the right project at the right time. The building had to tell the story of the meaning of the Constitution, and we had a vision for the broader site, which would include facilities for all the human rights institutions listed in the Constitution, such as the Human Rights Commission and the Commission on Gender Equality."

In addition to its tremendous and varied historical significance, the geography of Constitution Hill is also central to the design of the Court. To the south lie the impoverished slums of inner-city Johannesburg. North of the hill, the wealthy, gated, still mostly white communities can be found. On another side, government buildings can be seen. On still another part of the site sits Hillbrow, where Africans from across the continent have settled, bringing with them languages, crafts, cuisines and customs from every corner of Africa.

The hill literally cleaves South Africa in two. It sits atop a mountainous ridge known as the Witwatersrand. Rainfall on one side winds up in the Atlantic Ocean. Rainfall on the other side flows to the Indian Ocean.

"All of that meets on Constitution Hill," Masojoda says. "Andrew and I were two small mavericks who had an advantage over the larger commercial firms because the big guys were probably too bogged down in other projects to give the site and its historical significance the focus it deserved. Other firms came in with concepts that looked like an African hut on steroids. We made the decision," Masojoda continues, "to link the insular neighborhoods through roads and pedestrian paths into what had been a foreboding and impenetrable location, and we surrounded the Court with open spaces that invite people to gather, or even sit and have lunch. The freedom to gather is the most fundamental right. The Court is about listening to the voices of the people and that ideal is central to the design. It is very transparent from outside and from inside. It was made to be accessible, as is the Constitution. And we placed the Court foyer right in the middle of that. Even the most private areas—the judges' private chambers—face Hillbrow. There is no place inside the building where you are not aware of its proximity to the people."

The building has won many citations, including

"Here in the Court, there is an experience of intense satisfaction; a sensation of *infinite* joy."

—Justice Albie Sachs.

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the award of excellence by the South African Institute of Architects. One critic said the design sets the tone for a new South African architecture. Perhaps more importantly, it is fast becoming the venue of choice for the events of ordinary South Africans, who come to hear concerts, attend book launches and hear poetry readings.

"We created a new kind of building that didn't exist before," Masojoda says, with pride. She blinks back tears when asked what it feels like to know her grandchildren will likely continue to enjoy the building with their peers. "It's been something we have been so immersed in, that I haven't taken the time to think of it in historical terms."

But history remained uppermost in the mind of Justice Sachs once he was chosen, along with another judge, to chair the design competition committee and to oversee the Court's construction.

"The main reason the site was chosen," Sachs explains, "was that it is at the heart of South African history. Number 4 was the symbol of oppression. Under apartheid, light was taken away, and the Court and the Constitution brought it back. In many countries," he continues, "courts tend to be dark and gloomy. We wanted a building full of light, evocative of the new South Africa."

Sachs points to an old prison staircase, complete with inmate graffiti, that was incorporated into the design of the Court building. "The prison staircases stand like sentinels," he declares, "saying never again will human dignity, equality and freedom be denied."

Reminders of prison run throughout the building design. The passage leading to each judges' chamber is fitted with a metal gate, each one individually designed as a reminder of metal prison cell gates. The judges' chambers are housed in offices separated by walkways and narrow bridges reminiscent of prison tiers in cellblocks.

Building Up Human Rights Upon Prison Bricks

Sachs started his tours of the Constitutional Court immediately after its 2004 inauguration, which was attended by 185 Supreme Court Justices from around the world. The tours proved so popular that he continues to do them monthly. Regular Court staff conducts other tours throughout the month.

On this day, Sachs begins the tour on a long, downhill walkway separating the Court from the solitary confinement cells of the old prison. The walkway, named The Great African Steps, was constructed using bricks from the demolished portions of the prison. It is a path between South Africa's past and its future.

"We made a choice to use many of the prison bricks in the construction," he points out. "One hundred fifty thousand of the very bricks that were used to lock up people are now used to protect human rights. You don't deny the past. You transform it. That's another reason we have so much glass in the construction. It represents transparency. The whole message was, 'out of darkness… light.' Out of cruelty and oppression, we have created freedom and justice."

Running the length of the steps is a walled dubbed "We the People." Seven hundred engraved metal panels hang on the Court windows containing the opinions and impressions of visitors to the Court, especially former inmates of the jails.

One former prisoner of the women's prison is Joyce Seroke, Chairperson of the Commission on Gender Equality, which has offices in the complex. "It is ironic," Seroke's engraving states, "that every day I walk through the same entrance of the women's jail that I walked through on that fateful day in 1976 when I was detained. I proceed past the same garden into the same atrium where I was stripped of my name, identity and given a number…Instead of being ushered into my cell where I spent six months in solitary confinement," the statement continues, "I walk through this old communal cell into my beautiful office…My coming here represents the triumph of our nation over a system that once denied people their humanity and dignity. My being here emphasizes that our sacrifices and struggles were not in vain. It is a clear sign that as a country, we have come a long way. The wounds are being healed and we are able to transcend all the bitterness and to embrace hope, love and faith in our democracy."

The Great African Steps lead to the thirty-foot-tall wooden door at the main entrance to the Court. The door contains twenty-seven panels carved by craftsmen in Durban, depicting the themes of the Bill of Rights in sign language.

Sachs points to three words chiseled into the concrete strip above the door—equality, dignity and freedom—in each of South Africa's eleven official languages. The words were written by each of the Court's eleven original justices. Justice Z.M. Yacoob, who is blind, wrote his contribution in Braille.

"Mine is the one up there that looks like the writing of a nine-year old," Sachs says with a smiling reference to the difficulty in learning how to write with his left hand after losing his right arm.

The Court entrance faces an expansive public square. This forecourt was designed deliberately to facilitate pedestrian traffic and to enable gatherings right in front of the Court, even in protest, if necessary. Chief Justice Pius Langa says such connections with the community are especially important to him. "There is a linkage with the rest of the world," he says, "and with the rest of the community. I am very aware that we are a part of the community. We are working amongst the people. From my office and from the bench, I see children

walking to school. We see cars driving up and down. We see people walking up and down the Great African steps. I walk there with them. It's liberating to see life as it is."

Sachs leads the group into the Court's grand foyer, designed as a gathering place with wood benches placed under angled concrete columns topped by light fixtures made of wire sculptures in the shape of leafy branches. A slotted concrete roof directs changing patterns of sunlight across the floor. The ambiance is very much like a forest clearing that beckons people to linger.

In contrast to many other courts around the world, this is a welcoming space. Sachs asks the visitors grouped around him to name the most dominant element in the foyer. Several point to the glass, timber and concrete that abound. "No," Sachs says. "It is the light. It is symbolic of the transparency of our new democracy."

The next stop is the Court Chamber where eleven justices hold hearings on constitutional cases. In the Court Chamber great care has been paid to the interaction of judges and the lawyers appearing before them. The judges are positioned so that they have direct eye contact with those presenting evidence. Thus, no one is looked down upon. And in an attempt to emphasize the Court's accessibility, there is no amplified speaker system in the Court Chamber, which required that great attention be paid to acoustics.

The hearing chamber is enclosed by a curved wall constructed of bricks from the old prison. These have been carefully cleaned and loosely stacked without mortar. They serve as an ever-present symbol of previous human rights abuses. Perhaps most remarkably, the architects deliberately placed a ribbon-like window directly beneath this wall, giving everyone in the Court a constant view of pedestrians going about their daily lives.

A more recent addition is a new work of art—a stunning beaded and embroidered South African flag, positioned above the judges' seats in the courtroom. Measuring twenty feet by eight feet, the brightly colored flag hangs in a wave shape, providing a striking contrast to the subdued earth tones of the courtroom. The hand-made flag, which took many months of work to complete, is one of hundreds of artworks featured in the building, making it as much an art gallery as courthouse. The works of both South African and international artists are on display, ranging from carpets created by self-taught Zulu weavers to three Chagall lithographs donated by the artist's granddaughter.

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Janina Masojoda, a member of the team who designed South Africa's Constitutional Court.

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Retired Chief Justice Arthur Chaskalson and current Chief Justice Pius Langa.

Sachs is fond of saying that the collection, which is valued at millions of dollars, "collected itself." He notes that the collection "is very much based on the passion and enthusiasm that the artists and arts community have for the achievement of democracy and what the Constitutional Court meant. The art community really wanted to be a part of this project."

While the art reflects the work of the broadest spectrum of South African contributors, among others, much of it can be defined as "resistance art." For example, one piece, a Sachs' favorite, is called "The Blue Dress." The artist, Judith Mason, had been listening to the Truth and Reconciliation Commission hearings on the radio. She heard about a woman who had been stripped naked, tortured and shot by the police. The policeman who shot her in the head described the woman's bravery. She asked if she could kneel and sing *Nkosi Sikelele* (*God Bless Africa*) before she was executed. She was buried with a piece of a blue plastic shopping bag covering her genitals. Mason was so moved by the story that she constructed a dress from bits of blue plastic bags and then painted a scene in which a wild dog is tearing at the dress.

Another prominent feature of the Court complex is the Law Library, which was placed at the bottom of the sloped site, on the opposite end of the building from the foyer and Court Chamber. It was designed as the tallest part of the building so that the illuminated glass sides would be a beacon visible from afar. "When we started there were no books on the shelves," Sachs recalls. "Now, with more than 350,000 books, we have the largest human rights

library in the southern hemisphere."

Chief Justice Langa says the library is being developed into an online resource that will be available throughout Africa, and beyond. Notes Langa, "I think one needs to emphasize that, in as much as we often refer to court decisions in the United States, Canada, the United Kingdom and Europe, it is also as important that we should be aware of what is happening on the African continent. That's why we're building an online library for the entire continent to access materials. A lawyer in Senegal, or anywhere else for that matter, will be able to research a ruling by a court in Uganda, for example."

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Isolation cells were part of the prison complex on what is now Constitution Hill, site of the Constitutional Court.

Langa continues, "All chief judges in Africa have welcomed this project. But one must be aware of the context in which it is being developed: many African courts don't have the resources or staff they need. Part of the problem in South Africa is that whenever the courts train someone in library and information technology, they run off and get a better paying job."

Controversy Amid Change

Justice Sachs' tours wind up in the great foyer, in a symbolic concrete forest clearing. He then directs attention to a large seal on the Court hearing room door. It is the logo of the Constitutional Court—a tree with branches spreading over the people it protects. This is representative of the traditional custom throughout Africa of settling matters and disputes under the protection of an important village tree.

The choice of the emblem and the incorporation of the tree concept into the very design of the building may be seen as somewhat ironic because many traditional courts continue to be held in villages under trees, and some leaders are insulted by what they feel is a hijacking of a symbol of an authority that they insist has been undermined by the constitution. Some observers say that a constitution many regard as the most progressive in the world was bound to clash with traditional customs that placed a premium on hereditary, unelected power and discrimination against women in matters of inheritance, property ownership and other matters.

Traditional chiefs and kings were sidelined from the beginning of the negotiations over the new constitution, their leaders say. Patekile Holomisa has been president of the Congress of Traditional Leaders of South Africa (CONTRALESA) since 1990. "Traditional leaders wanted to participate in the constitutional negotiations as part of the mass democratic movement," Holomisa says. "We expected the ANC to invite us. But they were not keen on our participating." He continues, "A great deal of damage was done to the credibility of traditional leaders during colonialism and apartheid, but people forget that the earliest resistance to colonialism came from traditional leaders. We were tortured, killed and exiled if we refused to cooperate. The first political prisoners [imprisoned on] Robben Island were traditional leaders."

While traditional leaders are among the most vocal, they are by no means alone in their criticism of several Constitutional Court rulings. Opposition political groups, religious leaders and others have joined traditional leaders in criticizing a number of Court rulings. Recent controversial decisions by the Court include outlawing the death penalty and other reforms that some charge have given criminals too many rights. Criticism has also been leveled at rulings that legalized abortion, and, most recently, allowed gay couples to marry.

Constitutional Court Justice Kate O'Regan says she understands the concerns of traditional leaders. For example, she says, "They think the gay marriage decision is a nasty, Western, white plot. But the greatest cleavage in our society is not race or class, but modernity versus the past. It exists in many societies. It is not just an African thing. Many developed countries have this division as well."

Retired Chief Justice Arthur Chaskalson says he always expected discontent from traditional leaders. "Traditional leaders were inevitably going to be unhappy. It was made clear at the outset that traditional laws and customs had to be subject to the Constitution."

Some observers see storm clouds gathering just at the time when the Constitution has celebrated its tenth anniversary. Aubrey Matshiqi is Senior Associate for the Center for Policy Studies and a newspaper columnist. While Matshiqi doesn't believe the Constitution is the result of "a nasty, Western, white plot," he does feel the document was too heavily influenced by Western philosophies.

"In many ways," Matshiqi says. "South Africa had been playing to the global galleries on the notion that our

political settlement was a miracle. So the Constitution had to be a miracle too. Western liberal democracies place more emphasis on individuals. But African culture places the community at the center. Tension is developing between the two."

Matshiqi compares the gathering storm he sees to the backlash that occurred following many of the liberal rulings made by the U.S. Supreme Court under Chief Justice Earl Warren. "Resistance to unpopular Court decisions could lead to a political mobilization against the courts, or even the Constitution itself," he warns. "I am sure some of the opposition parties are looking at political opportunities to exploit anger at some of the Court decisions."

The head of the Catholic Church in South Africa also warns of growing opposition to the Constitution as a result of the controversial rulings. "I think there will be a mobilization against the Court and the Constitution," says Cardinal Wilfred Napier. "We are aping some Western ideas and taking them to the extreme. People are beginning to debate whether we were hoodwinked into believing in the goodness of those who drew up this Constitution. We didn't see that there were also very strong special interest groups involved: gay rights proponents, pro-abortionists. The open hand was never shown."

Those present at the creation, so to speak, deny that the Constitution was drafted by interest groups with hidden agendas or imposed by Western imperialists. Retired Chief Justice Chaskalson was an ANC member of the technical committee that negotiated the Constitution. In that capacity he participated in drafting an interim Constitution. In 1994, President Nelson Mandela appointed him the Court's first Chief Justice. "At the time," he says, "none of us thought we were creating 'the most progressive constitution in the world.' People all over the world were flooding us with advice. And we certainly read a lot of constitutions. But we wanted our own, authentic South African Constitution," he declares. "Our history required a constitution that would protect people's rights. Many of the Constitution's provisions were drafted in response to the legal atrocities under apartheid, which had denied the right to counsel, allowed detention without charge or trial, and permitted torture and other atrocities."

When observers proclaim South Africa's Constitution "the most progressive in the world," they are usually referring to the host of socioeconomic rights it outlines. Among these rights (in paraphrase) are:

1. The right to an environment that is not harmful to one's health or well-being and to have the environment protected for the benefit of present and future generations.

2. The right to adequate housing.

3. The right to health care services, to sufficient food and water, and to social assistance if one is unable to support him/herself and his/her dependents.

4. The right to basic education, including adult education.

5. Specific children's include the right to basic nutrition, shelter and health care; protection from maltreatment, neglect or abuse; the right to not be detained except as a measure of last resort; when detained, to be kept separately from detained persons over the age of 18; and the right to legal representation paid by the state.

The Role of the Judiciary

During the constitutional negotiations, there were many who thought, given South Africa's history—where the population was divided not only by race and ethnicity but also by class and eco-

"The greatest cleavage in our society is not race or class, but modernity versus the past."

—Constitutional Court Justice Kate O'Regan.

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A march to protest government restrictions on making AIDS drugs available to a limited number of pregnant woman was an example of what Chief Justice Langa described as "the government being called to account by citizens using the courts."

nomic status—it was critical for the nation's new foundational document to address not just civil and political rights, but economic rights, as well. Yet Justice Kate O'Regan—who spent much of her legal career before joining the Court in using the law as a strategy of resistance and reform in terms of labor, land rights and gender—cautions that the Court can only do so much in addressing socioeconomic disparities.

"Democracy must be managed by elected representatives, not a judiciary," she says. "The job of the courts is to set the parameters and see that they are observed. This includes seeing that the government takes reasonable steps to provide access to and improve education, health, water, housing, etc. What we don't do is say, 'Give Mrs. Jones a house.'"

Chief Justice Langa agrees. "The courts," he says, "are not the only venue for pursuing socioeconomic rights. Civil society must educate the public about their rights and then the public must act to achieve them."

Langa describes this process as "the government being called to account by citizens using the courts." As an example, he points to a sustained and vocal campaign by civil society groups opposed to a government policy of providing anti-AIDS drugs to only a limited number of pregnant women who tested HIV-positive. (The drugs reduce the transmission of the HIV virus to unborn infants.) AIDS activists sued, and in 2002, the Constitutional Court ruled against the government and ordered that the medication be made available to all women who wanted it.

Despite this victory, there are those who still believe that the Court has not been as involved as it should be in socioeconomic issues and who also feel strongly about the fact that when the Court *has* involved itself, it has ruled the wrong way. Says Wim Trengrove, one of South Africa's leading attorneys, and one who has argued many cases before the Constitutional Court, "I think it's true that the Court is least active in the area of socioeconomic rights. And there is a popular groundswell of unhappiness with several Court rulings, which threatens the strength and validity of the Constitution. Making the Court and the Constitution work for poor people is the best way to protect the Constitution."

Others see threats to the Constitution coming not from a gradual grassroots mobilization against controversial rulings but from the ANC government itself. The pivotal issue is what South Africans refer to as the "transformation of the judiciary" to overcome the legacy of the nation's courts, which played a crucial role in upholding the apartheid system. Now, efforts are being made to create a judiciary that, in Langa's words, "looks like the population." A case in point: at the start of democratic rule in 1994, South Africa had only two black and two women judges out of a total of ninety-four. The rest were white males. Today, out of one-hundred-and-forty-six judges, sixty percent are black and twenty percent are women, though many still feel that, while progress in this arena has been made, it is going too slow.

But more critically, in 2005, President Thabo Mbeki proposed amendments to the Constitution that many saw as a threat to the independence of the judiciary. The proposals included handing administrative power over the courts—which now rests with the Chief Justice of the Constitutional Court—to the government's Justice Minister, and putting the Minister in charge of the Court's budget. In a major victory for supporters of judicial independence, Mbeki announced in 2006 that he would withdraw his proposals to allow for participation by the public and by the judges themselves in the debate over the role of the courts in the new South Africa society.

Commenting on his actions in withdrawing the proposals, Mbeki repeated the government's commitment to complete the transformation of the judiciary, saying, "We can neither afford nor allow the situation that our judicial system loses credibility with our people as a whole, arising out of our failure openly to consider the challenges that face the judiciary and the magistracy in the context of the national transformation process." He added, "At the same time, we must state this unequivocally: that the ANC remains firm in its belief in the rule of law and the independence of the judiciary as set out in the Constitution, as well as the respective roles of the legislative and executive authorities."

In response, Chief Justice Langa notes that the Constitutional Court has spent its first ten years laying the groundwork for the nation's jurisprudence and set a forward-looking direction. "Now we must move toward consolidation and making sure the roots grow deeper. If the court is stable, then democracy will be that much more secure." ■

by Karen Theroux

A Timeless Un

Trains Teachers for a

"I look to the diffusion of light and education as the resource to be relied on for ameliorating the condition, promoting the virtue, and advancing the happiness of man."—Thomas Jefferson

Thomas Jefferson certainly had a way with words, and with philosophy…not to mention architecture. The construction of the academy he designed, which would later become the University of Virginia, was three years underway when Jefferson expressed these sentiments on education. Because he was the designer not only of its classically inspired buildings and grounds, but its enlightened curriculum as well, the institution, founded in 1825, became known as "Mr. Jefferson's University." More than 180 years later, it remains one of the most respected institutions of higher learning in the United States.

Educating teachers has traditionally been a central mission of the University of Virginia (UVA), and is associated with some significant firsts: The school of education was established in 1905 by the university's first official president, for instance, and the first African-American to graduate from the University in 1953 earned a doctorate in education. So it's not too surprising that when Carnegie Corporation's education program was seeking exceptional institutions to participate in its groundbreaking program, Teachers for a New Era (TNE), the University was one of the strongest candidates. What was surprising was the vision and creativity TNE engendered in University of Virginia leaders, and the impressive results of their commitment to seeing it succeed in dramatic ways.

Seeking the Key to Student Achievement

Carnegie Corporation launched Teachers for a New Era in 2001 with one major goal in mind: producing measurably better results in the nation's classrooms. Extensive research based on thousands of student records in schools across the country had suggested that the teacher is the single most important factor in pupil performance. "The quality of the teacher corps that is produced will largely determine the success or failure of our public education systems and affect the future of our democracy for years to come," said Carnegie Corporation president Vartan Gregorian. "If we really want to improve student achievement, we have no choice but to improve teaching." With additional support from the Annenberg and Ford Foundations, the Corporation set about doing just that.

Step one was to settle on a straightforward approach to the complex challenge of improving teacher performance. According to Daniel Fallon of Carnegie Corporation's Education Division, the architect of Teachers for a New Era, "The most pressing question in the field for which the research community seeks an answer today is: What specific interventions in the education of teachers are most likely to enable the teacher to bring about learning growth in pupils?" As he explained, "This question assumes that some teachers are more effective than others—an empirical fact, and that the behaviors that make them so can be taught and learned—a hypothesis."

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RICHARD LORD

1versity
New Era

UVA future teachers in the "The Legacy of the Brown Decision" seminar taught by Curry School of Education assistant professor Selena Cozart (far right).

According to Fallon, there's solid evidence that having a good teacher three years in a row can trump negative socioeconomic factors. A bad teacher can have the opposite effect. "We know phenomenal teachers exist and we want to support them," he stressed. Still, "it appears highly unlikely that a single design or analysis will provide a huge gain in our knowledge. Instead, what is needed is a programmatic approach to research in teacher effectiveness and, by extension, to teacher preparation."

With this strategy in mind, Education Program staff and a prestigious advisory group of experts in the field considered a broad spectrum of institutions that educate teachers, ultimately choosing the University of Virginia and ten other universities with strong existing teacher education programs and the capacity to respond effectively to the challenge of redesigning their teacher education programs with attention to three fundamental principles:

(1) A teacher education program guided by respect for evidence, including pupil learning gains accomplished under the tutelage of graduates of the program;

(2) Faculty in the arts and sciences engaged in the education of prospective teachers, allowing them to develop deep knowledge of more than just the subject they are teaching; and

(3) Education viewed as an academically taught clinical practice profession requiring continuing professional support during the first two full years of teaching.

Through TNE, the Corporation aimed for a radical change in teacher education affecting allocation of resources, academic organization, criteria for evaluating faculty, relationships with practicing schools and more. At the conclusion of the project, each of the chosen institutions was expected to stand out as one of the best programs possible for the preparation of a beginning professional teacher. In short, the objective was nothing less than a new future for teaching and learning throughout the country's schools.

A Biologist Changes University Culture

In 2002, the University of Virginia became one of the first round of schools to receive a TNE grant of $5 million over five years.[1] While only 124 of the 2,600 new teachers in the state that year were UVA graduates, enrollment in the university's Curry School of Education had been growing steadily for some time. In addition, the Education School and the College of Arts and Sciences had already established functional linkages, offering a five-year integrated Teacher Education Program leading to a subject matter baccalaureate (B.A.) and a Master of Teaching (M.T.) degree as well as a two-year M.T. option for students who already hold B.As.

Despite its modest numbers, the university aspired to become a Research I institution dedicated to producing great teachers and to helping set state policy for teacher education reform. "Preparing first-rate K-12 teachers is one of the University of Virginia's highest goals," said Gene Block, vice president and provost. "We are a university with a long historical mission to model excellent educational practice and we are undertaking our work at a time when there are grave doubts about the quality, and equality, of education available to American children." Despite what he acknowledged to be an "immense challenge," Block believed that with a first-rate School of Education, a variety of scholars in Arts and Sciences with longstanding expertise working with teachers and, most important of all, first-rate students, UVA could "do the right thing" to produce the best possible teachers for this generation of pupils. All it would take would be to "bring these strands together."

DAN ADDISON/U.VA. NEWS SERVICES

Gene Block, vice president and provost, University of Virginia

Gene Block has a Ph.D. in biology and is recognized for his research on the cellular and neural mechanisms affecting sleep, aging, the brain and the biological clock. As a scientist who serves on numerous advisory boards, Block is well aware of the power of collaboration to stimulate innovation. This was an advantage he wanted to bring to bear to the TNE grant from the beginning. "When I first learned about this opportunity I was intrigued," Block recalled, "it's wonderful funding. And it came

[1] *Teachers for a New Era comprises a carefully selected group of eleven diverse institutions of higher education with a commitment to the principles of education reform: Bank Street College of Education, Boston College, California State University at Northridge, Florida A&M University, Michigan State University, Stanford University, the University of Connecticut, the University of Texas at El Paso, the University of Virginia, the University of Washington and the University of Wisconson-Milwaukee. An additional 30 higher education institutions subsequently signed on to be part of the Learning Network, which is dedicated to information sharing and learning from the principles of Teachers for a New Era. For a list of these institutions and more information on selection criteria go to www.teachersforanewera.org.*

KAREN THEROUX

Brian Nosek (standing) and Fred Smyth presenting at the "Evidence and Education" seminar.

at a good time for the university when, despite real concerns about teacher education, the state had run out of money to address the issue. At the same time, I was honestly worried about whether we could deliver the real product."

To improve the odds, Block instituted a series of faculty seminars designed to raise awareness of assessment techniques and encourage a dialogue between Education and Arts and Sciences faculty (consistent with the second of the three fundamental principles of Teachers for a New Era). These "Evidence and Education" seminars, which have brought together some of the university's top scholars, are unprecedented not only for the way they bridge divisions within the institution, but because they are hosted and led by Block himself. What really got people's attention was the fact that the seminars would be held in the provost's home, Pavilion V, one of the ten unique buildings Thomas Jefferson designed as faculty residences and lecture halls. Putting himself in the picture not only demonstrated Block's commitment to teacher education reform, both as a scholar and an administrator, but allowed him to "learn a great deal in the process," he said.

"Frankly, I think it was sheer fear that led me to come up with the notion to approach this challenge in a way that would allow the very best thinking to float to the top," Block admitted. "Some people came kicking and screaming. They did not consider the prospect satisfying or of deep interest," he recalled. "At the first meeting it was like people were speaking different languages…But over time there was a remarkable melding of these languages and of people's interests. And it has led to new and creative approaches and to real cultural change at the university. Specifically, where in some quarters there was little or no interest in K-12, now K–12 is a significant research area."

The Corporation's leadership was intrigued by these innovative seminars and took advantage of the opportunity to obtain a first-hand report on one held during the fall of 2006 on the following topic:

> *Implicit attitudes and stereotypes about math and science*: What is in our minds and how we experience our minds are not the same thing. Many mental activities occur outside of conscious awareness or control, including thoughts that are relevant to social life. This presentation will introduce the core ideas of implicit social cognition with interactive demonstrations, and then describe how these ideas are being applied to basic research on the development and influence of implicit attitudes and stereotypes on math/science interest, participation, persistence and performance.

About a dozen attendees gathered in the historic residence for a casual lunch, among them professors, chairs and deans of the departments of engineering, neuroscience, physics, psychology, computer science, English, the medical school and the school of education, as well as a local math teacher. The seminar followed, with a presentation by Brian Nosek and Fred Smyth of the psychology department, who used a series of visuals, quizzes and brain teaser-style exercises to demonstrate hidden prejudices and the mind's tendency to mislead.[2] The discussion that ensued revealed widely varied backgrounds and points of view. It also offered a glimpse of the sort of unpredictable partnerships that might emerge from such a meeting, as Smyth approached the engineering school dean—who earlier had mentioned wanting his students to be more involved in community service—about a Chicago charter school for economically disadvantaged girls where he and Nosek were conducting research.

This interaction typified the "seminar effect," according to associate English professor Victor Luftig, who has perfect attendance at the meetings in his capacity as director of the University's TNE programs. Asked to explain their success, he says, "We had the ideal provost: a teacher who was in the lab for a long time. Besides envisioning the cross-disciplinary benefits, he set up structures that can be sustained through future administrations.…Having this kind of leadership that's sympathetic to grantees develops dedication; that's the core value that you really want."

[2] The link to their primary Web site is https://implicit.harvard.edu/, where one can try out tasks that measure implicit biases for a wide variety of domains, including the gender-science stereotypes that featured in the seminar presentation.

Another strength is the seminar series' ongoing evolution and inclusion of new groups through the years. One of the high points for Block came when representatives of local schools were invited to attend. "These are the people in the trenches," he said, "and they became the focus of much attention. While there was some expectation that people from outside the university might destabilize the process, we soon realized they should have been there all along. They offered real-world validation. They could tell us what was doable in the classroom as well as providing insight on the research."

activities in three major areas: applied research; development of resources and tools; and capacity building for science, technology, engineering and mathematics (STEM) systems research or STEM education research scholars.

The "Discovery" proposals currently in the UVA pipeline range from a math professor's virtual mathematics manipulatives designed to help strengthen students' concepts of fractions, to an astronomy professor's measurement of the impact of summer workshops on teachers' content knowledge to a materials science and engineering professor's

dean, Ed Ayers. Author and editor of nine books, one a finalist for both the National Book Award and the Pulitzer Prize, and winner of numerous scholarship and teaching awards including the Carnegie Foundation for the Advancement of Teaching and the Council for Advancement and Support of Education's 2003 National Professor of the Year, Ayers brings a historian's broad perspective to the project. It is his, and the College's, ambition to hold themselves to "the same high standard represented by the most knowledgeable primary or secondary educator,"

"It's a rare opportunity for majors in biology, art, education, English, anthropology interact and develop an awareness of how answers to may be influenced by one's particular point

For instance, the teachers made it clear that "data collection is a huge burden," according to Block, and "we wouldn't walk right into the classroom and be embraced," as some of the university researchers had expected. Now they know to anticipate significant delays in getting results. "It's just the way scholarly work is," Block stated bluntly.

Recently, there was even more evidence of synergy as the group turned one seminar into a workshop to review a National Science Foundation request for proposals for "Discovery Research K-12." These federal funds can be used for "research, development and evaluation activities through knowledge generation and application to improve K-12 learning and teaching." The program addresses its mission by funding

concept for an adaptive, online engineering career guidance tool. "We were hoping for a few ideas," Luftig said, and "two or three would have sufficed. But we got eight—only one of which came from the school of education, where this sort of work is usually done. It's evidence of real capacity building, which is a pretty good description of what TNE is accomplishing here."

A Historian Expands Arts and Sciences Horizons

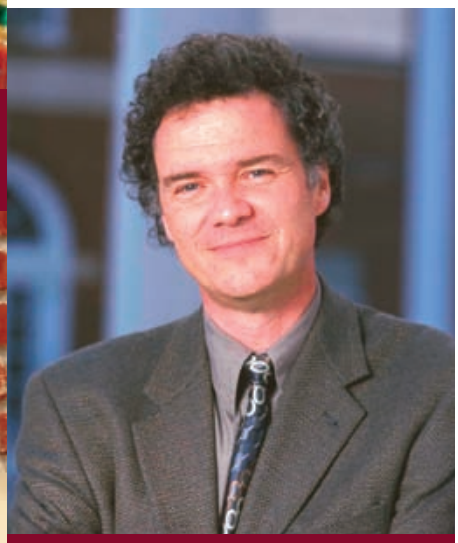
The one place in the University of Virginia where the impact of Teachers for a New Era has been even greater than in the School of Education is in the College of Arts and Sciences, says Daniel Fallon. And the person most responsible is the College's visionary

he explained, by seeking to "contemplate and share knowledge that is as broad, diverse and intense as that suggested under ambitious headings such as "World History," "World Literature" and "The Scientific Method."

New approaches to learning such as Common Courses, funded by Teachers for a New Era, are helping to make that happen. In each course a team of faculty from various disciplines provides a 360-degree view of a subject as daunting as, say, "Designing Matter." Termed a "collaborative learning experiment," this course, which is open to all undergraduates, involves students in a quest to understand matter in all its forms: "Where does matter come from? How can it be manipulated, shaped, transformed, represented? How do human

RICHARD LORD

Collaborative learning is at the heart of Teachers for a New Era strategy.



TOM COGILL

Edward L. Ayers, dean of the College and Graduate School of Arts & Sciences, University of Virginia

chemistry, and other fields to these big questions of view.

beings understand and interact with matter? If matter is only 5 percent of what exists, what makes up the remaining 95 percent of the universe?"

Clearly, there's more than one path to solving these mysteries. In science-based seminars with a humanities spin on subjects from quantum physics to gene therapy to architecture, climate change and astronomy, students explore these questions across the disciplines, under the aegis of the coordinator, a chemistry professor. It's a rare opportunity for majors in biology, chemistry, art, education, English, anthropology and other fields to interact and develop an awareness of how answers to these big questions may be influenced by one's particular point of view. This and other Common Courses, which typically have enrollments of up to 300, represent the College's greatest commitment to educating the future elementary or middle school teachers, whose necessary facility in moving among diverse kinds of knowledge can be seen as the embodiment of liberal learning.

"We ask teachers to do what we ourselves declare impossible," said Ayers, "to synthesize a broad body of knowledge in a way that will be intrinsically useful. In creating Common Courses we are attempting to build a bridge, but admittedly, trying to craft something that mimics the classroom is very difficult." Setting up a program that reaches across divisions is not easy for the university, the dean notes, because each department is accustomed to keeping its own house in order in its own way. "Even though the students and the faculty like these courses very much, there's lots of machinery to be dealt with. That's where the greatest challenge lies." Big interdisciplinary efforts are hard to manage, according to Ayers, and without a single departmental home it's a struggle to keep things running. In a large institution like a university "the forces of inertia are strong," he noted, which requires "constantly making it happen."

It is worth the effort for such a forward looking and hopeful program aimed at turning out "better teachers with better connections to their fields," he believes. And UVA faculty have committed to an impressive roster of Common Courses extending beyond the term of the TNE grant:

- "The Mind of the Artist," a collaboration between a psychologist and historians of music and art;
- "Freedom and Enlightenment of the South," taught by a scholar with joint appointments in English and medicine, highlighting the historical study of teaching and learning;
- "Arts and Cultures of the South," a collaboration among art history and architecture faculty, encouraging students to engage artifacts associated with local culture, as practicing teachers frequently must do;
- "Rural Poverty in Our Time," taught in cooperation with the Carter G. Woodson Institute for Afro-American and African Studies and requiring 20 hours volunteer work on some aspect of poverty;
- "Food for Thought," an examination of global nutrition issues by an economist and a biologist.

Another new TNE-inspired idea is the Counterpoint Seminar, designed to encourage students to think about issues of content and of delivery in relation to, rather than in isolation from, one another. Simply put, learning how to teach the content of a particular course becomes just as important as learning the course material. Counterpoint Seminars are linked to survey courses and are open to school of education students (who have already taken the survey course) as well as graduate students in arts and sciences.

Here's how Counterpoint Seminars work: A student takes an English

Literature survey course as a sophomore, for example. Later, usually as a senior, the same student takes the Counterpoint Seminar linked to that English Lit course, with the goal of determining the best way to teach its content to children in grades K-12. Counterpoint Seminars are led by advanced graduate students from the Curry School of Education and the Graduate School of Arts and Sciences working in coordination with the faculty member teaching the related survey course.

The need for the Counterpoint approach is something dean Ed Ayers has witnessed firsthand. "I taught the required American History course," he explained, "and paid no attention to the fact that many of my students were training to be teachers. On one occasion, graduate students who were teacher candidates were invited in to talk about textbooks in the context of the course. Twenty minutes into it I realized they'd be teaching in six months! The scales fell from my eyes and I had an epiphany about leveraging content knowledge, a notion we regularized with TNE support."

Counterpoint Seminars have been offered in literature, history and astronomy. In response to future teachers' most pressing needs, the latest round included world history—considered notoriously difficult to cover in college but urgently needed in K-12; child and adolescent psychology—a unique opportunity to adapt content preparation in a field future teachers often study; and foreign language—which is challenging given the wide variety of languages students are preparing to teach. Along with Common Courses, Counterpoint Seminars have been ranked highly in student evaluations and their enrollment has steadily increased. For teacher candidates these seminars develop strong 'pedagogical content knowledge,' a term used to desribe a teacher's ability to transform academic content into teachable subject matter.

According to Ayers, the strength of the BA/MT program already in place at UVA was a big factor in being chosen for TNE funding,"It takes full advantage of a four-year liberal arts education," he said, "with teacher education classes and practice teaching during the third year. It fit TNE quite well." From the very first meeting in UVA's historic Rotunda, Ayers saw Teachers for a New Era as "one of the most promising things that could happen here. My reaction was 'Yes, yes, yes!'" he recalled. Having only recently been made dean after 26 years of teaching, and facing a state budget crisis, Ayers knew a good thing when he saw it.

It was the existing relationship between education and arts and sciences divisions that clinched the TNE deal, in Ayers' view. He had been involved in integrating Curry with liberal arts even before becoming dean, and four years into the grant remains highly enthusiastic about TNE's prospects. He's particularly proud of the advisory process it generated. Seven advising teams have been formed, each led by a college department chair or associate dean and consisting of faculty from both colleges. "Students were the active agents in the alliance," Ayers noted, "and brought teachers into it. Now advisors from the College know Curry advisors. They work together to make sure students are getting the very best advice to help them as teachers, which assures they will live up to their potential."

Also thanks to the impetus of Teachers for a New Era, the University of Virginia has worked harder to recruit underrepresented groups to the teaching profession and as a result of these efforts has concluded that initiatives must begin much earlier—ideally before students have matriculated into college—recognizing the importance of outreach to high school students and entering college students considering teaching but still undecided. At the same time, the Students Exploring Teaching (SET) program has targeted non-Curry students still deliberating about formal teacher education, and has also had notable success with underrepresented groups. After TNE, these efforts will become a permanent feature of the College of Arts and Sciences.

In the summer of 2006, Ayers expanded on the success of Teachers for a New Era at the University of Virginia


KAREN THEROUX

Robert C. Pianta, Director, Center for the Advanced Study of Teaching and Learning

"The overall," Pianta less likely to I wonder—are

with a conference of leading historians at Monticello, Thomas Jefferson's home. The next generation of history teachers was invited from all over the country, along with master high school teachers and researchers. They came together for two days of deep discussion and discovery aimed at determining the optimum way for history to be taught and went away armed with ideas they said would never have occurred to them otherwise, according to Ayers. "This conference and the national conversation it inspired were a direct outgrowth of TNE and our friendship with Carnegie Corporation," he said, "and it is one of many examples of how the program is growing, rather than shrinking, as the grant comes to an end."

his years as a special education teacher when he observed that "close relationships were powerful assets to kids and their teachers." The author of more than 200 publications on such subjects as school readiness and teacher-child interaction, Pianta exudes energy, and the framed marathon photos and bibs on his office walls testify he's good for the long haul.

Pianta directs the new Center for the Advanced Study of Teaching and Learning (CASTL), which produces evidence-based research on student learning (from preschool through high school) with particular emphasis on the challenges posed by poverty, social or cultural isolation or lack of community resources. While acknowledging

for doing assessment," Pianta recalled. "I went to one of the provost's seminars and talked about our line of work—a large-scale observation metric—and his attention was caught. I said, 'teachers matter, and we have the scientific evidence for the ways they matter and can improve on it.' He felt CASTL made sense for UVA: The capacity was here, and its promise could be met."

Daniel Fallon considers CASTL "the heart of what we're up to," and added, "Pianta is ahead of everybody. Post-TNE efforts will be built around him." By taking observations of the practices of effective teachers and turning them into real information about what teachers do, Pianta is building a framework for assessing teacher behavior and pupil

prevalence of 'good' classes is only about 25 percent pointed out, "and poor kids are somewhat get one of these. Yet all the teachers passed the state cut. we paying attention to the right things?"

A Psychologist Assesses Teacher Quality

Bypassing their own contributions, Provost Gene Block and Dean Ed Ayers see the most promising aspect of Teachers for a New Era in the assessment programs designed by Dr. Robert C. Pianta. A professor in the Curry School of Education and in the Department of Psychology, Pianta has a background in clinical, developmental and school psychology. His work has focused on how children's experiences at home and at school affect their development, an interest stemming from

that assessment is complicated because "there are lots of variables in the classroom that make it hard to determine specifically what value a teacher adds to learning," the Center's work shows that "if you combine analysis of pupil performance with empirical analysis of what teachers actually do in classrooms, that information can be fed back into improved teaching," Block said.

According to Pianta, the Center is thriving because of TNE and because of Gene Block's interest in teacher education. "Initially we were not really part of TNE, but we needed more money

performance that will be tested experimentally all around the country. What emerges will be a picture of real life in the classroom, not just numbers. "So far, Teachers for a New Era has done a good job of connecting future teachers to arts and sciences," Pianta said. Now, he explained, we need to figure out how to connect to teachers *in the field* for better outcomes.

Recent studies of pupil outcomes confirm that there really are differences between "good" and "bad" teachers, he further explained. One study followed 1,000 first graders randomly assigned to

teachers of varying abilities, and revealed that kids from tougher circumstances who landed in low-rated classrooms lagged even further behind, creating big gaps in reading achievement between them and higher scoring, less vulnerable kids. "The prevalence of 'good' classes is only about 25 percent overall," Pianta pointed out, "and poor kids are somewhat less likely to get one of these. Yet all the teachers passed the state cut. I wonder—are we paying attention to the right things?"

"It's unfortunate that teachers haven't been studied more using the tools of developmental psychology," he believes. "Experts in adult cognition tell us that teacher skills and the attitudes they form regarding themselves and students are related to working memory. They process information in real time. Teachers who can do this well have a high level of cognitive skills. We can help develop these skills by understanding the basic components of teaching. This may help improve the basic science of how teachers are trained. If we can engage in systematic, rigorous research, teacher education will be in a different place ten years from now."

The Center for Advanced Study of Teaching and Learning brings to bear the capacity of the University of Virginia, the leadership of key faculty and more than $25 million in funded research grants already in place with the aim of affecting the future of education and influencing education policy nationally and internationally. Its day-to-day work involves faculties from the College of Arts and Sciences and the Curry School of Education in monthly assessment seminars and in small- and large-scale research studies on the effects of UVA teacher education and induction programs (the aspect of TNE that provides support for new graduates during their first two years in the classroom). The Center is also building an integrated database that tracks the characteristics, experiences and perfor-

Help for Beginning Teachers

The University of Virginia and the public school districts of Charlottesville and Albermarle have always been neighbors…but they haven't always been friends. Teachers for a New Era has helped to transform that relationship

Part of the fundamental TNE design calls for education to be viewed as an "academically taught clinical practice profession" (think of the medical profession) with continuing professional support during the first two full years of teaching. UVA is fulfilling this requirement through unprecedented long-term partnerships with the two neighboring school districts, delivering a range of services to all novice teachers there—not just its own graduates. Luftig termed the arrangement an excellent "quid pro quo," in that it provides "an ideal lab for teaching UVA graduates, while offering a service to local schools." Most importantly to local supervisors, it is also helping to solve the serious problem of teacher attrition, which helps counteract the university's cyclically transient student body. "Graduates simply tend to move on," he noted.

Three goals define the teacher induction program: providing relevant pedagogical content and professional knowledge novice teachers need for their new careers; instilling in young teachers the awareness that lifelong learning and professional development are the keys to a successful career; and serving the school system by increasing retention of new teachers. Like any comprehensive new program, this one is a painstaking process, but in the end everybody wins: the university, the local schools, novice teachers and the students.

Using materials adapted from a highly effective model program created at the New Teacher Center at the University of California, Santa Cruz, UVA faculty have trained a team of 15 teacher advisors to provide one-on-one mentoring support through weekly meetings that may encompass classroom observation, team teaching, sessions with master teachers, reviewing of real-life classroom videos, attending frequent workshops and other strategies. Continuing the undergraduate collaboration, arts and sciences faculty participate in workshops to extend their connection with teacher candidates from preservice into early years of teaching. The 25 percent of UVA graduates who work outside the county will also be supported, using a system that provides access to online resources including teaching materials, lesson plans as well as virtual communities and "e-mentors." Future teachers are exposed to these resources during their internship semester and use them in required coursework.

"Without my mentor I would not have made it through the year! She has been supportive and informative at the same time. First year teachers are expected to attain the same goals and maintain the same workload as veterans. Without extra help, very valuable teachers would be lost forever."—Elementary school teacher

Each week advisors and novices complete nonevaluative Collaborative Assessment Logs which, combined with other information, help identify weak points where more work is needed. Teachers have the freedom to request help in a variety of ways to meet any classroom challenge, from engaging

mance of teacher candidates from preservice education through their initial years of teaching using new techniques that make it possible to chart the development of groups of teacher candidates and to study the effects of changes to the teacher education program.

An important innovation in this work is the Classroom Assessment Scoring System (CLASS)[3]—a standardized method of organizing classroom observations that tracks teacher performance over time. Pianta and his colleagues conducted large-scale classroom observation studies as well as extensive reviews of other research on the teacher's impact on students, which revealed more about how interactions between students and adults act as the primary mechanism of student development. Based on their work, the CLASS measures the instructional and social-emotional interactions proven to contribute to students' academic achievement and social competencies.

The CLASS is designed for:

- Researchers who want a classroom observation tool with established links to children's social and academic development;
- Administrators who want a standardized and validated tool to conduct classroom observations that will help assess and improve classroom quality across grades;
- University teacher educator programs that want a quantitative measure of the degree to which they are successful in preparing students to meet the challenges of teaching;
- Teacher trainers who want video examples of high-quality teaching to use during trainings; and

(Continued on page 55)

3 Go to http://www.classobservation.com/ for an in-depth look at the system.


KAREN THEROUX

New Teacher Advisors (front row, l. to r.) Nancy McCullen, Susan Temple (back row, l. to r.) Mary Morales and Lisa Baker.

students in learning, managing and organizing the classroom and planning lessons to understanding difficult subject matter, communicating with parents and planning for specific events such as field trips or back-to-school night. "We may have in mind what we want to do, but it has to be ad hoc so we can meet their needs of the moment, said Albermarle new teacher advisor Lisa Baker. "This is a valuable beginning voice for beginning teachers," she added "with the potential to cultivate inherent leadership qualities."

"I have been very fortunate to have an advisor that can come and give me advice on how to manage a classroom, deal with students, integrate technology and any other subject that I may have questions about. Not only that, but to have someone there to say that you are not the only one dealing with these problems, and it is okay, is a very special thing. I think that this is essential to the success of new teachers."

—Middle school teacher

To determine whether induction support is effective, teachers may be evaluated in myriad ways: novices complete surveys on such subjects as mentoring experiences, teaching knowledge and skills and their classroom practices are observed using the CLASS system at multiple points during the school year. Studies conducted by the Center for the Advanced Study of Teaching and Learning show positive results right from the start, backed up by data from the 2005-06 Albermarle County Public Schools Human Resources department, which suggests that support for beginning teachers has resulted in 33 percent fewer novice teachers leaving the division, compared to five years ago. "It's enormously successful," Fallon said. Recognizing the impact Teachers for a New Era has made, the two participating school divisions ended their second year by making funding commitments to the program.

Philanthro

DIVERSITY AND CREATIVITY FOR CHANGING TIMES

It was the shot heard 'round the philanthropy world.

In June 2006, Warren E. Buffett, the world's second-richest man, took the unprecedented step of donating most of his fortune not to a new eponymous entity, but to the gargantuan Bill & Melinda Gates Foundation. The gift's sheer size—at least $30 billion—and the concentration of power it creates shook a philanthropic world already rumbling, sometimes uneasily, with change.

In the past few years, the Gates Foundation, just a decade old but flush with some $30 billion of its own assets, has taken a leadership role in grant areas like global health, poverty alleviation and education. It has also become a pacesetter in foundation governance, recently announcing, for example, that it would spend its money and go out of business within 50 years of the death of its last trustee, rather than become a permanent institution, and that it would separate its investment management from its grantmaking to avoid conflicts.

Meantime, wealthy young entrepreneurs like eBay founder Pierre Omidyar, impatient with traditional foundations that address social problems with research and trial-and-error experimentation, have instead launched "for-profit" philanthropic ventures intent on seeking fast solutions and measurable results. Google's founders have started Google.org, a hybrid combining a traditional foundation with a for-profit arm to broaden its range of social-change tools. And world-renowned figures like former President Bill Clinton and songmeister Bono have created a celebrity philanthropic model: pick a problem, propose a solution, publicize both, work connections, raise money, and channel it to the cause. Repeat, if necessary, or move on to a new problem.

All the activity and the ensuing media attention are drawing even more dollars, including numerous $100-million-plus mega-gifts, to philanthropic causes and new foundations. At last

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Bill and Melinda Gates, with Warren Buffett.

count, in 2004, the Foundation Center pegged the number of reporting foundations at 68,000 and their assets at $510 billion—double the number of a decade ago, with more than double the assets—and still growing fast. The Buffett gift, experts predicted, would likely attract more donations and more scrutiny. It already has.

Small wonder, then, that the foundation world has entered an era of soul-searching and adaptation. "It's a time of creativity," says Adam J. Abramson, director of the Aspen Institute's philanthropy programs. "There are lots of new

pyNOW

by JUDITH H. DOBRZYNSKI

Some new, mega-philanthropists aim to have an effect on a global scale; are their goals also having an effect on more well-established foundations?

models and it's useful to have this innovation. It shakes things up and it makes people think about what they're doing."

As Sara L. Engelhardt, the president of the Foundation Center, sees it, "the field is growing more diverse, more entrepreneurial, more collaborative and more global."

And James Allen Smith, a historian who holds the Waldemar A. Nielsen Chair in Philanthropy at Georgetown University, believes foundations are now bound to take a larger role in society. "The Gates Foundation and the Buffett donation," he says, "raise our sights and alter the level of our ambition."

Twice in the past, Smith points out, similar increases in scale transformed the aspirations of philanthropy.

Before the 1910s, charity—as philanthropy was most commonly called then—focused on aiding needy people, often on a local basis. Then Andrew Carnegie and John D. Rockefeller changed the game, each creating foundations with more than $100 million in assets (more than $2 billion in today's dollars). With those resources, they were able to spend large amounts on lofty educational efforts, including Carnegie's famed libraries and Rockefeller's schools of public health, on combating diseases like yellow fever and hookworm, on scientific research, and on other broad social goals. Both philanthropists, for example, were supporters of Booker T. Washington and Tuskeegee Institute in Alabama at a time when educating black Americans was not a national priority.

Then, in the 1950s, the Ford Foundation became the first billion-dollar foundation, upping the ante. After establishing a study commission to chart its future, Ford elected to pursue efforts to promote world peace, freedom and democracy, as well as to push for change in science, education and the arts.

Now, given their growth in number and financial firepower, many experts say that foundations again seem poised to take on more and larger social problems and, this time, on a truly global basis. Those trends dovetail at the Gates Foundation, which, like its predecessors, Carnegie Corporation of New York, and the Rockefeller and Ford foundations, among others, is seeking to lead the way. With foundation assets that are triple those of the next largest, the Lilly Endowment and the Ford Foundation, Bill and Melinda Gates decided to focus on the vast task of reducing inequities among people around the world.

In a November 2006 speech, Bill Gates described how, once the overarching goal was set, he and his wife began choosing program areas, which so far number three: "We look for strategic entry points—where the inequality is the greatest, has the worst consequences, and offers the best chance for improvement. Internationally, we believe our

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Judith H. Dobrzynski, a former a senior editor at The New York Times, Business Week, *and CNBC, is a writer based in New York.*

greatest opportunity is in reducing extreme poverty and fighting disease. Here in America, we believe we can do the most to promote equity by improving education."

To date, the Gates Foundation has made grants worth $13 billion to recipients in more than 100 countries around the world; in 2005, about 70 percent of its grants went to global efforts.

The Gates Foundation's enormous resources have enabled it to take on immense causes like the reduction of malaria, which is believed to infect 300 million to 500 million people annually and to cause one million to three million deaths each year, largely among African children. Through December 2006, the Gates Foundation had committed $765.8 million directly to the fight against malaria; it had also committed another $650 million to a global fund against AIDS, tuberculosis and malaria, some of which supports national malaria control programs.

All told, the Gates Foundation "Global Health Program" has granted nearly $8 billion to the reduction of various diseases, health technology, research and similar issues.

The foundation's "Global Development Program" was launched more recently, officially in April 2006. Aiming to help the poor in the developing world avoid hunger and create a sustainable living, it has committed just over $630 million, mostly for public access to computers in libraries and other special initiatives. Going forward, it will disburse about 25 percent of the foundation's annual grant money. There will be money for efforts to improve agricultural production, to help small farmers get their products to market, and to provide access to loans and other financial services that will help poor people build assets and weather financial setbacks.

With the additional funds from Buffett, who said he chose the Gates Foundation because he believed in the wisdom of its programs and administration, spending will rise. By 2009, the Gates Foundation plans to give grants worth about $3.5 billion a year, up from about $1.75 billion last year in 2006.

At the 2009 level, annual grants from Gates would outstrip the total assets of all but a dozen or so American foundations; they'll also place the Gates Foundation squarely in the ranks of governments and nongovernmental organizations that deal with the same issues.

The Foundation Community Reacts

The wealth of the Gates Foundation has created something of an inferiority complex among some long-standing pillars of the foundation community. They seem to be worried that Gates will become the foundation world's sole superpower, setting the spending agenda in areas of focus for many foundations—specifically health and education. How can grantmakers with fewer resources possibly make their own mark?

But numerous experts say such concerns are overblown. "It makes people think, 'what can I do with the relatively smaller amount of money that I have,' but there are so many problems in the world that need to be addressed," says Adam Abramson, of the Aspen Institute, "that philanthropy can almost always have a positive effect."

Likewise, Steve Gunderson, the president and chief executive of the Council on Foundations, says other foundations "ought to ignore Gates. It will make a significant impact on philanthropy, but it should not dictate the focus or structure of other foundations. We must celebrate the diversity of philanthropy."

Several experts have pointed out that last year's grants by the Gates Foundation—$1.75 billion—amount to just over 5 percent of all grantmaking by American foundations. After 2009, the number could grow to nearly 10 percent—unprecedented, yes; monopoly, no. In terms of all U.S. charitable giving, the Gates share is less than 1 percent of total U.S. charitable giving, which the most recent figures put at approximately $260 billion.

Martin Morse Wooster, a senior fellow at the Capital Research Center and author of *Great Philanthropic Mistakes* is bemused by the idea that some foundations might change course because the Gates Foundation or other donors with big wallets have taken on a particular cause. "It's not a contest," he says. "It's about what you are doing to make your community better. Small foundations can do a relatively great amount of good with small budgets."

At a discussion about philanthropy post-Buffett held in June 2006 by the Hudson Institute's Bradley Center for Philanthropy and Civic Renewal (which published *Great Philanthropic Mistakes* in May 2006), Adam Meyerson, president of The Philanthropy Roundtable, also dismissed concerns that the munificence of the Gates Foundation might have a chilling effect on other foundations. He pointed out that they are already intimately familiar with another funding Goliath. "Every foundation lives in the shadow of the federal government," Meyerson said.

The National Institutes of Health has a budget of close to $30 billion a year, for example. "That doesn't mean you can't be an effective foundation in biomedical research," Meyerson said. "Many foundations are. But they have to determine, 'what is our comparative advantage in the face of this enormous spending from the government?' And one reason, by the way, that the Gates Foundation chose malaria and has been quite effective in raising awareness about [the disease] was that it was an area where there wasn't much spending."

At the same discussion, Elizabeth

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Booker T. Washington (in front) at the Tuskegee Institute in Alabama with, front, left to right: Charles W. Eliot, President of Harvard University, Andrew Carnegie, Principal Booker T. Washington, Robert C. Ogden and George McAneny. In the second row, left to right: J. G. Phelps Stokes, Rev. Lyman Abbott, and Principal H.B. Trissell.

Boris, the founding director of the Center on Nonprofits and Philanthropy at the Urban Institute, offered another telling comparison. Citing research by the Hudson Institute, she said that foundation giving for international development issues amounts to about $3.4 billion a year versus about $20 billion by the U.S. government.

Such statistics should put paid to another worry that has been bandied about post-Buffett: that the government will shirk its spending duties in some areas because of foundations' largesse. "Few people understand the proportion of foundation giving in relation to government spending, and you have to add in the budgets of other countries, too," says James Allen Smith of Georgetown. "Once you tally it all up, philanthropy is small."

That doesn't mean governments won't be tempted to shirk. According to Rick Cohen, former executive director of the National Committee for Responsive Philanthropy, the fine print of the Bush Administration's fiscal 2007 budget proposals shows that "the proposed cuts in the small-schools program were basically explained away by saying that the government expenditure from the Department of Education would simply duplicate what the Gates Foundation and Carnegie Corporation are already doing."

But such examples are few. And popular pressure, exerted on Congress or through the media, can reverse proposed budget cuts. Steve Gunderson of the Council on Foundations, a former Republican Congressman from Wisconsin, believes that foundations must weigh in when necessary. "I think I can make a contribution here," he says. "I had an 'R' behind my name all those years I served in Congress. When I am communicating with our sector, I am a strong advocate for advocacy, for education about public needs. That's not politics; we have a duty to articulate public needs. We will be engaged in articulating the need for government spending."

The Gates Foundation, which causes the biggest worries about obviating government spending, is being very careful to mitigate those risks, notes Adam Abramson of the Aspen Institute. "They're trying to figure out how to leverage their grants, going to great lengths to ensure that governments don't leave a field because of their money." He adds, "They want to spend money to unleash government money." In some areas, like combating AIDS and malaria, that has indeed happened.

A Golden Age?

Big gifts, from Gates or anyone, have in fact been known to have an exponentially positive effect on the private and foundation sectors, too, encouraging additional donations for a cause. Take poverty. The Gates Foundation formalized its Global Development program a year ago, and plans to devote about $875 million annually to the effort. Still, in late November, David Rockefeller said he would make a $225 million bequest to the Rockefeller Brothers Fund (RBF) to create the David Rockefeller Global Development Fund. It was the largest gift in the fund's history, and it will be put toward the RBF programs that address poverty, health care, sustainable development and management of the global economy, among other areas.

Indeed, it helps to recall that what some people have suggested is a golden age of American philanthropy began in 1996, when Ted Turner, an active philanthropist, chastised his fellow moguls for their stinginess and suggested that more would give if someone published an annual list of big donors. Turner's remarks prompted *Slate* magazine to do just that, and helped spark more media coverage of philanthropy in general. In 1997, acting on a challenge from Vartan Gregorian, president of Carnegie Corporation of New York, Turner pledged $1 billion to support UN programs. Perhaps as a result of all this, giving has become a contest for some. Peter B. Lewis, a Cleveland philanthropist who is chairman of the Progressive Corporation, an automobile insurance company, is one person who acknowledged it as such in January 2006, when he promised $101 million to Princeton University; he said he chose that figure to surpass the previous record donation to the university, which was $100 million.

So what is there for foundations to worry about? This is a good time for them. The fact that there is more money in the philanthropic sector creates an opportunity for foundations large and small to examine their goals and strategies, several experts have suggested. It's an occasion for them to define their comparative advantage vis-à-vis both government and big spenders like the Gates Foundation.

Forecasters predict several likely outcomes from this self-examination, but few expect dramatic changes. "Foundations have always made their impact doing four things," says Kathleen D. McCarthy, director of the Center on Philanthropy and Civil Society at the Graduate Center of City University of New York: "Building institutions, forging partnerships to leverage their grants, training new managerial elites in new fields, and investing in new ideas. That's what they will continue to do."

But they may become more strategic. "That is happening, period, regardless of Gates," says Gunderson, adding, "Foundations are becoming much more focused in grantmaking, in expertise, and that's a healthy thing."

As a result, foundations may decide to write fewer, bigger checks to pay for longer-term projects. That, some experts believe, is a good thing: it leads to more efficient grantmaking as recipients need spend less time writing grant applications and reapplying for funds. "Transactions costs" are therefore lower. Larger grants may also allow foundations to develop a closer relationship with the organizations they support, leading to more understanding of their true program needs and closer monitoring of how their money is used.

The positives aside, a word of caution is in order here: no grant recipient will turn down a large project grant, yet some lack the staff and capacity to deal with them. Virtually every large project commitment stretches an organization in some way, often adding to overhead expenses. Over the years, many funders have been reluctant to cover those costs. But that may be changing. "The sector is beginning to recognize that operational support is a key component of effectiveness," Gunderson says. "I think that discussion is starting, and it will improve the entire sector."

Tackling larger issues is also likely to lead to more grantmaking partnerships with governments and among foundations. As Vartan Gregorian has pointed out: "In the past, it may not have been normal for foundations to collaborate because institutional pride was at stake. But nowadays, I believe most foundations understand that *what* is done to improve the lives of human beings is much more important than *who* is responsible. And that makes forming philanthropic networks to carry out strategic grantmaking much easier."


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Ted Turner (left) and Vartan Gregorian (right).

Examples of such cooperative efforts abound. In December 2006, the Gates Foundation and the William and Flora Hewlett Foundations agreed to collaborate on a $60 million series of grants to improve the quality of primary and secondary schools in the developing world. The Partnership for Higher Education in Africa is a $350 million effort by six foundations—Carnegie Corporation, the Rockefeller, Ford, John D. and Catherine T. MacArthur, Hewlett and Andrew W. Mellon foundations—to strengthen universities in a number of African nations. The Corporation also partners with the James S. and John L. Knight Foundation in an effort to improve journalism education at some of the nation's great research universities and with the Annenberg, Ford, Nellie Mae Education and Ford foundations on an initiative to improve teacher education.

"Where Market Forces Have No Force"

In an era when agenda-setting foundations like Gates focus on humanitar-

ian problems, many arts and culture organizations have raised fears of a coming drought in their funding. Some statistics do show donations to the arts dropping in the post-tsunami, post-Katrina, global-warming world and numerous arts administrators have expressed concern that their museum, opera or theater will be dropped in favor of organizations that produce tangible results demonstrably contributing to the public good. How can performances of Beethoven symphonies, uplifting as they are, compete with programs to feed the hungry of Africa?

James Allen Smith of Georgetown says he sees the subject with a 30- to 40-year perspective. In the early 1950s and 1960s, the arts were getting a much smaller share of total funding, perhaps as low as 2 percent. That proportion grew dramatically over the years, at times into the double digits. But part of the gain came from extensive capital campaigns that are now over. Lately, "the arts fears that as the pie has grown, its share has changed," Smith says. "But they're not hurting." Besides, he adds, it's not just the large foundations that are on the playing field in terms of funding for the arts. In reality, says Smith, "You have to look down a few levels to small foundations to find people who understand the needs of artists." Smaller foundations are also more responsive to regional or local needs and to smaller institutions. Council on Foundations head Steve Gunderson agrees that the arts are not in as much trouble in terms of funding as some may think. He points out that many of today's philanthropists who were born in the baby-boom era are positively predisposed to arts and cultural efforts and are probably going to keep them in mind when it comes to giving.

Arts organizations have, however, raised a real issue that applies more generally across the philanthropic spectrum: the imperative of producing measurable results. Foundation executives, grant recipients and experts all fear that the focus on results will stymie innovative thinking and experimentation.

"I worry that performance measures may mean shorter time horizons and make nonprofits behave more like business entities and lose some of their nonprofit values," Smith says. "For example, hospitals not providing care for charity cases, performing arts centers that are changing programs to lure audiences, grants made to people who are certain of success. It's a blurring of an ethos that undermines the motives rooted in charity and philanthropy. "

Such caution in grantmaking could have long-term repercussions. "I understand the pressure on foundations to be relevant and to produce measurable results," says Richard Haass, the president of the Council on Foreign Relations, which depends on foundation grants. "But this pressure should not be a disincentive for investing in the development of human capital. Foundations, to put this positively, should invest in people and ideas. When you give money, you never know if you'll get intellectual capital from it."

Haass says he has not yet witnessed a great flow of funds away from investing in ideas, but that he has noticed that some foundations are starting to act like nongovernmental organizations, getting into the business of delivering health care, for example. And in terms of funding for the idea-generating mission of think tanks, Haass notes that support for policy-related work has been shrinking or has become extremely focused. "The agenda is set, and you decide if you want to work on it," he says. "There's been a decline in funding for general work."

Martin Morse Wooster of the Capital Research Center also encourages foundations to take more risk, not less, particularly with people. "A lot of existing foundations give lots of money to well-established people in their declining years who are good at getting grants," he notes. "They should be giving money to talented people they spot. A lot of the great grantmakers were very good at being talent spotters, and that's something that foundations are sorely lacking in."

Far from being the culprit on this score, the Gates Foundation has adopted the traditional line that foundations have the luxury of experimentation that might fail. In another 2006 speech, Bill Gates said: "Through our foundation, Melinda and I are trying to step in where market forces have no force—to point research dollars and technological innovation toward challenges that are truly life-and-death for some of the world's poorest people. That often means taking the risks that businesses can't afford, and governments can't justify."

Gunderson, for one, says the Gates Foundation has lived up to those words. It's others in the new generation of business-oriented philanthropists who are trying to harness the market to provide solutions to social problems.

The Omidyar Network, for example, describes itself as a "mission-based investment group committed to fostering individual self-empowerment on a global scale."

A look at its "portfolio" of grantees shows ventures like Backfence, which produces very local web sites for the posting of neighborhood news; CellBazaar, which allows people to buy and sell goods over their cell phones; GlobalGiving, an Internet site that connects individual and institutional donors directly to social and economic development projects around the world; and Witness, which helps "local human rights defenders… use video to transform personal stories of abuse into powerful tools of justice."

Similarly, the Skoll Foundation, founded in 1999 by Jeff Skoll, the first

president of eBay, describes its mission as fomenting social change to benefit the world "by investing in, connecting and celebrating social entrepreneurs…. proven leaders whose approaches and solutions to social problems are helping to better the lives and circumstances of countless underserved or disadvantaged individuals."

Google, meanwhile, appears to be just getting started on philanthropy. One early effort, a small "grants" program, offered free advertising it says was worth $33 million to 850 nonprofit organizations, including the Grameen Foundation USA, Doctors Without Borders, Room to Read and the Make-a-Wish Foundation.

Google has announced that it will henceforth focus its efforts on poverty, energy and the environment. In February 2006, the company named Dr. Larry Brilliant, a founder of the Seva Foundation, a Policy Advisory Council member at the University of California, Berkeley School of Public Health, and a member of the Strategic Advisory Group of Kleiner-Perkin's Pandemic and Bio-Defense Fund, as executive director of Google.org.

But Google's philanthropic efforts remain small according to its web site and its 2005 Form 990 to the Internal Revenue Service. Among them: $5 million to Acumen Fund, a nonprofit venture fund that invests in market-based solutions to global poverty; $250,000 to TechnoServ, which has launched an entrepreneurship development program in Ghana; and $200,000 to PlanetRead, an organization that tries to improve literacy in India by adding subtitles to Bollywood films and other videos. The foundation's total assets are $85 million.

Some of these moves have prompted traditional foundation-watchers to scratch their heads. Questions about them were generally met with a chorus of "it's too early to tell."

"Let's see in three years," Wooster says. "What I applaud Omidyar and Google for doing is trying to think up new ways to do philanthropy." Gunderson agrees, saying, "It's too new. Its big attraction is that it's attracting more money. There are people who will be drawn to that form of giving. They would not otherwise participate in this sector."

Abramson, too, is circumspect: "It's a movement with some upsides, but some downside as well," he says. "One may worry, for example, about whether nonprofits that don't have commercial potential may be overlooked by philanthropy that is moving toward a more commercial orientation."

Still, Abramson notes, these new philanthropic efforts probably came about, in part, because government wasn't picking up the ideas foundations had incubated, so the new generation of funders turned to getting the marketplace interested. That, he says, "may unleash a whole new set of resources for addressing social problems."

Oversight and Governance

The new and emerging forms of philanthropy, together with the high profile of the post-Buffett Gates Foundation, are widely expected to increase the push for accountability in the foundation sector. So will the influx of new money to philanthropy that demographers are expecting as baby-boomers age. Foundations, therefore, may find themselves facing increased regulation, or, at the least, more oversight.

In the wake of the November 2006 elections, Senator Charles Grassley, the Iowa Republican who has held hearings on what he called abuses in the nonprofit world, no longer heads the Finance Committee. But Kathleen McCarthy, of the Graduate Center, CUNY, warns: "The Grassley hearings will not be the last to look at the role of foundations in American life." She believes that some proposals, like an increase in the mandated payout rate and perhaps a sunset provision that requires foundations to go out of business in, say, 25 years, will return to the legislative agenda.

With the Gates Foundation as an example, following the John M. Olin Foundation, which shuttered its doors in 2005, and the Atlantic Philanthropies, which intends to go out of business in 2016, other foundations may also choose to spend their funds and close down voluntarily. There is ample prece-

In the post-tsunami, post-Katrina, global-warming world, numerous arts administrators have expressed concern that their museum, opera or theater will be dropped in favor of organizations that produce tangible results demonstrably contributing to the public good.

dent for making such a choice. *Linkages*, the newsletter of the Rockefeller Philanthropy Advisors, notes that, "Julius Rosenwald created a foundation with the wealth he earned as founder of Sears, Roebuck & Company, and stipulated that all the funds be spent by 25 years after his death; the Foundation closed in 1948, having spent $63 million. The Aaron Diamond Foundation, The Stern Fund and Field Foundation more recently did the same," as did the Vincent Astor Foundation.

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Elizabeth Boris of the Urban Institute has said that other governance issues may also be debated on Capitol Hill, like a minimum number of board members. But Steve Gunderson does not foresee a confrontation with Congress. "Congress's likely focus is in the area of governance: transparency, conflict of interest, and maybe compensation, though I hope not," he says. "We need to deal with the obvious abuses." Beyond that, he thinks Congress will avoid attempting to make qualitative judgments about how foundations spend their money, which would be resisted. Private foundations and private donors have generally been left to set their own course, so long as they met minimal payout requirements each year, and that is likely to continue, he believes.

Foundation executives themselves seem to be worried about their records, however. Late last year, an admittedly unscientific Internet poll taken by the *Philanthropy News Digest* asked respondents to choose the philanthropic sector's biggest challenge in 2007. By January 2, 2007, 190 people had voted and the overwhelming response was "demonstrating effectiveness," with 58 percent; 18 percent focused on "leadership vacancies," showing similar concern about the future. Yet thanks to the Internet, foundations are providing more information about themselves than ever before—through their own web sites and through entities such as Guidestar (www.guidestar.org), a web site founded in 1994 to improve the dissemination of information about charities and philanthropies

By many measures, the foundation sector's future looks bright. Buffett's gift is likely to inspire more people to give, and some may well follow his example and give to an existing foundation. This, too, has precedent. Since 2001, acting on behalf of an anonymous donor, Carnegie Corporation has been able to grant a total of $85 million to small- and medium-sized, New York City-based arts, cultural and social service organizations because of the generosity of an anonymous donor who has chosen the Corporation to make the grants on the donor's behalf.

Some experts, including James Allen Smith of Georgetown, hope that foundations will accept gifts from others, precisely because good grantmaking is harder than it looks. There might even be competition among foundations for money. Others note that Buffett did not choose a "staff-dominated" foundation that had any chance of departing from the political and philosophical principles of its founders—also good, in the view of some. "Buffett looked at Gates, thought about how he was using his money, and trusted Bill Gates, who is 25 years younger than him, and is using the money in his lifetime," notes Martin Morse Wooster. "Donors," he adds, "want to have more control over how their money is spent."

Nearly everyone agrees that most foundations will continue in their traditional role of experimenting, trying out new ideas, taking risks that other institutions, held more accountable to various constituencies, cannot. That's because problems themselves are not going away; in fact, some are more complicated than ever.

New York Mayor Michael Bloomberg, who says he'll devote himself to spending his own multi-billion-dollar fortune philanthropically after he leaves office in 2009, acknowledged as much in December 2006. Announcing that the city would spend $150 million annually to combat entrenched poverty, he said $25 million of it would be raised privately from donors. "When you do things with public money, you really are required to do things that have some proven track record and to focus on more conventional approaches," he told *The New York Times*. "But conventional approaches, as we know, have kept us in this vicious cycle of too many people not being able to work themselves out of poverty even though they're doing everything that we've asked them to do."

In other words, today's problems require more creativity, not less. That leaves foundations with an even bigger role to play in the years ahead. ■

RecentEvents

Launching a New Biography of Andrew Carnegie

A new account of the life of Andrew Carnegie by award-winning author David Nasaw was launched at Corporation headquarters in November, 2006. Nasaw, a Distinguished Professor of History at the Graduate Center of the City University of New York, explored a trove of new material, from Carnegie's personal letters to his prenuptial agreement to private correspondence with the most famous names of his day. As a result, this impressive biography offers fresh insights on the immigrant turned industrialist who became the embodiment of the American Dream, and ultimately gave his fortune away.

In conjunction with the book's release, Carnegie Corporation president, Vartan Gregorian, appeared with the author on PBS's *NewsHour with Jim Lehrer* to discuss contradictory aspects of Carnegie's life story that most trouble people today—in correspondent Paul Solman's words, "a man who in his lifetime gave away more money in proportion to the economy as a whole than Bill Gates and Warren Buffet combined, yet squeezed his workers to the breaking point …"

Asked how he might have advised the pioneering philanthropist to handle labor conflicts, Gregorian responded, "I would have said, "You're building libraries. You're building museums. Give weekends off to workers to enjoy the libraries and the museums. As you're building for the public man, allow the public man, the workers, to go benefit from these institutions."

Solman asked Nasaw, "Bill Gates, Warren Buffett, George Soros, were they thinking of Andrew Carnegie when they gave away all their money?" "I think absolutely," Nasaw responded. "Buffett, when he gave away his money, quoted from Carnegie. When Carnegie said, 'The man who dies rich dies disgraced,' in the 1880s, his fellow millionaires looked on him like he was a lunatic, you know, an idiot, a madman….But only recently, in the last five to ten years, are millionaires understanding or at least telling us that the money is going to go back to society, because it is society, not the individual, that creates wealth, which is what Carnegie said."

EVEROD NELSON

Author David Nasaw.

EVEROD NELSON

(Left to right) Victor Navasky, publisher emeritus of *The Nation* magazine; Helene L. Kaplan, outgoing chair of Carnegie Corporation board of trustees, and her husband, Mark Kaplan.

Saluting MIT's New Head of Investment

D. Ellen Shuman, Carnegie Corporation Vice President and Chief Investment Officer, rounded up some colleagues to celebrate an auspicious beginning for Seth Alexander, President of the MIT Investment Management Company. Mr. Alexander joined the university in May 2006 and shortly thereafter, MIT was making news for its 23.0% return on investment for the 2006 fiscal year—the highest of any educational institution in the country.

"Seth is a wonderful friend and colleague and one of the many former Yale Investments Office staff members who have gone on to lead the investment effort at a prestigious institutions," Shuman said. "MIT is lucky to have such a talented person at the helm of its Management Company."

Alexander was previously a member of the Yale Investment Office (where Shuman was a director prior to joining Carnegie Corporation in 1998) with areas of expertise including marketable securities, hedge funds and inter-

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Susan Hockfield, president of MIT, with Seth Alexander.

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One-time Yale colleagues (left to right): Paula Volent, Bowdoin College; Ted Seides, Protégé Partners; Casey Whalen, New York Public Library; Seth Alexander, MIT; Carter Brooks Simonds, Blue Ridge Capital; David Swensen, Yale University; Lauren Meserve, Metropolitan Museum of Art; Michael Feldman, PSP Realty; D. Ellen Shuman, Carnegie Corporation of New York. Missing from photo: Andy Golden, Princeton University and Donna Dean, Rockefeller Foundation.

national investments. MIT, with an endowment of $8.4 billion in 2006, is the nation's sixth "richest" university. The new president of MIT, Susan Hockfield, is also the newest member of Carnegie Corporation's Board of Trustees.

Exploring U.S. Policy Toward Eurasia

A distinguished group of U.S. policymakers and experts on Russia and Eurasia took part in a roundtable discussion at the Corporation in September 2006. Deana Arsenian, chair of the International Peace and Security Program (now vice president of the International Division) led the meeting, which aimed to uncover key trends and weigh the impact of Russian and U.S. interests and policies in the region.

Attendees included representatives of the State Department and other relevant governmental agencies as well as leading academic scholars and authorities from think tanks who specialize in post-Soviet Eurasia and the broader Eurasian neighborhood.

The discussion was wide-ranging, touching on such ideas as Eurasia's function as the fulcrum of an emerging system of multilateral relations; the growing importance of the region as a player in global energy politics and the the rise of China and Asia in the coming decades as a determinant of Eurasia's future.

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Thomas Graham, special assistant to the president and senior director for Russian affairs, the National Security Council.


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Eugene Rumer, senior fellow, National Defense University and Celeste Wallander, visiting associate professor, Georgetown University.

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Vartan Gregorian, president, and Deanna Arsenian, vice president, international program coordination and program director, Russian higher education and Eurasia, Carnegie Corporation of New York.

Honoring Vaclav Havel

In October 2006, the Carnegie Corporation held a reception welcoming Vaclav Havel, the first president of the Czech Republic (1993 – 2003), to New York City for an eight-week residency at Columbia University. Born in Prague in 1936, Havel began his career as a writer and dramatist and later evolved into a leading dissident, helping to engineer the bloodless overthrow of communism known as the Velvet Revolution in 1989. Now retired from politics and devoted to human rights causes, he recently released his first book in 15 years, *Prosim Strucne* (*Briefly, Please*).

Columbia University and Carnegie Corporation are linked through a number of projects, including the Carnegie-Knight Journalism Initiative. Havel and Corporation president Vartan Gregorian have a long association built upon their mutual dedication to democracy, higher education, world peace and other global causes.


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Carnegie Corporation president Vartan Gregorian and Vaclav Havel.

Getting the Inside Story from Colin Powell's Biographer

Karen DeYoung, author of *Soldier: The Life of Colin Powell*, addressed an attentive audience at a breakfast hosted by Carnegie Corporation on behalf of grantee the Women's Foreign Policy Group (WFPG), a nonprofit educational organization that promotes women's participation in international affairs.

DeYoung, a veteran reporter for the *Washington Post*, gave an

(Continued on page 50)

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Author Karen DeYoung flanked by (left) Susan King, Carnegie Corporation vice president, external affairs, director of journalism initiative, special initiatives and strategy and (right) Patricia Ellis, president, Women's Foreign Policy Group.

insightful and detailed accounting of her experiences writing the book, including six in-depth interviews with the four-star general who became secretary of state. Her depiction of the son of Jamaican immigrants who, DeYoung reports, could have run for president but didn't want the job, covered in depth Powell's stellar political triumphs as well as bitter betrayals, and left listeners eager to learn more.

Tracking Journalism Initiative Progress

Periodic meetings of Carnegie-Knight Journalism Initiative grantees spotlight recent accomplishments and let journalism school deans and other professionals share thoughts on developments in the field. Two recent occasions stand out for innovative and thought-provoking content.

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Geneva Overholser, Curtis B. Hurley chair in public affairs reporting, Missouri School of Journalism, Washington Bureau.

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Matt Vree, Carnegie-Knight journalism fellow, University of California, Berkeley.

The program for August 2006 focused on presentations by the Carnegie-Knight News21 fellows, journalism students involved in innovative, hands-on reporting projects. In progress since the previous spring, their reports had been picked up by leading news outlets nationwide—from *The New York Times* to *LA Weekly*. Students demonstrated websites featuring their reports, which they had designed under the guidance of school coordinators with hi-tech expertise. (See stories at www.newsinitiative.org)

The January 2007 conference of journalism deans featured a talk by Geneva Overholser, Curtis B. Hurley Chair in Public Affairs Reporting, Missouri School of Journalism, Washington Bureau. The topic was, "On Behalf of Journalism: A Manifesto for change," which Overholser describes as "a document of hope for a difficult time." In it she offers the journalism profession "a panorama of possibilities…a reinvention of journalism that is richer and better than the old, with its essential values intact." (The report is available online at: http://www.annenbergpublicpolicycenter.org/Overholser/20061011_JournStudy.pdf)

At the same meeting, Alex Jones, director of the Joan Shorenstein Center on the Press, Politics and Public Policy at Harvard's John F. Kennedy School of Government, unveiled two new reports on surveys conducted by the Task Force on the Future of Journalism Education. "Mandatory Testing and News in the Schools: Implications for Civic Education" found that preparing students for mandatory testing is stealing time that might be better used to discuss and study the news. "The Internet and the Threat It Poses to Local Media: Lessons from the News in the Schools" reveals that online news sources are trumping both television news and the daily paper as a mode of classroom instruction, and that national and international news sites are overtaking local news sites in America's schools. [1, 2]

Welcoming the University of Dar es Salaam's New Vice Chancellor

In February 2007 the International Development Program hosted a breakfast to introduce Professor Rwekaza S. Mukandala, the new Vice Chancellor of the University of Dar Es Salaam, to the Corporation. Tanzania's leading university is a long-time grantee—one of the institutions supported by the Partnership for Higher Education in Africa, a consortium of foundations that includes the Ford, MacArthur, Rockefeller, Mellon and Hewlett foundations as well as Carnegie Corporation.

Vice Chancellor Mukandala, a Ph. D. in political science with a long and distinguished teaching career at the university, updated Corporation attendees with a presentation on the institution's accomplishments and long-range goals. He stressed the importance of building capacity and expertise in Information and Communication Technology and of promoting entrepreneurship education with the goal of graduating job creators rather than job seekers. An animated roundtable discussion followed. The breakfast was attended by Dr. Augustine P. Mahiga, Tanzania's Ambassador the United Nations, and other representatives of the university.

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Rwekaza S. Mukandala, Vice Chancellor, University of Dar Es Salaam, Tanzania.

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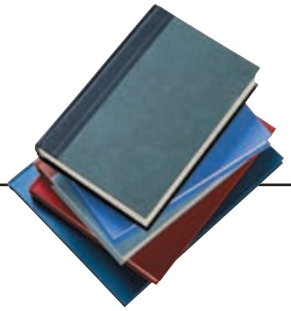
Narciso Matos, Carnegie Corporation program director, African higher education.

1 http://www.ksg.harvard.edu/presspol/carnegie_knight/news_in_schools_web.pdf
2 http://www.ksg.harvard.edu/presspol/carnegie_knight/internet_in_schools_web.pdf



Recent**Books**

School Reform, Corporate Style Chicago 1880 – 2000

BY DOROTHY SHIPPS
University Press of Kansas

"Although Chicago made school reform history in the twentieth century, the performance of the system's large majority of black, Latino and low-income students has not met reformers' expectations. This failure lies at the heart of a question facing urban school systems across the nation: Why, despite a century of reform, have city schools failed to become what their citizens want?"

A Carnegie Corporation scholar in the education department of Teachers College at Columbia University, author Dorothy Shipps was managing director of the Consortium on Chicago School Research from 1996 to 1999. It was during this period that she became convinced "nothing is more important for educators than to master the politics of urban schooling," and "urban school politics is fundamentally about power." In other words, it's not really about the students.

The book's chapters trace the development of the modern school system from its formative stage, beginning in the 19th century, through racial upheaval and political sea changes to the recent reform movements Shipps sees as yielding demonstrably poor results. How could so many powerful, civic-minded corporate activists have achieved so little, she asks? The author's careful research reveals why political reform agendas fail to affect the teacher-student relationships at the heart of performance improvements. For this reason, the lessons of Chicago can, and should, have far-reaching affects.

Immigration's New Frontiers

EDITED BY GREG ANRIG, JR. AND TOVA ANDREA WANG
The Century Foundation Press

"For all of the passion that the debate over comprehensive immigration reform has aroused, just about everyone agrees that the status quo is a mess."

Before 1995, about three-fourths of the nation's immigrants settled in just six states: California, Texas, Illinois, Florida, New York and New Jersey. In the decade since, influx into these states has dropped by a third, while twenty-two other states have experienced extremely rapid growth in their immigrant populations. In these "new destination" states, most immigrants are recent arrivals with limited English and low incomes. To find out how governments there have responded to burgeoning immigrant populations, the nonpartisan Century Foundation commissioned papers that would help readers interested in immigration reform understand the extent to which absence of a functional federal system has impacted other levels of government in five key states.

With grant support from Carnegie Corporation, social policy experts Greg Anrig, Jr. and Tova Andrea Wang compiled these papers into *Immigration's New Frontiers*. While each narrative presented is unique, the experiences of North Carolina, Iowa, Georgia, Minnesota and Nebraska share three overriding themes: (1) All the states initially showed a willingness to accommodate new immigrants; (2) Over time, all the states developed a more ambivalent attitude that tended to discourage acceptance of immigrants into mainstream society; (3) None of the states managed to find effective solutions to major public policy challenges posed by undocumented immigration. Indeed, if there is to be a workable solution, the editors conclude, "the federal government will have to provide it."

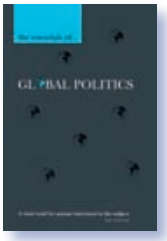
Foreign Aid: Diplomacy, Development, Domestic Politics

BY CAROL LANCASTER
The University of Chicago Press

Why is aid given? Today, a half century into foreign aid's existence, it is a familiar and expected element in relations between states. But the reasons for aid remain cloudy, author Carol Lancaster contends, because it is "difficult to grasp fully the welter of events and how important apparently small or hidden details can be. "We need to understand not only the domestic politics of aid-giving countries, but the interests competing for influence over aid's purposes and the manner in which governments manage their aid, to name just a few of many factors.

A Carnegie Scholar with decades of experience in U.S. government aid agencies, Lancaster provides case studies of five major donor countries—the United States, Japan, France, Germany and Denmark—focusing on aid's myriad purposes and its evolution over time. While diplomatic and developmental goals play a prominent role, humanitarian relief, commerce, culture and promotion of democracy have also been in the mix, she points out. The author is confident that "aid is with us to stay," but she warns that if the public cannot see how increased aid has accelerated development in a country, weakening support may pose "the most serious threat to the future of foreign aid."

The Essentials of Global Politics



BY RICHARD LANGHORNE
Hodder Arnold Publishing

Understanding globalization is important, says Richard Langhorne, because it is drastically changing the way we live our personal lives and the institutions on which we depend. Yet the term globalization is so widely used that its meaning has become obscured. This straightforward overview of global politics explains how, over the past two centuries, the interests and actions of the peoples, organizations and institutions of our world have become more closely entwined and integrated, and it traces the ways technological advances, changing values, political priorities and social mores have affected this growing interdependence.

Using maps, charts and timelines to clarify difficult concepts, Langhorne, a Carnegie Scholar, covers the processes and consequences of globalization, the threats of conflict and terrorism as well as environmental and humanitarian disasters. He identifies the most influential actors on the global stage and clarifies the role of governments, civil organizations, markets and industries. And he asks: how are the irreversible consequences of the process of globalization to be

made fair and broadly beneficial to the global community? While this critical question is beginning to be understood, he says, a plausible answer is not yet in sight.

Financing the 2004 Election

EDITED BY DAVID B. MAGLEBY, ANTHONY CORRADO AND KELLY D. PATTERSON
Brookings Institution Press

"The federal election of 2004 centered on the contest for the presidency," David B. Magleby reminds readers in the opening chapter of *Financing the 2004 Election*, due to "the intensity of feeling for and against the incumbent president, George W. Bush. These sentiments ran deep and motivated people to contribute to candidates, party committees and interest groups." Add to that the "war on terror" and the lingering doubts about the disputed outcome of the 2000 presidential election, and it's understandable that the 2004 election would break new ground in terms of the sums donated, and the sources.

How money was raised, spent and regulated in the 2004 federal election was also novel due to the Bipartisan Campaign Reform Act (BCRA) of 2002. Considered the most important piece of campaign finance legislation in nearly three decades, the legislation aimed to end the undue influence of soft money—stemming the funding surge from corporations, unions and wealthy individuals that had reached nearly $500 million in the past two election cycles. In nine instructive chapters, each written by an authority on money and politics, this book (written with research support from Carnegie Corporation) explores the changing landscape of campaign finance and outlines how individuals and interest groups found new ways to influence outcomes in 2004, continuing the inexorable rise in the costs of campaigns.

Memoirs of Nikita Khrushchev
Volume 2: Reformer

EDITED BY SERGEI KHRUSHCHEV
The Pennsylvania State University Press

While many Americans remember Khrushchev only as a Cold War bête noir, readers of his memoirs will form a more nuanced opinion. In *Volume 2: Reformer*, which covers the period from 1945 to 1956, the one-time Soviet Premier thinks back on the famine and devastation following World War II, through Stalin's death to the struggle for power within the Communist Party.

These were dreadful times, for the most part, and Khrushchev's recollections reveal the incompatibility between humanity and party policy. For instance: "I received letters from collective-farm chairmen that were simply heart-rending," he recounts of the early post-war days. " 'So, Comrade Khrushchev …we have handed over everything and now have nothing left. We are sure that the party will come to our aid.' …I knew of course he was deluding himself."

There are detailed descriptions of struggle and progress, from agricultural production to the space program, as well as political developments and behind-the-scenes machinations. There are also eye-opening descriptions of the family life of Joseph Stalin, the story behind the trumped-up "Doctor's Plot" and Khrushchev's views on the intelligentsia. Perhaps the most unexpected feature of this book, which was funded in part by Carnegie Corporation, is the translation of notebooks written by Khrushchev's wife, Communist Party official and propagandist Nina Petrovna, found by her daughters after she died.

Volume 1: Commissar 1918 – 1945 can be found in its entirety online at Google book search.

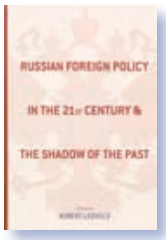
Why Not Parties in Russia?

BY HENRY E. HALE
Cambridge University Press

If the existence of political parties is inevitable and essential to electoral competition as many theorists claim, why does Russia remain nonpartisan more than fifteen years after Gorbachev introduced his democratizing reforms? The problem, according to political scientist and author Henry E. Hale, is that theories of party development only examine countries where political parties already exist—which creates a false sense of their inevitability and ignores the role of independent politicians.

Hale's extensive research in the former Soviet Union, supported largely by Carnegie Corporation, examines the puzzle of stalled party development beginning with Russia's first multiparty parliamentary elections in 1993. A number of surprising facts emerge: Russian voters recognize what parties stand for, for example, and party activists are ideologues who loyally vote the party line. The weakness of parties can best be explained by the laws of supply and demand, he contends; parties are producers of goods and services and candidates are consumers. According to market theory, the strength of political parties depends on the balance between them and other kinds of political organizations. Parties will dominate only when they learn how to outsell the competition.

Russian Foreign Policy in the 21st Century & the Shadow of the Past



EDITED BY ROBERT LEGVOLD
Columbia University Press

What light can history shed on the present, complex relationship between Russia and the world? Focusing on the underlying patterns that have marked four centuries of Russian foreign policy and that persist today, eight leading historians and political scientists explore such topics as the impact of the loss of empire, longstanding approaches to national security and the effect of globalization over time. This unique collection, written with support from Carnegie Corporation, reveals how Russia's approach to the outside world has evolved and helps pinpoint changes needed to allow the still unsettled land to take its place in the larger international setting.

To read about other Corporation-supported books, visit our web site: http://www.carnegie.org/reporter/12/reviews/index.html

FoundationRound up

Survey on Media Sector in Sub-Saharan Africa Cites Growth and Difficulties

A recent study found that the media sector is growing in sub-Saharan Africa, fuelled by democratic reform, globalization, economic growth and the availability of new technologies. Despite the good news, reform is still needed.

In January 2007 the African Media Development Initiative (AMDI) rolled out the most comprehensive survey to date, on the state of the media in Sub-Saharan Africa and the ways in which media outlets could be strengthened. Findings revealed that while outlets such as radio and print media have proliferated through the countries in the last 5 years, reporters still lacked the necessary skills and expertise required to act as "the fourth estate" in challenging the power of their governments.

Great obstacles remain, such as the lack of technical expertise and journalistic training, low standards in ethics and management, poor salaries and continued governmental control of key media sources. Research has shown however, that there is widespread consensus that the media could be potentially beneficial in affecting development and governance in Africa. "Fostering a stronger media in Africa is an indispensable part of tackling poverty and enabling Africa to attain its development goals," stated Wilfred Kiboro, formerly CEO of the Nation Group and a member of The African Media Development Initiative Advisory Group. "This study provides a unique template showing how donors, investors, media and media development organizations can collaborate in supporting and strengthening Africa's media sector."

Despite such obstacles the media are still seen as a platform for change and continued growth and "the AMDI study provides an invaluable set of insights on the media landscape in sub-Saharan Africa," says Stephen King, Director of the BBC World Trust Service. "It tells us that the sector is weak, but there are grounds for optimism. With this information, a consortium of partners can now begin in earnest to translate into reality the stated desire for a Pan-African media development facility by the Commission for Africa (a group formed by UK Prime Minister Tony Blair with the aim of taking a look at Africa's past and present and the international community's role in its development path)."

King further states that the media sector is moving in a positive direction with the growth of religion broadcasting and venues for creativity opening up in Nigeria such as Nollywood, the third biggest film industry in the world.

The survey spans 17 countries and was conducted by Ahmadu Bello University in Nigeria, BBC World Service Trust and Rhodes University in South Africa. Funding came from the International Finance Corporation, Irish Aid, the UK Department for International Development and the Bill and Melinda Gates Foundation.

For more information on the BBC Trust World Service or The African Media Development Initiative Summary Report, please visit www.bbcworldservicetrust.org/amdi.

THE PEW CHARITABLE TRUSTS

Helping Lessen the Burden of Student Loans After College

The Pew Charitable Trusts recently announced a $3 million grant to the Institute for College Access and Success in Berkeley, California, for their Project on Student Debt. The grant, aimed at expanding Pew's work to advance nonpartisan policy solutions to reduce student debt burden, will focus on initiatives to reform student loan repayment policies, ensure counseling for those receiving loans, simplify the federal financial aid application process and highlight inefficiencies in student loan policies.

The program is part of a wider Pew portfolio of projects promoting financial security for families around the country. Student loan debt has far-reaching implications for young people. Many are deterred from pursing valuable jobs in the public sector after graduation; others risk dropping out due to the many hours of work necessary to pay for tuition, or forgo college completely in an attempt to avoid debt. Those who do borrow heavily may remain at financial risk after graduation, which can result in delayed home ownership and saving for retirement.

"Education is crucial to the future of our young people and the nation's economic competitiveness, yet record student debt levels are creating financial straightjackets for many college grads and dissuading others from pursuing college at all," said Pew president and CEO Rebecca W. Rimel.

The LIBRARY *of* CONGRESS

Rare Books Made Available through Digitization

Rare and fragile books in the Library of Congress' collection just became a little safer. The Alfred P. Sloan Foundation, which makes grants in science, technology and quality of American life, recently gave a $2 million grant to the Library of Congress for a campaign to digitize some of the more vulnerable "brittle" books in their collections. The project called "Digitizing American Imprints at the Library of Congress" will include basic scanning of the volumes but also development of suitable page-turn display technology, capability to scan fold-outs, and the ability to capture tables of contents, chapters and indexes, that will be accessible to thousands of people worldwide.

The project is two fold, acting to preserve some of the rare collections such as: the Benjamin Franklin Collection, the Confederate States of America Collection, and U.S genealogy and regimental histories, as well as a pilot program for future practices in scanning high risk and vulnerable works. The works include many useful county, state and regional histories, diaries, memoirs from the Civil War.

"Digitizing American Imprints will make a major contribution to the collective body of knowledge that is accessible worldwide, further democratizing the information that is key to functional societies and economies," said librarian of Congress James. H. Billington.

A good number of works will now be available to anyone in the world, "in an open, non-exclusive and non-profit setting, thus bringing the ideal of a universal digital library closer to reality," stated Doron Weber, who is program director at the Sloan Foundation for the Library of Congress project.

For more information on this project at the Library of Congress please visit, www.loc.gov

(Continued on page 54)

CARNEGIE ENDOWMENT
FOR INTERNATIONAL PEACE

Carnegie Endowment Becomes First Global Think Tank

The Carnegie Endowment for International Peace recently redefined itself as the first truly multinational, and ultimately global, think tank. By opening three new centers in Beirut, Beijing, and Brussels, in addition to its longstanding offices in Moscow and Washington, D.C., the Endowment is pioneering the idea that in today's world a think tank, whose mission is to contribute to global security, stability, and prosperity, requires a permanent international presence and multinational outlook.

"We are undertaking a fundamental redefinition of our role and mission," said Jessica Matthews, president of Carnegie Endowment. Carnegie's "New Vision" reflects the urgent need for the United States—as the sole superpower—to understand the interests of others in pursuing its own agenda. By creating a global network of scholars and first rate policy research, the Endowment hopes to create collaborative links that can serve as a model for U.S. international relations, and demonstrate how other institutions can contribute to the strengthening of their governments and societies.

The Endowment's offices in Moscow, Beijing and Beirut are host to local scholars and experts, conducting research and events in their native languages on such topics as political change, economic and security issues, energy, the environment, trade policy, and legal reform. The primary mission of the Brussels office will be to establish and nurture contacts with influential European policymakers and government officials, while amplifying the European component of Carnegie's efforts through workshops, seminars, and consultations.

FORD FOUNDATION

Ford Marks Halfway Point of International Initiative to Strengthen Philanthropy

Independent foundations around the world are being supported by the Ford Foundation's International Initiatives to Strengthen Philanthropy fund. The initiative aims to help independent foundations that support grassroots solutions to poverty and injustice. The Foundation committed $100 million to the program, which began in 2005 and is expected to run through 2008. Currently the initiative supports 18 international organizations spanning 13 countries in sub-Saharan Africa, the United States, Latin America and the Caribbean, the Middle East, Eastern Europe, South Asia and Northern Africa.

Ford began the program in an effort to boost the role philanthropy can play in collaborative efforts among governments, civil society organizations and community groups to fight poverty and promote human rights. The organizations use funds from the program to enhance their own governance structures, augment their endowments and attract new funders to their work.

"Our work around the world is guided by the belief that solutions to the world's most complex problems need to engage the people and the communities living closest to them, " stated Susan V. Berresford, president of the Ford Foundation.

Through the initiative, Ford is supporting organizations such as TrustAfrica, an independent foundation governed by Africans that helps African institutions build consensus and work toward common goals. Ford has also supported The Dalit Foundation, the first grant-making organization in South Asia to serve the Dalit community, the most socioeconomically disadvantaged population segment in the subcontinent.

For more information on the Ford foundation or the International Initiative to Strengthen Philanthropy please visit www.fordfound.org/news/more/IISP.

Gates Foundation Launches Global Libraries Initiative in Three New Countries

Today, nearly 5 billion people do not have access to the Internet. Increasingly, those on the wrong side of the digital divide do not have the opportunity to access the valuable health care, education and government information that would improve their lives. In November 2006, the Bill & Melinda Gates Foundation launched the Global Libraries initiative with partnerships in three new countries: Botswana, Latvia and Lithuania. The initiative is expected to grow over the next seven years to support computers and Internet access in public libraries.

The $17.5 million in grants dispersed among the three countries will ensure that the latest training and technologies will make it possible for public libraries to provide open and free access to the Internet for all. People will be able to access information on job and business opportunities and health issues that concern them and simply communicate with others around the world. "Everyone should have access to the benefits of the digital age, no matter their age, gender, ethnicity, income level, or where they happen to live. Public libraries, with their history as centers of information and knowledge, are the ideal partner in this effort," stated Martha Choe, director of the Global Libraries Initiative.

The initiative partners with countries that are selected based on several criteria: national commitment to building a knowledge society and providing equal access to technology, demonstrated need, a strong library system and sustainability of critical services. Country partners provide significant matching funds to support public libraries and sustain no-cost access to information technology and training.

In Botswana, the foundation invested $1.1 million to support planning for a nation-wide program and up to five test sites where computers with Internet connectivity will be put in public libraries and village reading rooms. The government's goal is to provide equal access to information on the Internet for the majority of people in Botswanaand to help connect all of its citizens nationally.

Latvia received $16.2 million from the foundation for computers and broadband Internet connections in 874 public libraries, a wi-fi network for library users and three computers per library to keep up with demand. Basic computer training courses will also be given to patrons and personnel.

In Lithuania, funds from the Gates Foundation will go towards helping plan for no-cost access to computers and the Internet in all 1,382 public libraries.

This initiative builds on past successful collaborations. In Chile, for instance, the foundation worked with the national and local governments to provide no-cost access to computers, Internet access and training in some public libraries. Now *all* of the libraries in Chile have such services. Three years after the program started 75,000 people in Chile have gotten computer training from their local library.

For more information on the Global Libraries Initiative or the Bill & Melinda Gates Foundation, please visit:www.gatesfoundation.org

A Timeless University... *Continued from page 39*

■ Teachers who want to learn more about effective teaching practices.

Validated in over 2,000 classrooms, CLASS clearly describes multiple dimensions of teaching and standardizes techniques for monitoring and responding to kids' cues in the classroom. "It's hard to train people to see these behaviors in a measurable way," Pianta admitted. "But if engineers and biologists can deal with complex systems, so can we." The CLASS Web site illustrates the rating system's three broad areas of classroom quality—Emotional Support, Classroom Organization and Instructional Support—which are common across all grades.

Within each broad area are more specific definitions to help the teacher understand exactly what the category means. These can be explored through a combination of Web-based review, training sessions and an ancillary program, "My Teaching Partner," a Web-based teaching tool that allows users to learn from videos of real-life classroom situations. "This feature allows teachers to access hundreds of examples of how to handle a classroom situation: how to respond to students' emotional cues when they are off task or acting out; how to effectively de-escalate or re-engage, for example. When they see it, they can learn it," Pianta said. "We've been able to show, within one year of exposure, a definite improvement in practice quality."

Sustaining TNE at UVA

Forecasting life after Teachers for a New Era, Victor Luftig said, "we want to be small and fantastic. Our value is in producing models that apply globally. That's our number-one priority right now, and it's the right role for a research institution to play. " How to sustain the benefits of the grant over the long term has been on provost Gene Block's mind more or less since the beginning, although he might not have envisioned how much of his own time and interest would be invested along the way. "I thought I would host the seminars only for a while," he commented, "but I was caught up and I learned something. It was selfish; simply doing something I liked." To keep the program going strong, he has established a five-part strategy for sustaining the work begun through Teachers for a New Era:

■ The TNE Research Advisory Council, chaired by the provost, will guide future TNE research.

■ Three years of start-up funds have been provided for the Center for the Advanced Study of Teaching and Learning, which will be responsible to Block, and will ensure that the Curry School of Education continues to benefit from TNE's research-driven culture.

■ The Center for the Liberal Arts, which is directed by the current TNE project manager and reports to the provost, will manage College of Arts and Sciences engagement with in-service K-12 teachers.

■ Raising TNE matching funds to support the induction residency work has been presented to the University Development Office as a high priority.

■ The Teacher Education Committee, reestablished by and reporting to Block, has been charged with managing and sustaining TNE efforts undertaken jointly by the School of Education and the College of Arts and Sciences.

Common Courses and Counterpoint Seminars will continue, given faculty replacement and graduate student support; funds that were needed to launch these courses are no longer essential due to the faculty's interest in enlisting for intellectual rather than financial reasons. Dean Ayers has authorized any needed funding until additional support comes in from the College of Arts and Sciences capital campaign. Meanwhile, endowments will support Curry School of Education evidence-based and interdisciplinary efforts, while the induction, believed to have great promise because of its positive early results and replicability, will be funded by the local school districts that benefit from the program.

KAREN THEROUX

Victor E. Luftig, director of the University of Virginia's Teachers for a New Era programs

At the end of the day, what might Thomas Jefferson have to say about Teachers for a New Era's impact on the University of Virginia? Surely the man who wanted education available to every citizen, and who counted founding the University as one of his top three achievements, would see it as a rousing success. As evidence, here's what Jefferson said about the university in 1821: "What object of our lives can we propose so important? What interest of our own which ought not be postponed to this? Health, time, labor—on what in the single life which nature has given us can these be better bestowed than on this immortal boon to our country? The exertions and the mortifications are temporary; the benefit eternal." ■

EVEROD NELSON

The Law and the War on Terror: Where We Are Now

by Noah Feldman

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I.

Almost as soon as the towers fell on September 11, 2001, lawyers began to ask and advise on the question of whether the U.S. government should engage with those responsible—and their associates—as criminals or as enemies in war. Both options seemed logically possible. On the one hand, the attacks perpetrated by al-Qaeda certainly violated U.S. laws, and previous terrorists, including those who planned and executed the attack on the World Trade Center in 1991, had been tried as criminals. On the other hand, these attacks were on an unprecedented scale; came from outside the country; and were understood as acts of war by those who planned them out. The attacks of 9/11 were not the acts of a state, but at least according to al-Qaeda, they were directed at a state.

As it turned out, the U.S. government's approach to the crime/war dilemma was to treat alleged members of al-Qaeda as both criminals and as wartime enemies, sometimes alternately, and sometimes simultaneously. Congress acted within a week, passing on September 18, 2001, a resolution authorizing the use of military force against those responsible for 9/11, their associates, and those who harbored them. This document, known to initiates by its acronym AUMF, was based in part upon other resolutions that have come to do the legal and political work that a declaration of war did for an earlier generation. Where it differed from its predecessors was in its extraordinarily open-ended description of the adversary. To fight an asymmetric, non-state enemy, Congress seemed to say, the executive branch must be able to range far and wide in targeting, unconstrained by the niceties of a more ordinary war where the enemy forces can be identified by their uniforms and their nation of origin.

The executive branch, we now know, adopted for itself an interpretation of the congressional resolution that was at once embracing and dismissive. It was embracing insofar as the Bush administration read the AUMF as allowing it to detain any suspected al-Qaeda members or associates wherever they might be, to hold them indefinitely and without counsel wherever it chose, and, in some cases, to interrogate them using methods that would otherwise have been prohibited by U.S. and international law. It was dismissive in that the same government that relied on the AUMF for these extraordinary powers also maintained that it would have had the same powers even if Congress had never passed the resolution because, as the sole holder of the executive power and as commander in chief, the president had the inherent constitutional right to do what was necessary to defend a nation under attack—a power that Congress might confirm or even enhance but lacked the power to restrict.

With the two justifications of congressional and constitutional authority in hand, the executive branch undertook its own offensive in the global war on terror. Afghanistan was invaded and the Taliban, who had harbored senior al-Qaeda figures including Osama bin Laden and Ayman al-Zawahiri, fell quickly. In the aftermath, several hundred non-Afghan Muslims who were found in or near Afghanistan were detained, many of them handed to U.S. authorities in exchange for bounty. Their status posed obvious legal problems. They wore no uniforms, and though most carried weapons, so did every herdsman in Afghanistan who could afford one. Their presence as non-Afghans in Taliban Afghanistan strongly suggested some degree of al-Qaeda affiliation, but it was not as if al-Qaeda fighters carried identification. They did not fit the paradigm of ordinary prisoners of war, but neither could it be said immediately that they had committed any crimes.

These men, and some other suspected al-Qaeda members apprehended elsewhere in the world, were transferred to detention facilities hastily constructed on the U.S. naval base in Guantanamo Bay, Cuba—a twilight zone for men whose legal status was itself of a twilight hue. The U.S. had leased Guantanamo in perpetuity when Cuba was little more than an American controlled banana republic. Since Castro's revolution, the U.S. had continued to exercise control there over Cuban protest—but crucially for the Bush administration's legal strategy, not sovereignty. Guantanamo was therefore of the United States but not in it. The idea was that the government could do what it wanted there without falling inside the reach of U.S. law, whether statutory or constitutional.

By happenstance, one of these new detainees was American born. This accident meant that Yaser Issam Hamdi came in for special treatment. He was transferred to a military brig in the U.S. There he was joined, metaphorically though not literally (since both men were

kept in solitary confinement in different locations) by another American, a Muslim convert named Jose Padilla. Padilla had not been to Afghanistan, but he had apparently consorted with terrorist types in Yemen and Pakistan, and may have been planning attacks on U.S. soil. What Padilla had most in common with Hamdi was that both were held on U.S. soil without criminal charges or access to attorneys or indeed to anyone else. If the Guantanamo detainees were in a place that was off the grid, Hamdi and Padilla were off the legal grid even inside the United States.

II.

More than a year after 9/11, Congress and the president had acted in the war on terror, but the third branch of government, the judiciary, had done exactly nothing. It is a peculiar and quirky—though by no means necessary—feature of the American system of government that the courts only act when they are asked to consider the case of a particular individual who either has been harmed or has been placed in jeopardy of life, limb, or liberty by the state. Despite popular perceptions to the contrary, the courts do not always have the chance to say what the law is. First a case must come before them, and then they must agree to take it.

Over the next several years, however, cases did begin to come to the U.S. courts, and to one degree or another, these cases have been heard and decided. Through them, we begin to develop a picture of the how the law and the war on terror truly interact. The cases of the two Americans, Hamdi and Padilla, were among the first to be dealt with in definitive terms, and they generated some important, disturbing, and fascinating results. First, the executive branch needed to explain how it could hold them incommunicado without any time horizon. To do so the Bush administration gave them a legal name, one that has stuck: illegal enemy combatants. The term makes them more than ordinary criminals and less than soldiers in an enemy army. An illegal enemy combatant is one who has taken up arms against the U.S. but failed to follow the laws of war. According to the Supreme Court, the AUMF authorized the president to detain such combatants until the end of hostilities—which could be indefinitely.

Nevertheless, the Supreme Court held that in Hamdi's case, an enemy combatant has at least some rights. A plurality of the Court—four justices—said that Hamdi was entitled to due process of law under the Constitution, which usually means the chance to be given notice of the charges against him and the chance to refute them before a nominally neutral decision maker. This was an important precedent, because, at least in principle, it denied the president the authority to hold detainees with no formal review whatever. Two justices—the unlikely combination of the arch-conservative Justice Scalia and the ultra-liberal Justice Stevens—thought that where a U.S. citizen was on U.S. soil where the courts were open for business, he had to be tried as a criminal in a regular trial, not held as an enemy combatant. But this view did not carry the day.

Another principle emerged from Padilla's case as it played out in the Supreme Court and the lower courts: that the government may treat a suspected terrorist as an enemy or a criminal or both. Padilla had been captured in the U.S., and since the Supreme Court ducked his case by saying it had been brought in the wrong court, it was unclear whether he needed the full-dress trial that had been denied to Hamdi. The government ultimately transferred Padilla's case to the ordinary courts and charged him with conspiracy. Although an appellate court expressed its outrage—the government had, after all, been claiming all along that Padilla could not be charged in federal court because of the circumstances of his case—the Supreme Court allowed the transfer from military to civilian control. As of this writing, Padilla remains in confinement, awaiting his day in court.

The phenomenon of the enemy-criminal, though, is not limited to Padilla. In Guantanamo, where those detained are held as enemy combatants, the process of putting them on trial for war crimes has begun. This process had its birth when the Supreme Court held that, despite the Bush administration's best efforts to put the detainees out of the range of U.S. law, the federal statute conferring the right of habeas corpus on detained persons applied to them even in Guantanamo. This meant that, unless Congress changed the law, the detainees would have their day in court to hear why they were being held and to give reasons for their release.

Congress did later change the law to exclude the Guantanamo detainees from seeking habeas corpus. Nevertheless, the symbolic significance of the Court's holding was profound. In effect, the Supreme Court said it would not recognize the claim that the U.S. could hold human beings in a place where no law at all would protect them. And in some form, the message got through to the White House. The president put in place tribunals in Guantanamo to try the detainees for war crimes. In another landmark case involving Salim Ahmed Hamdan, bin Laden's driver, the Supreme Court found those tribunals not to have been authorized by the AUMF in the special form they took. In the aftermath of the Hamdan decision, Congress drafted a new statute delineating the terms of the tribunals, and the president signed it. The law attempts to insulate itself from review by the courts, and it remains to be seen whether the detainees will get the chance to argue that a hearing before a tribunal of military officers falls short of what the Constitution may entitle them to seek.

Practically speaking, then, the Guantanamo detainees have been afforded limited rights to limited tribunals, in which secret evidence may be used and the verdict is rendered by servants of the same military that brings the charges. They are not entitled to lawyers, although some have them anyway. This is hardly due process of the kind recognized in ordinary U.S. criminal trials. However, smart and aggressive lawyers have in some cases managed to publicize their clients' circumstances effectively enough to get them released to their home countries, which in some cases at last would doubtless mean an improvement in their circumstances.

It is probably too soon to render a final verdict on the way the law and the war on terror have interacted in the U.S. in the immediate post-9/11 years. But it is not too soon to draw some conclusions. Congress has, for the most part, given the president almost everything he could ask for in terms of authority. That has not stopped the executive from, in almost every instance, trying to take more even than Congress offered, stretching the law to its limits and then beyond, often without thinking through the likely consequences of its actions. Meanwhile, the courts have adopted a split strategy. In well-publicized decisions, they have confronted the president and reined in some excesses, thus standing up for the rule of law. In practical terms, though, they have largely accommodated the executive and Congress by charting legal ways for them to do what they had previously sought to do unlawfully. The law stands for our aspirations to fairness and justice—but remains, in the end, in the service of the state. ■

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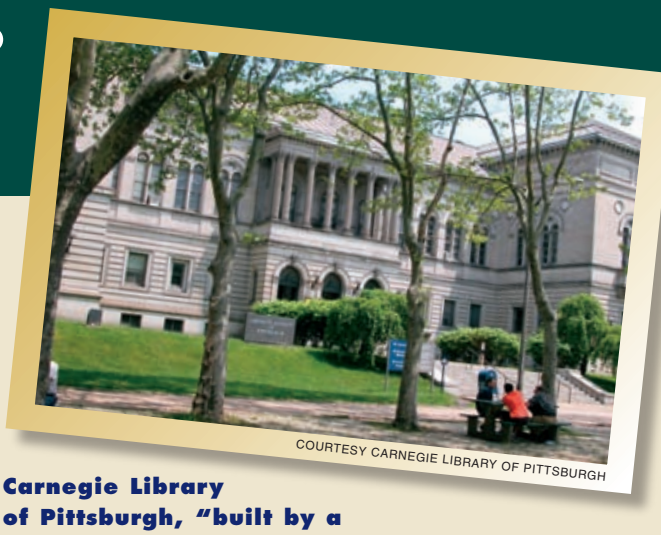
A FOOTNOTE TO *History*



COURTESY CARNEGIE LIBRARY OF PITTSBURGH

Carnegie Library of Pittsburgh, "built by a Pittsburgher with Pittsburgh money for Pittsburgh," in the words of Andrew Carnegie.

Carnegie libraries have served American cities and towns, large and small, for well over 100 years. In 1892, Andrew Carnegie provided $30,000 to build a free public library in Fairfield, Iowa, launching a project that continued until his death in 1919. Of the 1,420 such institutions built throughout the United States with Carnegie funding, nearly half still perform their original function, albeit with vastly updated technology.

In October 2007, the Carnegie Medal of Philanthropy ceremony will return to Pennsylvania where Andrew Carnegie's industrial empire was based, focusing public attention on the grandest of these institutions—Carnegie Library of Pittsburgh. Founded in 1895 with an initial gift of $1.12 million, the library shared its quarters with a music hall and, after additional construction, with several museums comprising the Carnegie Institute. Once construction was complete, the library was maintained by the city of Pittsburgh as Carnegie requested.

Carnegie did not specify that the libraries be named for him…nor did he insist on a single architectural style. Carnegie's personal secretary, James Bertram, ran the library construction program, which had no formal name yet is considered among the most influential philanthropic programs in American history. Except for its current work in African university libraries, this program ceased activity in the 1920s. But Andrew Carnegie's belief in bringing education and culture to the masses had set the stage for the Corporation to become associated with virtually all major library developments throughout the U.S. and Commonwealth countries.

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