

PrawfsBlawg “Where Intellectual Honesty Has (Almost Always) Trumped Partisanship”

TUESDAY, APRIL 05, 2005

Aloha!

Welcome to PrawfsBlawg!

The long-term mission here is to mimic the format and the success of the [Vlokh Conspiracy](#). But with at least one twist: first, there will probably be more (or only) center-left commentary. Doesn't that make it seem like [Crooked Timber](#) or [Balkinization](#) or [Left2Right](#)? Sort of, but this blawg will mostly be by law people, and mostly quite junior, including some who might not even be prawfs yet.

Let me say something briefly about myself, as blogger-ab-initio. I am currently a lawyer in DC, about to start teaching in a couple months at Florida State University College of Law, which is located in Sweet Sassy Tallahassee, aka Funky T-town. I write mostly in the area of criminal law and the philosophy of punishment, but I have opinions on myriad issues, though not too many in a Cliff Claven kind of way. Others who may join this blog are legal academic "types" though they may choose to write under pseudonyms too.

Please see the policies section on the About page if you have questions about comments or emails, etc.

So here it is. Bookmark it. Come back regularly. Things will be exciting here.

THURSDAY, APRIL 07, 2005

The Economics of Admissions

I don't get it.

My buddy [Orin](#) is miffed by anecdotes that ~~Bob~~ Brian [Leiter](#) (poor Brian! he was misnamed in the WSJ [earlier](#)) has shared regarding the "stratagery" going on at law schools and colleges, through which lower ranked schools are apparently turning down candidates who are expected to end up at higher places, or at least are placing extra obstacles before conferring admission.

Doesn't this make sense though, even if it instrumentally helps schools out for US News purposes? Is it really that bad? What it does is moderate the tendencies of the superstar

(winner-takes-all) economy (as [Robert Frank](#) has called it), where people at the top vacuum up all the goodies (or offers of spots).

When I was applying for college, I got rejected at Princeton, waitlisted at Brown, and accepted at Harvard. I always suspected there was some collusion: Harvard happened to be my first choice by far (even though I may have received a better education at Princeton or Columbia). So if Princeton had given me a slot, it would have diminished (though not eliminated) its ability to take someone who would have gone there in the first instance. Of course, Princeton probably knew what they were doing in rejecting me, but the point stands: there's nothing wrong with seeking out extra signals of commitment.

FRIDAY, APRIL 08, 2005

An exhilarating first two days!

Thousands of visitors!! Come, hang around, drink scotch and bubble tea with us.

A few personal reactions. First, comments have been much better than I expected: none of the crap, or little of it at least, that I had been warned about. So I'm glad I was proved wrong. There's some concern that we might end up with spam in the comments; I understand that's happened to my man Kaimi at www.tutissima.com, which is why they closed comments down. It appears that K, N and Chad took a break but they're back now. Perhaps they'll end up throwing some bones in this blog too, if our imperial ambitions are eventually realized. They would provide some more balance to the center-left mush Leib and I sometimes push.

Second, blogging is incredibly rewarding, but we have to pace ourselves for the long haul. I think it gets faster as we get better. There seems to be a risk of blogger burnout to consider.

Third, it's clear that on the tech side, we're screwing all sorts of things up so far, or at least not optimizing our form and format, but I'm optimistic that we'll address some of the issues soon.

Fourth, blawging about things that students care about (grades, jobs, admissions, hiring) is popular because students are surfing the web in their classes too much!

What am I missing?? Reactions generally?

Please note blogging may be slow to non-existent over the weekends. Or more thoughtful! But no promises.

Bon weekend.

WEDNESDAY, MAY 25, 2005

My Dispensability Has Been Proven

As some of you have noticed, I've been away for the last ten days, but I'm glad to see (and of course hardly surprised) that the blog has flourished in my absence. I won't speculate about which ways the arrows of causation are running here, though I do want to thank Ethan and our guest bloggers for running the asylum so proficiently...

Anyway, lots to catch up on, but I thought I'd report first on the most important development in my life that occurred recently. Last Thursday night, in a little village called Khad Nes (aka Had Ness), which overlooks the Kinneret (Sea of Galilee), I became the luckiest guy on earth.

Wendi Adelson agreed to marry me. She now wears what she likes to call a "big girl ring," which I find has proven a worthwhile investment in terms of its deterrent powers alone.



All I can say is: Wow, did I win the lottery of life. And it is a sentiment with which my friends and family eagerly share.

Posted by Administrators on May 25, 2005 at 10:36 PM

MONDAY, AUGUST 15, 2005

Speeding towards T-town

Given that my partners in crime here have been so "serious" of late, I'll borrow this space for a few personal ruminations after having been more or less off-blog the last week. Like Ethan (in June) and Kaimi (in July), I had to pack out and move to my new school recently. Instead of taking the 95 down the coast, I figured we'd enjoy the drive down Route 17 until we got to Charleston, SC. What a jackass move. The roads were slow, and I must have stopped through every town in Va, NC, SC, and Georgia!

We were almost out of Virginia en route to NC when I got pulled over for speeding (my main non-personality vice). The kindly officer asked me if I was in law school. I said,

actually, I'm about to start teaching at a law school (I'm guessing he saw a teacher's manual to a casebook in my backseat). He said, well, I guess you know why I pulled you over. He informed me that Virginia has draconian speeding laws; had I been going just a few miles faster I would have been required to appear before a magistrate judge and spend the night in jail. Jiminy Crickets. Of course, he recognized that I wasn't driving dangerously (there was nary a car on the road at that point and I wasn't swerving or anything), so I got off with a mere 225 dollar ticket. This was probably my only speeding ticket in memory, and while I think the penalties are a bit severe, I know that I have nothing to complain about. If legislatures think speeding is the near-equivalent to crystal meth trafficking, then so be it. That's democracy. I happen to think that it would be better if we could adopt more pre-commitment strategies to avoid speeding. My own strategy is to drive a weak-engined Civic, btw. But that's hardly sufficient it seems. (Parenthetically, Ed Cheng (Brooklyn) has an interesting [paper](#) on speeding and Napster and structural impediments to law-breaking.)

Anyway, Charleston SC is a glorious place to spend a night or twelve, eat pralines, and go on mule-drawn carriage rides. We spent less than 16 hours there, but it made me want to go back soon. We missed Savannah on the way down, but I gather it's not too far away and worth its own trip. And T-town is growing on me by the nano-second. As I write, I'm sitting in my study overlooking a pastoral golf course. The home I'm renting for the year lends insights into the American dream, and its allure. I'm paying less in rent now for a 2400 sq. foot home than I did for my 1BR in apt in Dupont Circle. Everything else in TLH seems about the same price as big city living--restaurants, movie rentals, upscale groceries are all the same. And so are Target, Walmart and CVS. You'd think that there'd be lower prices when the real estate is lower-priced; but my quick perusal of gas prices belies that. It seems gas prices are higher in the poorer parts of town here. Maybe that's because there's a higher likelihood of robbery, but it seems weird still.

THURSDAY, SEPTEMBER 01, 2005

Reflections on the First Two Weeks of Classes

To blog about more fruity fare in the wake of all the devastation and death of yesterday seems odd, but life must go on, and people don't read this blog merely to be morose. I've been meaning to write lots lately but time kept slipping away in the first two weeks of classes. Happily, I have a moment or two now to share some quick thoughts. In future posts, I hope to weigh in on some of the other things my co-bloggers have brought up, especially the internet shaming issues.

With respect to teaching, life is surprising. Even though I had taught for four years when I was in graduate school, it was to undergraduates in sections, and so I thought teaching law students was going to be very very different. Turns out, not so much really.

Still, I was entirely petrified the first day for my bail to jail crim pro class. I skipped eating to minimize the chances of puking; that I didn't puke, I view as a signal triumph of the week. Indeed, once the class started, all was calm and fun.

Unsurprisingly for a rookie, I made a few important mistakes and one discovery, all of which may be of some interest or use to current/future prawns. First, to my chagrin (and that of my students), I was radically over-ambitious about the amount of material I could cover in my 100 minute classes. (Dan Solove, you were right of course!) I realized that 25 pages of casebook reading was more or less enough for a class that length, and that aiming for more would be a burden on not only my students but also on me. I rationalized this decision by realizing that it's much more fun (and educationally beneficial) to dig more deeply into the reading and develop the skills of students through role-plays and more socratic method than it is to simply try to cover more material over the course of the semester by lecturing or moving quickly.

Second, I could tell my (upper-level) students were not thrilled with being cold-called, even though they recognized the incentive to prepare that created, and the differential benefit of a class for which they prepared from one for which they did not. Sure enough, with these issues alone, a bunch of students voted with their feet the next day, and enrollment dipped--notwithstanding my apology to the class over email that first night, which stated bluntly that I assigned too much reading and would imminently adjust the syllabus, and that I would henceforth split the class into two groups and would only call on one side each day.

Seeing the dip was not a great feeling, especially as one begins, but the brave souls I have now in my class are a joy to teach--they are motivated, bright, and on fire. I can't imagine a better group with which to begin my law teaching career. The seminar that I'm teaching in tort theory and punitive damages has had a similar dynamic. Strangely, I've realized, seminars can take substantially more work to plan than courses.

One last point. I never much cared for powerpoint or used it before, but I decided to take a chance and I now use it for the crim pro course. I have to say: I love it. The authors of the excellent casebook I use (Miller and Wright) have some barebones powerpoint slides that they make available to prawns, and I have altered and added various slides too. What's best is how powerpoint totally liberates me from the podium and the stage. I simply post the questions that would be my lecture notes on the slides, and have them video projected onto a big screen. With a remote clicker, I can freely wander around the classroom and make sure my no-Internet rule is being enforced, and more importantly, I can go up to a student and listen carefully to her answer. (Looking back in hindsight, I wish I had used powerpoints during my job-talks; again, not to flash answers, but just to use as outlines or guideposts for my own ideas or for facilitating discussion. Powerpoint is an invisible crutch (that happens to be visible and that doesn't really appear like a crutch).)

The strangest thing is that as I wander around and ask questions in the class, I feel as if I'm somehow channeling Dan Kahan, my former evidence prof. Weird. And for what it's worth, Ethan, I haven't yet worn jeans, but I have ratcheted down the wardrobe from suit and tie the first day to shirt with no tie by day 3. But I still wear pants.

I'm off to NYC for the weekend tomorrow for a good friend's wedding, so light blogging (again) until later in the weekend. There'll be some good stuff coming up here at Prawfs: we'll be doing a group reaction to Akhil Amar's new book, as Paul will explain in a forthcoming post, and Akhil will be responding. And who knows, maybe Justice Breyer will be ~~discoursing on~~ flakking his forthcoming book, Active Liberty. Future guestbloggers this month include Mark Fenster from Florida and Doug Lichtman from Chicago. Next month, the inimitable Kate Litvak from Texas will be joining us for a stint.

FRIDAY, SEPTEMBER 09, 2005

Ratios

A reader writes:

I was wondering if you would be willing to start a discussion/comments thread about the number of AALS interviews v. number of job talks given by people who successfully went through the process (and then the number of offers that materialized).

I'm on the market this fall, and I've begun receiving some calls and scheduling some interviews, but I have no frame of reference for how the numbers work. For instance, if I have 10 interviews, how many job talks should I hope for? And is 10 interviews mediocre or impressive? And how does the time table work for getting calls, i.e. the AALS register was published to law schools approximately 1 month ago, so is now about the time that most committees are calling people, or does the window stretch-out to 2 months after the FAR sheets were distributed?

I've been told by a 1/2 dozen people that the job market is "flukey" - so I don't anticipate gaining anything more than circumstantial anecdotes. However, I always enjoy the anecdotal comments that you guys are able to generate and attract, so I'm hoping to read some on these issues.

My sense is that there is no predictable ratio. I think I had one callback for every four first rounds and probably one offer for every two schools at which I did callbacks. I know others who had a "worse" callback ratio but a higher offer ratio. I was thinking

there'd be a good opportunity to do some empirical work here, especially if everyone who Solum reported on would report (truthfully and anonymously).

As to when schools make calls, my recollection is that it goes all the way up to the meat market and sometimes even there a space will open up and you can get squeezed in on rare occasion. So don't give up hope (or count your chickens) until much later. As exhausting as the process is, you must pace yourself emotionally. It's a marathon, not a sprint. I'd be happy for others to weigh in on their experiences.

WEDNESDAY, OCTOBER 12, 2005

Family Ties in Prison

Thanks to the [indefatigable Doug Berman](#), I just came across [this article on CNN](#) about how prisons across the country are trying to cope with increasing numbers of women (and specifically mothers) behind bars. As it happens, Ethan, Jennifer Collins (former guestblogger and prawf at WFU) and I are busily drafting our piece tentatively entitled "Criminal Justice and the Antigone Problem: When Should Family Ties Matter?" The piece examines how the criminal justice system contains various sites that subsidize family interests (e.g., testimonial privileges) and we have adopted a semi-Spartan position that, at least for matters prior to conviction, the state should not be in the business of such subsidies or advancing of family interests. However, after sentencing has been determined, we are trying to articulate which principles should govern accommodations to family interests, particularly in the context of incarceration. In any event, the CNN piece provides some good grist for the mill.

Programming note: blogging may be a bit light on some of our parts as Yom Kippur begins this evening. For those who are fasting, have an easy one, and for everybody, please consider a donation to Mazon.org (a hunger relief organization that does great deeds for Jews and non-Jews alike).

SUNDAY, MARCH 12, 2006

I went to the chapel...

As Paul [reported](#) a couple weeks ago, I recently got married.



Here are a couple of the choice pics of the Osita in her unfailing loveliness. If I can dig one up, I'll try to post one later with Ethan and me, doing the Kossotzky or some variation. The wedding was in S. Florida, and two days later we took

off to Club Med in San Salvador (Columbus Isle), which is an island in the Bahamas. Notwithstanding a couple glitches (the first night, they gave us a room with two beds!), I have to say that at least this Club Med was an awesome place for a honeymoon. It's adult sports camp with tons of delicious food and fun Canadians as GO's (camp counselors). What could be better? One of the best features of Club Med is its all-inclusive nature; one can go a whole week or more without having to engage in the frustrations of daily commerce, and because everyone else is on vacation around you, it just makes for a great environment to recharge the batteries. Never having been to a Club Med or the Caribbean before, I highly recommend them both for canoodling and other joyful purposes.

WEDNESDAY, MARCH 22, 2006 -- THIS IS BEFORE MIAMI LAW

Family Ties, etc.

So, there's been a surfeit of good news lately. Nearly four weeks back [I got married](#). Upon return from the honeymoon, I discovered to my great delight that I'd been offered a job at Washington University in St. Louis (the Osita and I go this weekend to visit and we're very curious to hear recommendations about St. Louis points of interest). And last night, WFU prawf (and erstwhile PB guest) Jennifer Collins, Ethan and I sent off to the law reviews our draft of "**Criminal Justice and the Antigone Problem: Should Family Ties Matter?**"

THURSDAY, MAY 25, 2006

Gementera Goes To Prison

In part because of my [academic interest in alternative sanctions](#), and in part because of my [representation](#) in the Ninth Circuit of a bunch of prawfs worried about shaming punishments, I've [blogged a bunch of times before](#) about the [Gementera](#) case.

Well, I have more sad news to report. Notwithstanding Gementera's earlier shaming punishment -- in which he had to hold a sign for eight hours outside a post office that said "I stole mail. This is my punishment!" -- the defendant Shawn Gementera has now been sent to prison for violating his supervised conditions of release: **by engaging in mail-related theft again.**

Law.com has the story [here](#). (Hat tip to patent lawyer extraordinaire [Ted Chandler](#).)

Lest I be chastized by [Greg Yair](#) or the good folks at the [Empirical Legal Studies Blog](#), I don't want to make too many generalizations from this one data point. But [those](#) who have been pushing the specific deterrence angle regarding shaming punishments are going to have a tougher time pushing their case in the public sphere now that the most

famous recent shaming punishment has appeared to have had no effect whatsoever on the offender. Whether that's true for general deterrence, well, we'll have to wait until Jon Klick or someone from ELS devises some nifty experiment. Anyone keen to assess the prevalence of mail theft pre- and post-February 2006 in the Bay Area?

TUESDAY, SEPTEMBER 19, 2006

How to make a great conference

This past weekend in NYC, Columbia Law School hosted an absolutely first rate conference on [Tort Law and the Modern State](#). Kudos to Prof. Cathy Sharkey of CLS and Thelma Twyman for flawless execution. I've only been in the teaching business a bit more than a year and have attended about a half-dozen conferences but this one stands out. Why?

For one thing, the conference was run as a colloquium, by which the papers were by and large circulated two weeks in advance of the conference and the speakers operated on the assumption that the papers were read. (The truth is that more than two weeks is needed but academics tend to drag their feet.) In addition to the discussants of the presented paper, there were invariably many participants who wanted to weigh in on the various papers. This raises a conundrum: should there be back and forth between the presenter and each question from the audience or should the presenter wait until all the questions are first articulated, and then respond to those points at the end in a more time-compressed period. At the Torts conference, the former strategy was initially chosen but then as time ran out, the second strategy was used. I'm convinced that were I the speaker whose paper was being workshopped, I would want to ensure all the questions were raised before I opened my mouth (and inserted my foot). Where time is limited, the conference discussion is usually better off by having more voices weigh in, especially when virtually all the attendees are a who's who of leading scholars in the area.

All this is to say that my [earlier skepticism about the intellectual value of conferences](#) needs qualification. Many [academic conferences are worth going](#) to for "[truth-insensitive](#)" reasons, but some conferences, especially those run like this torts conference, are worth going to for truth-chasing ones as well. PrawfsBlawg, I am happy to announce, will be hosting its own much smaller-scale version of a (truth-chasing or truth-insensitive?) public law workshop at the end of this semester in Miami. Details forthcoming.

TUESDAY, OCTOBER 31, 2006 IN MIAMI

Whither Punitive Damages?

I've been on the road a lot the last ten days and will continue to be moving this week thru next, shuffling among 3 weddings, 3 talks, and two conferences. But I didn't want

to let today pass without some mention about punitive damages. That's because this morning, the Supreme Court will hear arguments in [Philip Morris v. Williams](#). The Times has its obligatory editorial [here](#). And in today's SSRN email from Adler and Bix, there is mention not only of [Criminal Justice and the Challenge of Family Ties](#) (finally, the SSRN backlog is clearing!), but also Brooklyn Law's [Tony Sebok](#)'s latest piece, [Punitive Damages: From Myth to Theory](#).

This semester at the University of Miami (and next semester, back at FSU), I'm teaching a seminar on punitive damages. It's been a great class, to my mind. We read the relatively short constitutional history of the Court's regulation of punitive damages, along with leading theoretical accounts of punitive damages and other interesting (non-SCOTUS) punis cases. Additionally, the students in the seminar have also prepared for today's arguments by reading the briefs on both sides as well as various amicus briefs lodged (chiefly the ones by academics). Next week, we'll review the transcripts of oral arguments from today. This is all very useful for me, as I've been working on a large manuscript for the last while, entitled Retributive Damages. This paper provides a retributivist account of punitive damages consistent with the work on retributivism I've done [in other papers](#).

WEDNESDAY, MARCH 14, 2007

Funky T-town Update

Rick's [post below](#) links to an article about Justice Alito's visit to Florida. During the course of a speech he gave in St. Pete's, Alito [quipped](#):

One of the things I am asked is if I believe in a living Constitution," Alito said in his speech, referring to a thought that the Constitution can reflect the times. "Umpires face this very same problem. For example, do we want a living strike zone?"

It's a sunny day in T-town...now, about that living strike zone.

WEDNESDAY, APRIL 30, 2008

Ritual and Scholarship

Later this evening, I'll be helping to lead a community-wide service in honor of Holocaust Remembrance Day. (For those of you in or near the 'Hassee, it will be at Temple Israel on Mahan at 630pm; all are welcome.) This [powerful story](#) in today's NYT about the rededication of a Torah from Auschwitz will be on my mind.

TUESDAY, MAY 06, 2008

Some news of varying degrees of excitement:0-11

Ah, the beginning of exam-grading period: it is, by my lights, the best time to procrastinate by writing incessantly. And while my wife could have [been eating donuts with Jack in Tucson the last few days](#), I've had the chance to [finish assemble](#) cobble from

here and there a shitty first draft of *Implementing Retributive Damages*. Ok, "draft" is overstated; there are still various holes in the text to write. But as the second of a trilogy -- you can read a more developed draft of the first part, [Retributive Damages, up on SSRN](#) -- *Implementing Retributive Damages* raises and hopefully resolves all sorts of neat policy questions that I had to defer from the first installment.

This bricolage comes just in time. On Thursday I'm [slotted to present](#) the basic ideas of the paper to my colleagues here at FSU Law over lunch before going on the road with it this summer to Vancouver, NYC, and Palm Beach. If you're in the 'Hasee this Thursday, and interested, please let me know--you're welcome to come munch on Qdoba or some such with us while I talk about pluralism about punitive damages purposes, punishing entities, dirty-handed plaintiffs, and procedural safeguards for civil defendants facing retributive damages.

Last, though definitely not least, Prawfsfest! is coming!! After two successful incubator workshops at Miami and [Loyola LA](#) the last two Decembers, we are now contemplating a move toward doing them on a semi-annual basis instead of an annual one. Well, that's the ambition; that, and warm weather hosts during the winter. Toward that goal, I'm thrilled to announce that Dean Nora Demleitner and her colleagues at Hofstra will be hosting Prawfsfest! this coming July. Details are still being worked out, but we will gather in NY before the SEALS Conference. Stay tuned for more info on this great match: Hawfsfest! at Prawfstra. Er, I meant Prawfsfest! at Hofstra.

WEDNESDAY, MAY 28, 2008

Retributive Damages, Privacy and Procedural Safeguards

Greetings from gorgeous Vancouver, where I'm camped out for the next month at the extraordinarily lovely and temperate surroundings of Green College at UBC. When not teaching comparative sentencing law and policy to a group of wonderful students this coming month, I'll be working on a couple writing projects: among them, [the book on family ties and criminal justice](#), and the first two installments of my [retributive damages](#) trilogy.

FRIDAY, AUGUST 08, 2008

New Draft of Punishing Family Status on SSRN

I apologize for the relative dearth of blogging on my part the last few weeks. Between Vancouver and Prawfsfest! and SEALS, there has been surprisingly little time to start and/or finish a few articles and a [book](#), and throw in some blogging. Though I have some thoughts and reactions I want to share on a host of topics in the near future, I'll use this post for familiar purposes :-)

SUNDAY, AUGUST 31, 2008

How Should Punitive Damages Work?

Update 8/31: I'm moving this up to save having to write a new post. I just wanted to share the exciting news that I've just accepted an offer to publish [this piece](#) in the University of Pennsylvania Law Review in volume 157 (spring 2009 sometime). Interestingly, the piece didn't get picked up through an expedite, which should hearten those authors who wonder whether and how much "[law review strategery](#)" is necessary. I owe a giant thanks especially to Jason Solomon and the attendees at Prawfsfest! at Hofstra, who helped me see the need to restructure the piece entirely in the last month. Once I get some more revisions on that [death penalty paper](#) done in the next few days, I will blog about this paper some more.

MONDAY, APRIL 20, 2009

Deaths and death.

I was supposed to be co-officiating at a Yom HaShoah remembrance this evening in Tallahassee at my local shul, but I had to withdraw because of sad news closer to home and closer to now. After a full and blessed life, my wonderful grandmother, Helen Lapidus Isakson, died at the age of 95 the other day, so I'm now in Montreal for the funeral and the beginning of the shiva period. The obituary notice appears after the jump. I'll probably have some more to share about the life of this extraordinary woman later on this week. May her memory be a blessing and inspiration as mighty as her life was.

TUESDAY, APRIL 21, 2009

A Bit More Bubbie Blogging and an Amichai Poem

The funeral this afternoon was brief but powerful, a testament to a life well-lived. After the jump are some reflections I had the chance to share about my extraordinary grandmother.

Bubbie Helen was a woman of valor, and thus by our tradition, someone to be cherished especially and deeply so. But more than her valor during a life of hardship, her life was marked by its incessant buoyancy of spirit. Her life, which we celebrate and commemorate today, was audacious: for how many others do we know who only lived with joy, optimism, and gentleness despite a life in which others would find turmoil, sadness and tragedy?

This line from *Eishes Chayil* reminds me of Bubbie Helen. Someone who gained wisdom over the years through grueling encounters: leaving her parents behind in Europe as a teenager; an immigrant to a new country and new language; an early widow of Sam. Twenty one years as a single mother before she found her second life-partner, Maurice.

Working in the *shmatta* business many long years, and doing so as a woman, as a mother, sister, and later a stunningly effective and loving grandmother.

I will leave to others the task of describing the many contributions she made to our community and our people. I have only the comparative advantage of the perspective of a grandson who was best known to her, and many in this room, for his juvenile banditry – most often launched at her expense when I was a toddler chasing her with brooms and various handheld appliances.

As her grandson, I remember a few things distinctly. First, my banditry was often followed by the threat (sometimes credibly exercised, but always justly so) that a *putch in tuches geht arein in kopf*. And second, the imperative: *Zei a Mensch!* (Also said as: “It doesn’t matter whether one’s a doctor or lawyer, the important thing is: Zei a Mensch.)

It’s the second instruction toward *menschlichkeit* that I still find most powerful and in some sense most mysterious. Most powerful because being a mensch set a standard for conduct that was high but not impossible. It put an end to most dither and blather. Put simply: what would a decent and thoughtful person do? If I gave that matter at hand some consideration, and applied this standard, I found I often reached a pretty good resolution to whatever squabble I had somehow embroiled myself in.

But over time, and especially during my twenties, I found the instruction to be a mensch was not always a self-executing concept; I wish I had Bubbie closer to ask her guidance. In matters of love, for example, one might find oneself puzzled by the demands of *menschlichkeit*. Would a mensch try to make one foundering relationship last a little longer or determine that it was time to cut things off? In other spheres I often wondered: how is a mensch supposed to respond to those who unambiguously wrong him? With proportionate retribution or with disproportionate mercy?

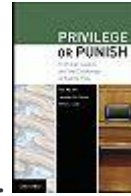
But even as I struggled with this Yiddish Yoda-like instruction, I knew that, at least with matters of courtship, the kind of person I should be with was someone that would pass muster with Bubbie Helen. I am saddened that my beloved, and now six and a half months pregnant, wife Wendi only had a chance to see Bubbie Helen as Bubbie Helen herself was seeing the dusk of her days. But even during the period of that dimming light, Bubbie Helen greeted us with reliable joy and ebullience -- and songs of love and hope, peoplehood and peace.

That is how I will remember her. Never slavish or servile to people or conventions but duly respectful of tradition; quick to kindness, even to strangers; willing to work, toil, and mend our broken world one day and one person at a time, with song and spirit to accompany the journey even through the darkest hours. This woman called Mammele, Khashki (the diminutive of her Hebrew name Khasia), Bubbie, Bubbles – she was a ray of bright, shining light.

TUESDAY, APRIL 28, 2009

Privilege or Punish: Criminal Justice and the Challenge of Family Ties

Exciting news: my book with Ethan Leib and Jennifer Collins, **Privilege or Punish:**



Criminal Justice and the Challenge of Family Ties, is officially out.

Oxford University Press is offering a [20% off deal with this promo on its website](#). Amazon is also selling it [here](#). You can see the cover and the book's description [here](#). There are some [testimonials here from Dan Kahan, Jonathan Simon, Bob Wesiberg, Michael O'Hear, and Rick Hills](#).

I should add that we are very keen to spread the book around, so if you're interested in reading the book but can't afford the price (or can't get your library to buy a copy), please email me and I'll send you a PDF of the book for free. You just have to promise to read it! And you can't use it for non-commercial purposes or we'll sick the OUP lawyers on you.

Alternatively, if you let me know you're interested in buying a hardcover, I can acquire a batch at 40% off, which brings the price down to a more manageable 45\$. We're hoping lots of people (academics, law students, and civilians) will be interested in reading it -- and perhaps reviewing it. If you are interested in reviewing it, please feel free to let me know and I can tell you of some outlets and venues that might be interested. I can also ask the good folks at Oxford to send you a review copy if you send me your mailing address. For what it's worth, my mother-in-law, perhaps a partisan to the cause, mentioned that it was written accessibly for non-lawyers. I hope she's right.

In related news, there will be a roundtable on the book at Law and Society in May featuring Melissa Murray, Alice Ristroph, Don Braman, Tommy Crocker, and Naomi Cahn. Additionally, there will be another panel at SEALS in August. Last, there will be a Feature on the book in the Yale Law Journal sometime next year, which will include a handful of essays from a number of folks, as well as a piece by us, tentatively titled, *Rethinking Criminal Justice and Family Status*. I'll have more info on these panels and discussions in the coming weeks. There are many people who helped make this book possible, including many writers and readers of this blog. We are profoundly grateful for that assistance and encouragement.

WEDNESDAY, APRIL 29, 2009

Prawfsfest! in the Hassee

Tonight marks the onset of Prawfsfest! 5, our roving public law/legal theory workshop for early works in progress. The gathering takes place this semester here in Sweet Sassy

Tallahassee over the next few days at FSU. I'm very grateful to Deans Don Weidner and Wayne Logan and the administrative support team here at FSU for their help and energy.

In attendance, we'll have: Zak Kramer (Penn State); Rob Kar (Loyola LA en route to Illy); Carissa Hessick (ASU); Andy Hessick (ASU); Bill Araiza (Brooklyn); Lesley Wexler (FSU); Brian Galle (FSU/Georgetown/GW); Erik Knutsen (Queens); Dave Fagundes (Southwestern); Paul Horwitz (Alabama); and Beth Burch (FSU); Amelia Rinehart (FSU), and me. Should be a lot of fun.

The next Pfest! will be at Southwestern in LA in December.

SATURDAY, MAY 23, 2009

The Asinine Evidence for Largely Irrelevant Inquiries: Kagan and SCOTUS

I just got back the other day from a quick trip to Israel, where I was teaching a mini-course on punishment and sentencing at Bar Ilan, so I haven't had a chance to do much substantive blogging lately. That said, in the morass of catch-up, I did come across a recent judicial politics [posting](#) on NRO (which I came across via [ATL](#)) that I thought warranted some response.

SUNDAY, JULY 26, 2009

Taxing Punitive Damages, etc.

Update 8/16: We've now got a first shitty draft available for private circulation; if there are tax or torts mavens who wish to read it, please email me asap. Thanks.

It's about four days until my wife is "due." During this pre-baby period, one of my projects has been an effort with my friend and co-author, Gregg Polsky, to finish our "shitty first draft" of *Taxing Punitive Damages*. I'm happy to say we're almost there. This paper is actually the fourth paper on punitive damages I've been involved with the last few years.

FRIDAY, JULY 31, 2009

baby boy markel

(Updated with pic below.) Wendi and I welcomed a little and delicious 7 lb 5 oz baby boy into the world last night (Wed) at 1058 PM. Everyone is flourishing. The baby naming ceremony and bris will take place next week on Thursday in the Hassee. More details to follow but I'm using Facebook Mobile to pepper the world with inanities and new pics so, if you're interested, follow Bam-Bam's life journey there.

With gratitude and blessings,
Wendi Adelson and Danny Markel
Here's a pic of the little guy, dreaming of whitefish salad and other smoked delicacies to come.



THURSDAY, AUGUST 06, 2009

Cubby Markel's Got a Name! Or two... or three.

The following is the text of some remarks shared at today's "Brisening" for Baby Boy Markel.

Beloved family and friends, Rabbi Asa, thank you for joining us from far and near on this auspicious day! We extend to you our warmest greetings and heartfelt blessings.

Wow! We are so grateful and thrilled to share this moment with you. One week ago, our worlds were immeasurably enriched and at the same time turned upside down by the arrival of our beautiful son. Today, on the Eighth Day of his precious life, he has, just prior to this Baby Naming, entered into our people's covenant with God, a covenant that began with our forebears, Abraham and Sarah.

We want to take this opportunity to say a little about the people whose memory we honor through the naming of our son. Our son's name in English is Benjamin Amichai Markel. His Hebrew name is Lev Amichai Markel. Each of these three names is rich in significance and merits elaboration.

The Hebrew name Lev, means heart in Hebrew, and it honors the memory of Wendi's beloved maternal grandmother Lorraine Jacobs, Donna Sue's mom. Grandma Lorraine and Wendi had an exquisitely close relationship, and it was always a profound regret that Grandma passed away five years before Wendi and Danny began dating. There is so much to say about her that we could spend literally hours sharing stories. Suffice it to say, Grandma Lorraine occupies a magical and persistent presence in Wendi's heart. And for that reason, and the unstinting love she showered upon her family, and especially Wendi, we have chosen to name our son with the Hebrew name, Lev. We know that if Grandma were here today in person, she would be beaming with pride and joy for all that her grand-daughter has done and become. We also know that right now, Grandma Lorraine is dancing with delight in the heavens above, and we take great comfort in sharing her sense of vitality and good humor with our son.

Lev's middle name is Amichai, both in Hebrew and in English. The name in English is spelled A-m-i-c-h-a-i, and its Hebrew spelling is eiyin, mem, yud, khet, yud. The name is powerfully special to us for several reasons. First, as many of you may know, Danny's Bubbie Helen, his grandmother, died just this past spring, after a rich and numinous life of 95 years. Bubbie Helen's Yiddish name was Khashkie, which was a diminutive of her Hebrew name, Khasia. That name Khasia means "Protected by the Lord", which is sometimes rendered as a sanctuary, a sacred place of calm and serenity. The name Amichai itself means "my people lives," and, like the name Khasia, it also includes the letter Khet. Knowing the unwavering commitment Bubbie Helen had to the Jewish people and the Jewish tradition, we think she would take great sanctuary, that is, great calm and serenity in knowing that her people, that is, our people, live on in the name Amichai. Secondly, the English rendering of the name Amichai begins with the letter A, which we use to recall Wendi's Papa Aaron, Harvey's beloved father, who died while Wendi was just a sophomore in high school.

Next, we want to share some thoughts about our son's first English name, Benjamin. The name Benjamin commemorates the grandmothers of both Wendi and Danny. Wendi's grandmother, Betty Lacow Adelson, was her beloved father Harvey's mother. Betty was a great mother to Harvey, her only child, and she cared for him with a loving and mighty heart.

Danny's Bubbie, or grandmother, was Bella Schoenfeld Markel (the mother of his father, Phil). Bubbie Bella died when Danny was a sophomore in college, but he fondly thinks of the many times he spent time with his paternal grandparents in Montreal, and especially the happy times in Bubbie Bella and Zaidy Max's kitchen, where he delighted himself with her yummy and distinctive chocolate chip cookies, her incomparable chicken soup, and most of all, her sweet and caring disposition.

The name Benjamin also happens to be the name of Danny's paternal great-uncle Benjamin, whose daughter Tzipi, and whose grandchildren, Shlomi, Zvika, and Elad, are cousins in Israel and the US to whom Danny maintains an extraordinary close relationship. Because Uncle Benjamin dies many years ago, Danny was deprived of a relationship with him. But in his recent trip to Jerusalem in May, Danny had the chance to hear Tzipi share many heartfelt recollections of her wonderful father, who by all accounts, was an extraordinarily gentle and kind person devoted to family and friends, the kind of person we hope our son Benjamin Amichai will emulate as he progresses toward a life of good thoughts and good deeds.[1]

Last, we want to return one last time to Cubby's middle name, Amichai. As many of you know, the Hebrew name Amichai was the last name of the great Israeli poet, Yehuda Amichai, who died almost a decade ago. During the transformative year that Danny lived in Israel after college, Danny had the chance to meet with Yehuda several times informally, at parties, in Yemin Moshe, or on the bus, when they would serendipitously meet up en route to buy vegetables at the market. Amichai wrote poetry with an arch spareness, joyful affection for the human condition, and a deep and dry sense of humor. His poems and his personality are not only remembered but lived today, and with great fondness. We'd like to close by sharing a little bit from a poem called "Tourists," which evokes both Wendi and Danny's, and Amichai's love of the present moment, a love that helps us escape the dangers of being too contained and constrained by the dark memories of our people's often difficult and tragic past, a love that guides us toward the future with aspirations of connection and triumph.

Feel free to call him any variation of these names, or alternatively, the nicknames we have so far deployed: Cubby (since he's joining a family of Bear and LadyBear), Bam-Bam (as his initials suggest), or Mr. Buggles, b/c he's a snuggle-buggle...there are a lot of choices, but we're pretty sure he's likely to ignore any one of these names for the foreseeable future!

TUESDAY, DECEMBER 22, 2009

Sundry

My invariably talented colleague Shawn Bayern puts the fun(k) in [funky FSU](#). Yes, as you suspected, he now has a techno music album up for sale on Amazon. I think some of these tunes might have appeared on a disc he made for Ben-ben. Buy it [here](#).

SATURDAY, JANUARY 30, 2010

Charity Challenge for Haiti

For what it's worth, Wendi, Benjamin, and I want to make some effort to alleviate the suffering and at least right now, we intend to do so financially. With this post, we're issuing a challenge. For now, our family will match contributions until they sum up to total of \$1200. So please make a donation between now and the end of January to one of the organizations below and send me some kind of confirmation from the entity via email (markel at law.fsu.edu) and we'll match it.

THURSDAY, MARCH 25, 2010

Tri-4-Gey 4 is next week!

As many of you know from updates that have appeared in previous years, my FSU colleague Professor Steve Gey has ALS and it's an utterly grim situation. Making the best of the situation, Steve, a distinguished scholar in constitutional law, has been [writing law review articles](#) quite literally with his toes. Meanwhile, former students, current students, friends and colleagues are training for yet another triathlon in which they participate with the goal of raising [money for a cure to ALS](#).

This year, the fourth since Steve was diagnosed, the folks behind the Tri-4-Gey are asking people to donate in Steve's name to Florida State's "Steve Gey Endowment for Excellence." Here's how you can do it.

THURSDAY, JULY 08, 2010

Prawfsfest! 7 and the economics of workshops

I'm briefly back in Florida having just returned from a quick trip to lovely (though sweltering) Brooklyn, where Prawfsfest! 7 was graciously hosted by the Friends of Prawfs at Brooklyn Law School. We had ten very interesting early works in progress to discuss by (in no order) Chris Lund, Verity Winship, Howard Wasserman, Mike Cahill, Bill Araiza, Giovanna Shay, Marc Blitz, myself, Hillel Levin, and Katy Kuh. Many thanks are due to the deans and Liz Alper for a conference manifesting precision, panache and [swag](#). Special thanks are due to Miriam Baer and Matt Lister, who agreed to sit in as participants for the 2 days even though they weren't presenting. Talk about magnanimity!

As typical with these events, it spurred some thoughts about structure for me. One thing some may know about the structure of the P-fest is the much vaunted (or [maligned](#)) "no-foreplay" rule. It seems like the flip-side of foreplay in academic conversations of this sort is some degree of self-flagellation. You know what this is: "I don't really know anything about this area and so this will be way out there probably" or "this point I want to make is thunderously trivial" when in fact it actually will have devastating consequences for the thesis...These kinds of prefatory comments are the same academic tics as the "so" which begins all sentences, not to mention the use of "robust,"

orthogonal," and "granular." (All of which are tics I have embraced/been afflicted with at times.) Anyway, when Fagundes famously [chastized](#) the no-foreplay rule, he mentioned that in 2 years at UChicago, he never heard a nice thing said about a paper. Yikers. In any event, I wonder if the Chicago folks forbear not only from foreplay but also from the exercises in self-flagellation.

So...if you think about the social costs associated with an event like Prawfsfest, it costs somewhere between 10-15,000 dollars in outlays by the host school (roughly 3K for meals and expenses) and the sponsoring schools of the 8-10 attendees (roughly 1K a person in airfare/hotel/miscellaneous expenses). What does each attendee get out of it? Principally, if they're "presenting" a paper, they get smart and helpful comments on a paper that about 9-11 other people have read somewhat carefully at an early stage in the paper's development. They also get the benefit of hanging out informally with other/new prawfs over some meals. In return, they have to travel (or not, if they're from the host school), and offer comments on 9 other papers. It probably takes about 1-2 full work days to prep for Prawfsfest, and then add another day for travel plus 2 days of intensive workshop, and you've got almost a full week devoted to the P-fest.

FRIDAY, SEPTEMBER 17, 2010

Can Good Prawfs Be Menschies? And some excuses, apologies, and such.

I've been a bit overwhelmed on the domestic front lately between work and non-work stuff to be able to engage meaningfully online on various issues. I've been derelict in writing my response to the wonderful contributions from Professors Harbach, MacDowell and Sack on the blog the other day about Privilege or Punish. I've wanted to weigh in with some thoughts on the Sisk (et al) study. But mostly, I've been thinking, especially with Yom Kippur quickly coming, how one ought to balance the duties of being a mensch (as my grandmother would insist) with doing a good job as a scholar and teacher and colleague.

There are of course some prawfs who are notoriously menschy and yet remarkably adept in all aspects of their job. So some might wonder if there's any false tension being posited here.

Perhaps this is not the case with teaching (as opposed to grading, where again, I think the tension is more apparent). Maybe in the classroom one could really be an effective teacher and at the same time be the epitome of sweetness and light. I find this difficult too because sometimes there are discipline issues and sometimes just asking students questions and responding to them with some degree of truth may make them uncomfortable or unhappy.

Last, to the extent running this blog is part of my professional life, I like to think I use it to facilitate scholarly dialogue, catalyze community building, and provide a venue for reflection and sharing. The day is short, but the journey is not over. To that end, I hope that the new year augurs a time of passion and purpose, love and laughter, and that it brings sweetness and wisdom and happiness for all of us.

MONDAY, SEPTEMBER 27, 2010

FSU and ACS Criminal Justice in 2020 Conference: Updated Schedule and Registration

As mentioned in these pages earlier, FSU and the ACS are hosting a really neat conference on the future of criminal justice here in funky t-town. The schedule I circulated earlier has been updated somewhat (see below) but I hope y'all are marking your calendars for Oct 7-8th! If you're a crim prof, lawyer, law student, or just someone interested in criminal justice issues, I hope you'll come to this (free) conference at FSU.

FRIDAY, OCTOBER 01, 2010

Rotations and sundry

Also: if you've not yet registered for the FSU Criminal Justice Conference but are still thinking of coming, please register over [here](#). If you can't be here in the Hassee in person, you should [bookmark this link](#), and then you'll be able to watch the video of the conference when it happens or at least shortly after next week.

Last, this month augurs not only my 56th month of wedding bliss but also, inshalla, and as I mentioned the other day, a new baby later on so if things don't run quite as smoothly over the next little while, please be patient. Happy October!

TUESDAY, OCTOBER 05, 2010

Slicing the snacks thinly

During my weekly seminars, I gently "assign" a week for each student to bring snack(s!) so that the learning experience is a bit more festive and fattening. Today, one of my students brought Baby Ruth candy bars (halloween size), and it is was my first time eating one. Needless to say, my reaction was: wow, this tastes almost no differently than a Snickers. Various students gasped at the suggestion. One student wrote to me after class the following:

Notwithstanding this small vindication, I know that this offhand slight to the Baby Ruth fans out there will no doubt generate some form of penalty in the end of the semester teaching evaluations :-)

TUESDAY, JANUARY 18, 2011

Some not-so-random updates on the scholarship front; or, what I like to tell my deans I did on winter "vacation."

I'm excited to say I've just begun my first semester of teaching leave. While I am excited to tackle some new projects now, I am also clearing some other ones off the decks. (And yes, I hope the leave facilitates some more substantive blogging too.) In any event, for the benefit of my mom and a handful of other folks looking for something to read besides [Amy Chua](#) or [Ethan Leib](#) or [Paul Horwitz](#)'s new books, I thought I'd let you know that there are new (and nearly final) versions of a couple pieces of mine up on SSRN and I just added a draft of a new piece.

TUESDAY, MARCH 01, 2011

Tri For Gey 5!

Long-time readers of this blog [know about the heroic defiance](#) of my colleague, Steve Gey, against ALS (aka Lou Gehrig's) disease. I just received this email from one of favorite former students, Kristie Klein, who has been a terrific friend to Steve and a relentless foe of ALS. Please live and give generously.

Despite being told in 2006 that he only had three years to live, Professor Gey has defied the odds and continues his battle against ALS. Gey fights on, We fight on - and on April 9, 2011, I'll be competing in the **TRI-FOR-GEY-FIVE** ... yes, that's right, our *fifth year* of Tri For Gey! In honor of Professor Gey, and the Tri For Gey Five team, please consider donating \$5 to the Professor Steven G. Gey Endowment for Civil Liberties. To do so, follow these three steps:

TUESDAY, MAY 03, 2011

Recent Developments at the NYU Center on the Administration of Criminal Law

Since January, I've had the privilege and pleasure of being [affiliated](#) with [NYU's Center on the Administration of Criminal Law](#), and I thought I'd take a moment to share with you all some exciting recent developments at the Center,

WEDNESDAY, MAY 11, 2011

The Short Sharp Paper Series and a movie review too.

Since I would clearly never engage in icky acts of [overt self-promotion](#), and I cringe :-)) at the thought of others saying nice things about me or my work, that leaves it to me to sometimes use the blog responsibly and say nice things about the work of others. During this last semester when I had the privilege of a teaching release, I probably read more drafts than I usually do, sometimes to the consternation of those whose drafts I had read and commented on. But I've also had the chance to continue reading lots of finished

THURSDAY, MAY 26, 2011

Sundry Fundry

Last, and on a happier and tipsier note: for those of you attending LSA in San Fran next week (or even for those of you who are not but are still in or near SF), consider yourself invited to save the date/s! There will be a general happy hour next week with our friends from Co-Op and Glom, among others, Thurs at 9pm. Location to be confirmed imminently. It will be near but likely not in the St. Francis Westin. Relatedly, the CrimProf happy hour will be Friday at 9pm, at the Clock Bar in the St. Francis Westin. More details and location to be confirmed soon, but mark your calendar to save the date and time. All are welcome at either one. Hope to see you there. I'm begging Ethan to guide me on an underground chowhound tour, but hopefully at places about as bougie as his last [batch of posh recommendations](#).

SUNDAY, JUNE 12, 2011

Losing Steve

I've been off the box for most of the last few days so I haven't had a chance to share directly the news of the passing of my FSU colleague Steve Gey, but I am glad that [Howard](#), [Franita](#) and [Dan](#) have already shared some news and links that give you a glimpse of Steve's [wisdom, fortitude and humor](#) through the best and worst of times.

Losing Steve is devastating to the students and family and friends who loved him, the colleagues who admired him from near and afar, the administrators whose tasks he eased with his enthusiasm for FSU, and the world of [ideas and constitutional law](#) that he illuminated over and over again with his passion and insight.

Our bright and beautiful world is dimmer without you, Steve, and we will miss you terribly.

THURSDAY, JULY 21, 2011

Sundry: SEALS, scholarship updates, and the writer's studio

The annual [SEALS conference](#) is coming up next week, which I'll be excitedly attending. Our crew will be staying next door to the Marriott at the Palmetto Dunes--so please message me if you're there and want to celebrate Benben's 2d bday on the 29th. Notwithstanding the [happy hour the night before](#), the (sincere!) motivation for the trip is a panel I'll be doing with Larry Solum, Usha Rodriguez, and Dave Fagundes on the question(s) of: *(How) Can Blogging Build Community in the Legal Academy?* I think blogs like ours (particularly Bodie's wonderful book club series) have done some great things toward cultivating community (at least defined in some ways), but Usha is right to ask her readers what else can be done. So...as a new school year awaits in the shadows, I thought I'd ask for readers of *this* blog to share thoughts they might have (either via email or in the comments) about what more Prawfs can do to build a warm

and engaged community in the legal academy. After all, I'll need something to talk about on the 29th at 10:15am!

MONDAY, NOVEMBER 07, 2011

This Is Our Story

I'm excited to announce that later tonight, my wife, the incomparable Wendi Adelson, will be doing a book signing for her new novel, entitled, *This Is Our Story*. If you're in Tallahassee, I hope you'll stop by.

Where: Student Life Cinema, 942 Learning Way (FSU main campus)

When: Monday, November 7th, at 7:00 p.m.

Admission is free and open to the public. [Download her e-book here](#) or buy a copy in person!

And if you're curious about the novel, here are some [reader reviews](#) and a description:

This is Our Story follows the lives of Rosa and Mila, two young women from different countries who become victims of human trafficking when unwittingly duped into domestic servitude and commercial sexual exploitation in the American Southeast. Their experiences with the underbelly of globalization here in our own backyard, and the legal battles they wage against their traffickers with their immigration attorney, Lily, are told in their own voices, and hers, in vivid and compelling detail.

Finally, Wendi has been teaming up with some others to blog on issues related to human trafficking and the law, and you can find that [great resource over here](#).

THURSDAY, JANUARY 05, 2012

Why I Blog (as a Law Professor)

The following essay on why I blog was solicited by Chris Lund for the recent issue of the AALS Newsletter for the Section for New Law Professors. You can see the other "Why I Blog" essays by Maher, Albert, Shay, Helfand, Mason--all of whom, oddly, are Prawfs alumni -- over [here](#).

Why I Blog (as a Law Professor)

I'm not sure why, but my instinct is usually to dodge the question of why I blog. Perhaps I'm scared of the answers. But for those of you thinking about taking the plunge into the blogging waters, here are some quick thoughts.

Just for background, a few friends and I started Prawfs.com (aka PrawfsBlawg) back in April 2005, when I was transitioning from legal practice into the legal academy. At the time, I was just finding my scholarly voice, and blogging seemed like a shiny new vehicle

in which one could converse with other scholars. Prawfs was one of the few group law-professor blogs back then. The hope was that we would provide an ecumenical but mostly center-left and somewhat edgy space for commentary about legal, political, and academic developments.

I initially imagined that we'd evolve into a sort of counterweight to the flourishing Volokh Conspiracy.

It wasn't long before we realized that idea was both too difficult to achieve and in some sense not even an attractive goal. The contributors to the VC, it turns out, were far more committed to daily blogging about current events than we were. Moreover, we ended up growing into an entirely ecumenical space without any intentional gravitational force exerted by the center-left point on the spectrum. As a result, Prawfs morphed into a portal for the community of (primarily) American legal scholars, one where discussion about what one should wear to class was just as likely to appear as a discussion of the defective reasoning in the latest Supreme Court opinion.

To my mind, this shift – where we became a more collectively introspective enterprise – was entirely salutary. Indeed, I think I continue to blog because I love the notion that there is a virtual space in which the academic legal community is strengthened and sometimes transformed by the ideas and experiences that we share in the blogosphere. Prawfs is, at least every now and then, a catalyst for those changes.

Blogging does take up time, of course, and one has to be mindful of how to integrate that commitment alongside one's other obligations to family, community, and work. I keep this time-management issue under control by tending to blog about one of two things: topics oriented toward the community of scholars generally (such as the ethical practice of legal scholarship or the future of SSRN) or topics directly related to the scholarship that I love spending much more of my time on. Neither area requires lots of additional research for me, nor is there a pressing deadline that I have to bear in mind.

After all, one of the best things about blogging as a medium is that it enables you to find new readers and interlocutors for your work and ideas. And as writers, you win your readers one by one by one. This point about community building seems especially salient in light of the fact that law professors live a largely monastic existence in their offices. Blogging helps as an antidote to that vocational loneliness. Finally, I think we are obligated to make some efforts to get our ideas out there. As scholars, we spend years trying to generate intellectual capital. We are paid to do so by virtue of the generosity of public legislatures and private tuition and donations. Accordingly, I think we owe our benefactors our efforts to disseminate our hard work beyond the typical and sometimes closed channels of distribution that we often rely upon.

In sum, I blog because, first, I sometimes have ideas and care to share them, and second, and more often, I am curious about an issue facing the legal academy, and I'd

like to hear what other people do to address that issue. Blogging, then, creates a space for me to teach, but more selfishly, it is a space where I can be taught.

SUNDAY, MARCH 25, 2012

FSU Law Review announces its Exclusive Submission Window for Volume 40

Adam Kramarow, the senior articles editor at the FSU Law Review, has asked me to pass this along. (Feel free to cc me on your submissions.)

TUESDAY, AUGUST 21, 2012

A couple reading suggestions and the schedule for the NYU Crim Theory Colloquium

For those of you looking to give your students something more meaty and nourishing than Kantian references to fiat iustitia, et pereat mundus, you might want to check out either Michael Cahill's Punishment Pluralism piece or a reasonably short piece of mine, What Might Retributive Justice Be?, a 20-pager or so that tries to give a concise statement of the animating principles and limits of communicative retributivism. Both pieces, which come from the same book, are the sort that law students and non-specialists should be able to digest without too much complication. Also, if you're teaching the significance of the presumption of innocence to your 1L's, you might find this oped I did with Eric Miller to be helpful as a fun supplement; it concerns the quiet scandal of punitive release conditions.

Speaking of Cahill (the object of my enduring bromance), Mike and I are continuing to run a crim law theory colloquium for faculty based in NYC at NYU. The goal for this coming year is to workshop papers on and by:

September 10: Re'em Segev (Hebrew U, visiting fellow at NYU); James Stewart (UBC, visiting fellow at NYU)

October 29: Amanda Pustilnik (U Maryland); Joshua Kleinfeld (Northwestern)

November 26: Dan Markel (FSU); Rick Bierschbach and Stephanos Bibas (Cardozo/Penn)

January 28: Rachel Barkow (NYU) and Eric Johnson (Illinois)

February 25: Miriam Baer (BLS) and Michael Cahill (BLS)

March 18: Josh Bowers (UVA) and Michelle Dempsey (Villanova)

April 29: Daryl Brown (UVA) and Larry Alexander (USanDiego)

As you can see, the schedule tries to imperfectly bring together crim theorists of different generations and perspectives. This is going to be the fourth and fifth semesters of these colloquia. Let me know if you'd like to be on our email list for the papers.

WEDNESDAY, MARCH 27, 2013

FSU Law Review Announces its Exclusive Submission Window

The Florida State University Law Review will be conducting exclusive spring cycle article reviews. Any article submitted to this exclusive review between now and April 3d will be evaluated by April 11th. By submitting the article you agree to accept an offer for publication should one be extended. Any articles accepted through this review will be published in Issue 3 or Issue 4 , both of which are slated for publication in summer of 2014.

If you have an article which you would like to submit, please e-mail an attached copy of the article and your cv and cover letter to swa11@my.fsu.edu with the subject line "Exclusive Spring 2013 Article Review." Feel free to cc' me.

TUESDAY, JULY 23, 2013

Nate Silver and the Hidden Genius of Capitalist Crowdfunding

After a long and difficult year personally, it gives me some quiet joy to announce that I've just uploaded a "shitty" first draft of **Catalyzing Fans to SSRN**. Actually, it's somewhat polished as a draft, but it's pre-submission, blissfully short (13,000 words) and, um, really interesting. Bonus: it has nothing to do with retributive justice. So, my co-authors, Mike McCann and Howard Wasserman, and I hope you'll read a draft and send along comments. Here's an overview:

WEDNESDAY, JULY 24, 2013

Things you ought to know if you're about to teach criminal law

I realized a few weeks ago that people may have forgotten about our [pedagogical series, Things you ought to know if you teach X](#). Of course, I'm only now reminding you, and I hope it will be helpful for the group of rising professors among our readership, or for those undertaking new preps.

Regarding intellectual networks: if you're interested in crim law theory, I co-run a colloquium up in nyc (usually at nyu) that meets once a month or so during the academic year and I can put you on that list. If you're interested in presenting crim-related papers, there's a shadow conference at Law and Society that Carissa Hessick and I run. There also used to be a junior crimprof workshop that met once a month. I'm not sure if that's still up and running.

MONDAY, JANUARY 13, 2014

A couple reading suggestions for students in criminal law and the Spring 2014 schedule for the NYU Crim Theory Colloquium

As you can see, the schedule tries to imperfectly bring together crim theorists of different generations and perspectives. This is now the seventh semester of the colloquium and we are grateful to our hosts at NYU and Brooklyn Law School who have made it possible. If you're a crimprof and interested in joining us occasionally, let me know and I'll put you on our email list for the papers.

THURSDAY, APRIL 03, 2014

Linguistic Versatility (or is it Hegemony?) and the Law

When I teach in Israel, which I do with some frequency and affection, I do so in English, as part of the increased expectation that Israeli lawyers should be fluent with English language as well as international/comparative approaches to law. Yet, I fully accept the argument made by one of the stakeholders that fluency in Hebrew is essential to representing one's clients well in Israel. I certainly think my competence with English is critical to my being a tolerably decent scholar -- in English. But if Chinese-speaking professors were in the US to teach American law in Chinese, I don't think I'd have much basis for objection. Let the market sort it out seems roughly right.

WEDNESDAY, APRIL 09, 2014

Happy 9th Birthday, PrawfsBlawg!

[Here](#) are some selections from our birth-week--for some reason I had misremembered our birthday as April 9, but in fact it was April 5, 2005.

I grow old, I grow old ... I shall wear the bottoms of my trousers rolled.

Next year, to celebrate our 10th, I'll be buying a round of Ensure shakes for all the geezers at our Prawfs-Co-Op happy hour.

SUNDAY, MAY 04, 2014

CrimFest 2014 (aka the Sixth Annual CrimProf Conference)

Folks, I'm delighted to share some information regarding the upcoming CrimProf Conference at Rutgers-Newark that the indomitable Carissa Hessick and I have cobbled together with the help of many others.

First, the conference schedule is [here](#). We have 18 panels and over 60 people slated to present and/or comment. If you're not on the list of presenters/commenters but would like to attend, you are welcome to do so if you're a crimprof or vap/fellow. Information

about registration is below. The very modest fee of 50\$ gets you breakfast and lunch for two days along with snacks/coffee. Big thanks to our hosts at Rutgers-Newark. **Please note the registration fee is NON-REFUNDABLE, and the deadline for registration is June 1, 2014.**

MONDAY, JUNE 02, 2014

Rotations and Sundry

It's an auspicious time to be part of the conversation. Prawfs celebrated its 9th anniversary in April and now had (according to Sitemeter) the highest traffic in terms of page views that we've ever had: over 279,000 in May. We're slated to have [another great book club later this month thanks to Matt Bodie's efforts](#). And I'm happy to report that West Academic has invested some confidence in this site with sponsorship efforts that I hope will continue and strengthen over time. Please check out their [coursebook catalog](#) through the button ad and consider getting in touch with them ([Pam Siege Chandler](#)) if you're thinking of working on a casebook!

TUESDAY, JULY 01, 2014

Rotations...and Happy Canada Day

Friends, it's the first of July and therefore a great day for all the Canadians now ruling the American legal empire. Congrats to Sujit, Austen, Trevor, Gillian, et al. It's just sort of shocking that Eduardo's not Canadian in light of his overall sensibility, but perhaps being up in Ithaca now will simply accelerate his asking for what must be his birthright.

Anywhoooo, it's time to welcome back Frederick Vars (Alabama), Jeff Lipshaw (Suffolk) and Eric Miller (LLS) to the conversation for the month of July. Big thanks to all our June contributors, some of whom will linger as they get their last kicks in.

Last, keep your ears and eyes open for there will almost certainly be a Prawfs happy hour coming up at the SEALS conference in Amelia Island the beginning of August. Peace out!

WEDNESDAY, OCTOBER 01, 2014

Quack

Danny was one of my first friends in the academy. We met on the tennis courts at SEALS, and Danny absorbed me into his life immediately. He introduced me to people, invited me to conferences, demanded to read my work, shared my work with others, and called me regularly to check in. He was relentless. In a significant sense, he taught me how to be a good law professor. Not good in terms of the quality of my teaching and writing--though I'm confident he helped me become a better writer and reader--but in

terms of our obligations to the community. Mentorship is the lifeblood of the legal academy. Academic life can be a solitary existence. My phone doesn't ring that often. If I want to, I can spend the workday all by myself, holed up in my office, not responding to knocks at the door.

But I don't. Because that's not how you do the job. We are at our best when we treat this job like a collective enterprise. Give as much as you take, and make time for the community. That is how Danny did the job. And like a baby duck, I imprinted on him. I suspect that many of us did.

Thanks to the rest of the PrawfsBlawg crew for hosting me this month. Quack.

Posted by Zachary Kramer on October 1, 2014 at 11:32 AM in [Dan Markel](#), [Life of Law Schools](#) | [Permalink](#) | [Comments \(1\)](#)