For the Love of Law and Literature: Lively Conference Exemplifies Law School’s Interdisciplinary Strengths

By Meredith Heagney
Professor Martha Nussbaum stands tall and proud, wearing a look of great triumph and utter satisfaction. In her left hand is a foot-long dagger; her face and arms are painted with blood. She is Clytemnestra, perhaps the original femme fatale, in Aeschylus’ <i>Oresteia</i>.

Moments earlier, her husband, Agamemnon, played by Judge Richard Posner, had returned home from war victorious, wearing a red satin sash adorned with medals and accompanied by a Trojan princess. In a rage, offstage, Clytemnestra kills Agamemnon and his new lover, Cassandra. “Ah! I am struck a deadly blow!” cries Posner, who serves on the Seventh Circuit Court of Appeals. When he is next revealed, he lies on the ground with Cassandra, played by Lecturer in Law Jajah Wu, ’10, both bloodied and still. Nussbaum’s Clytemnestra is vindicated:

<i>I struck him twice. In two great cries of agony He buckled at the knees and fell. When he was down I struck him the third blow, in thanks and reverence To Zeus, lord of the dead.</i>

This performance, of extracts of the <i>Oresteia</i>, was a memorable moment in what is becoming a cherished Law School tradition: the law and literature conference, of which there have been four since 2009. The latest edition, Crime in Law and Literature, was held February 7 and 8 and headlined by <i>New York Times</i> bestselling author Scott Turow, who is also a practicing lawyer.

No event exemplifies the spirit of the Law School’s commitment to interdisciplinary efforts like the law and literature conference. It was organized by Nussbaum and Professors Alison LaCroix and Richard McAdams and draws academics from several fields. While the dramatic scenes are the most talked-about feature of the two-day event, most of it consists of scholars presenting their work in panel discussions.

Scholars of law and economics such as Douglas Baird, Saul Levmore, Thomas Miles, and, of course, Posner regularly participate. Professor Jonathan Masur, an expert in patent law, presented, as did Professor Bernard Harcourt, who is also a political scientist. Daniel Abebe, whose specialty is international law, is a recurring actor. Universities around the country sent their premier scholars in law, English, philosophy, and religious studies.

“It’s so appealing to people that they actually approach us and say, ‘can I give a paper?’ And of course I encourage it because we get much more unusual and interesting insights from people who are not the usual literary professionals,” Nussbaum said.

Levmore, who wrote a paper exploring the concept of threats and their utility with the help of the 1963 John Fowles kidnapping novel <i>The Collector</i>, said the conference is “mind broadening.”

“Part of Martha’s role in the Law School is to draw people into more interdisciplinary work. She’s had that effect on me and on others,” Levmore said. “Left to my own devices, I’m sure I wouldn’t have done it. But I felt like I really got into the spirit of it this year.”

Return participants testified to the power of literature to give insights about the law. Sometimes, they said, literature can change ideas that can ultimately change laws. But more often, it gives the reader empathy and understanding of the intimate challenges of others. And that’s an important skill for any lawyer, said Judge Diane Wood, Chief Judge of Seventh Circuit Court of Appeals and Senior Lecturer in Law. She has participated in several law and literature conferences and wrote the introduction for <i>Subversion and Sympathy: Gender, Law, and the British Novel</i>, the collection of papers from the 2010 event. Wood also contributed a paper on Shakespeare’s lessons to the modern judge in <i>Shakespeare and the Law: A Conversation among Disciplines and Professions</i>, which resulted from the 2009 conference.

“Literature is uniquely able to shed light on the human problems that occupy society, and thus occupy courts.”

–Judge Diane Wood
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Posner published *Law and Literature: A Misunderstood Relation*, a version of which is now in its third edition. He taught a class on law and literature at the Law School starting in 1987, and then, with Nussbaum, a Greenberg Seminar on the subject (see page 26). It was one of those Greenberg Seminars, cotaught with English Department Professor Richard Strier, now a Professor Emeritus, which led to the first law and literature conference.

White and Posner were not alone in their affection for and use of literature; beloved law professor and criminologist Norval Morris, who died in 2004, was a fiction writer and the author of 1992’s *The Brothel Boy and Other Parables of the Law*, part of a class he taught at the Law School on parables of the law.

started writing and teaching about it. The birth of the law and literature movement is often credited to White’s 1973 book, *The Legal Imagination*. The book accompanied a course White taught, first at the University of Colorado and then at the Law School, that used literature to illuminate the nature of legal language, thinking, and expression. White also taught a course called Studies in Argument, which used extensive literary materials to study the way meaning is created in law. It was the basis for his 1984 book, *When Words Lose Their Meaning*. White, who was visiting at the Law School when *The Legal Imagination* was published, was a faculty member from 1975 to 1982, when he left for the University of Michigan. He is now Professor of Law Emeritus at Michigan.

Posner started writing about law and literature in the 1980s, after reading a *Harvard Law Review* article by a law professor who criticized him; she thought Posner’s work was missing insights that could be gained by reading Franz Kafka, a lawyer who often wrote about law.

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Supreme Court Justice Stephen Breyer and Nussbaum at the 2009 conference on Shakespeare.

Professors Todd Henderson and Rosalind Dixon in The Beaux’ Stratagem, in 2010.

Professors Douglas Baird, William Birdthistle of Chicago-Kent College of Law, Daniel Abebe, and Alison LaCroix in The Beaux’ Stratagem. (Birdthistle is a regular coauthor of several faculty members and LaCroix’s husband.)
The 2009 law and literature conference, on Shakespeare, was headlined by Supreme Court Justice Stephen Breyer, who indirectly inspired Nussbaum to start the theatrical portion of the conference. “Breyer said he wanted to talk about three plays: *Hamlet*, *Measure for Measure*, and *As You Like It*, and I was thinking, how can we make sure the audience has familiar recall of these plays? And I thought, one fun thing to do would be to perform a scene from each of them.”

That early show was an indicator of how successful the dramatic scenes would be. “We had to repeat the theater part because the courtroom was too full to hold all the students,” Nussbaum said. “We had to do it again the next day.”

It was also the first time—but not the last—Posner would play a dead man onstage. He was Polonius in *Hamlet*.

“I was killed and dragged off the stage, and that was fun,” Posner said. “I’m kind of a character actor; I’m not the leading man. I’m a villain or some old guy who’s going to be knocked off. My death scenes are well regarded.”

The Shakespeare volume, *Shakespeare and the Law*, was edited by Nussbaum, Strier, and English Professor Bradin Cormack, now at Princeton University.

In 2010, Nussbaum and LaCroix hosted a conference in partnership with the University’s Center for the Study of Gender and Sexuality on the eighteenth- and nineteenth-century British novel. That year, faculty enthusiasm greatly increased, Nussbaum said. The conference also featured a rather memorable stage moment during the performance of *The Beaux’ Stratagem* by George Farquhar, in which Professor Todd Henderson played a drunken sot stumbling about in red long underwear.

It was also the first time the conference included musical performances. Wu, who played Posner’s lover in the *Oresteia*, and Nussbaum have the same singing coach; since 2010, they have contributed vocal performances to the conference. The resulting volume from the British novel papers, *Subversion and Sympathy*, was edited by Nussbaum and LaCroix.
Nussbaum then decided to hold the events, which are quite labor-intensive to plan, every two years instead of annually. In 2012, the topic was the depiction of masculinity in American literature. The guest of honor was prolific author Joyce Carol Oates. And this time the musical performances went beyond Nussbaum and Wu’s singing: Gary DeTurck, ’14, played piano; this year, he played both piano and cello.

The book from that conference, which will be published by Oxford University Press, was edited by Nussbaum and Levmore. It will be divided into two sections, the first examining masculine archetypes, and the second so-called historical “outsiders,” such as Jews, gays, and empathetic men. McAdams’s paper is on the various qualities, both traditionally masculine and not, of Atticus Finch in *To Kill a Mockingbird*.

That volume will be a departure from previous efforts in that it will include several papers from federal judges who were not present at the conference but who contributed work on masculinity.

This year, the conference took a criminal turn, in part because Nussbaum was inspired by McAdams’s work at the 2009 Shakespeare conference, on *Othello*. Turow, in his keynote, pointed out that crime is one of the constants of literature.

“It’s fairly clear to all of us that transgression is of enormous interest. We are all battling the impulse to do wrong,” Turow said. “People can’t help being fascinated by wrongdoing because they are all would-be wrongdoers themselves.”

Turow got into the fun of performing a bit, too; he played the watchman at the beginning of the *Oresteia*, spotting the flame that signaled the return of the victorious Greek army from Troy. His inclusion was an added thrill for the students who acted in the play as women of Athens and jurors.

Grace Goodblatt, ’16, who played a woman of Athens, had no lines but several tasks, such as laying out a red carpet in front of Posner, along with Siggi Hindrichs, ’16, and Amy Upshaw, ’16. The *Oresteia* was chosen because it depicts what the Greeks believe to be the first jury trial for homicide.
“These are such familiar people in their fields, and to get to work with them in this setting was thrilling,” Goodblatt said. (Students didn’t just participate as actors, either; four students, two from the philosophy department and two from the Law School, presented student papers at the conference’s opening session. Nussbaum’s research assistants David Dormon, ’14, and Bill Watson, ’14, served as stage manager and general assistant, respectively. Recent graduate and award-winning actor and playwright Paxton J. Williams, ’13, directed the production.)

LaCroix has acted at two previous conferences. Like most of the faculty actors, she doesn’t consider herself a natural, but she does see the value of the exercise, she said. “We have to be one of the only, if not the only, law schools that does this. We all know it’s a bit unusual, but there is value in performing the works. It’s a chance to bring the text to life, and to give people another way to access law.”

English Professor Marina Leslie of Northeastern University in Boston said she was surprised and delighted by the performances. It is so unusual to combine an academic conference with performances of this sort, especially where students and faculty share work academically and then collaborate theatrically, she said.

“It was both serious and fun. I applaud the sense of play and the kind of community it builds,” she said. Leslie presented a paper earlier that day about the literary legacy of Anne Green, the English woman who famously survived a hanging in 1650. She was part of a panel on Criminal Histories that also covered an analysis of murder in Othello (McAdams) and a discussion of perjury in ancient Jewish legal texts (Barry Wimpfheimer of Northwestern University’s Department of Religious Studies).

“The panel I was on had scholars from three different disciplines, and it was surprisingly coherent. The talks were quite resonant with one another,” Leslie said. “Interdisciplinarity, as a whole, is more often an aspiration than a practice. At this conference, I think it’s really achieved.”

The Oresteia cast takes a bow at curtain call. Nussbaum’s arm is around Paxton J. Williams, ’13, who directed.