You never know what ideas channel surfing will inspire. Just ask Lisa Fairfax, JD, associate professor of law. While flipping through news coverage during the Enron collapse, Fairfax was intrigued by the strong role women were playing in the fallout as whistleblowers. “The idea seemed obvious to me,” she explains. “Why women? Are they more ethical? Then there’s Martha Stewart. Are women outsiders? The more I looked at the whistleblowers, the more fully I began to explore the idea.”

It’s an idea she finds particularly exciting as a scholar of corporate law in today’s post-Enron, post-Sarbanes-Oxley era. “We are in a place right now where all the rules are changing,” she says. “We’re rethinking the norms and the people we are entrusting with our most sacred resources—our money. We can be collectively more strategic and explore the issue of what women’s roles are in it.”

In the five years since joining the faculty, Fairfax’s research and publications have gone a long way in defining the new area of inquiry on the impact of the Sarbanes-Oxley Act on women and minorities—and helping to set the standard of the equally new notion of women as corporate law scholars. She has written in the areas of corporate governance matters, securities fraud, fiduciary obligations, securitization, privatization, and education. Her 2003 article on the officer certification provisions of the Sarbanes-Oxley Act was selected as one of the top ten corporate and securities articles for that year and reprinted in the Securities Law Review. The Corporate Practice Commentator also reprinted her article on the scope of corporate directors’ fiduciary obligations to non-shareholder beneficiaries, including it among the journal’s top ten corporate and securities articles of 2002.
Professor Lisa Fairfax, a leader in corporate governance issues.
For me, [this area of study] goes beyond my scholarship to the larger question of why it is important that women achieve as corporate leaders,” says Fairfax, a Harvard College and Harvard Law School graduate, who joined the law school faculty after practicing corporate law with the firm of Ropes & Gray in Boston and Washington, D.C.

Fairfax’s courses at the University of Maryland School of Law—covering business associations, securities regulation, unincorporated business entities, contracts, as well as a corporate transactions seminar—have also garnered accolades. In 2003, Maryland law students named her “Teacher of the Year”; in the previous year, the School of Law’s Black Law Students Association named Fairfax “Professor of the Year.”

Fairfax and Professor Richard Booth, JD, research, write, and teach exclusively in business law, and together they are developing and shepherding the School of Law’s new, comprehensive business law program.

“The dean recognized that we had the components already in place—a business law journal, a strong intellectual property program, several business courses, and people who were interested,” explains Fairfax. “The idea was to bring it all together in a more cohesive and strategic way.”

The program offers students interested in business law both an in-depth exploration of the legalities of the business world with a wide array of courses taught by a range of faculty, including courses on mergers and acquisitions, real estate transactions, and securities fraud. Interested students may select business courses offered in conjunction with The Robert H. Smith School of Business at the University of Maryland, College Park and the Robert G. Merrick School of Business at the University of Baltimore.

But the hands-on experience is vital: externship opportunities include a student venture capital fellowship at New Enterprise Associates, Wilson Sonsini Goodrich & Rosati, and the National Venture Capital Association. In addition to developing a comprehensive externship program, since 2003, Booth has brought numerous national scholars and practitioners to campus as part of the annual business law conference (see page 4 on last fall’s conference on the current controversies in the mutual fund industry). This fall, the business law program will host its annual conference on Friday, November 4, focusing on the fiduciary duty of directors to the creditors of troubled companies. It will also launch its new Journal of Business and Technology Law. And, along with the students, Fairfax and Booth have resurrected the defunct student business organization, establishing the Business Law Society.

“In the business law program, we try to offer a rational progression of courses that starts out with reading cases, then advances to courses more focused on business planning and doing deals.” says Booth, a former corporate and securities litigator who has taught at the University of Maryland since 1990. “Our program gives students a balanced exposure to the entire spectrum of business law practice.” The author of five books and numerous articles in both scholarly journals and popular publications, including The New York Times and The Wall Street Journal, Booth’s expertise and courses in venture capital and corporate finance further the program’s distinction and complement Fairfax’s research and teaching focus on corporate governance.

Fairfax notes that a shared goal is to have a program that is welcoming to women. “For that to happen, you need to have women in role model positions,” she adds. For Danielle Kalish, a second-year law student from Baltimore, associate editor of the Maryland Law Review, and the 2004-2005 co-president of the Business Law Society, exposure to role models such as Fairfax has made an impact.

“I see each generation of women as a catalyst for opening doors for women in the business arena, and I see my generation as no exception,” she says. “I hope to effect change by setting a positive example for young women who may [otherwise] second-guess their abilities because of societal pressures.”

In 2004, Fairfax shot a two-sentence e-mail to Dean Karen Rothenberg, describing her idea for a conference on women and the new corporate governance to be developed by the Business Law Program. With the dean’s encouragement to move forward with the conference, Fairfax invited Paula Monopoli, JD, associate professor of law and director of the law school’s Women, Leadership, and Equality (WLE) Program, to co-sponsor.

“This is our first collaboration with the Business Law Program,” notes Monopoli. “It’s wonderful for the WLE’s Rose Zetzer Fellows to have models of women as CEOs and legal scholars, and I love the fact that I can put some of my budget behind giving women a forum to publish and do scholarship.”

The result of their collaboration, infused by additional funding from corporate sponsors Legg Mason and T. Rowe Price, was the “Women and the ‘New’ Corporate Governance” conference, held on April 7 and 8, 2005, and attended by more than 200 people. Among the first national conferences to tackle the complex issue from an academic perspective, it fostered a dialogue between panelists and attendees from academic and corporate life. Fairfax and Monopoli were able to attract some of the best and the brightest to serve on those...
panels—from CEOs, academics, and scholars—as well as attendees from all levels of the legal and business worlds.

"People had been thinking about this for a while," Fairfax says. "Our goal was to affect policy and get a better assessment of how we write about these issues. I'm very hopeful that all the conversations [that began] both in panels and in the halls would continue so that we can begin tackling these issues. The conference gave everyone a realistic place to start."

Rothenberg calls the timing of the conference the perfect fit to the evolution of Fairfax's scholarship.

"Over the last few years, we have made serious strides in the Business Law Program, and Lisa's vision focuses on the crucial question of women in the corporate world," she says. Rothenberg credits several converging factors: the Sarbanes-Oxley Act as opening up corporate boards and allowing questions to be asked about governance and the role of women; the nearly 50:50 gender make-up of current law school enrollments nationwide, up from 40 percent in the late eighties (according to the National Association for Law Placement), and the leadership environment for women within the School of Law, with women comprising 40 percent of the faculty.

During the conference's panel on women as executive officers and managers, moderated by Fairfax, she re-visited her original inspiration for the conference in a discussion of whether or not women, as outsiders, are more likely to be whistleblowers. Ever the professor, when asked if there were any definitive conclusions, she chuckles and answers, "Of course not."

A Leaking Pipeline
Fairfax's scholarship and the conference shine a harsh light into one of the major, ongoing barriers to women in corporate leadership positions: a pipeline that's full of holes and clogs.

From statistics alone, the flow of women from law and business schools into top corporate positions should be heavy. As you can see from the chart (next page), women now comprise nearly half of all law school students, earning half of the JD degrees (as of 2004). More than half of college undergraduates are female (by 8 percent); when you get into the graduate realm, women are earning half of all professional and graduate degrees.

In fact, the rate of women earning advanced degrees over the next decade is projected to grow by an impressive 16 percent compared to the paltry 1.3 percent growth for men over the same time period.

The 2004 statistics from the National Association for Law Placement reveal that women attorneys account for 43 percent of associate or staff/senior attorney positions, yet only 17 percent are partners in the nation's major law firms.

"We try to offer a rational progression of courses that starts out with reading cases, then advances to courses more focused on business planning and doing deals."

Professor Richard Booth is an expert in venture capital and corporate finance.
Paula Monopoli (second from right), director of the law school’s Women, Leadership, and Equality program, was thrilled with the first collaboration between the programs, and the opportunity to provide “a forum to publish and do scholarship” about the role of women.

“This may be a conversation about women and roadblocks, but it is not a conversation just for women,” Fairfax says. “My goal is for everyone in mainstream business to understand that these issues are their issues as well.”

“[So] we need to ask what is keeping women from ascending into leadership positions [in law and business], because to a certain extent, the pool problem is no longer a realistic one,” notes Fairfax.

During her keynote address at the conference, Sheila Wellington, clinical professor of management at New York University’s Stern School of Business and the former president and chief executive officer of Catalyst, Inc., illuminated the trickle at the end of the pipeline, highlighting what Fairfax cites as the “glass half-full/half-empty” discussion that underscored the conference discussions. Ms. Wellington cited several statistics from Catalyst’s 2003 “Women in Corporate Leadership Study.”

-Fifty percent of managerial positions in this country are held by women, yet only 15.7 percent of the corporate officers in Fortune 500 companies are female.

-Women represent only 12.4 percent of the board of directors of Fortune 500 companies and only 7.9 percent of the highest titles within those companies.

-And an alarming—and sobering—1.8 percent of Fortune 500 chief executive officers are women.

Fairfax acknowledges that the pipeline has not produced the expected results: “Basically, I think the common perception is that as women graduate from various schools in greater numbers they will eventually make it into the ranks of various corporate leadership positions. Also, there’s the common perception that women who leave these ranks either do so because it is not desirable or because they want to just stay home.”

While a 2004 survey conducted by New York’s Center for Work-Life Policy (co-sponsored by Ernst & Young, Goldman Sachs, and Lehman Brothers) found that 37 percent of highly qualified women had voluntarily left the workforce at some point (43 percent for women who had children), only six percent cited too-demanding work as the reason for leaving.

In “Off-Ramps and On-Ramps: Keeping Talented Women on the Road to Success” (Harvard Business Journal, March 2005), Sylvia Ann Hewitt and Carolyn Buck Luce discuss the surprisingly short time spent on the “off-ramp” for women—on average 2.2 years across all sectors and only 1.2 years in business sectors—with an equally surprising financial penalty—a loss of 37 percent of women's earning power across all sectors when they spend three or more years out of the workforce.

“We have come a long way, but we are not as far as we should be,” agrees Fairfax. “There are some serious roadblocks ahead

**WOMEN COMPRISE:**

- 48 percent of current law school graduates
- 56 percent of all undergraduates
- 50 percent of all professional and graduate degrees
- 50 percent of 2004 JD degrees awarded
- 41 percent of all 2002 business school advanced degrees
and we need to be thinking strategically about how they can be overcome. This may be a conversation about women and roadblocks, but it is not a conversation just for women. My goal is for everyone in mainstream business to understand that these issues are their issues as well."

In her conference keynote address, Catherine R. Kinney, president and co-chief operating officer of the New York Stock Exchange (NYSE), spoke to the bottom-line impact of gender diversity, citing Catalyst research that found companies with the highest representation of women on the top management teams experienced better financial performance than those companies without strong female representation in top positions. Kinney singled out Maryland graduates who are NYSE leaders. Susan Merrill, JD, did her undergrad work at Maryland (class of '79); she heads up the NYSE’s Enforcement Division.

Her other example, Ellyn M. Brown, JD ('80), the former Maryland Securities Commissioner and a former University of Maryland business law and securities professor, had just been elected as the first publicly nominated board member of the NYSE Board of Directors—coincidentally, on the opening day of her alma mater’s conference exploring women as corporate leaders. Brown believes more women as corporate directors "will be the second domino to fall." She notes that the first has to be women actually succeeding in top management.

"There are lots of women who have ascended up the ranks of American corporations and are real candidates for boards," notes Brown, who is president of Brown Associates, a securities firm in Baltimore. "I think it's a huge step forward to have a woman as a leader of the Business Law Program [at Maryland] and that should make a difference. There was a sense for a long time that women didn't do corporate law."

Most importantly, whether at a conference or in the classroom, University of Maryland law school professors continue to be models for change for the next generation of attorneys and corporate leaders, female and male.

"Sometimes studying law is backward-looking because you read cases that have already been decided," explains Fairfax. "I want my students to see themselves as forward-looking and think about the rule that they would like to see. I want them to be part of making a rule, not just applying it."

For Dean Rothenberg, this is a key strategy in not just educating lawyers, but in training leaders, particularly women. "Women have had increasingly more voice over the years at our law school," she explains. "It's integrated on a daily basis in the programs at all levels, through mentoring, in our innovative WLE Program, in the Business Law Program, in extracurricular activities, and in conferences. Women have to see themselves as leaders of change agents at an international level. That's a theme that came out of the conference—and it's an integral component of our mission."

Freelance writer Sarah Achenbach covers women's and family life issues of all varieties in numerous publications; she lives and works in Baltimore.

The "Women and the 'New' Corporate Governance" conference papers will be published in an upcoming issue of the Maryland Law Review.

---

**New Journal Examines Business and Technology Law**

As technology touches every aspect of corporate life, new legal issues present themselves at every turn. Now, to showcase the emerging scholarship from this fast-moving world, the School of Law has launched a new *Journal of Business & Technology Law*. The new publication builds on the fine work done by its long-time predecessor, the popular and highly respected *Business Lawyer*, adding to the already strong set of journals coming out of the law school.

"Our law journals give students the opportunity to work with leading scholars on our own faculty, across the country, and around the world on a wide range of issues," says Dean Karen Rothenberg. "They are a way for important work in law and public policy to become part of the national dialogue. They give our students a voice in that debate as well, by publishing student-written pieces, and by actively engaging students in the decision-making process about what gets published."

When it premieres this fall, the new journal will be at the forefront of the innovative analysis of how business and technology are coming together to create new challenges—and opportunities—for the legal community.

Meeting these challenges is reflected by the national trend toward the development of business and technology courts (as many as twenty have been created), with judges who have been trained specifically to adjudicate business and technology matters. Maryland is an innovator in this arena, with one of the country's first business and technology case-management systems.

The journal will serve as the preeminent publication for analyzing these groundbreaking judicial opinions and the issues that reach these courts. Appropriately enough, the journal also will use technology on its own behalf. An online format will enhance the print version, creating a unique resource for anyone who studies, argues, or adjudicates business and technology disputes or has a stake in the outcomes of such issues.

"As the first publication to examine these issues together, this new journal will add an important voice to the nation's legal scholarship and will provide a rewarding educational experience to our students," says Dean Rothenberg.

Each issue will feature student-written articles complemented by those of invited authors: participants in scholarly symposia and roundtables at the School of Law, and prominent members of academia, the judiciary, and the profession who will provide the latest thinking and practice in intellectual property and the futuristic innovations of a digital world.—Ruth E. Thaler-Carter