The Center for Interdisciplinary Studies brought together leading legal experts, political scientists, and economists to explore interrelationships between formal legal processes and norms.

by Brenda Murphy-Niederkorn

When studying the law, it sometimes can be easy for students to become immersed in the legal process—without viewing decisions within the context of society at the time in which these decisions were made.

That’s one of the reasons for the new Center for Interdisciplinary Studies at Washington University School of Law. The Center completed its inaugural year with the March 30–31 “Norms and the Law” conference focusing on the works of some of the world’s leading authorities in the fields of law, political science, and economics.

“The inaugural conference theme explored the interrelationships between formal legal processes and norms—social principles and informal constraints that guide behavior,” says John Drobak, professor of law, professor of economics in Arts & Sciences, and director of the Center for Interdisciplinary Studies. “In today’s complex world, these intersections offer fascinating insights into human behavior and the role of law in addressing contemporary issues.”

The conference was divided into three sessions focusing on “Cognition and Complexity,” “Judicial Norms,” and “Norms of the Commons.” Authors, who had presented drafts of papers during three symposia held at Washington University in fall 2000, returned with their final versions. Panelists who had reviewed these papers offered their views of the works. Audience members also had the opportunity to question the authors and panelists, and to offer their own comments. The Center plans to publish all the conference papers.

A paper presented by Douglass C. North, the Spencer T. Olin Professor in Arts & Sciences at Washington University and co-recipient of the 1993 Nobel Memorial Prize in Economic Sciences, started off the conference and the session on “Cognition and Complexity.” North, who is writing a book, The Process of Economic Change, discussed cognitive science, learning, and social science theory in a dynamic world.

Keynote speaker Amartya Sen, master of Trinity College in Cambridge, England, and recipient of the 1998 Nobel Memorial Prize in Economic Sciences, discussed “Normative Evaluation and Legal Analogues.” Sen was awarded the Nobel prize for his contributions to welfare economics, including his case study of the 1943 famine in Bengal, India.

“Sen is an economist who goes beyond price theory and economic concerns to look at people’s quality of life,” says Drobak. “In his keynote address, Sen shared his views on how law and legal thinking influence the discussion and formulation of norms.”

The Center for Interdisciplinary Studies, directed by Professor John Drobak (far right holding end of ribbon) celebrated its inauguration with a ribbon-cutting ceremony and a conference featuring such experts as Amartya Sen (at the podium) of Trinity College and Douglass North (at the table) of Washington University and drawing about 100 participants.
“In the paper, I talk about the fundamentals that underlie institutions and how institutions fit into society,” says North. “We want to know how to understand the world around us. Living in this world of uncertainty, we’ve developed codes of conduct, many of which are not formal. I looked at the structures that humans impose on human interaction.”

This session on “Cognition and Complexity” also focused on a behavioral science perspective of jury damage awards by Cass R. Sunstein, the Karl N. Llewellyn Distinguished Professor of Jurisprudence at the University of Chicago Law School, and on altruism and legal theory by Lynn A. Stout, professor at the Georgetown University Law Center.

John Ferejohn, the Carolyn S.G. Munro Professor of Political Science at Stanford University, led the “Judicial Norms” session with a paper discussing legal constraints on the independence of the judiciary. Ferejohn and Larry D. Kramer, a professor at New York University School of Law and co-author of the paper, discussed inherent tensions in democratic legal values.

“We want judges to be independent, but also responsive to democratic changes,” says Ferejohn, whose paper outlined the means by which the United States Congress may leverage judges, as well as self-imposed constraints by the judiciary.

Like other presenters, Ferejohn and Kramer had revised their paper based on comments received during the fall 2000 symposium. Also in the fall, Ferejohn met with Washington University law students enrolled in the course titled Norms and the Law: A Readings Course. The students in this class were assigned to read all or selected works of an author from throughout that author’s career.

“The structure of that event forces you to take account of things you’ve forgotten,” says Ferejohn. “The students were very good.”

The “Judicial Norms” session included papers on the impartial, independent, and autonomous nature of judges by Lawrence M. Friedman, the Marion Rice Kirkwood Professor of Law at Stanford Law School, and on judicial independence and judicial affiliation with racial groups by Kathryn A. Abrams, professor of law and associate professor of ethics and public life at Cornell University Law School.

A discussion of institutional arrangements for sharing common resources by Elinor Ostrom, the Arthur F. Bentley Professor of Political Science and director of the Workshop in Political Theory and Policy Analysis at Indiana University, opened the session on “Norms of the Commons.” Additional papers were presented on informal and formal rules governing property in a household by Robert C. Ellickson, the Walter E. Meyer Professor of Property and Urban Law at Yale Law School, and on intellectual property rights and commons features of the Internet by Lawrence Lessig, a professor at Stanford Law School and a special master in the Microsoft antitrust litigation.

Chief Judge Harry Edwards of the United States Court of Appeals, D.C. Circuit, served with 10 prominent faculty members from Washington University and other universities as discussion panelists.

“We were fortunate to be able to gather such an amazing collection of intellectuals and scholars in law, economics, and political science for this conference,” says Drobak. “Washington University occasionally sponsors these types of conferences, but this one was unequaled in its mix of authorities from these disciplines.”

The Center for Interdisciplinary Studies will choose a topic of discussion involving experts from various fields each year. In this academic year, the Center and Washington University’s School of Medicine are coordinating interdisciplinary research and hosting a series of symposia and a major conference on “Law and the Human Genome Project: Research, Medicine, and Commerce.” ◆