

PORTRAITS

Lovisa Lyman

Photography by John Snyder

KIF AUGUSTINE ADAMS

INS AND OUTS

I've always been interested in how we use law to organize society," observes Kif Augustine Adams, one of the Law School's newest professors, "... how we use law to include and exclude people and as a 'coordination solution,'" she continues. It was her favorite political science professor at BYU, Noel Reynolds, who used the term "coordination solution" to refer to ordering human interaction. But her consciousness of exclusion and inclusion did not begin as an undergraduate. Growing up in Oregon as a bright student and a "peculiar" Mormon, she knew what it was to sometimes be left out of high school parties and activities. In fact, she occasionally had to exclude herself, like the time she sat in the car for most of a party because guests were smoking marijuana. BYU was easier, with more opportunity to be involved in useful activity.

She got to know husband Stirling Adams when they both volunteered for a Spanish-language magazine for the blind after their Spanish-speaking missions—a project aimed at including both the blind and the Spanish speaking. After Kif and Stirling married and completed their undergraduate degrees, she with a BA in international relations and English, they both opted for law school. She went to Harvard and he to Boston University. Again she was a minority as a BYU graduate, a Mormon, and a woman. None of those things worked against her, however. She saw her time at Harvard as a "mind-expanding opportunity." She particularly enjoyed getting to know her classmates. She chose not to "specialize" in law school but rather to get a basic foundation of the law that would be helpful to her both as a practitioner and as a law professor, which, even then, she planned to become. She was managing editor of the *Harvard Journal of Law and Public Policy* and graduated in 1992 magna cum laude. Stirling graduated at the same time and they both accepted jobs in

Washington, D.C. He went to the Office of the General Counsel of the Navy, and Kif to Covington & Burling, a large firm known to be a feeder for law school faculties. With the firm's blessing, academics who once practiced there dot the map, while the firm continues to actively seek and welcome new blood.

Covington & Burling's wide-ranging practice includes many of Kif's areas of particular interest: administrative and regulatory law and export and import work—particularly the Export Administration Act. Her work centered on the antiboycott provisions.

In addition to the firm's lucrative areas of practice, it places a high priority on pro bono. In fact it always tops the list in *The American Lawyer* for hours put in and percentage of attorneys contributing their services to prison reform, housing class actions, veteran representation, neighborhood legal services, asylum cases, and the like. Kif soon discovered that at Covington & Burling, high profile pro bono cases like the Baby K case, where the firm represented the mother in a life-support issue, are treated with the same care as a car accident case involving the spouse of an employee.

Among her most memorable pro bono assignments at the firm were two asylum cases, one where the client was included and the other where the client was excluded. The first dealt with a radio journalist from Togo, a small, volatile island between Ivory Coast and the curve of Africa. The journalist had aired broadcasts against the island's dictator illegally. The firm was contacted by the Lawyers Committee for Human Rights and asked to represent him. The man fit the legal criteria for inclusion. Not only had he risked his life for the principles of democracy but he held a PhD and spoke English, French, and the local language. Kif and her associates assigned to the case literally saved the man's life.

Another case was not so successful. A Chinese ship, the *Gold Venture*, ran aground off Long Island. Approximately two hundred Chinese citizens were on the boat. Some drowned. Among those who made their way to shore was a young man from rural China. He and the other survivors were placed in detention by the Immigration and Naturalization Service. INS judges requested help from the

Lawyers Committee for Human Rights in seeking representation for the Chinese individuals. Kif and others assigned to the case had two weeks to prepare for trial. First they had to find someone who could speak the man's local dialect, then they had to put together a defense. The man was requesting asylum based on persecution he suffered because his brother had more than one child, in violation of China's one-child-per-family policy. Complex issues existed regarding persecution based on family-planning policies as a basis for asylum. In addition to the legal issues, the case logistics were complex. Kif made several trips to Winchester, Virginia, where the man was being held, and spent many hours in the jail interview room with a frightened and dis-

Immigration Appeals ended with the ruling that the man should have been in deportation rather than exclusion proceedings and was entitled to a new hearing. At that point the man, upon very poor advice, switched from pro bono counsel to another attorney. The last Kif heard of him, he was still languishing in the Winchester Jail.

After Kif worked on these cases and others like them, she became even more skeptical that inclusion and exclusion laws are fair. Immigration regulations are based on the true premise that we can't include everyone, but when Kif met people who didn't meet criteria for inclusion, yet could make and were making contributions to our society, the regulations seemed highly inadequate.



trustful client and a translator. Despite the fact that professionally it was a disappointment, Kif found the case to be a "culturally fascinating experience." "We tried to convince the man to answer questions straight-on, but that was not the way of his culture. If asked, 'Why did the police come to your house?' he would answer, 'Because the family is one,' meaning that he was persecuted because of his brother." The immigration judge denied the man's asylum request on the basis that persecution under the one-child rule was not sufficient under statutory criteria for asylum. In reality, the law is still up in the air on the issue. Appeal to the Board of

Kif Augustine Adams with husband, Stirling, and daughter, Sofia

When Kif had been at Covington & Burling for almost two years, her daughter Sofia was born. The firm's practice often supported new parents, limiting travel during the first year of the child's life. Quite a number of associates, men and women, had young children, and they freely discussed their concerns about child care, preschools, and work loads. A few months after Sofia was born, Kif was offered a position teaching torts and public international law at BYU. Given

Kif's opportunity, Stirling decided to look for a job in Utah as well. He currently works as in-house counsel at Novell. "Traditional practice was exciting because there were immediate problems to be solved and a unique sort of energy generated," observes Kif. "However, law practice does not offer as many opportunities to look at the whole picture. As a law professor, you are able to think of the bigger picture rather than specific questions your clients need answered immediately." Kif likes looking at larger issues, investigating change and improvement at the policy level.

Though the community at BYU's J. Reuben Clark Law School is more homogeneous than the ones Kif has worked and lived in for most of her life, there will be much opportunity for her particular philosophy: "I want to be judged by whether what I do, whatever it is—work, family, church service—makes a difference in improving people's lives, whether it helps them to belong to a community that they value."

LARRY ECHOHAWK

DREAMER OF DREAMS, MAKER OF REALITY

For Larry EchoHawk there are two dream speeches. One he watched on television with his itinerant oil-rigger father when he was 14 years old. They sat in their little living room in Farmington, New Mexico, following the flickering images on a black-and-white TV, and Larry heard for the first time "the booming voice of Martin Luther King, Jr." The words "transformed me," he avers. "Dreams that had lived only in my soul rose to the surface, and I pursued them with the vigor and single-mindedness of youth." The speech was a revelation to a boy who had sat at the back of one classroom after another, cringing and staring at his shoes during history lessons where he and his father's people were referred to as savage, heathen, renegade, and bloodthirsty. He began to hold his head up a little more after that August night in 1963.

His father was also touched but not as optimistic. Ernest EchoHawk had been sent away from the Pawnee Reservation in Oklahoma during the depression to a boarding school where the main thing he was taught was how to not be an Indian. If he had ever believed in the American Dream, years of following low-paying jobs and dulling his memories and inadequacies with alcohol had almost erased any hope. Gone the once proud heritage of the first EchoHawk, Larry's great-grandfather. "To the Pawnee, the hawk is a symbol of a silent warrior," Larry once wrote. "My great-grandfather was known for his bravery, but he was also known as a modest and quiet man. He did not speak about his own deeds, but word of his courage 'echoed throughout the village.'" That family pride had dissipated. In fact in the early sixties, it looked like the EchoHawk family itself was headed for break up. Larry's father and non-Indian mother had been through too many troubled years. The six children, four older than Larry, were facing a bleak future.

Just a year before the King speech the family situation had begun to improve. A Mormon neighbor sent stake missionaries to visit the EchoHawks. Those visits changed the direction of the family for years to come. For the first time the family attended church together. To be baptized, Larry's father gave up alcohol. Little by little, Ernest began to again take pride in his heritage, which would later culminate in a return to the Pawnee Reservation and the traditions he had been beaten and punished for remembering. Larry's mother, who had not finished high school, now saw each of her six children obtain a college education. Three sons and a daughter graduated from Brigham Young University, all on either athletic or academic scholarships. Larry came to BYU on a full-ride football scholarship. He played in every BYU football game from 1967 to 1969, was a two-year starter at defensive safety and earned All-WAC academic honors as a senior. With this kind of accomplishment it was natural that he should consider a career in sports.

That was not to be, for at BYU he heard about another dream speech that opened even wider vistas and possibilities. Spencer W. Kimball, Church president and ever advocate for the Lamanites, spoke to a group of Native Americans:

[In 1946] *I had a dream of your progress and development. Now this is precisely what I dreamed; this was my vision for the people of the Lamanites. I got up from my bed and wrote my dream. This is what I wrote:*

As I looked into the future, I saw the Lamanites from the isles of the sea and the Americas rise to a great destiny. I saw great numbers of Lamanites in beautiful homes that have all the comforts that science can afford. . . . I saw the people of Lehi as engineers and builders, building lofty bridges and great edifices. I saw you in great political positions and functioning as administrators over the land. I saw you as heads of government and of the counties and states and cities. I saw you in legislative positions, where as legislators and good Latter-day Saint citizens, you were able to help make the best laws for your brethren and sisters.

I saw many of you becoming attorneys and becoming the solution of the world's problems. . . . I saw you as owners of industries and factories. . . . I saw [you] as doctors, as well as lawyers, looking after your people.

Now, that was my dream. Maybe it was a vision. Maybe the Lord was showing to me what this great people would accomplish.

Suddenly Larry's possibilities expanded to include a whole list of other professions. At about this time older brother John, the first Native American graduate on the American Indian Law Scholarship, suggested that Larry could do much good for his people if he were a lawyer. Larry applied and was admitted to the University of Utah, where he also received an American Indian Law Scholarship. He and his wife, Terry Pries, headed for Salt Lake City, where the hardest part of attending law school would be cheering for the Utes. After three years Larry decided they weren't as bad as he had been led to believe.

Since his graduation in 1973, it appears that Larry has taken President Kimball's dream as his personal blueprint. First he served the Indian people by working for the California Indian Legal Services. Next he opened a private practice in Salt Lake City where most of his clients were Native Americans. The practice expanded to seven attorneys, still maintaining a largely Native American client base, before Larry left in 1977 to become Chief General Counsel to the Shoshone-Bannock Tribes at Fort Hall, Idaho. The tribes had always been represented by Anglo attorneys, and Larry competed with sev-

tunities came his way. He argued a case before the Supreme Court of the United States. In 1992 he spoke at the Democratic National Convention on the final night to an audience of 20,000 people and nationwide television. In that address he talked, as he often does, about the values he grew up with and the importance of education as an opportunity all should have, no matter where they come from. He was a welcome visitor to the White House. Still he put the needs of his state foremost.

It was with his state in mind that he opposed casino gambling on the reservation. Larry had been elected to his



Larry EchoHawk, '94 Idaho gubernatorial candidate, joins the BYU law faculty.

eral large firms for the position. He continued in their service for eight and a half years. During that time, he was elected to the Idaho House of Representatives in 1982 and re-elected in 1984. He became Bannock County prosecutor in 1986. (Bannock is the fourth largest county in Idaho and borders on Fort Hall Reservation.) He continued as prosecutor until he was elected in 1990 as attorney general of Idaho, the first Native American in U.S. history to be elected to a statewide office. In this position other honors and oppor-

office with tribal support. During the campaign, he cautioned the tribes that if he were elected he could not be the tribal attorney in the statehouse and that they now needed to retain their own counsel. Nevertheless he promised, "Though we may disagree on issues, I will never disagree with you in spirit." In his new office he supported the Indian viewpoint until the issue of casino gambling arose. For the first time he opposed a tribal stand on an issue. Reservations are under federal jurisdiction and Indian gaming is controlled by the federal government. None-the-less, federal law does not go against established state law and constitution. A window in the existing Idaho law could have been construed to allow casinos on the reservation. A special

legislative session was called, and Larry's office drafted a bill to patch up ambiguous language and outlaw any form of casino gambling anywhere in the state. The night before the session, a Republican legislator visited Larry's home to request that he appear on the floors of both houses to speak in favor of passage. Tribal representatives would be defending their side of the issue as well. It was an uncomfortable situation, but Larry agreed to appear. In his address he reminded legislators that this was a matter of state policy and that they should consider the wishes of the state as a whole. The issue went to ballot and passed by 60 percent. (The tribes subsequently filed suit, but the state prevailed.) As Larry left the capital that day, he wondered if he could ever run for office again.

As election time 1993 drew near he would probably have run for attorney general had he not been drafted as a gubernatorial candidate. He decided to run because as the first Native American governor in the United States he would have a wider arena in which to serve. He ran with several disadvantages, however. He entered the race months after the other six candidates had declared, and he ran as a Democrat in a Republican state. Still, in the primaries he garnered 74 percent of the vote in a three-way race. But the Republican sweep that affected the whole country bowled over Idaho as well, and Larry lost the race. He has no regrets. "It was the right thing to do," he insists. "Even had I run for attorney general," he goes on philosophically, "I might not have survived against such a tide."

Idaho's loss is BYU Law School's gain. Larry is now teaching criminal law and federal Indian law in the modest, unassuming way of his great-grandfather, while his deeds echo around him. He carries the quotation by President Kimball in his planner, the words of both dreamers in his heart.

JIM RASBAND

THINGS OF IMPORTANCE

Mary will often deflect a debate with, "Well, if it's that important to you, . . ." Jim Rasband, new faculty member, says about his wife. "Even if I get mad, she's on an even keel. She won't be knocked off of it. I wish she'd argue with me sometimes." He grins in a way that says he is really glad to be married to a peacemaker and a peace keeper.

Keeping the peace was an issue when Jim decided to go to law school. When he was growing up on the Monterey Peninsula in California, law was a hiss and a byword around the family dinner table. Jim's father was a physician specializing in radiology. As medical malpractice and personal injury cases burgeoned, he was invited to be a member of the board of directors of NORCAL, a physician-owned insurance company established in an effort to keep insurance rates down. "Though my father

didn't try to influence my career choice," says Jim, "he had little good to say about attorneys. When I chose law school, there was an unspoken agreement that I would not specialize in personal injury or medical malpractice." Interestingly, along with water law, Jim is teaching torts, but he sees no incongruity there: "Torts is one of the last great common-law courses. It epitomizes the majesty of the common-law tradition. Teaching and learning torts is thus much more about legal reasoning and process than it is about learning to practice in the personal injury bar."

Jim describes his and his brother Win's upbringing as "traditional." "We were given the opportunity and encouragement to pursue our interests," says Jim. "Early on my interest was sports of any kind. Any significant aspirations ended at junior high, however, when I learned that being the top athlete in a small elementary school was going to have to satisfy any need for memories of on-the-field heroism."

Many of Jim's early summers were spent in Heritage Halls with his mother and brother while his mother pursued her degree in English. "My mom and dad's tenacity to get that degree taught me a lot about the value of education."

Jim attended a private high school in Pebble Beach. He finished his freshman year with his usual 4.0 while playing baseball, lacrosse, and basketball. His teammates razzed him about his grades and to "ensure credibility" he went down to a 3.0 his sophomore year. Once established as a non-nerd, however, his grades rose with impunity.

When Jim arrived at BYU at barely age 17, he didn't have law in mind. In fact his main interest was learning. He was like a kid in a candy store. He took a little of everything—Hebrew, Korean, philosophy, Middle Eastern history, politics, Arab-Israeli conflict. When finally he had to decide, one major couldn't cover the territory, so he settled on two: English and Near Eastern studies. After a mission to Korea, he added a Korean minor. Always in the back of his mind was academics. At one point he considered a PhD in English and teaching, a route chosen by two of his favorite authors, Tolkien and C. S. Lewis. In the meantime he had met Mary, a chemical engineering major on her way to a master's degree. They married, and as he neared graduation ("I was one of those 190-hour seniors you hear so much about these days."), he decided to apply for law school rather than pursue an English PhD. Though the decision was difficult, he saw law, unlike English, as a real-life application for academics—with interesting, intellectual debates as well as an opportunity to deal with the problems of living antagonists and protagonists. He was accepted by his first choice—Harvard—and became the only BYU graduate in his first year class.

When the couple headed for Cambridge, Mary had only her master's theses to complete for her degree, which she did between the births of the couple's first two children while Jim was in law school. "I actually enjoyed law school," avers Jim, "especially my first year." Enjoyment diminished somewhat during the second and third years with law review stress.



After graduation he spent a year clerking for Judge J. Clifford Wallace on the Ninth Circuit before moving on to Seattle, Washington, to work for Perkins Coie, the largest firm in the Northwest.

One of Jim's first assignments was in the firm's labor group. There he had a revelation: Unlike at school and the clerkship, the facts did not come neatly packaged. They had to be discovered and painstakingly developed. Quickly he came to enjoy doing the fact development that is the bread and butter of litigation. Early on in his time at Perkins, he represented the Seattle School District in challenges to its bilingual and special education programs. He also performed consulting for various agencies and municipalities seeking to establish women- and minority-owned business preference programs. Soon he added some natural resource work, and he seemed to find his niche. He worked on endangered species issues as well as a number of Indian treaty issues. (During this period he also began doing pro bono work for the Nature Conservancy.) The case that most stands out dealt with tribal shellfish rights. Jim represented family farmers, many of whom had supported themselves for five generations with their shellfish beds. He characterizes these clients as "salt of the earth." Shell-fishing rights had never been carefully spelled out, and Jim found the history of the case fascinating. It was litigation at it's highest. "The attorneys for the tribes were fine people, and their work was high caliber." This case particularly reinforced and fueled his interest in natural

Jim Rasband with his wife, Mary, and children (l-r) Jimmy, Danny, Reese, and Rachel.

resource law, encompassing as it did issues of sovereignty and division and allocation of natural resources—on which much of his scholarly work now concentrates. It also brought to the fore the things he likes most about legal practice—"collaboration with colleagues and clients in researching, writing, and then trying a case." What he won't miss about practice is the aggressive litigation that sometimes overshadows rational discussion—the win-no-matter-what-the-cost attitude. When litigation degenerates to that level, Jim feels like saying, "If it's that important to you . . ."

What is most important to Jim Rasband?

Being a good father to his four children: Rachel Maria, age 9; James Anders, age 6; Danford Edwin, age 4; and Reese David, age 19 months.

Being a good husband. "It's a challenge. When we get away alone, it takes a few hours for the adrenalin to slow down so we can really talk. It's hard to really talk in the brief snippets between hearing about the size of the latest grasshopper catch, looking for missing hamsters, and serving as a tackling dummy."

Being a good Christian. For Jim that includes taking an active role, serving others, and living with integrity.

Does he always succeed? "No," he admits. "I'm often selfish and flawed, but I don't give up on important things."