

books in print

BEFORE ROE v. WADE



VOICES THAT
SHAPED THE ABORTION
DEBATE BEFORE
THE SUPREME COURT'S
RULING



LINDA GREENHOUSE
WINNER OF THE PULITZER PRIZE

AND REVA B. SIEGEL
NICHOLAS DEB. KATZENBACH PROFESSOR OF LAW, YALE LAW SCHOOL

SEX AND THE YALE STUDENT
Student Committee on Human Sexuality

Among the sources excerpted in Before Roe v. Wade, is "Sex and the Yale Student," a counseling pamphlet that was distributed to Yale University students in the 1970s. Pictured here alongside Siegel and Greenhouse's new book is the cover of the original 1970 edition of that pamphlet.

A Case in Context

Before Roe v. Wade: Voices that Shaped the Abortion Debate Before the Supreme Court's Ruling

By Linda Greenhouse and Reva B. Siegel

Kaplan Publishing, 2010

In their new book, former *New York Times* Supreme Court correspondent and current YLS Lecturer in Law Linda Greenhouse '78 MSL and Nicholas deB. Katzenbach Professor of Law Reva Siegel '86 explore the developments leading to *Roe v. Wade* and to controversy surrounding the abortion right. They have collected dozens of primary documents—including letters, pamphlets, legal briefs, affidavits, and amici curiae briefs—to reconstruct for readers a decade-long public conversation that preceded the Court's decision recognizing a constitutional right to abortion.

"We found ourselves on a journey of discovery that took us to public and private archives and that placed in our hands crumbling and long-forgotten legal documents retrieved from participants' attics and basements. We heard the voices of women and men—well-known, little-known, and completely unknown—calling from across the years. It is a privilege to enable

of women by The Society for Humane Abortion about how to get an abortion in Japan; letters from women seeking abortions; statements from a doctor who was tried and convicted for performing an illegal abortion; a sex counseling pamphlet distributed to Yale College students; speeches and pamphlets of the women's movement; statements of churches and religious leaders, including the National Association of Evangelicals and Pope Paul VI; essays by Americans United for Life; and "Handbook on Abortion," a best-selling self-published book by a leader of the emerging right to life movement.

Part II examines documents from the conflict over liberalization of abortion laws in the years just before *Roe* and features case studies from Connecticut and New York. Included is a 1970 organizing pamphlet for Women vs. Connecticut, an activist group that mounted a lawsuit to challenge Connecticut's abortion law. The pamphlet's signatories included Yale Law School

"We found ourselves on a journey of discovery that took us to public and private archives and that placed in our hands crumbling and long-forgotten legal documents retrieved from participants' attics and basements."

them to speak again in their own words," the authors write in the book's introduction.

In presenting the briefs and other documents together, Siegel and Greenhouse offer their readers a chance to explore the types of arguments that were made for and against a right to abortion as the issue made its way to the Supreme Court. The book, though, is not intended as a work of advocacy.

"Our purpose in presenting original texts reflecting many points of view is to permit readers to come to their own informed conclusions about a consequential, but widely misunderstood, chapter in American social, political, and legal history," they write.

The book is divided into four parts: Part I is devoted to the roots of abortion reform in the mid-20th century. Among the documents reprinted are: instructions circulated to thousands

students. The group's lawyers included Catherine Roraback '48 who had worked with Professor Thomas Emerson in challenging the state's ban on birth control in the 1965 case *Griswold v. Connecticut*. Documents in Part II also demonstrate abortion's growing entanglement in national politics in the period just before the Court's decision. In Part III, the authors present excerpts from briefs written by the attorneys for both Jane Roe and Dallas County District Attorney Henry Wade. An appendix with amicus briefs makes up Part IV.

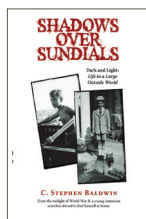
In their afterword, Greenhouse and Siegel discuss the aftermath and paradox of *Roe v. Wade*: Given the widespread public support for decriminalizing abortion, as indicated by opinion polls at the time of the ruling, why did conflict over abortion build over the course of the 1970s and after? Was *Roe* the cause of that conflict or, instead, a symbol that emerged from it?

Here's just a sampling of the many other books recently written or edited by our alumni, faculty, staff, and students.

We welcome your submissions. If possible, please send us two review copies of your book: one for the Lillian Goldman Law Library and one for the Alumni Reading Room.

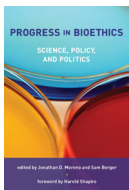
C. Stephen Baldwin
Shadows Over Sundials

iUniverse, 2009



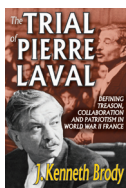
This book tells the story of the peculiar life of Baldwin '65, which has included a mid-hurricane ship rescue, working in cyclone rescue programs in the Bay of Bengal, bringing news to the outside world of Pakistani genocide in revolutionary Bangladesh, and the everyday strains of cultural self-consciousness permeating a life lived in eight countries.

Sam Berger and Jonathan D. Moreno, Editors
Progress in Bioethics: Science, Policy, and Politics
The MIT Press, 2010



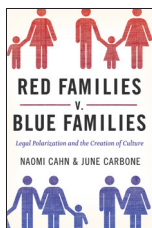
Bioethics has become increasingly politicized over the past decade. In this book, editors Berger '10 and Moreno have gathered together leading scholars who discuss the meaning of progressive bioethics, the rise of conservative bioethics, the progressive stance toward biotechnology, the interplay of progressive bioethics and religion, and progressive approaches to such specific policy issues as bioethics commissions, stem cell research, and health-care reform.

J. Kenneth Brody
The Trial of Pierre Laval: Defining Treason, Collaboration, and Patriotism in World War II France
Transaction Publishers, 2010



J. Kenneth Brody '49 provides a picture of France in World War II that continues to haunt the present. The architect of Marshal Petain's Vichy French regime and its prime minister from April 1942 to August 1944, Pierre Laval was promptly arrested on charges of treason at the war's end. This book tells the story of his trial.

June Carbone and Naomi Cahn
Red Families v. Blue Families: Legal Polarization and the Creation of Culture
Oxford University Press, 2010



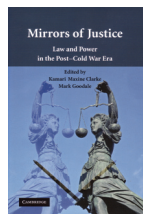
Cahn and Carbone '78 make surprising statements about which families succeed in the 21st century: Blue families, led by college-educated men and women, have figured out how to combine stable marriages with higher incomes; while red families, on the losing end of the new economy, fight back with calls for morality that only lead to more babies born into poverty. The authors suggest that we send family law back to the states.

Ken Chen
Juvenilia
Yale University Press, 2010



In these poems of maturation, Chen '05 chronicles his relationship with his immigrant family and his attempt to recapture youth through comically doomed love affairs that evaporate before they start. His poems take on the forms of the shooting script, blues song, novel, memoir, essay, logical disputation, aphorism—even classical Chinese poetry in translation.

Kamari Maxine Clarke and Mark Goodale, Editors
Mirrors of Justice: Law and Power in the Post-Cold War Era
Cambridge University Press, 2009



Clarke '03 MSJ brings together scholars to reconsider the relationships between justice, international law, culture, power, and history through case studies of a wide range of justice processes. The book's eighteen authors examine the ambiguities of justice in Europe, Africa, Latin America, Asia, the Middle East, and Melanesia through critical empirical and historical essays.

Heidi Durrow
The Girl Who Fell From the Sky
Algonquin Books, 2010



In this debut novel, Durrow '95 tells the story of Rachel, the daughter of a Danish mother and a black G.I., who becomes the sole survivor of a family tragedy. With her strict African American grandmother as her new guardian, Rachel moves to a mostly black community, where her appearance brings mixed attention her way. Growing up in the 1980s, she learns to confront her identity as a biracial young woman in a world that wants to see her as either black or white.

Cynthia Estlund
Regoverning the Workplace: From Self-Regulation to Co-Regulation
Yale University Press, 2010

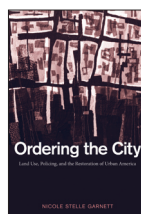


This book seeks to shape current trends toward employer self-regulation into a new paradigm of workplace governance in which workers participate. Estlund '83 argues that the trend toward self-regulation is here to stay, and that worker-friendly reformers should seek not to stop that trend but to steer it by securing for workers an effective voice within self-regulatory processes.

Bardo Fassbender
The United Nations Charter as the Constitution of the International Community
Martinus Nijhoff Publishers, 2009

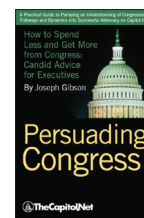
The "constitutionalization" of international law is a highly debated issue in contemporary international legal doctrine. Fassbender '92 LL.M., '99 JSD argues that there indeed exists a constitutional law of the international community that is built on and around the Charter of the United Nations. He explains why the Charter has a constitutional quality and what legal consequences arise from that characterization.

Nicole Stelle Garnett
Ordering the City: Land Use, Policing, and the Restoration of Urban America
Yale University Press, 2009



This book highlights the many misunderstood connections between land use and development policies and policing practices. Garnett '95 identifies different types of urban "disorder," some that may be precursors to serious crime and social deviancy, others that may be benign or even contribute positively to urban vitality, and explains how disorder affects city life.

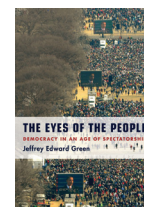
Joseph Gibson
Persuading Congress: How to Spend Less and Get More from Congress: Candid Advice for Executives
The Capitol.Net, Inc., 2010



In this "insider's guide" Gibson '87 explains why Congress behaves as it does and then offers advice on how to best deploy resources to move Congress in a certain direction. The author provides insight into

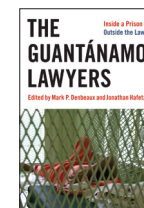
the driving forces in congressional action and offers strategies and techniques for lobbyists, executives, associations, and libraries.

Jeffrey Edward Green
The Eyes of the People: Democracy in an Age of Spectatorship
Oxford University Press, 2009



For centuries it has been assumed that democracy must refer to the empowerment of the People's voice. In this book, Green '00 makes the case for considering the People as an ocular entity rather than a vocal one and argues that it is both possible and desirable to understand democracy in terms of what the People see instead of the traditional focus on what the People say.

Jonathan Hafetz and Mark Denbeaux
The Guantánamo Lawyers: Inside a Prison Outside the Law
NYU Press, 2009



This book contains more than one hundred personal narratives from attorneys who have represented detainees held at "GTMO" as well as at other overseas prisons, from Bagram Air Base in Afghanistan to secret CIA jails or "black sites." Denbeaux and Hafetz '99—themselves lawyers for detainees—collected stories that cover virtually every facet of Guantánamo, and the litigation it sparked.



Ian Ayres and Barry Nalebuff
Lifecycle Investing: A New, Safe, and Audacious Way to Improve the Performance of Your Retirement Portfolio
Basic Books, 2010

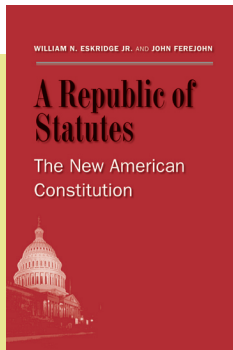
In *Lifecycle Investing*, YLS Professor Ian Ayres '86 and SOM Professor Barry Nalebuff take the common wisdom about investment diversification to a new dimension as they counsel people to diversify across time. Their surprising suggestion: use leverage to buy stocks when you're young to increase investment diversification across time. Buying more when young and less when close to retirement allows for a more even exposure to stocks across time and thus lower risk. Looking at stock data from 1871 to 2009, they find that this strategy can reduce retirement volatility by more than 20 percent or can increase the size of expected returns by more than 60 percent.

"Spreading your investments better across time means investing more when you're young," the authors write in the book's introduction. "But there's a good reason why you (and pretty much everyone else) don't invest more then: You don't have the money. That's where leverage comes in."

Lifecycle Investing explains why it's prudent for people in their 20s and 30s to make these kind of leveraged investments. Ayres and Nalebuff also tackle strategies for older investors and help readers figure out the level of exposure and leverage that's right for them.

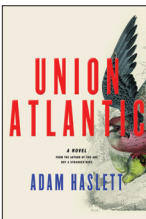


www.youtube.com/yalelawschoolvideo



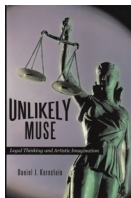
William N. Eskridge Jr. and John Ferejohn
A Republic of Statutes:
The New American Constitution
Yale University Press, 2010

THE CONSTITUTION Is often conceived as our nation’s grand blueprint and the embodiment of our highest aspirations. In *A Republic of Statutes*, William N. Eskridge Jr. ’78 (John A. Garver Professor of Jurisprudence at Yale Law School) and John Ferejohn (Charles Seligson Professor of Law at New York University), use prominent cases such as *Brown v. Board of Education* to argue that this conception is myth. Because the Large “C” Constitution, largely interpreted by judges, is not responsive to the dynamic needs of a polity for affirmative programs and protections, its importance has slowly given way to a small “c” constitution of statutes, largely interpreted by executive and administrative officials. Our nation’s republic of statutes not only fills in the details of the Constitution, but goes beyond and sometimes against the Constitution’s vision. This statutory constitution creates entrenched normative commitments in a gradual process of legislation and administration that is comparable to and, in the authors’ view, superior to the amendment- or judge-centered process by which Constitutional entrenchment is supposed to proceed. Not only does our democracy advance from the enactment of statutes, it should.



Adam Haslett
Union Atlantic
Nan A. Talese, 2010

Pulitzer Prize finalist Haslett ’03 offers a portrait of the first decade of the twenty-first century. At the heart of this novel lies a test of wills between a young banker, Doug Fanning, and a retired schoolteacher, Charlotte Graves. When Doug builds an ostentatious mansion on land that Charlotte’s grandfather donated to the town, she determines to oust him in court. Drawn into Doug and Charlotte’s intensifying conflict is a troubled high-school senior who unwittingly stirs powerful emotions in each of them.



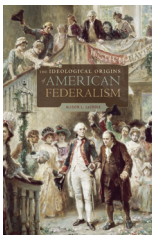
Daniel J. Kornstein
Unlikely Muse: Legal Thinking and Artistic Imagination
Authorhouse, 2010

Kornstein ’73 analyzes the lives and works of three writers who combine law, literature, and imagination: nineteenth-century French novelist Honoré de Balzac, modernist American poet Wallace Stevens, and playwright-memoirist Lillian Hellman. The first theme of the book demonstrates unexpected synergy between law and literature. The second theme uses the writers to focus on the changing role of imagination in literature.



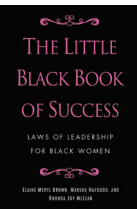
James Kwak and Simon Johnson
13 Bankers: The Wall Street Takeover and the Next Financial Meltdown
Pantheon, 2010

Johnson and Kwak ’11 give a wide-ranging account of recent U.S. financial history within the context of previous showdowns between American democracy and Big Finance. They show why our future is imperiled by the ideology of finance and by Wall Street’s political control of government policy pertaining to it.



Alison L. LaCroix
The Ideological Origins of American Federalism
Harvard University Press, 2010

LaCroix ’99 traces the history of American federal thought from its colonial beginnings in scattered provincial responses to British assertions of authority to its emergence in the late eighteenth-century as a normative theory of multilayered government. The core of this new federal ideology was a belief that multiple independent levels of government could legitimately exist within a single polity, and that such an arrangement was not a defect but a virtue.



Rhonda Joy McLean, Elaine Meryl Brown, Marsha Haygood
The Little Black Book of Success: Laws of Leadership for Black Women
Random House Publishing, 2010

McLean ’83 and her co-authors (all three are successful black female executives) share their strategies to help all black women, at any level of their careers, play the power game—and win. This book focuses on the building blocks of true leadership—self-confidence, effective communication, collaboration, and courage—while dealing specifically with stereotypes and the perils of self-victimization.



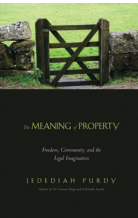
Beth Simone Noveck
Wiki Government: How Technology Can Make Government Better, Democracy Stronger, and Citizens More Powerful
Brookings Institution Press, 2009

Noveck ’97 explores an unprecedented public sector innovation: inviting the public to participate in patent examination. The Peer-to-Patent project Noveck conceived radically transformed this process by allowing anyone with Internet access to collaborate with the agency in reviewing patent applications. She explains how law, policy, and technology can be revamped to help the government work in more participatory ways.



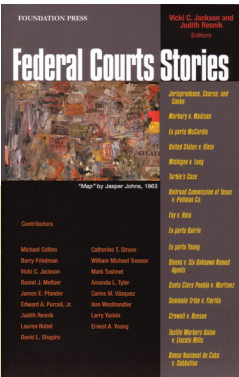
Monroe E. Price
Objects of Remembrance: A Memoir of American Opportunities and Viennese Dreams
Central European University Press, 2009

This is a memoir about the power of American assimilation and opportunity in the face of persisting refugee realities. Price ’64 recounts the continuing impact of European identities as families cast from their homes by the rise of Hitler and the Third Reich struggle to find their way in a new and challenging environment.



Jedediah Purdy
The Meaning of Property: Freedom, Community, and the Legal Imagination
Yale University Press, 2010

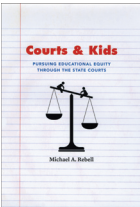
Purdy ’01 draws upon the theories of Adam Smith, who saw the virtues of property as social rather than economic. In Purdy’s view, property shapes social life in ways that bring us closer to, or take us farther from, the ideal of a community of free and equal members. He argues that this communitarian view of property informed American law in the early days of the Republic, and that it should be restored today.



Vicki C. Jackson and Judith Resnik, Editors
Federal Court Stories
Foundation Press, 2010

THIS VOLUME OF essays, edited by Judith Resnik (Arthur Liman Professor of Law, Yale Law School) and Vicki C. Jackson ’75 (Carmack Waterhouse Professor of Constitutional Law, Georgetown Law School), analyzes the development of “the federal courts” as a discrete jurisprudential subject. After sketching the changing contours of the federal judiciary, its tiers, and its institutional organization, Jackson and Resnik address the doctrines that mediate interactions between the branches of the federal government and the relationships between state and federal systems. Fifteen chapters (each authored by different scholars) address major landmarks such as *Ex Parte McCordle* (by Daniel Meltzer), *Ex Parte Quirin* (by Carlos Vásquez), *Crowell v. Benson* (by Mark Tushnet), and *Lincoln Mills* (by David Shapiro). Each chapter makes plain the historical embeddedness of decisions, produced by litigation ranging across issues involving the Civil War, race and gender discrimination; the power of police and the criminal justice system; congressional or presidential powers during times of war; government regulation of the economy; labor relations and workers rights; the enforcement of private contracts; and the relationship among states, the United States, and Indian tribes, and between the body politic and international law. The theme of government accountability (including whether to subject government officials to injunctive orders and states to damage suits or other judicial remedies) is recurrent, as are questions about the utility of redundancy, the multiple “federalisms” within the system, the role for courts as contrasted with other branches of government and private actors, and the role of national authority as contrasted with state or local decisions. As Resnik and Jackson note, each iteration demonstrates the challenges—for judges, the executive, and legislators—entailed in rendering decisions that are wise and just.

Michael A. Rebell
Courts & Kids: Pursuing Educational Equity Through the State Courts
The University of Chicago Press, 2009



Rebell ’70 analyzes why the state courts have taken on such an active role in education equality cases, and defends the courts’ authority and responsibility to pursue educational equity. He envisions their role as supervisory and offers recommendations on how the courts can collaborate with the executive and legislative branches to create a democratic educational system.

David Schoenbrod, Richard B. Stewart, and Katrina M. Wyman
Breaking the Logjam: Environmental Protection That Will Work
Yale University Press, 2010

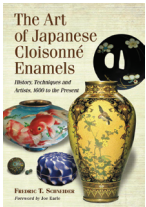


Schoenbrod ’68, Stewart, and Wyman ’01 begin with the assertion that environmental protection is stuck and that administrations under presidents of both parties have fallen short of environmental goals because they must operate under statutes passed in the 1970s that are no longer suited to today’s environmental challenges. The authors propose fundamental changes in the environmental protection statutes necessary to tackle climate change, air pollution, and other environmental challenges.

Fredric T. Schneider

**The Art of Japanese Cloisonné Enamel:
History, Techniques and Artists,
1600 to the Present**

McFarland & Company, Inc., 2010



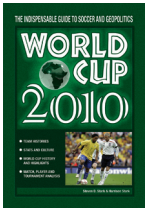
Schneider '66 provides a detailed history of Japanese cloisonné enamel and the development of its many technical varieties. The book presents both a 400-year history and context of

Japanese enamels from their beginnings, and a discussion of the many variations and individual techniques of cloisonné enamel developed in Japan.

Steven Stark and Harrison Stark

**World Cup 2010: The Indispensable
Guide to Soccer and Geopolitics**

Blue River Press, 2010



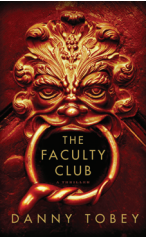
Steven Stark '79 and son Harrison lay it all out for the impassioned fan and anyone who's wondered why the world stops for a month every four years to follow "the beautiful game." The premise is that soccer is a

window into the soul of nations and that to understand this event and who might win, one needs to understand the ways in which national teams are reflections of their cultural heritage.

Danny Tobey

The Faculty Club

Atria, 2010



Tobey '03 gives us the fictional story of Jeremy Davis, the rising star of his first-year class at an exclusive law school. When a mysterious club promises success beyond his wildest dreams, Jeremy uncovers a macabre secret older than the univer-

sity itself. In a race against time, Jeremy must stop an ancient ritual that will sacrifice the lives of those he loves most and blur the lines between good and evil.

Mark Tushnet

Why the Constitution Matters

Yale University Press, 2010



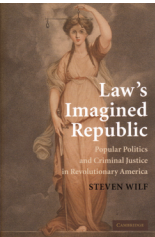
Tushnet '71 argues that the Constitution matters not because it structures our government, but because it structures our politics. He maintains that politicians and political parties—not just Supreme Court decisions—are the

true engines of constitutional change in our system. The author seeks to empower all citizens who use direct political action to define and protect our rights and liberties as Americans.

Steven Wilf

**Law's Imagined Republic: Popular
Politics and Criminal Justice in
Revolutionary America**

Cambridge University Press, 2010

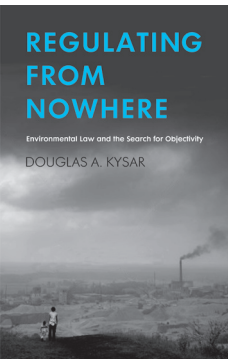


Wilf '95 tells the story of the untidy beginnings of American law. Drawing on material from criminal cases, he reconstructs the intertextual ways Americans from the 1760s through the 1790s read law: reading one case against

another and often self-consciously comparing transatlantic legal systems as they thought about how they might construct their own legal system in a new republic.

CORRECTION

A story about *The Yale Biographical Dictionary of American Law* (edited by Roger K. Newman) which appeared in the Winter 2010 issue of the *Yale Law Report* incorrectly identified Jack Rosenthal as a prep school classmate of Nicholas deB. Katzenbach '47. In fact, Mr. Rosenthal was not yet four years old when Mr. Katzenbach graduated from Exeter. The two men worked together in the government as adults. The *Law Report* apologizes for this error.



Douglas A. Kysar

**Regulating from Nowhere:
Environmental Law
and the Search for Objectivity**

Yale University Press, 2010

In *Regulating from Nowhere*, Joseph M. Field '55 Professor of Law Douglas Kysar offers a novel theoretical defense of traditional approaches to environmental law and policy. He first criticizes the notion that government responsibility to safeguard life can be adequately addressed from an assumed viewpoint of objectivity, as environmental law reformers have contended. The danger, he argues, is that the attempt to specify environmental policies through empirical assessment and formalized choice models—an attempt found most influentially in economic cost-benefit analysis—obscures the relation of agency and responsibility that the political community bears to its decisions. In contrast, the traditional environmental principle of precaution encourages moral self-awareness by reminding a political community, as it stands poised on the verge of a choice with potentially serious or irreversible environmental consequences, that its actions matter, that they belong uniquely to the community and will help to underwrite its standing in the community of communities that includes other nations, other generations, and other forms of life. As Kysar writes in the book's preface, "...environmental law must form part of the social glue that binds a political community together in pursuit of long-term and uncertain goals. To serve that function, in turn, laws must have continuity with the concepts, values, and discourses expressed by real people. By literally denying the sacredness of life—and indeed the distinctiveness of anything—dominant ways of [reforming] environmental law fail these tests."