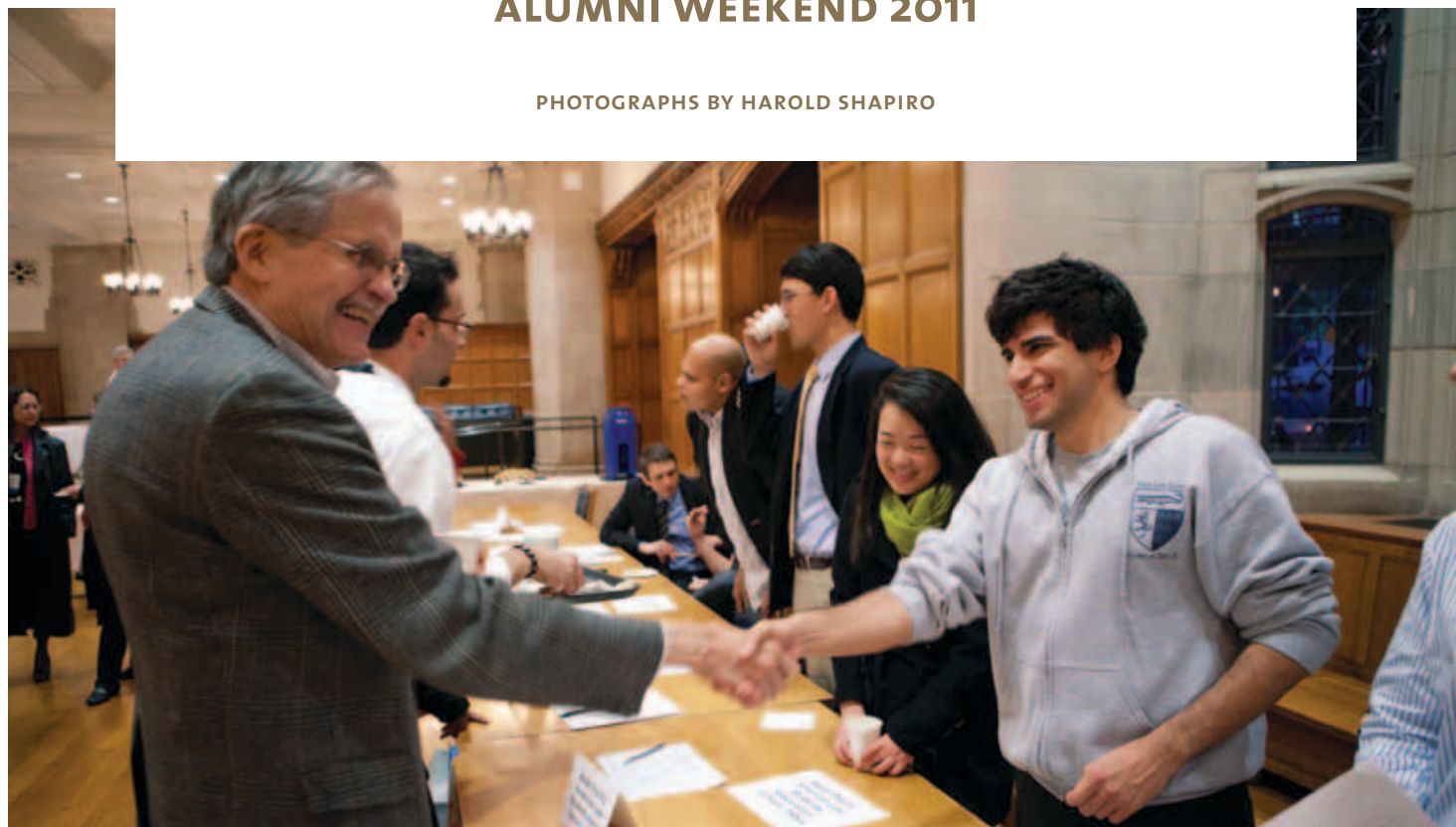


HUMAN RIGHTS IN A TURBULENT WORLD ALUMNI WEEKEND 2011

PHOTOGRAPHS BY HAROLD SHAPIRO



Advancing human rights through international and domestic courts, emerging challenges to freedom of expression, constitutional rights, and the tension between national security and human rights were among the topics of this year's Alumni Weekend.

Close to 1,000 alumni and their guests returned to the Law School on November 4–6 for a weekend filled with special reunion meals and activities and panel discussions devoted to the theme of “Human Rights in a Turbulent World.”

In a panel discussion Friday afternoon, current Yale Law School students spoke about the human rights work they are doing through various fellowships and clinics, including the Allard K. Lowenstein International Human Rights Clinic. And on Saturday afternoon, former Yale Law School Dean Harold Hongju Koh, now legal adviser to the U.S. State Department, gave a talk titled “International Law and U.S. Foreign Policy: The View from Foggy Bottom.”

Other highlights included Friday night's all-alumni reception and dinner, a special alumni-student “Breakfast Connections” event, and Saturday's presentation of the Yale Law School Award of Merit to Luzius Wildhaber '65 LL.M., '68 J.S.D., former judge and president of the European Court of Human Rights.



“Human rights mean different things to different people. I believe that the divergence between mere claims, aspirational programs and lived reality is characteristic of the dynamics of human rights. If you are a Judge of the European Court of Human Rights, you are likely to accept that such a Court is — within limits — a law-making body and that the European Convention on Human Rights is — again within limits — a living instrument. How could it be otherwise? In an age of terrorism, the Internet and in vitro fertilization, how is it possible to give shape to Convention guarantees such as the prohibition of torture, equality of arms, freedom of expression or private and family life if — like Montesquieu — you see in the judge only the mouthpiece of the law? I would say that there is inevitably a voluntaristic element in the activity of this mouthpiece. Guarantees of the European Convention on human rights are — like human rights guarantees of national constitutions — programmatic formulations, open to the future, to be unfolded and developed in the light of changing conditions.”

Luzius Wildhaber '65 LL.M., '68 J.S.D., former judge and president of the European Court of Human Rights



FREEDOM OF EXPRESSION IN THE 21ST CENTURY

A discussion of freedom of expression in the face of a rapidly evolving digital age took place during an Alumni Weekend panel titled “Emerging Challenges to the Freedom of Expression: From Hate Speech to Social Networks.” Yale Law School Dean Robert Post ’77 served as the panel’s moderator. The panelists were: Floyd Abrams ’59, Senior Partner, Cahill Gordon & Reindel; Susan Benesch ’01, Senior Fellow and Director, Speech and Violence Project, World Policy Institute; Anupam Chander ’92, Professor and Director, California International Law Center, UC Davis; and Jeffrey Rosen ’91, Professor of Law, George Washington University Law School.

Chander began the panel with a discussion of the influence of social media including Facebook, Twitter, and YouTube in places such as Egypt, Syria, China, and the United States.

“What we are witnessing is the emergence of people power as a counterweight to both dictatorship and plutocracy,” Chander said. “I am not suggesting a Panglossian view of all of the revolutions around the bend with dictators toppled by Tweets left and right...That would be my hope, but it is not my expectation...Rather, my claim is that we should be cautiously hopeful, optimistic, and encourage the most liberalizing potential of cyberspace.”

Abrams followed on Chander’s remarks with a discussion of WikiLeaks. Abrams pointed out that WikiLeaks has raised issues about where we are going in a world where there may no longer be secrets—or the ability to keep secrets.

“There were a lot of things that were revealed [by WikiLeaks] that served the public,” Abrams said. He continued, “My view is not that WikiLeaks hasn’t served a sometimes useful role. But it is my view that they behaved in a reckless manner....Whatever one calls WikiLeaks—however one views WikiLeaks—it is not a journalistic institution. No journalist releases 75,000 documents that he or she hasn’t even read.”

Rosen began his remarks with a question: “Does the Internet represent the apotheosis of a vision of rich public debate that allows citizens across the globe to fulfill their potential as Brandeis hoped? Or does the Internet afford new opportunities for repression and the suppression of speech?” he asked.

The key to this answer, Rosen argued, is the question of who controls speech. But the irony of this is that discretionary decisions about what is allowed online are being made by private companies such as YouTube rather than by Supreme Court Justices.

Benesch spoke about new media and the dissemination of speech across boundaries between normative groups, which presents new opportunities for those working in human rights, she suggested, giving examples from her recent field work in Kenya. Benesch also discussed the tendency of inflammatory speech to catalyze violence, and said the trick is to limit that danger without infringing on freedom of expression.

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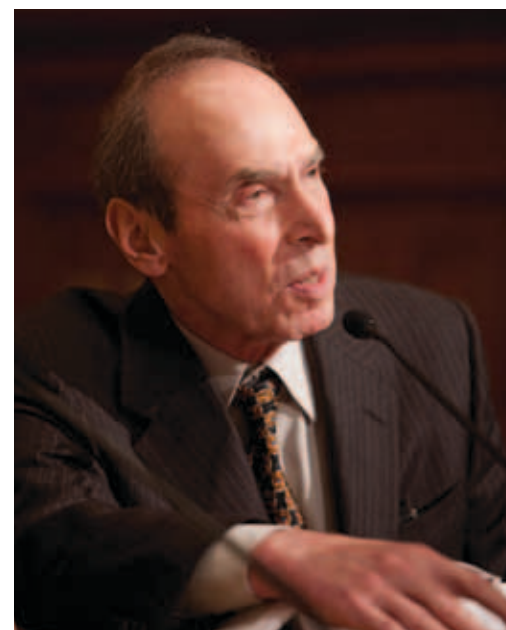
Alumni Weekend 2011 included several panels devoted to discussion of human rights. The quotes below give a brief taste of those discussions. For more, visit www.law.yale.edu/AW2011



Pamela S. Karlan ’84
Kenneth and Harle Montgomery Professor of Public Interest Law, Stanford Law School

From the panel “Constitutional Rights/Human Rights: Analogues, Intersections, and Differences”

“A lot of what you do as a constitutional litigator is to make courts comfortable with your position. It’s not just that you have to have the law on your side, but you have to give judges both a reason to vote for your clients and comfort that they are doing so in an appropriate way. Arguments from international and comparative law can do that. In *Lawrence*, for example, I think Justice Kennedy was comfortable with the position he was going to take and international human rights was, a little bit, lipstick on the pig. If he wasn’t comfortable with the substantive due process claim, he wouldn’t have gone where he did, but comparative information gave him additional comfort.”



W. Michael Reisman ’64 LL.M., ’65 JSD
Myres S. McDougal Professor of International Law, Yale Law School

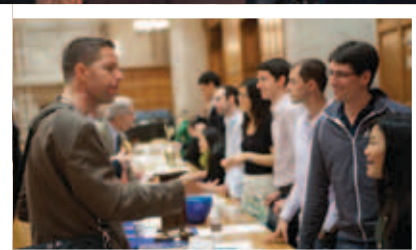
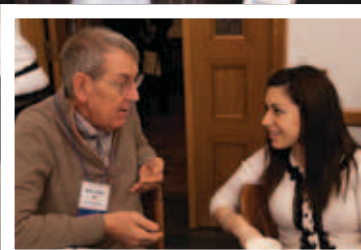
From the panel “Navigating the Tension Between National Security and Human Rights”

“Battlefield, in our minds, is usually a confined area separate from civilian or non-belligerent activity where the specialists in violence, acting on behalf of their respective adversaries, can concentrate on each other. But in the 21st century the battlefield has become planetary and, indeed, extra-planetary insofar near outerspace has become a critical part of the conduct of warfare. When a drone operates over Somalia or over Yemen or over Pakistan or Afghanistan and the operator is sitting in a container in Langley, in Nevada or somewhere in California, where is the battlefield? Can you really say that it’s confined to the locus of the target? Because we no longer have a spatial way of limiting it, there is, in fact, a metastasis of violence.”

Lucy Dalglish '88 MSL
Executive Director, Reporters Committee for Freedom of the Press

From the panel "Reporting on Human Rights: The Responsibility of Journalists and NGOs?"

"There has been an astonishing increase in the number of journalists—both reporters and photographers—who have been arrested, just in the last two years. I think I first noticed the first dramatic increase in 2008 in St. Paul at the Republican National Convention. In the Wall Street protests, I'd say every day for the last three weeks I've gotten a phone call about a journalist or photographer who has been arrested by the cops because they were trying to document what was happening. Yesterday in Las Vegas, a man who was standing on his front lawn filming police brutality was arrested and beat up by the cops."



Dapo Akande
University Lecturer in Public International Law, and Co-Director,
Institute for Ethics, Law and Armed Conflict, Oxford University

From the panel "Advancing Human Rights through International and Domestic Courts"

"Though the [International Criminal] Court has not had many defendants in the dock thus far, it may be suggested that the main contribution of the Court to the project of international criminal justice is not so much the number of people that are prosecuted by the ICC, but the galvanization of domestic legal systems by the International Criminal Court. In other words, the success of the court is to be judged not only—or perhaps not even primarily—by the number of international prosecutions, but really by the cascading effect of national prosecutions and the revamping of national law that we see in this area."

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