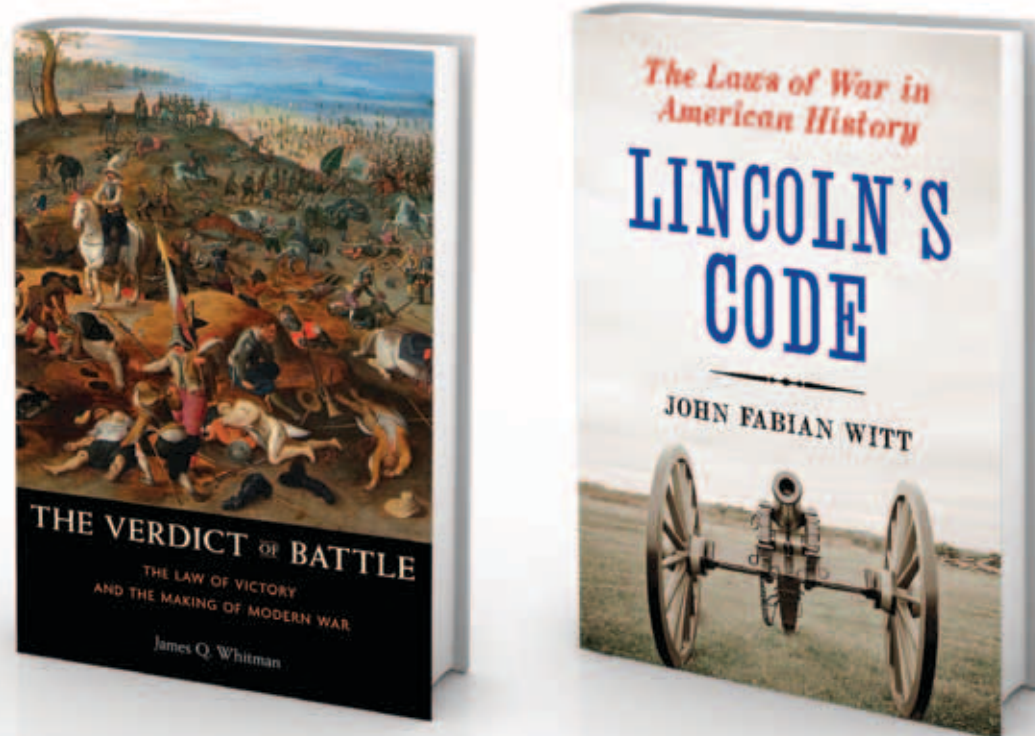


books in print

New Books by Whitman, Witt Examine Warfare



Yale Law School Professors **James Q. Whitman** '88 (Ford Foundation Professor of Comparative and Foreign Law) and **John Fabian Witt** '99 (Allen H. Duffy Class of 1960 Professor of Law) have both just released books that focus on the laws of war.



Whitman Considers the Making of Modern Warfare

In the eighteenth century, a pitched battle was understood as a kind of legal proceeding in which both sides agreed to be bound by the result. To the victor went the spoils, even the fate of kingdoms. It was viewed as a kind of trial, a way of settling a legal dispute. But in the era of the American

Civil War, the practice of battle warfare collapsed. Even seemingly decisive battles, like Gettysburg, could not settle their wars. Only a war of general devastation sufficed. Ideology rather than politics became war's just cause. Because modern humanitarian law provided no means for declaring a victor at the end of battle, the violence of war dragged on.

In his new book, *The Verdict of Battle: The Law of Victory and the Making of Modern War* (Harvard University Press, 2012), Professor James Q. Whitman '88 argues once war-making ceased to be a symbolic expression of settled sovereign legitimacy and became a means of contesting legitimacy, it spiraled out of control. It was the collapse of traditional political legitimacy, he says, that undermined the efficacy of pitched battle warfare. Wars can only hope to remain contained as long as they do not raise basic questions about the legitimacy of the regimes engaged in them, and wars could be restrained as long as it was clear who was the victor and what were the spoils.

Despite its horror and savagery, a pitched battle is what social scientists call a "conflict resolution mechanism." If a conflict can be decided through one day of concentrated killing on the battlefield, then violence can be prevented from spilling over to the rest of society. To use the old law of victory sounds barbaric, but it, in fact, helped keep war in check by laying down ground rules.



Witt Traces the Influence of the Emancipation Proclamation on Modern Laws of Armed Conflict

The war on terror has provoked a raging controversy over the appropriate conduct of war and treatment of combatants. These debates, however, are not unique to the 9/11 generation. They were agonized over by George Washington, Thomas Jefferson and

Abraham Lincoln every bit as much as by Barack Obama and George W. Bush, and were central to our country's founding and evolution. American debates, in turn, led the way for the rest of the world.

In *Lincoln's Code: The Laws of War in American History* (Free Press, 2012), Yale Law professor John Fabian Witt '99 charts the alternately troubled and triumphant course of the devel-

Witt is the first historian to tell the surprising story of how slavery and the Emancipation Proclamation helped shape the modern laws of armed conflict.

opment of the laws of war in America, from the Founding to the cataclysm of the Civil War and on to the dawn of the modern era.

Lincoln's Code, the publication of which coincides with the 150th anniversary of the Emancipation Proclamation, is based on extensive original archival research. Witt is the first historian to tell the surprising story of how slavery and the Emancipation Proclamation helped shape the modern laws of armed conflict, and how a code of 157 rules issued by Abraham Lincoln during the Civil War became the basis for the rules established in the Geneva Conventions and for today's internationally accepted laws of war.

Witt brings to life the drama of wars from the Revolution up to World War I, as well as the anguish of soldiers and statesmen as they grappled with such vexing questions as whether prisoners of war can be executed; whether guerrilla forces must be treated with the same constraints as enemy soldiers; and whether torture is ever justified.



To view book discussions with Professors Whitman and Witt visit www.law.yale.edu/videos

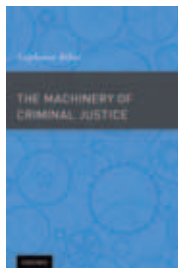
Here's just a sampling of the many other books recently written or edited by our alumni, faculty, staff, and students.

We welcome your submissions.

Please contact us: lawreport@yale.edu.

Stephanos Bibas

The Machinery of Criminal Justice
Oxford University Press, 2012



Two centuries ago, American criminal justice was run primarily by laymen. But over the last 200 years lawyers have taken over the process. Bibas '94 surveys this development, considers what we have lost in our quest for efficient punishment, and suggests ways to include victims, defendants, and the public once again, such as requiring convicts to work or serve in the military, and moving power from prosecutors to restorative sentencing juries. Bibas argues that doing so might cost more, but it would better serve criminal procedure's interests in denouncing crime, vindicating victims, reforming wrongdoers, and healing the relationships torn by crime.

Pauline Chen

The Red Chamber
Knopf, 2012



Chen '90 draws the reader deep into the secret world of the women's quarters of an aristocratic household, where the burnish of wealth and refinement mask a harsher truth: marriageable girls are traded like chattel for the family's advancement, and to choose to love is to risk everything. In this reimagining of the Chinese classic *Dream of the Red Chamber*, the lives of three unforgettable women collide in the inner chambers of the Jia family mansion. When a political coup overthrows the emperor and plunges the once-mighty family into grinding poverty, each woman must choose between love and duty, friendship and survival.

Stuart P. Green

Thirteen Ways to Steal a Bicycle: Theft Law in the Information Age

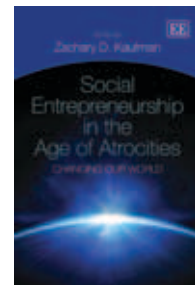
Harvard University Press, 2012



Twentieth-century reformers of theft law aimed to transform a hodgepodge of seemingly arbitrary, overly technical, and loophole-ridden legal rules into a simpler, more homogenized law of theft. But in doing so, Green '88 argues, they lost key moral distinctions about the ways in which theft is committed and the kinds of property stolen. And they have rendered theft law ill-equipped for an age in which means of committing theft and fraud have become ever more sophisticated. Using real cases, Green examines our legal framework at a time when our economy commodifies intangibles (intellectual property, information, ideas, identities, and virtual property) and theft grows more sophisticated.

Zachary D. Kaufman, Editor

Social Entrepreneurship in the Age of Atrocities: Changing Our World
Edward Elgar Publishing, 2012



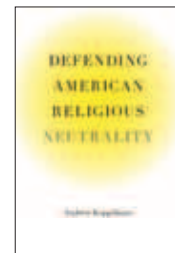
The authors in this book address the clear need for further examination of social entrepreneurship. They discuss the challenges, obstacles, and opportunities of the field and lend new insight to the concept, history, and methodologies of social entrepreneurship.

Kaufman '09 has compiled first-hand accounts – including a chapter by Seth Green '07, founder of Americans for Informed Democracy – that provide an inspiring and informative addition to the evolving social entrepreneurship literature.

Andrew Koppelman

Defending American Religious Neutrality

Harvard University Press, 2013



How can Bible reading in public schools be impermissible while legislative sessions begin with prayers, Christmas is an official holiday, and the words “under God” appear in the Pledge of Allegiance? Are faith-

based social services, public financing of religious schools, or the teaching of intelligent design constitutional? Combining legal, historical, and philosophical analysis, Koppelman '89 shows how law coherently navigates these conundrums. He explains why laws must have a secular legislative purpose, why old, but not new, ceremonial acknowledgments of religion are permitted, and why it is fair to give religion special treatment.

Rajesh Parameswaran

I Am an Executioner: Love Stories
Knopf, 2012



Parameswaran '00 offers a collection of nine short stories that introduces us to a unique cast of heroes—and antiheroes—who spring from his imagination. From the lovesick tiger who narrates the unforgettable opener, “The Infamous Bengal Ming” (he mauls

his zookeeper out of affection), to the ex-CompUSA employee who masquerades as a doctor; from a railroad manager in a turn-of-the-century Indian village, to an elephant writing her autobiography; from a woman whose Thanksgiving preparations put her husband to eternal rest, to the newlywed executioner of the title, these characters inhabit a marvelous region between desire and death, playfulness and violence.

Alison Rieser

The Case of the Green Turtle: An Uncensored History of a Conservation Icon

John Hopkins University Press, 2012



Rieser '90 LL.M. provides an unparalleled look into the way science and conservation interact by focusing on the most controversial aspect of green turtle conservation—farming. While proponents argued that farming green sea turtles would help save them,

opponents countered that it encouraged a taste for turtle flesh that would lead to the slaughter of wild stocks. Rieser relies on her expertise in ocean ecology, policy, and law to reveal how the efforts to preserve sea turtles changed marine conservation and the way we view our role in the environment.

John Thomas Smith II

Cars, Energy, Nuclear Diplomacy and the Law: A Reflective Memoir of Three Generations

Rowman & Littlefield Publishers, 2012



Smith '67 sketches the lives of three generations of his family and their involvement with some of the most profound issues of the twentieth century. Smith's paternal grandfather was present at the creation of General

Motors Corporation and served as its Vice President and General Counsel. His maternal grandfather, William G. Maguire, was an entrepreneur and natural gas pipeline pioneer with a visionary grasp of natural gas's significance in the twentieth-century American economy. Smith's father served as a senior diplomat under five presidents, working to constrain the nuclear arms race between the United States and Russia and to curtail proliferation of nuclear weapons.

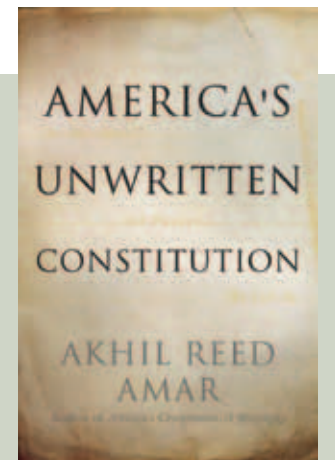
James Gustave Speth

America the Possible: Manifesto for a New Economy
Yale University Press, 2012



Speth '69 looks unsparingly at the sea of troubles in which the United States now finds itself, charts a course through the discouragement and despair commonly felt today, and envisions what he calls America the Possible. The book

identifies a dozen features of the American political economy—the country's basic operating system—where transformative change is essential. It spells out the specific changes that are needed to move toward a new political economy—one in which the true priority is to sustain people and planet. Supported by a compelling “theory of change” that explains how system change can come to America, the book also presents a vision of political, social, and economic life in a renewed America.



Akhil Reed Amar

America's Unwritten Constitution: The Precedents and Principles We Live By

Basic Books, 2012

THE RIGHT TO PRIVACY. One person, one vote. The presumption of innocence. As Americans, we think of these freedoms—and many more—as our constitutional rights. But they can't actually be found in the Constitution.

“While they're not explicitly written in our Constitution, these things are part of America's working constitutional system—part of America's unwritten Constitution,” says Sterling Professor of Law and renowned constitutional scholar Akhil Reed Amar '84. In his new book, *America's Unwritten Constitution: The Precedents and Principles We Live By*, Professor Amar guides readers through the landmark cases, implicit principles, common practices, and more that make up our unwritten Constitution, showing how the written and unwritten Constitutions fit together to form a single system. *An extended excerpt of Amar's new book appears on pages 36–39.*

Sonia Taitz

The Watchmaker's Daughter
McWitty Press, 2012

In her memoir, Taitz '81 tells the story of a child of two refugees: a watchmaker who saved lives within Dachau prison, and his wife, a gifted concert pianist about to make her debut when the Nazis seized power. This story of the author's coming of age takes place in the youth revolution

in New York: sexual freedom, political rebellion and cultural experimentation run up against the caution and conservatism of her parents, and the immigrant community to which they belong. Throughout her adventures, Taitz manages to combine her own independence with a tender dutifulness, honoring her parents' legacy while forging a new family of her own.

Tracy Thompson

**The New Mind of the South:
An Unconventional Portrait for the
Twenty-First Century**
Simon & Schuster, 2013

Thompson '85 MSL, a Georgia native, asserts that far from fading away, the South has merely drawn on its oldest tradition: an ability to adapt and transform itself. After four years traveling throughout the region, she discovers a South both amazingly similar and radically different from the land she knew as a child. The new South is ahead of others in absorbing waves of Latino immigrants, in rediscovering its agrarian traditions, and in reinventing what it means to have roots in an increasingly rootless global culture.

Allan Topol

**The Spanish Revenge:
A Craig Page Thriller**
Vantage Point Books, 2012



In this second part of a trilogy featuring Craig Page, Topol '65 centers the action around an effort to stop a Muslim uprising in Western Europe. General Zhou returns, having been exiled to France for his devious actions in The

China Gambit, and teams up with terrorist Ahmed Sadi to plan a horrific attack on the heart of Christianity. Page and journalist Elizabeth Crowder are on the case, determined as ever to save the world from a master criminal. From Spain to Morocco, and beyond to Italy, Page and General Zhou renew their battle, even as Ahmed plots his deadly revenge.

Alan L. Wurtzel

**Good to Great to Gone,
The 60 Year Rise and Fall of Circuit City**
Diversion Books, 2012



Wurtzel '59, son of Circuit City founder Sam Wurtzel, took over as CEO in 1972, implementing a successful long-term strategy and positioning the company for unprecedented success. For almost fifty years, Circuit City was

able to successfully navigate changes in the consumer electronics marketplace and meet consumer demand and taste preferences. Wurtzel shares the rare perspective of a former company insider in the role of an outsider looking in. With key takeaways at the end of each chapter, Wurtzel offers advice and guidance to ensure any business stays on track, even in the wake of disruption, a changing consumer landscape, and new competitors.

John Yoo and Julian Ku

**Taming Globalization:
International Law, the U.S. Constitution,
and the New World Order**
Oxford University Press, 2012



In 1997, a Mexican national named José Ernesto Medellín was sentenced to death for raping and murdering two teenage girls in Texas. In 2004, the International Court of Justice ruled that he was entitled to an appel-

late review of his sentence. In 2008, amid fierce controversy, the U.S. Supreme Court declared that the international ruling had no weight. Medellín subsequently was executed. As Julian Ku and Yoo '92 show, the Medellín case only hints at the legal complications that will embroil American courts in the twenty-first century. To reconcile the demands of globalization with a traditional, formal constitutional structure, they write, the U.S. must honor its Constitution while observing international norms and treaties.

ALSO OF NOTE**J. Kenneth Brody '49, Editor**

**Oral History of Frank A. Bauman,
Manuscript of Tape Recorded Interviews**
*U.S. District Court of Oregon Historical Society,
2010*

Sara C. Bronin '06 and J. Peter Byrne

Historic Preservation Law
Foundation Press, 2012

**J. William Callison '00 LL.M. and
Maureen A. Sullivan**

**Partnership Law and Practice: General
and Limited Partnerships**
West, 2012

Bhubaneshwor P. Daibagya '66 LL.M.
**Landlocked Nepal to Lush Pacific
Islands: Memories of an International
Civil Servant**
Ekta Books, 2012

Reed Hundt '74 and Blair Levin '80
The Politics of Abundance
Odyssey Editions, 2012

Robert Lifton '51

**An Entrepreneur's Journey: Stories
From A Life In Business And Personal
Diplomacy**
AuthorHouse, 2012

Ivy C. Machida '66 LL.M.

**The Passing Summers, The Japanese
Mystique: Charm and Consequence**
Printed Matter Press, 2010

Parviz Saney '60 LL.M., '63 JSD
**The Iranians: Their Cultural Heritage
and its Transformation**
CreateSpace, 2012

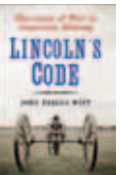
George Shuster '73
Obama's War on Free Speech
Outskirts Press, 2012



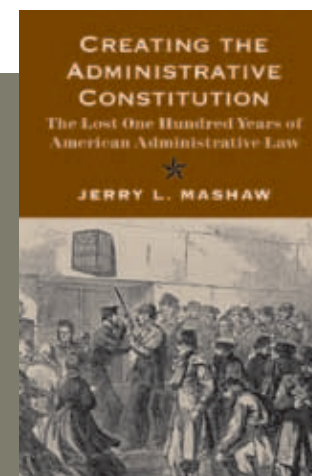
INTERESTED IN HEARING faculty members talk about their writing? Videos of book talks with faculty are available at www.law.yale.edu/videos.

**New Titles by
Amar and Witt Named
to Best Books Lists****The New York Times**

LINCOLN'S CODE by Professor John Fabian Witt '99 and *America's Unwritten Constitution* by Professor Akhil Reed Amar '84 have been named notable books of 2012 by two top newspapers. *The New York Times* has chosen *Lincoln's Code: The Laws of War in American History* as one of its "100 Notable Books of 2012." The 100 books—50 fiction & poetry and 50 nonfiction—were selected by editors of *The New York Times Book Review*. (See page 17 for more about *Lincoln's Code*.)

**The Washington Post**

Professor Amar's book, *America's Unwritten Constitution: The Precedents and Principles We Live By*, was selected for the *Washington Post's* "Best of 2012: 50 Notable Works of Nonfiction" list. (See pages 36–39 for an excerpt of *America's Unwritten Constitution*.)

**Jerry L. Mashaw**

Creating the Administrative Constitution
Yale University Press, 2012

THIS GROUNDBREAKING BOOK is the first to look at administration and administrative law in the earliest days of the American republic. Mashaw, Yale Law School Sterling Professor of Law, demonstrates that from the very beginning Congress delegated vast discretion to administrative officials and armed them with extrajudicial adjudicatory, rulemaking, and enforcement authority. The legislative and administrative practices of the U.S. Constitution's first century created an administrative constitution hardly hinted at in its formal text.