

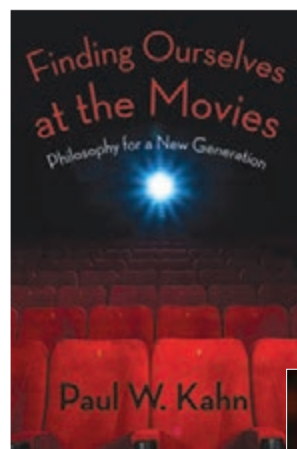
books in print

Through the Surface of Film, Our Human Depth

Paul W. Kahn '80, Robert W. Winner Professor of Law and the Humanities and Director, Orville H. Schell, Jr. Center for International Human Rights, assesses the need for a new direction in philosophical inquiry and sees popular films as our common texts.

Paul W. Kahn,

Finding Ourselves at the Movies: Philosophy for a New Generation
Columbia University Press, 2013



“We are born with a great capacity for wonder, and philosophy should engage that wonder,” writes Paul Kahn in his new book, *Finding Ourselves at the Movies: Philosophy for a New Generation*.

Though academic philosophy may have lost its audience, the traditional subjects of philosophy—love, death, justice, knowledge, and faith—remain as compelling as ever. Kahn argues that philosophy must take up these fundamental concerns as we find them in contemporary culture in order to reach a new generation. One such avenue for this return to philosophical thinking: a turn to popular film.



Discussing such well-known movies as *Forrest Gump* (1994), *The American President* (1995), *The Matrix* (1999), *Memento* (2000), *The History of Violence* (2005), *Gran Torino* (2008), *The Dark Knight* (2008), *The Road* (2009), and *Avatar* (2009), Kahn explores powerful archetypes and their hold on us. His inquiry proceeds in two parts. First, he uses film to explore the nature of action and interpretation, arguing that narrative is the critical concept for understanding both.

Second, he explores the narratives of politics, family, and faith as they appear in popular films. Engaging with genres as diverse as romantic comedy, slasher film, and pornography, Kahn explores the social imaginary through which we create and maintain a meaningful world. He finds in popular films a new setting for a philosophical inquiry into the timeless themes of sacrifice, innocence, rebirth, law, and love.



The Matrix image © Warner Bros. Pictures;
Forrest Gump image © Paramount Pictures

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.

Alan Dershowitz

Taking the Stand: My Life in the Law
Crown, 2013

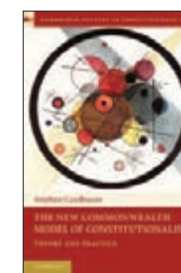


In his autobiography, Dershowitz '62 reveals the evolution of his own thinking on such fundamental issues as censorship and the First Amendment, civil rights, abortion, homicide and the increasing role that science plays in a legal

defense. For the first time he recounts his legal biography, describing his struggles academically at Yeshiva High School growing up in Williamsburg, Brooklyn, his successes at Yale, clerking for Supreme Court Justice Arthur Goldberg, and his appointment to full professor at Harvard at age 28, the youngest in the school's history.

Stephen Gardbaum

The New Commonwealth Model of Constitutionalism: Theory and Practice
Cambridge University Press, 2013



Using the examples of recent bills of rights in Canada, New Zealand, the United Kingdom, and Australia, Gardbaum '90 argues that we are witnessing a new third way of organizing basic institutional arrangements in a democracy.

This “new Commonwealth model of constitutionalism” promises both an alternative to the conventional dichotomy of legislative versus judicial supremacy and innovative techniques for protecting rights. As such, it is an intriguing and important development in constitutional design of relevance to drafters of bills of rights everywhere.

Floyd Abrams

Friend of the Court: On the Front Lines with the First Amendment
Yale University Press, 2013



Since 1971, when the Pentagon Papers were leaked to the *New York Times* and furious debate over First Amendment rights ensued, free-speech cases have emerged in rapid succession. Abrams '59 has been on the front lines of nearly every one of these

major cases, which is also to say that, more than any other person, he has forged this country's legal understanding of free speech. This collection of Abrams's writings gathers speeches, articles, debates, briefs, oral arguments, and testimony from his entire career.

Hanoch Dagan

Reconstructing American Legal Realism & Rethinking Private Law Theory
Oxford University Press, 2013

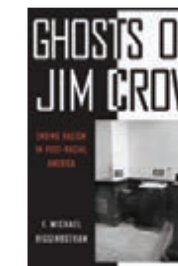


In his interpretation of legal realism, Dagan '91 LL.M., '93 J.S.D. revives the legal realists' rich account of law as a growing institution accommodating three sets of constitutive tensions—power and reason, science and craft, and tradition and progress—and

demonstrates how the major claims attributed to legal realism fit into this conception of law. Drawing on the realist texts of Oliver Wendell Holmes, Karl Llewellyn, and others, Dagan explains how legal realism offers jurisprudential insights that are not just a part of legal history, but are also relevant and useful for a contemporary understanding of legal theory.

F. Michael Higginbotham

Ghosts of Jim Crow: Ending Racism in Post-Racial America
NYU Press, 2013



When America inaugurated its first African American president in 2009, many wondered if the country had finally become a “post-racial” society. Higginbotham '82 convincingly argues that America remains far

away from that imagined utopia and that the shadows of Jim Crow-era laws and attitudes continue to perpetuate systemic prejudice and racism. Using history as a roadmap, Higginbotham arrives at a provocative solution for ridding the nation of Jim Crow's ghost. He argues that America will never achieve its full potential unless it truly enters a post-racial era, and believes that time is of the essence as competition increases globally.

Randall Kennedy

For Discrimination: Race, Affirmative Action, and the Law
Random House, 2013



In the wake of the Supreme Court's recent decision regarding *Fisher v. University of Texas*, Kennedy '82 offers a book that is at once a reckoning with one of America's most divisive issues and a principled work of advocacy for clearly defined

justice. Kennedy accounts for the slipperiness of the term “affirmative action” as it has been appropriated by ideologues of every stripe; analyzes key arguments pro and con advanced by the left and right, including the so-called color-blind, race-neutral challenge; critiques the impact of Supreme Court decisions on higher education; and ponders the future of affirmative action.

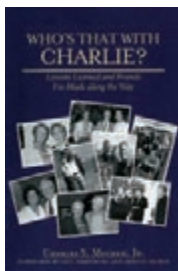
Amnon Lehavi

The Construction of Property: Norms, Institutions, Challenges
Cambridge University Press, 2013



In his analysis of the structural and institutional foundations of property, Lehavi '00 LL.M., '03 JSD studies the spectrum of property regimes including private, common, and public property as well as innovative forms of property hybrids such as U.S.-style residential community associations, the British Private Finance Initiative, the Israeli Renewing Kibbutz, community land trusts, and grassroots phenomena of property ordering in publicly owned open spaces. The book also addresses property's greatest challenge: the move from a largely domestic legal construct into one that accommodates the increasing social and economic forces of globalization.

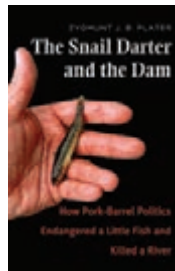
Charles S. Mechem, Jr.
Who's That With Charlie? Lessons Learned and Friends I've Made Along the Way
Clerisy Press, 2013



With the experience from many successful chapters in his life, Mechem '55 offers anecdotes of wisdom and insight from a wide array of professional accomplishments and personal friendships. In addition to his work as a lawyer, the CEO of Taft Broadcasting, and the highly respected commissioner of the LPGA, Mechem's life has been enriched by close friendships with prominent figures, such as Neil Armstrong, Arnold Palmer, Jack Nicklaus, Nancy Lopez, and Annika Sorenstam.

Zygmunt J.B. Plater

The Snail Darter and the Dam: How Pork-Barrel Politics Endangered a Little Fish and Killed a River
Yale University Press, 2013



Even today, thirty years after the legal battles to save the endangered snail darter, the little fish that blocked completion of a Tennessee Valley Authority dam is still invoked as an icon of leftist extremism and governmental foolishness. Plater '68 was the lawyer who with his students fought and won the Supreme Court case *Tennessee Valley Authority v. Hill*. His compelling book, which tells the hidden story behind one of the nation's most significant environmental law battles, recounts citizens navigating the tangled corridors of national power, stimulates important questions about our nation's governance, and at last sets the snail darter's record straight.

Michael Ponsor
The Hanging Judge: A Novel
Open Road Media, 2013



When a drive-by shooting in Massachusetts claims the lives of a Puerto Rican drug dealer and a nurse at a neighborhood clinic, the police arrest a black drug dealer. The U.S. attorney shifts the double homicide out of state jurisdiction into federal court so that he can pursue the death penalty. Ponsor '74 takes readers into the courtroom and beyond, presenting with great sensitivity the points of view of all his characters, including Judge David S. Norcross, who has been on the federal bench only two years and now presides over the first death penalty case in the state in fifty years.

John O. McGinnis and Michael B. Rappaport

Originalism and the Good Constitution
Harvard University Press, 2013



Originalism holds that the U.S. Constitution should be interpreted according to its meaning at the time it was enacted. In their innovative defense of originalism, McGinnis and Rappaport '85 maintain that the text of the

Constitution should be adhered to by the Supreme Court because it was enacted by supermajorities—both its original enactment under Article VII and subsequent Amendments under Article V. A text approved by supermajorities has special value in a democracy because it has unusually wide support and thus tends to maximize the welfare of the greatest number.

Nicole Roughan
Authorities: Conflicts, Cooperation, and Transnational Legal Theory
Oxford University Press, 2013



Interactions between state, international, transnational and intra-state law involve overlapping, and sometimes conflicting, claims to legitimate authority. These have led scholars to new theoretical explanations of sovereignty, constitutionalism, and legality, but there has been no close attention to authority itself. Roughan '07 LL.M., '11 JSD argues that understanding authority in contemporary pluralist circumstances requires a new conception of relative authority, and a new theory of its legitimacy. The theory of relative authority treats the interdependence of authorities, and the relationships in which they are engaged, as critical to any assessment of their legitimacy.

Robert Spoo

Without Copyrights: Piracy, Publishing, and the Public Domain
Oxford University Press, 2013



With a colorful cast of characters made up of frustrated authors, anxious publishers, and willful pirates, Spoo '00 tells the story of how the clashes between authors, publishers, and literary "pirates" influenced both American copyright law and literature itself. Drawing on previously unknown legal archives, Spoo recounts efforts by James Joyce, Ezra Pound, Bennett Cerf—the founder of Random House—and others to crush piracy, reform U.S. copyright law, and define the public domain.

David O. Stewart
The Lincoln Deception
Kensington, 2013



Blending real and fictional characters, Stewart '78 creates a riveting historical mystery centered on the assassination of Abraham Lincoln. In March 1900, as former Congressman John Bingham of Ohio lies dying, he begins to tell a strange tale to his physician, Dr. Jamie Fraser. Bingham famously prosecuted eight members of John Wilkes Booth's plot to kill Lincoln. But during the 1865 trial, conspirator Mary Surratt divulged a secret so explosive it could shatter the republic. Though Bingham takes the secret to his grave, Dr. Fraser cannot let go of the mystery.

Theodore R. Marmor, Jerry L. Mashaw, and John Pakutka

Social Insurance: America's Neglected Heritage and Contested Future
CQ Press, 2013

STERLING PROFESSOR OF LAW Jerry Mashaw has co-authored a new book that examines the history, economics, politics, and philosophy of America's most important social insurance programs. *Social Insurance: America's Neglected Heritage and Contested Future* was written with Yale School of Management Professor Theodore R. Marmor and John Pakutka.

Touted as one of the best one-volume introductions to the American welfare state ever written, *Social Insurance* offers a clear intellectual foundation for social insurance programs by clearly explaining what they have and have not achieved while debunking their myths. The book focuses on six major threats to family income that were traditionally addressed by social insurance programs, including birth into a poor family, early death of a family breadwinner, health problems, involuntary unemployment, disability, and outliving one's retirement savings. The researchers assert that protecting social insurance and ensuring equality

of opportunity are essentially the values about which Americans most often agree—both on the right and on the left. The book uses stories, data, and analysis to determine how current policies impact the programs in place to help individuals and families in these positions, and asks if they are doing enough. “American social insurance programs presuppose that you are entitled not because you are a part of the nation, but because of your contribution to the nation; funding is linked to earnings, and entitlement is defined largely by years of work.”

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“American social insurance programs presuppose that you are entitled not because you are a part of the nation, but because of your contribution to the nation; funding is linked to earnings, and entitlement is defined largely by years of work. That the protection of social insurance—and the demand for its expansion—should be thought to be the distinctive position of ‘liberals’ is, to say the least, ironic,” the authors write.

“That the reform of social insurance should be thought to be best accomplished by moving in the direction of market-like devices that shift risks onto individuals and families that are already vulnerable to the staggering economic uncertainties of a rapidly globalizing economy is, in our view, a serious mistake.”

Allan Topol**The Russian Endgame**

SelectBooks, 2013



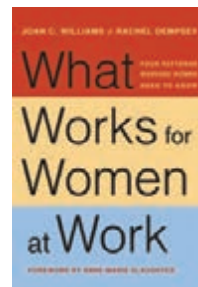
When former KGB agent Dimitri Orlov orchestrates an alliance between two world powers bent on domination, he unleashes a powerful chain of events that will rock the Western World. The

agenda? Eliminate the President of the United States and seize classified military weaponry capable of shifting the balance of world power. In his newest Craig Page thriller, Topol '65 showcases his talent for delivering electrifying, gripping expeditions into the world of international intrigue.

Joan C. Williams and Rachel Dempsey**What Works for Women at Work: Four Patterns Working Women**

Need to Know

NYU Press, 2014

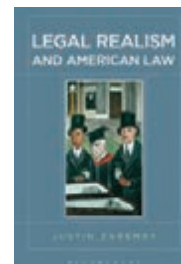


Based on interviews with 127 successful working women, this comprehensive guide offers insight and advice for mastering office politics as a woman. Williams, one of the nation's most-

cited experts on women and work, and her daughter, Dempsey '15 have created a unique, multi-generational perspective on the realities of today's workplace. Their nuanced and in-depth analysis goes beyond the traditional cookie-cutter, one-size-fits-all approaches of most career guides for women, weaving real-life anecdotes from the women they interviewed, along with quick kernels of advice for dealing with sexual harassment and other difficult situations.

Justin Zaremby**Legal Realism and American Law**

Bloomsbury Academic, 2013

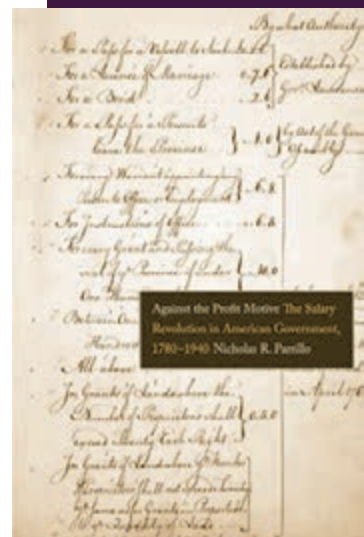


In his analysis and introduction to the ideas, context, and leading personalities of legal realism, Zaremby '10 helps situate an important movement in legal theory in the context of American politics and political thought. As it took shape

in the early part of the twentieth century, legal realism investigated the nature of legal reasoning, the purpose of law, and the role of judges. The movement asked questions which reshaped the study of jurisprudence and continue to drive lively debates about the law and politics in classrooms, courtrooms, and even the halls of Congress.

Nicholas R. Parrillo**Against the Profit Motive**

Yale University Press, 2013



IN HIS NEW BOOK, *Against the Profit Motive: The Salary Revolution in American Government, 1780-1940*, Professor Nicholas R. Parrillo '04 shows how American law once authorized government officers to make money from their jobs on a profit-seeking basis in a way that would surprise many observers today. Using previously untapped primary sources, the book analyzes prosecutors who were paid by the number of convictions they won, tax collectors who were paid a percentage of the evasions they uncovered, naval officers who were paid rewards for each ship they sank, and more. Parrillo explains how and why American legislators abolished all these profit-seeking arrangements and replaced them with the fixed salaries that we now take for granted in government service, transforming the nature of the officialdom and its relationship to the lay public.

"Today," says Parrillo, "you often hear politicians say that government should be 'run like a business.' But American government has, in fact, been run like a business for much of its history. The government's present insulation from the profit motive is the result of a long and active process of experimentation with profit-seeking. Legislators in the nineteenth and early twentieth centuries rejected profit-seeking in favor of salaries on the basis of hard firsthand experience. What I aim to do in this book is recover that experience."

ALSO OF NOTE**Lauren Benton and Richard J. Ross '89, eds.****Legal Pluralism and Empires, 1500-1850**

NYU Press, 2013

**Wen-Chen Chang '98 LL.M., '01 JSD
Kevin YL Tan '88 LL.M., '96 JSD
Jiunn-rong Yeh '86 LL.M., '88 JSD
Li-ann Thio**

Constitutionalism in Asia: Cases and Materials
Hart Publishing, 2013

Vincent R. Johnson '79 LL.M.

Mastering Torts: A Student's Guide to the Law of Torts, 5th Ed.
Studies in American Tort Law, 5th Ed.
Teaching Torts: A Teacher's Guide to Studies in American Tort Law, 5th Ed.
Carolina Academic Press, 2013

Eleni Martsoukou '02 LL.M.

European Union Law in Greece: A Harmonization Handbook
Office of European and International Affairs of the General Secretariat of the Greek Government, 2013

Sam Polk '47

Dethroning King Money by Re-Forming Uncle Sam
Amazon Digital Services, 2013

Mary Hutchings Reed '76

Warming Up: A Novel
She Writes Press, 2013

Deborah L. Rhode '77

Lawyers as Leaders
Oxford University Press, 2013

Nancy Rogers '72

Designing Systems and Processes for Managing Disputes
Aspen Publishers, 2013

Susan Rose-Ackerman and Paul D. Carrington, eds.**Anti-Corruption Policy: Can International Actors Play a Constructive Role?**

Carolina Academic Press, 2013

Esteban Restrepo Saldarriaga, ed.
Libertad De Expresión Entre Tradición Y Renovación: Ensayos En Homenaje A Owen Fiss

Universidad de Los Andes, 2013

Barry A. Sanders '70

The Los Angeles 1984 Olympic Games
Arcadia Publishing, 2013

Jingxia Shi '07 LL.M., '11 JSD

Free Trade and Cultural Diversity in International Law
Hart Publishing, 2013

Steven Stark '79

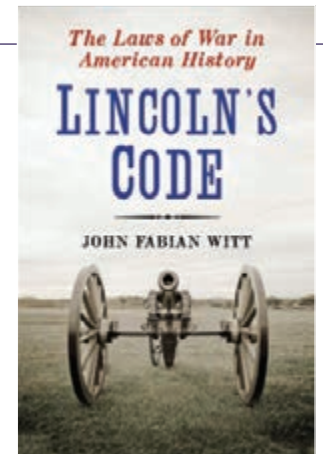
this is visual poetry
chapbookpublisher.com, 2013

Howard P. Willens '56

History Will Prove Us Right: Inside the Warren Commission Report on the Assassination of John F. Kennedy
Overlook Press, 2013

Koethi Zan '96

The Never List
Pamela Dorman Books, 2013



Lincoln's Code: The Laws of War in American History (Free Press, 2012) by Professor John Fabian Witt '99 received wide praise and numerous awards after its publication, including being named a *New York Times* Notable Book for 2012 and a finalist for the Pulitzer Prize. The book continues to receive awards for its achievement, most recently the Littleton-Griswold Prize of the American Historical Association, the John Phillip Reid Book Award of the American Society for Legal History, the Watson-Brown Prize of the Society of Civil War Historians, and the Scribes Book Award from the American Society of Legal Writers.

CORRECTION

The Summer 2013 issue of the *Yale Law Report* incorrectly listed the class year of Jill R. Hodges '89 MSJ in its coverage of a book she co-edited, *Risks and Challenges in Medical Tourism* (Praeger, 2012). The *Law Report* apologizes for erroneously reporting her class year as 1978.



video

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