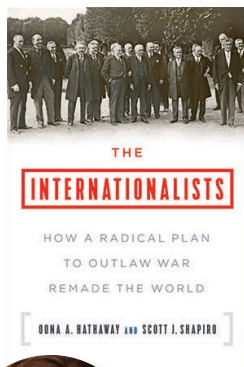


## BOOKS



(standing, from left) U.S. President Calvin Coolidge (1923–29), U.S. President Herbert Hoover (1929–1933), and U.S. Secretary of State Frank B. Kellogg (1925–1929), with representatives of governments who had ratified the Treaty for Renunciation of War (Kellogg-Briand Pact), in the East Room of the White House, July 24, 1929.



Oona A. Hathaway  
and Scott J. Shapiro

**The Internationalists:  
How a Radical Plan  
to Outlaw War  
Remade the World**

Simon & Schuster, 2017

# When War Became Illegal

In their critically acclaimed new book, Professors Oona Hathaway '97 and Scott Shapiro '90 examine the legacy of an overlooked international treaty that, for the first time in the history of the world, outlawed war.

*The Internationalists: How a Radical Plan to Outlaw War Remade the World* (Simon & Schuster) tells the largely forgotten story of the 1928 Paris Peace Pact, which was signed by sixty-three nations and declared war illegal. Though the Peace Pact has been dismissed by historians and scholars as an act of folly that failed to enact world peace, *The Internationalists* positions the treaty in the context of the long history of international law from the seventeenth century through the present. Hathaway and Shapiro offer a bold and provocative history of the men who fought to outlaw war, and how the treaty was among the most transformative events in modern history, ushering in a new era of progress toward peace that lasts to this day.

“Sweeping and yet personable at the same time, *The Internationalists* explores the profound implications of the outlawry of war,” says Paul Kennedy, Professor of History, Yale University, and author of *The Rise and Fall of Great Powers*. “Professors Oona Hathaway and Scott Shapiro enrich their analysis with vignettes of the many individuals (some unknown to most students of history) who played such important roles in this story. None have put it all together in the way that Hathaway and Shapiro have done in this book.”

In a related opinion piece in the *New York Times*, Hathaway and Shapiro write that although the Paris Peace Pact, also known as the Kellogg-Briand Pact of 1928, did not end war, it was effective in ending conquest. “Since World War II, conquest has almost come to a full stop. The average number of conquests per year fell drastically—to 0.26 per year, or one every four years. The average size of the territory taken declined to a mere 5,772 square miles per year,” Hathaway and Shapiro describe. “And the likelihood that any individual state would suffer a conquest in an average year plummeted—from 1.33 percent to 0.17 percent, or once or twice a millennium.”



Hathaway and Shapiro discussed their book at the United Nations Bookshop in November. Watch the video at [law.yale.edu/internationalists-UN](http://law.yale.edu/internationalists-UN).

THE  
NEW YORKER

“Genuine originality is unusual in political history. *The Internationalists* is an original book... a story about individuals who used ideas to change the world.” — Louis Menand, *the New Yorker*



“A fascinating and challenging book, which raises gravely important issues for the present... Given the state of the world, *The Internationalists* has come along at the right moment.” — Margaret McMillian, *the Financial Times*

The Washington Post

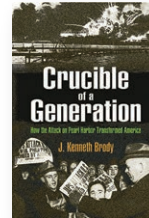
“*The Internationalists* is partly a rich history of the emergence of the modern international legal order and partly an empirical study of the change in war the authors say the law helped produce. As a legal history, the book is indispensable.” — Deborah Pearlstein, *the Washington Post*

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](mailto:lawreport@yale.edu).



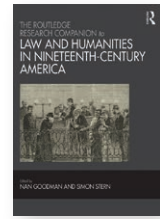
John Corvino, Ryan T. Anderson, and Sherif Girgis  
**Debating Religious Liberty and Discrimination**  
*Oxford University Press, 2017*

Girgis ’16 and co-authors debate various questions concerning religious liberty, tolerance, and discrimination. This book contributes to discussions on the importance of religious freedom for American political life in a way that seeks to move public debate beyond polarizing discourse.



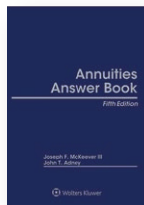
J. Kenneth Brody  
**Crucible of a Generation: How the Attack on Pearl Harbor Transformed America**  
*Taylor & Francis, 2017*

In this posthumously published book, J. Kenneth Brody ’49 tells the story of the fifteen days surrounding Pearl Harbor through the pages of eight great American newspapers. Covering many topics, this book provides rich insights into how Pearl Harbor shaped American society.



Nan Goodman and Simon Stern, eds.  
**The Routledge Research Companion to Law and Humanities in Nineteenth-Century America**  
*Routledge, 2017*

Goodman and Stern ’02 bring together more than twenty leading researchers from law schools and humanities departments to touch on regulatory, statutory, and common law matters in nineteenth-century America. The book serves as a reference for specific information on a variety of law- and humanities-related topics, as well as a guide to understanding how the two disciplines developed in tandem.



John T. Adney and Joseph F. McKeever, III, eds.  
**The Annuities Answer Book, Fifth Edition**  
*Wolters Kluwer, 2017*

Adney ’75 and McKeever present chapters covering various technical matters concerning annuities, including actuarial, banking, security, and taxation. Additionally, Stephen E. Roth ’76 authors a chapter on security laws that pertain to annuities.



Weitseng Chen, ed.  
**The Beijing Consensus? How China Has Changed Western Ideas of Law and Economic Development**  
*Cambridge University Press, 2017*

Weitseng Chen ’05 LLM, ’07 JSD edits a collection that addresses a basic but seemingly under-explored question: is there a distinctive Chinese model for law and economic development? The book equips readers with an understanding of the conclusions derived from China’s experience in its legal and economic development in recent decades.



Daniel Kornstein  
**The Second Greatest American**  
*AuthorHouse, 2017*

Kornstein ’73 offers a unique glimpse into the life of U.S. Supreme Court Justice Oliver Wendell Holmes Jr. not often captured in biographies by highlighting his human spirit and many achievements to show why Holmes should be considered a hero for today.

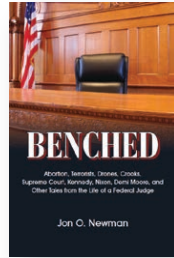
## SURVEY OF BOOKS



Khary Lazarre-White  
**Passage**

Seven Stories Press, 2017

Lazarre-White '04 presents the story of Warrior, an eighteen-year-old black man navigating the snowy winter streets of Harlem and Brooklyn in 1993. Amid fear, love, danger, and forces that seek his destruction, the story of Warrior's struggle for survival brings to life the parallel experiences of young black men in America today.



Jon O. Newman  
**Benched:  
Abortion, Terrorists, Drones,  
Crooks, Supreme Court,  
Kennedy, Nixon,  
Demi Moore, and Other Tales  
from the Life of a Federal Judge**

William S. Hein & Co., 2017

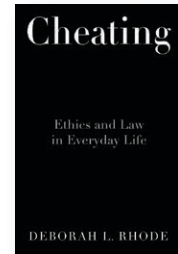
Newman '56 provides a behind the scenes look at the work that judges actually do. This book gives a firsthand account of several important cases and offers proposals for creating a better justice system.



J. Dana Brakman Reiser and  
Steven A. Dean  
**Social Enterprise Law:  
Trust, Public Benefit and  
Capital Markets**

Oxford University Press, 2017

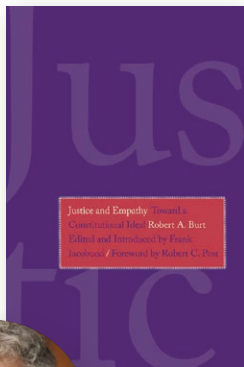
Reiser and Dean '99 refute the idea that law frustrates the efforts of social entrepreneurs to build ventures dedicated to pursuing profits for owners and benefits for society. Instead, law can make corporations better citizens and make it easier for startups to raise capital by preventing insiders from selling out a social mission for increased profit.



Deborah L. Rhode  
**Cheating:  
Ethics and Law  
in Everyday Life**

Oxford University Press, 2017

Rhode '77 offers a comprehensive account of how cheating is deeply embedded in everyday life. The book discusses the most common forms of cheating and suggests an array of collective practices and institutions that might work to curb cheating's pervasiveness and promote greater moral responsibility.



Robert A. Burt  
Edited by Frank Iacobucci  
**Justice and Empathy:  
Toward a Constitutional Ideal**  
Yale University Press, 2017

## Justice and Empathy

What can courts and judges learn from psychoanalysis?

A posthumously published book by Robert ("Bo") A. Burt '64 carries forward his sustained project of bringing psychoanalytic insights to bear upon legal analysis. An expert on issues found at the intersection of law and medicine, as well as constitutional law, Robert Burt (1939–2015) was a long serving and beloved member of the Law School faculty and, at the time of his death, the Alexander M. Bickel Professor Emeritus. *Justice and Empathy: Toward a Constitutional Ideal* (Yale University Press) represents a fully articulated vision of his distinctive perspective.

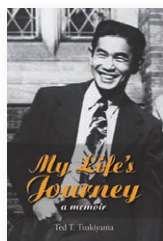
Arguing against the understanding of law that views its purpose as merely to create definitive rules and doctrines for dispute resolution, *Justice and Empathy* conceptualizes the role of law and courts not simply as impersonal mechanisms but as moral and social agents for change, and for the protection of the vulnerable. Central to Burt's thesis is the consideration of the work of judges as similar to that of psychoanalysts. The courts play the role of therapist, and as a result "must recognize their ultimate

powerlessness to resolve the conflicts which appear before them, their dependence on the conflicted parties to take responsibility to forge relationships of mutual respect that supplant the previous hostilities between and within them." Judges, like psychoanalysts, work to create a space where contending groups can examine the nature of their internal conflicts.

In his foreword to the book, Robert C. Post '77, Sterling Professor of Law, writes: "This posthumous book is an unexpected gift from a departed friend. Reading it is like hearing Bo alive once again, summoning us to acknowledge and forgive our own frailties... Bo calls on us to appreciate the complex web of human relationships in which our constitutional values are necessarily embodied."

Professor Burt joined the Yale Law School faculty in 1976 and was the author of numerous books, including *In the Whirlwind: God and Humanity in Conflict* (2012); *Death is That Man Taking Names: Intersections of American Medicine, Law and Culture* (2002); and *The Constitution in Conflict* (1992).

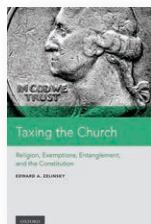




Ted T. Tsukiyama  
**My Life's Journey:  
A Memoir**

Watermark Publishing, 2017

In his memoir, Tsukiyama '50—an attorney, community leader, historian, and public speaker—recounts stories from his life to provide a window onto the story of a generation of Japanese Americans.



Edward A. Zelinsky  
**Taxing the Church:  
Religion, Exemption,  
Entanglement,  
and the Constitution**

Oxford University Press, 2017

Zelinsky '75 explores the taxation and exemption of churches and other religious institutions. He argues that federal and state tax systems treat churches and other religious institutions in diverse ways. The book discusses improvements that can be made in legal and tax policy trade-offs in a balanced, comprehensive, and broadly accessible treatment.

## SPOTLIGHT

## The Laws and Economics of Confucianism

Why did Chinese and English pre-industrial economic development take such different paths?



**Associate Professor of Law** Taisu Zhang '08 brings together cultural history, legal history, and institutional economics in his new book, *The Laws and Economics of Confucianism: Kinship and Property in Preindustrial China and England* (Cambridge University Press), exploring why Chinese and English pre-industrial economic development went down different paths.

While numerous scholars have sought to explain modern China's economic decline relative to its western peers, Zhang highlights the significant omission of cultural analysis in the current scholarship. Although cultural analysis is often avoided for sensible reasons, Zhang argues, the impulse also leaves unexamined many essential questions. Zhang reintroduces

cultural studies to comparative Sino-English economic history to argue that social and cultural differences between early modern pre-industrial China and England had major consequences for legal institutions and macro-level economic outcomes. In early modern pre-industrial China, the dominance of kinship networks allowed many relatively poor individuals to possess status and political authority disproportionate to their wealth. Under these norms, advanced age and generational seniority were much stronger determinants of sociopolitical status than wealth. In England, by comparison, the prerequisite to high status and authority was landed wealth. This stricter requirement essentially excluded low-income individuals from positions of prestige and leadership. As a result of these differences, Chinese customary laws governing the selling and collateralizing of land protected the economic interests of lower-income households in rural China far more rigorously than comparable English institutions. These institutional differences had significant economic consequences over time. By the early eighteenth century, a majority of English land was concentrated under capitalist management, with smallholders in steady decline. In comparison, even by the mid-twentieth century, Chinese agriculture remained predominantly household-based, and less concentrated than in England. Because Chinese property institutions were much more "poor friendly," poor landowners had less incentive to sell land. Property institutions, then, played an essential role in linking cultural differences to macro-level economic outcomes. In its dissertation form, *The Laws and Economics of Confucianism* was the recipient of Yale University's Arthur and Mary Wright Dissertation Prize and the American Society for Legal History's Kathryn T. Preyer Award.

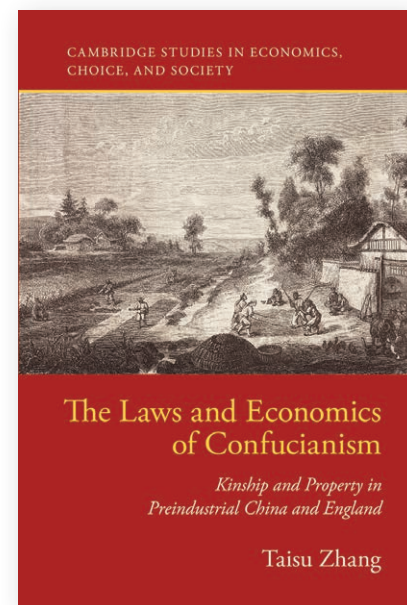
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Taisu Zhang  
**The Laws and Economics of  
Confucianism: Kinship and Property  
in Preindustrial China and England**  
Cambridge University Press, 2017



Linda Greenhouse  
**Just a Journalist:  
 On the Press, Life, and  
 the Spaces Between**  
 Harvard University Press, 2017

## Just a Journalist

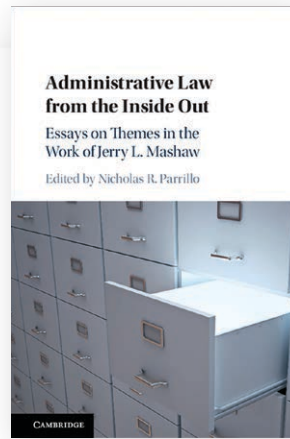
A Pulitzer Prize-winning reporter reflects on the journalist's role in a new era of truth telling and fake news.

In her latest book, *Just a Journalist: On the Press, Life, and the Spaces Between* (Harvard University Press), Knight Distinguished Journalist in Residence and Joseph Goldstein Lecturer in Law Linda Greenhouse '78 MSL trains an autobiographical lens on a moment of transition in American journalism. A decade ago, members of the mainstream press were grappling with whether labeling waterboarding as torture violated important norms of neutrality and objectivity. Now, major American newspapers regularly call the president of the United States a liar. The rules have changed: it's no longer a simple matter of "balance" and "two sides to every story."

In *Just a Journalist*, Greenhouse draws from the perspective of her own experience to address the question of whether the change is for the better, or if it will last. A decade ago, she faced criticism from her own newspaper and much of journalism's leadership for a speech to a college alumnae group in which she criticized the Bush administration for, among other things, seeking to create a legal black hole at Guantánamo Bay—two years after the Supreme Court itself had ruled that the detainees could not be hidden away from the reach of federal judges who might hear their appeals.

Too often, she believes, journalists have pulled their punches, sacrificing truth as they perceive it before the false gods of fairness and objectivity. "The opposite of objectivity isn't partisanship, or needn't be," she writes. "Rather, it is judgment, the hard work of sorting out the false claims from the true and discarding or at least labeling the false."

Calling herself "an accidental activist," Greenhouse raises questions about the role journalists can and should play as citizens, even as participants, in the world around them.



Nicholas R. Parrillo  
**Administrative Law from  
 the Inside Out: Essays on  
 Themes in the Work of  
 Jerry L. Mashaw**  
 Cambridge University Press, 2017

## Bureaucracy and Policymaking

In a polarized and gridlocked political climate, can bureaucrats create the norms that give us a government of laws?



In the recently published *Administrative Law from the Inside Out: Essays on Themes in the Work of Jerry L. Mashaw* (Cambridge University Press), Professor Nicholas R. Parrillo '04 edits a collection of essays that explore the possibilities of administrative law in conversation with the work of Sterling Professor Emeritus Jerry L. Mashaw.

Mashaw's extensive work has illuminated new ways of seeing administrative law, introduced sweeping indictments of its basic principles, and built bridges to other disciplines. This volume assembles the latest work on U.S. administrative law by nearly two dozen scholars that expands upon themes found in his corpus, and on the fundamental premises of their respective fields.

Mashaw has long argued that bureaucrats can and should self-generate the norms that give us a government of laws—and, under the right conditions, he suggests, they can do it far better than elected lawmakers or courts. This is the thesis of Mashaw's *Bureaucratic Justice* (1983), perhaps his most enduring book. As Parrillo notes in his introductory chapter, "amid the patterns of ideological polarization...the flow of congressional legislation is frequently blocked, leaving the bureaucracy as the primary arena for struggle over policymaking."

"For a generation," Parrillo writes, "scholars in the field of administrative law have been engaged, provoked, informed, and inspired by the work of Sterling Professor Emeritus of Law Jerry Mashaw."

A collective account of administrative law's commitments, possibilities, limitations, and constraints as an approach to governance, *Administrative Law from the Inside Out* arose from the conference of the same name that was held at Yale Law School in October 2015, which discussed the themes of Mashaw's work.

## ALSO OF NOTE

John T. Adney '75  
**Life Insurance and Modified  
 Endowments Under Internal  
 Revenue Code Sections  
 7702 and 7702A**  
*SOA Publisher, 2015*

Deborah N. Archer '75 and  
 Richard Marsico, eds.  
**Special Education Law  
 and Practice:  
 Cases and Materials**  
*Carolina Academic Press, 2017*

Hillary Clinton '73  
**What Happened**  
*Simon & Schuster, 2017*

Jack Fuller '73  
**One From Without:  
 A Novel**  
*Unbridled Books, 2016*

Alan Hruska '58  
**It Happened at  
 Two in the Morning**  
*Prospect Park Books, 2017*

Van Jones '93  
**Beyond the Messy Truth:  
 How We Came Apart,  
 How We Come Together**  
*Ballantine Books, 2017*

Jenny Kassan '95  
**Raise Capital On  
 Your Own Terms:  
 How to Fund  
 Your Business Without  
 Selling Your Soul**  
*Berrett-Koehler Publishers, 2017*

George Newton '58  
**My Life Inside Big-Case  
 Litigation: A Memoir**  
*Blue Moon Books, 2017*

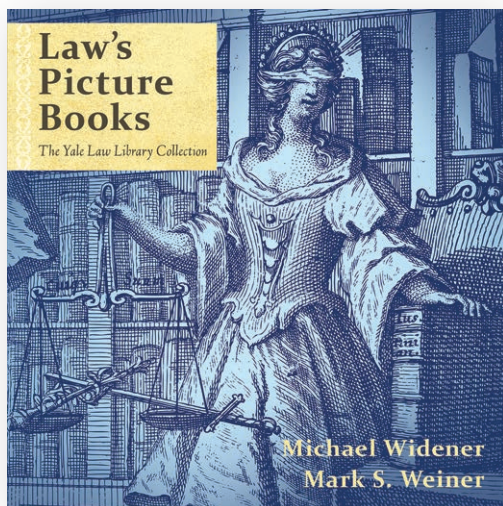
Saadia Pekkanen '04 MSL, ed.  
**Asian Designs:  
 Governance in the  
 Contemporary World Order**  
*Cornell University Press, 2016*

Michael Ponsor '74  
**The One-Eyed Judge**  
*Open Road Media Mystery  
 & Thriller, 2017*

David Alan Richards '72  
**Skulls and Keys:  
 The Hidden History  
 of Yale's Secret Societies**  
*Pegasus Books, 2017*

Mordecai Rosenfeld '54  
**Mozart as Lawbreaker,  
 Humorous Essays:  
 Autobiographical,  
 About the Law,  
 and About Poetry**  
*Poetica Publishing Company, 2017*

Roland L. Trope '80 and  
 Thomas J. Smedinghoff, eds.  
**Guide to Cybersecurity  
 Due Diligence in  
 M&A Transactions**  
*ABA Publishing, 2017*



Michael Widener and  
 Mark S. Weiner  
**Law's Picture Books:  
 The Yale Law Library Collection**  
*Talbot Publishing  
 (Lawbook Exchange, Ltd.), 2017*

## Image and Idea

A new book explores the relationship between law and visual culture in the history of legal publications.

Most people would not look for illustrations in law books, and the title of a new book by Michael Widener and Mark S. Weiner '99, *Law's Picture Books* (Talbot Publishing), may at first sound counterintuitive. Law brings to mind not pictures but matters conceptual and analytic, as well an endless expanse of technical language. The new book by Widener, rare book librarian and lecturer in legal research at Yale Law School, and Weiner, a legal historian, challenges these preconceptions.

The publication of *Law's Picture Books* accompanied two exhibitions in the fall of 2017. "Law's Picture Books: The Yale Law Library Collection," a project over three years in the making that included 140 books drawn from the rare book collection of the Lillian Goldman Law Library at Yale Law School, was displayed at the Grolier Club in New York City, drawing praise from the *Wall Street Journal* and the *New Yorker*. A companion exhibition, "Around the World With Law's Picture Books," was displayed in the Lillian Goldman Law Library at Yale Law School, showcasing the geographic scope of the illustrated law book collection.

The works displayed in the book explore and reveal the surprising figurative impulse in legal literature. They offer a diversity of images from Europe, Great Britain, Asia, and the Americas—from the Middle Ages to the present day. Originally these books were published for many different audiences, including legal professionals, law students, and lay readers.

The catalog is enhanced by four essays: "Collecting Yale Law Library's Picture Books," (Widener), "Reflections on an Exhibition," (Weiner), "Ars Memoria in Early Law: Looking Beneath the Picture," (Jolande E. Goldberg), and "Law's Picture Books and the History of Book Illustration," (Erin C. Blake).