

Yale Law Report

THE ALUMNI MAGAZINE OF YALE LAW SCHOOL
WINTER 2018

Updates on Baker Hall

Alumni Weekend 2017

Veterans at Yale Law School

A woman with dark hair, wearing a black blazer, is speaking at a press conference. She is surrounded by several microphones from various news organizations, including CNN, News 12, and WTNV. Other people are visible in the background, some looking towards the speaker. The scene is outdoors, with a building facade visible in the background.

**Life-Changing
Legal Education
Transforming
the lives of students,
their clients, and
the national conversation**

Yale Law Report

WINTER 2018

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ON THE COVER: Emily Villano '19 addressed reporters on September 14, 2017 outside of a federal court in Brooklyn after students from the Worker and Immigrant Rights Advocacy Clinic attended a hearing on their challenge to the Trump administration's termination of the Deferred Action for Childhood Arrivals (DACA) program. The clinic was the first in the nation to challenge the termination of DACA. Photo by Juan Gastelum/National Immigration Law Center. Read more on page 48.



Baker Hall: a new academic, social, and residential hub for Yale Law School

READ MORE ON PAGE 3



Dean Gerken and Sterling Professor Emeritus Guido Calabresi at his birthday celebration in October. Read more about the event on page 24.

Dear Graduates and Friends of Yale Law School:

While traveling the country over the past six months, I have been inspired and energized by my conversations with so many of our path-breaking alumni. It's remarkable that a single school has generated leaders in so many sectors of society.

As so many of you have observed to me, there is a reason that the Law School punches above its weight. Our educational model is unique. We take some of the best minds in the country and teach them to think analytically, institutionally, and ethically. If there is a single theme that unites our eclectic curriculum, it is that we encourage our students to question everything. That training is the equivalent of an all-purpose leadership degree—one that prepares our students to tackle any challenge. That's why our alumni lead, not just in law, but in business, politics, and policy. Our alumni start companies and nonprofits. They serve as managing partners of law firms and heads of government agencies. They become civil-rights lawyers and hedge-fund managers, bankers and film-makers, securities lawyers and senators.

As we train the next generation of leaders, Yale Law School continues to find ways to innovate. **We want to ensure that Yale boasts not only the most theoretically ambitious curriculum among our peers, but provides hands-on, practical experience.** We want to give all of our students the chance to do real-world work that is as ambitious as they are. Take a look at our cover page. It's a photo of the lawyers who have been litigating to preserve DACA in a federal court in Brooklyn. Now take a closer look. The lawyers litigating this historic case are 2Ls and 3Ls.

That photo is a stand-in for the powerful work taking place these days in our classrooms, clinics, and centers. This work gives our students the chance to hone their skills while providing the groundwork for them to go out and do what all of you have done—make a difference. Thank you for showing them the way.

Warmly,

A handwritten signature in black ink, appearing to read "Heather K. Gerken".

Heather Gerken, Dean and Sol & Lillian Goldman Professor of Law
heather.k.gerken@yale.edu

OPENING STATEMENT



In 2017 Yale Law School began construction to transform the building formerly known as 100 Tower Parkway into Baker Hall, a modern extension of the campus that will become the first permanent expansion of the Law School in more than eighty-five years.

Breaking Ground for Baker Hall

Christina and Robert C. Baker '56 B.A., '59 LL.B. were the guests of honor on October 24 for an official groundbreaking ceremony for Baker Hall, a new academic, social, and residential hub for Yale Law School. The Bakers were welcomed by Dean Heather K. Gerken and former Dean and Sterling Professor of Law Robert C. Post '77.

The completion of Baker Hall in August 2018 will mark the first expansion of the Law School's physical footprint since the construction of the iconic Sterling Law Building in 1931.

The Bakers and senior administrators from the Law School were led on a tour through the work site by Laura Pirie, principal of Pirie Associates, the architects of the project. The tour included architectural renderings, updates from the project's construction firm A/Z Corporation, and views of new academic and social spaces on the first floor, which will feature a two-story lecture hall, a three-tiered student center, and community study and recreation areas.

In 2013, the Bakers led a successful \$60 million campaign with an extraordinary \$25 million gift to overhaul the 137,000-square-foot building that will be renamed in their honor.

Construction on Robert C. and Christina Baker Hall began in July 2017 and is scheduled to be completed in August 2018. In addition to new academic, social, and programmatic space, Baker Hall will reintroduce residential life to Yale Law School, with apartment-style living options for students. More information about the project, including photo galleries, is available at law.yale.edu/bakerhall.



(top, from left) Robert C. Post, Sterling Professor of Law and former dean, and Dean Heather K. Gerken welcomed Christina and Robert C. Baker to the groundbreaking ceremony for Baker Hall; (above) Christina and Robert C. Baker listen to architect Laura Pirie describe the meeting rooms and student center in Baker Hall.



BAKER HALL PROJECT MILESTONES

2017

July

Construction begins

October

Groundbreaking ceremony and site tour

November

Structural demolition and new steel installation begins

Mock up suites ready

2018

March

Exterior facade work complete (new windows, brick, gutters & dormers)

May

Upper and lower courtyard terraces complete

June

Exterior courtyard and remaining landscape complete

August

Students move in

SCHOOL NEWS

Demonstrators gathered outside San Francisco's city hall in February, 2017 to protest recent changes to U.S. immigration policies. In November, a federal judge in California permanently blocked the Trump administration from denying funding to sanctuary cities, a major victory for the San Francisco Affirmative Litigation Project.



In September, the San Francisco Affirmative Litigation Project worked with the city attorneys of San Francisco and Oakland to file two lawsuits on behalf of their cities asking the courts to hold companies accountable for the harmful consequences of their massive fossil fuel production.

San Francisco Affirmative Litigation Project Continues Work with National Impact

Wins Permanent National Injunction in Sanctuary City Case

A federal judge in California permanently blocked the Trump administration from denying funding to sanctuary cities in November, a major victory for Yale Law School students who worked closely with the San Francisco City Attorney's Office in filing the case.

Students from the San Francisco Affirmative Litigation Project (SFALP) at Yale Law School began working with the City Attorney's Office to file the case in January 2017. It was the first case in the nation to challenge the federal executive order on "sanctuary jurisdictions" and the clinic secured a temporary nationwide injunction in April that was made permanent on November 20, 2017.

The lawsuit argued that the Trump administration's order directing enforcement action against sanctuary cities and threatening to withhold funding from these cities is unconstitutional and exceeds the president's power. In his ruling, Judge William H. Orrick of the U.S. District Court for the Northern District of California sided with the City Attorney's Office and SFALP students.

Sues Top Fossil Fuel Producers Over Climate Change Costs

SFALP has taken the world's largest oil and gas companies to court. The city attorneys of San Francisco, with whom SFALP students work, and the city of Oakland filed two separate lawsuits on behalf of their cities asking the courts to hold these companies accountable for the harmful consequences of their massive fossil fuel production. The cities are seeking an order requiring the defendant companies to pay for the costs of seawalls and other infrastructure necessary to protect the people and property of San Francisco and Oakland, coastal cities that hold the largest shoreline investments on San Francisco Bay.

"In law school some of the problems facing the world can seem almost too big to tackle, but it feels timely to be taking some of the perpetrators of climate change to task right now," said SFALP student Callie Wilson '18. "It is such an honor to work alongside the excellent

attorneys in the City Attorney's Office to seek to mitigate some of the catastrophic effects facing San Francisco."

Wins Case Against Unlawful Diversion Program

After nearly two years, SFALP won an important victory in court against the Corrective Education Company (CEC) over its diversion program for suspected shoplifters. The San Francisco City Attorney's Office argued that CEC's practices amount to extortion and false imprisonment. San Francisco Superior Court Judge Harold Kahn agreed with that assessment. As part of its "corrective education" scheme, CEC—which operates in twenty-five states—shows accused shoplifters video evidence in an isolated room and offers the option of either criminal prosecution or admitting guilt and agreeing to pay CEC up to \$500 for a "cognitive restructuring" course.

Secures Settlements with "Predatory" Immigration Consultants

In September, SFALP helped secure a \$400,000 settlement from immigration consultants Lacayo & Associates and its principals Leonard Lacayo and Ada Lacayo. The predatory consultants defrauded customers by misleading customers into believing the principal Leonard Lacayo was a lawyer, filing deficient and improper immigration applications for their clients, overcharging for notary services, and violating legal requirements governing immigration consultants.

“

In law school some of the problems facing the world can seem almost too big to tackle, but it feels timely to be taking some of the perpetrators of climate change to task right now.”

SFALP STUDENT CALLIE WILSON '18

Local Dimensions, National Consequence

SFALP is a partnership between Yale Law School and the San Francisco City Attorney's Office. Students work with San Francisco Deputy City Attorneys to conceive, develop, and litigate some of the most innovative public-interest lawsuits in the country. The SFALP program is the first of its kind and has become a national model.

Corporate Law Colloquium Speakers Share Experiences and Insights



The Yale Law School Center for the Study of Corporate Law

Established in 1999, the Center focuses on corporate law and the law of other nongovernmental organizations; the regulation of financial markets and intermediaries; the legal framework of finance, including the law of bankruptcy, corporate reorganization, and secured transactions; and antitrust law and the law of regulated industries. Sterling Professor of Law Roberta Romano '80 is the director of the center, whose programs consist of lectures, roundtables, a workshop in law and finance, a colloquium series, an alumni breakfast program, panels and symposia, in which academics, government officials, and members of the bar and business community participate.

The Yale Law School Center for the Study of Corporate Law welcomed four innovative voices in business for its fall 2017 Marvin A. Chirelstein Colloquium. The series brings leading members of the corporate bar, business and investment communities, judges, and regulators to the Law School where they discuss emerging practice and regulatory issues, and engage in dialogue with students. Tracey L. McNeil, ombudsman of the SEC, delivered a talk titled “The Importance of Investor Protection” in September. In October, Fred Phillips '90, CEO of Innovative Card Systems, and Majid Dawood, CEO of Yasaar Limited, gave a talk about Islamic Finance that was co-sponsored with the Kamel Center for the Study of Islamic Law and Civilization. Later that same month, Jack “Rusty” O’Kelley '92, managing director of Russell Reynolds Associates, discussed “Preparing for an Activist Investor Before There Is One.” And in November, Daniel Simon '14 JD-MBA, chief technology officer and chief operating officer of Bread Finance, spoke on “Starting a Startup in a Regulated Space: One FinTech’s Narrative.”



(clockwise, from top left) Visiting speakers engage students in the faculty lounge during the fall 2017 Marvin A. Chirelstein Colloquium; Roberta Romano '80, Sterling Professor of Law and director of the Center, Tracey L. McNeil, and Nancy Liao '05, the John R. Raben/Sullivan & Cromwell Executive Director of the Center; Fred Phillips '90, and Majid Dawood; Daniel Simon '14 JD-MBA; Jack “Rusty” O’Kelley '92.

CLINICS

The Worker and Immigrant Rights Advocacy Clinic Defends Dreamers



Hours after President Trump announced his decision to rescind the Deferred Action for Childhood Arrivals (DACA) policy, Yale Law School's Worker and Immigrant Rights Advocacy Clinic challenged the decision by filing a lawsuit in the U.S. District Court for the Eastern District of New York.

The Worker and Immigrant Rights Advocacy Clinic (WIRAC) at Yale Law School was the first to challenge President Trump's decision to rescind the Deferred Action for Childhood Arrivals (DACA) policy this past September.

Just hours after the decision was announced, WIRAC filed a lawsuit on behalf of a young immigrant New Yorker and the organization Make the Road New York (MRNY) in the U.S. District Court for the Eastern District of New York. The filing argues that President Trump's actions violate federal law and the equal protection guarantee under the Constitution.

"When critical moments like this take place, Yale Law School students do not sit on the sidelines, they make headlines," said Dean Heather Gerken.

Yale students and faculty have passionately advocated on behalf of dreamers for years. For the past five years, WIRAC students have also represented United We Dream (UWD), the largest organization of dreamers in the country. Since September, students have argued in federal court several times and held major press conferences advocating for their clients. The case is currently being litigated at both the district court and the second circuit. For more on this story, see page 48.



“

When critical moments like this take place, Yale Law School students do not sit on the sidelines, they make headlines.”

DEAN HEATHER GERKEN

WIRAC Public Service Award



The Connecticut Criminal Defense Lawyers Association presented the Paul J. McQuillan Public Service Award to the Worker & Immigrant Rights Advocacy Clinic on October 19, 2017.

CLINIC ROUNDUP

Reproductive Rights and Justice Project

Joined a lawsuit in October defending women's equal access to coverage of contraceptives. The case challenges interim final rules released by the Trump administration that threaten to curtail access to birth control coverage for thousands of women.

Ethics Bureau

Scored a series of high-profile court victories over the past several months, most notably one that helped to free a man who had been imprisoned in Kansas for twenty-three years. In October, Lamonte McIntyre was freed after testimony provided by the clinic's instructor, Lawrence Fox, outlined how the man's conviction resulted from a trial in which both the judge and prosecutor hid evidence of "outrageous" ethical breaches. The report and testimony was researched and prepared by students from the clinic.

Earlier in October, the U.S. Supreme Court ruled that it would review the case of a separate death row inmate, Robert McCoy, in Louisiana, a major development that came after years of advocacy from Ethics Bureau. In April 2017, students filed an amicus brief with the High Court arguing that McCoy had a right to a new trial due to ineffective counsel, which helped lead to the Supreme Court decision.

And finally, after a long legal fight, the U.S. Supreme Court summarily vacated a constitutional decision by the Louisiana Supreme Court in September, handing former death row Roger Lacaze a major victory in his quest for a new trial citing major ethical issues with his trial. The High Court's decision, which remanded the case back to Louisiana, was made based on arguments students put forth through the Ethics Bureau.

The Ethics Bureau advises lawyers on how to proceed when faced with violations of the Model Rules of Professional Conduct and other ethical dilemmas.

Samuel Jacobs Criminal Justice Clinic

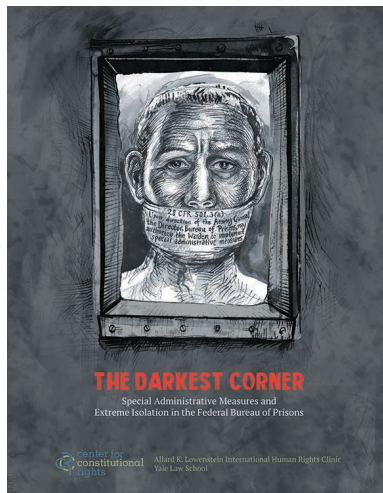
Released a report in September highlighting opportunities for the state of Connecticut to reduce the high rate of incarceration attributable to its parole revocation process. The report details the findings of a research project that began in the fall of 2015 after Governor Dannel Malloy announced the Second Chance Society initiative. To support that initiative, CJC agreed to undertake a study of parole revocation in Connecticut to explore ways to reduce incarceration and to facilitate the reintegration of parolees into society.



Media Freedom and Information Access Clinic

Won a ruling, filed on behalf of ProPublica, to release the source code for analyzing DNA samples used in criminal proceedings.

In addition, MFIA, in connection with the Collaboration for Research Integrity and Transparency, won a suit asking for the expedited release on information from the FDA about the approval of a drug treating Duchenne Muscular Dystrophy.



Allard K. Lowenstein Human Rights Clinic

Released a report in September documenting the U.S. government's use of a secretive form of extreme isolation in federal prisons. The report, *The Darkest Corner: Special Administrative Measures and Extreme Isolation in the Federal Bureau of Prisons*, documents the use of drastic restrictions called Special Administrative Measures.

The clinic also authored an amicus brief in October in the Oslo District Court that argued that new licenses for oil drilling in the Arctic issued by the government of Norway in June 2016 are inconsistent with the country's obligations under international law. The brief was in support of a suit filed in October 2016 by Greenpeace Nordic and *Natur og Ungdom* (Nature and Youth), Norway's largest youth organization, against the Government of Norway.

Rule of Law Clinic

Filed an amicus brief on behalf of fifty senior former national security officials on September 18, 2017, in support of the state of Hawaii and the Iraqi Refugee Assistance Project's lawsuit against the Trump administration. The lawsuit, which will be considered by the U.S. Supreme Court, challenges a revised executive order that temporarily suspends the entry of certain refugees and travelers from a group of six predominantly Muslim countries.

The brief argues that the executive order does not fulfill its stated purpose of enhancing national security and is not based on any credible intelligence cited by the administration. It also argues that the order was never subjected to any proper interagency process.

The brief was one of three briefs the clinic has submitted to the Supreme Court regarding the legality of the administration's travel ban.

The Clinic also filed a federal lawsuit on behalf of the NAACP in October under the Freedom of Information Act to compel the Commerce Department to produce records it has unlawfully withheld about preparations for the 2020 census.

This past fall, the clinic also filed an amicus brief in support of transgender troops serving in the military in response to President Trump's ban. Students also filed an amicus brief on behalf of twenty-two former national security officials in support of more than two hundred members of Congress, who have filed a lawsuit against President Trump for allegedly violating the Constitution's Foreign Emoluments Clause through his private business entanglements with foreign governments.



The administration cannot cloak a discriminatory action in the veil of national security. Such executive action does not warrant reflexive judicial deference.”

HAROLD HONGJU KOH, STERLING PROFESSOR OF INTERNATIONAL LAW, ON THE TRAVEL BAN AMICUS BRIEF FILED BY THE RULE OF LAW CLINIC

Global Health Justice Partnership

Ended a two-year Freedom of Information Act (FOIA) case, winning an important victory for clinical research transparency, in partnership with Treatment Action Group (TAG).

The case sought to obtain clinical trial data from the U.S. Food and Drug Administration (FDA) on two costly Hepatitis C drugs, Sovaldi and Harvoni, in order to enable the research community to independently assess their safety and efficacy. However, the drug company Gilead Sciences Inc., refused to adopt industry norms for data sharing and the effort was only partly successful. Through the litigation, TAG and GHJP received important documents shedding light on the drugs' clinical trials previously unavailable to independent researchers. These documents include clinical study reports and detailed summaries of study results, as well as study protocols, case report forms on adverse events, and selected correspondence between Gilead and the FDA.

While the FDA released a large amount of information, it withheld and redacted individual patient-level data (IPD), specifically the raw analyzable datasets critical for reanalysis of drug safety and efficacy by the scientific community, according to the groups. TAG and GHJP engaged in subsequent talks with Gilead to press the company on data sharing for Sovaldi and Harvoni, as well as other drugs it produces, but the talks were unsuccessful.

“Gilead has refused to open its data to systematic independent scrutiny, though many other companies in the industry have begun to do this,” said Amy Kapczynski '03, professor of law and GHJP's co-director. “These other companies recognize that transparency serves company interests, as well as those of patients and the public health.”

Veterans Legal Services Clinic

Filed a lawsuit in October to compel the Department of Defense to release records related to U.S. airmen's exposure to ionizing radiation while responding to a January 17, 1966, hydrogen bomb accident near Palomares, Spain.

In one of the worst nuclear accidents in U.S. history, a U.S. Air Force B-52 bomber collided with a KC-135 tanker aircraft, releasing four hydrogen bombs. In an effort to recover the weapons, the U.S. Air Force ordered approximately 1,600 airmen to the site of the accident, where they were exposed to dangerous levels of radiation. The lawsuit alleges that the Air Force failed to provide the airmen with adequate protection and did not warn them of the danger of their assignment.

Environmental Justice Clinic

Worked with Senators Cory Booker and Raul Ruiz to introduce the Environmental Justice Act of 2017, a bill to address racial and economic disparities in exposure to pollution and access to fresh air and clean water. The bill calls on the Environmental Protection Agency to ensure access to clean air and clean water without regard to race or national origin, and would usher into law policies to protect vulnerable communities.

MILESTONE



(from left) James Grimmelmann '05, Kate Klonick '21 PhD, and Nicholas Bramble



Alumni fellows, researchers, and staff of the ISP celebrated the center's twentieth anniversary.

ISP initiatives and clinics:

- Floyd Abrams Institute for Freedom of Expression
- Access to Knowledge
- Foreign Affairs in the Internet Age
- Knight Law and Media Program
- Media Freedom of Information Access Clinic
- Privacy Lab
- Program for the Study of Reproductive Justice
- Reproductive Rights and Justice Project
- Visual Law Project
- Wikimedia/Yale Law School Initiative on Intermediaries and Information

The Information Society Project Celebrates 20 Years

Like many superheroes, the Information Society Project (ISP) has a well-known origin story: It all began over pizza at Yorkside. From those humble beginnings, a vital hub of research and advocacy on the law of technology was created and is now marking its twentieth anniversary.

Founded in 1997 by its director, Jack Balkin, the center functions as an umbrella for initiatives interested in various aspects of media, tech, and law—including two clinics and the hosting of resident fellows who bring impact litigation, file amicus briefs, and publish articles. Fellows have successfully persuaded the FISA court to order government declassification of key opinions regarding the scope of governmental bulk surveillance; won a suit for access to information about the New York City telecommunications conduit infrastructure; brought a suit that resulted in the de-

classification of the names of Guantanamo prisoners being held without trial; defeated an eleven-year-old National Security Letter gag order on Nick Merrill; and filed influential amicus briefs in *U.S. v. Jones* and *Whole Woman's Health v. Hellerstedt*.

Two new initiatives have launched within the past year. The Wikimedia/Yale Law School Initiative on Intermediaries and Information (WIII) aims to raise awareness of threats to an open internet and to make creative policy suggestions that protect and promote internet-facilitated access to information. The Privacy Lab is a nexus for workshops and discussions concerning software, hardware, and network freedom, as well as a resource for cryptographic and anonymity tools.

In the future, says ISP's executive director Rebecca Crootof '11, '16 PhD, the core of ISP will continue to be "a close-knit community of scholars interested in better understanding the promise and problems new technologies pose for law and society."

“ We began as a program of postdocs, graduate students, and JD students, hosting events and doing research. That is still the core of what we do, although we have branched out into many different subject areas.”

ISP DIRECTOR JACK BALKIN ON ISP AT 20 YEARS

VISITING THE LAW SCHOOL



Authors **Elyn Saks '86** and **Andrew Solomon** participated in "A Conversation About Mental Health and Two Award Winning Books" in an event sponsored by the Solomon Center for Health Law and Policy on October 23, 2017.

Saks, Solomon, Naidoo, and ISP photos by Harold Shapiro; Bonauto photo courtesy of the MacArthur Foundation.

ALUMNI

Secretary Clinton Discusses the Election with Dean Gerken

Secretary **Hillary Rodham Clinton** '73 returned to Yale Law School on October 25, 2017, to talk about her book *What Happened*, during a lively conversation with Dean Heather K. Gerken.

In front of a packed auditorium of more than five hundred students, faculty, and other members of the Yale community, Secretary Clinton gave insight into the 2016 election and emphasized how critical it is for lawyers to protect the rule of law during this turbulent time in the nation's history.

During the conversation, Clinton described the agonizing process that went into writing her book and how she hoped it would provide solace to the millions of people who voted for the vision of America that she advocated for on the campaign trail.

One of the goals of the book, Clinton said, was to examine the unique set of circumstances that led to her defeat, from Russian interference in the election,



to sexism in politics, to the role of the media in covering the first reality television candidate.

"There are certain lessons in [the book] that I really hope people will take away with them," said Clinton. "Because it's not just about what happened, it's what we need to do to prevent it from happening again."

▶ Watch online at law.yale.edu/clinton2017



(from left) U.S. Supreme Court Justices Elena Kagan, Sonia Sotomayor '79, Anthony Kennedy, Ruth Bader Ginsburg, and Clarence Thomas '74 all gave tributes to Judge Ralph K. Winter '60 (center, right) at a special ceremony in September.

Judge Ralph K. Winter Receives Federal Judiciary's Highest Award

Senior Judge Ralph K. Winter '60 of the U.S. Court of Appeals for the Second Circuit was presented with the 2017 Edward J. Devitt Distinguished Service to Justice Award in a special ceremony at the Thurgood Marshall Courthouse in New York in September.

Judge Winter was appointed to the Second Circuit in 1981 and served as chief judge from 1997 to 2000. He was a member of the Yale Law School faculty from 1962 until he joined the court, and continued to teach at the Law School until 2015.

The Devitt Award honors an Article III judge who has made significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole. It is named for the late Edward J. Devitt, the longtime chief judge of the U.S. District Court of Minnesota, and is given by the Dwight D. Opperman Foundation.

Winter photo by Matvey Zabbi.



Dr. Kumi Naidoo, chair of the board for Africans Rising for Justice Peace and Dignity, gave the 2017 Gruber Distinguished Lecturer in Global Justice titled "The United States: Friend or Foe of Global Justice?" on September 25, 2017.



Mary Bonauto, civil rights project director at Gay & Lesbian Advocates & Defenders, gave the 2017–2018 Robert H. Preiskel and Leon Silverman lecture on November 6, 2017, on "Climbing the Arc of Justice: Progress for and Contestation of LGBTQ People."

Moving Justice Forward

In October, the **Justice Collaboratory** convened an expert team of scholars, policymakers, and practitioners to discuss innovations and advances in criminal justice reform efforts over the last decade.

Congress and Foreign Policy

The **Center for Global Legal Challenges** and the Jackson Institute for Global Affairs co-sponsored a conference in October on the role of Congress in foreign policy. Senator Chris Murphy, a member of the Senate Foreign Relations Committee, delivered keynote remarks.



Private Funds Conference: Private Equity, Hedge Funds, Venture Capital

The **Center for Private Law** sponsored a conference in November about private funds and alternative investment structures. Oliver Hart, winner of the 2016 Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel, gave the keynote address. Stephen Fraidin '64, Vice Chairman of Pershing Square Capital Management, gave the lunchtime address.

Congressional Gridlock and the Future of Health Care Reform

The **Solomon Center for Health Law and Policy**, Yale Health Law Policy Society, and the American Constitution Society hosted a panel on health care reform in October. The discussion featured Senator Russ Feingold, the Martin R. Flug Visiting Professor, Professor Abbe Gluck '00, and Jeanne Lambrew, senior fellow at The Century Foundation and former deputy assistant to the president for health policy under President Obama.

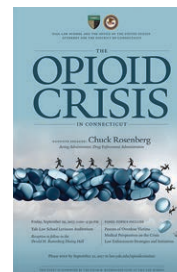
Access and Accountability: A Conference for Transparency Advocates

In October, the **Media Freedom** and Information Access Clinic organized an event to address the critical question of how to achieve the level of government transparency needed for democracy to function effectively. An interdisciplinary group of experts gathered to identify key barriers to government transparency and explore new legal theories and litigation strategies to overcome them.

7th Annual Doctoral Scholarship Conference

The **Graduate Programs Office** and the doctoral students organized a conference divided into three parallel working-groups centered around specific topics: International Law; Law, Society, and History; and Law, Politics, and Theory.

The Opioid Crisis in Connecticut



In September, the **Law School** and the U.S. Attorney for the District of Connecticut co-sponsored a conference that brought together law enforcement leaders, medical professionals, and parents who have lost children to overdoses to discuss steps to combat this deadly and tragic epidemic. Chuck Rosenberg, the former acting administrator of the Drug Enforcement Administration, was the keynote speaker.



The **Global Constitutionalism Seminar** celebrated its twentieth anniversary in September. A signature international program of Yale Law School, the seminar convenes some of the world's foremost jurists and leading academic lawyers to confidentially and freely discuss the most important legal issues of the day.

Welcoming the Class of 2020

In August, Dean Heather K. Gerken welcomed the class of 2020 to Yale Law School during new-student orientation, a multi-day program that included an introduction to members of the senior administration, opportunities to get familiar with Yale and New Haven—and the unique chance to view the partial solar eclipse from the courtyard.

The Class of 2020 includes students from 12 different countries, 32 different states, and from 73 different undergraduate institutions. Together, they have lived and worked in 66 different countries, read and speak 34 different languages, and hold 46 advanced degrees in subjects ranging from art history to applied mathematics.



LIBRARY

Robert Freilich Donates Rare Books on Early English Common Law



Robert Freilich '57 visited the Law School during Alumni Weekend 2017 to donate his personal collection of more than sixty early English common law books to the Lillian Goldman Law Library in honor of his sixtieth reunion. "This donation is a wonderful addition to our historical collection, of which English common law is core," said Law Librarian Teresa Miguel-Stearns. Freilich's donation, which includes works by Bracton, Coke, and Fitzherbert, was on display in the library's Rare Book Room during alumni weekend in October.

"Freilich follows a great tradition of donations by faculty, alumni, and friends of Yale Law School over the last two centuries, including the collection that is the very foundation of our institution," said Miguel-Stearns. "The Founders' Collection, which includes the libraries of Seth Staples, David Daggett, and

Samuel Hitchcock, was preserved by the New Haven Bar Association when it raised funds on behalf of Yale University in exchange for Yale taking over the legal training and law library developed by the founders. Since then, we have received numerous significant donations of personal law libraries and specialized collections from alumni and friends."

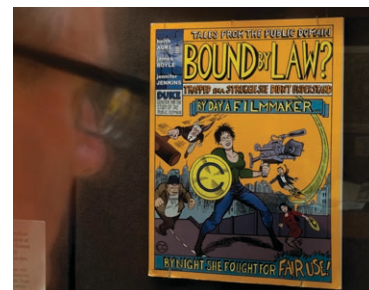
Notable among them are the library of Lewis Morris III (Yale College 1746) by grandson A. Newbold Morris '28, James Hillhouse (Yale College 1773), Simeon Baldwin (Yale College 1861), Macgrane Coxe (Yale College 1879), Walter Pforzheimer '38, Mordecai Rosenfeld '54, Peter Cooper '64, Michael Varet '65, Michael Hoeflich '79, Lois Montbertrand '85, William Butler, Farley Katz, John M. Woolsey, and many others.

"Our library simply would not be the invaluable resource it is for current and future generations of scholars without such generous donations, big and small, from the Law School community," said Miguel-Stearns.

Freilich donated his collection to the Law School in honor of former dean of Yale Law School and professor Ashbel Green Gulliver '22, whom Freilich stated was an extraordinary influence upon his legal thinking and career.

Freilich, professor emeritus at the University of Missouri, Kansas City School of Law, is a leading expert in real estate and land use law, who has developed and implemented land use, transportation, and other urban planning systems for more than 250 municipalities, regions, counties, and states.

Law's Picture Books: The Yale Law Library Collection



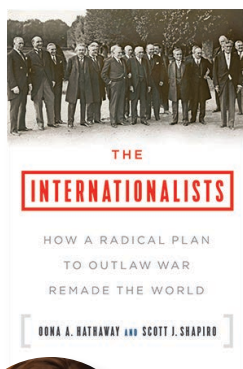
This exhibit of 140 illustrated law books from the Yale Law Library's collection was on display at New York City's Grolier Club from September 13 to November 18, 2017.

Curated by Rare Book Librarian Michael Widener and legal historian Mark S. Weiner '00, "Law's Picture Books" appealed to both book lovers and the legal community. See page 19.

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.

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

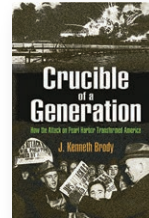
“*The Internationalists* is partly a rich history of the emergence of the modern international legal order and partly an empirical study of the change in war the authors say the law helped produce. As a legal history, the book is indispensable.” — Deborah Pearlstein, *the Washington Post*

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.



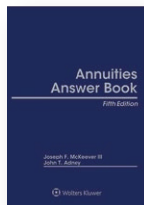
John Corvino, Ryan T. Anderson, and Sherif Girgis
Debating Religious Liberty and Discrimination
Oxford University Press, 2017

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.



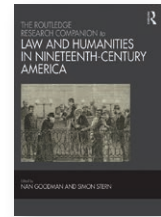
John T. Adney and Joseph F. McKeever, III, eds.
The Annuities Answer Book, Fifth Edition
Wolters Kluwer, 2017

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.



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.



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.

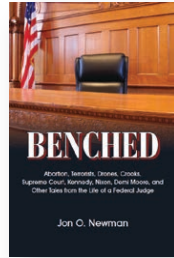
SURVEY OF BOOKS



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

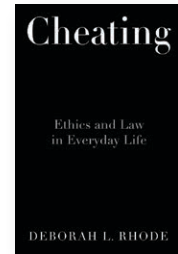
Newman '56 provides a behind the scenes look at the work that judges actually do. This book gives a firsthand account of several important cases and offers proposals for creating a better justice system.



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

Oxford University Press, 2017

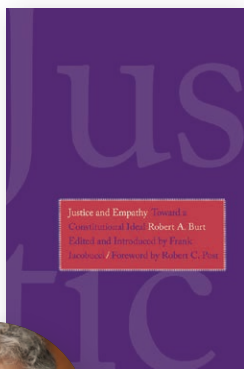
Reiser and Dean '99 refute the idea that law frustrates the efforts of social entrepreneurs to build ventures dedicated to pursuing profits for owners and benefits for society. Instead, law can make corporations better citizens and make it easier for startups to raise capital by preventing insiders from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

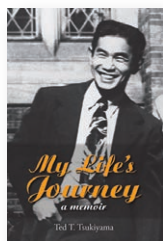
A posthumously published book by Robert ("Bo") A. Burt '64 carries forward his sustained project of bringing psychoanalytic insights to bear upon legal analysis. An expert on issues found at the intersection of law and medicine, as well as constitutional law, Robert Burt (1939–2015) was a long serving 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."

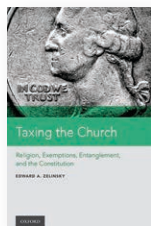
Professor Burt joined the Yale Law School faculty in 1976 and was the author of numerous books, including *In the Whirlwind: God and Humanity in Conflict* (2012); *Death is That Man Taking Names: Intersections of American Medicine, Law and Culture* (2002); and *The Constitution in Conflict* (1992).



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.

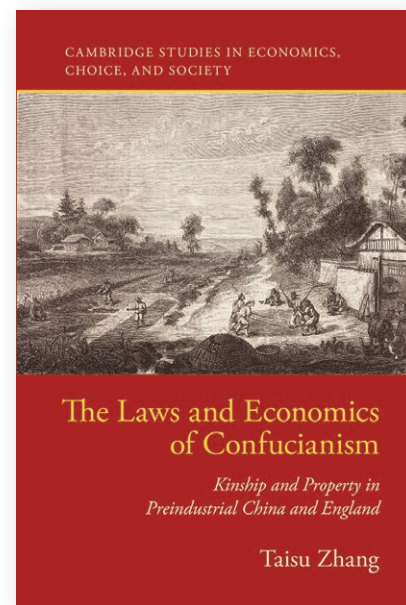
In its dissertation form, *The Laws and Economics of Confucianism* was the recipient of Yale University's Arthur and Mary Wright Dissertation Prize and the American Society for Legal History's Kathryn T. Preyer Award.

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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

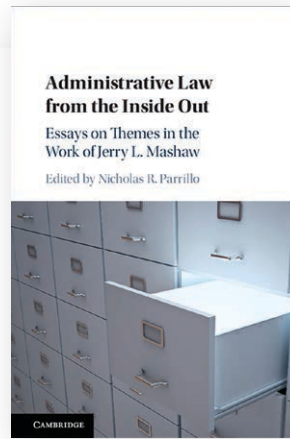
A Pulitzer Prize-winning reporter reflects on the journalist's role in a new era of truth telling and fake news.

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

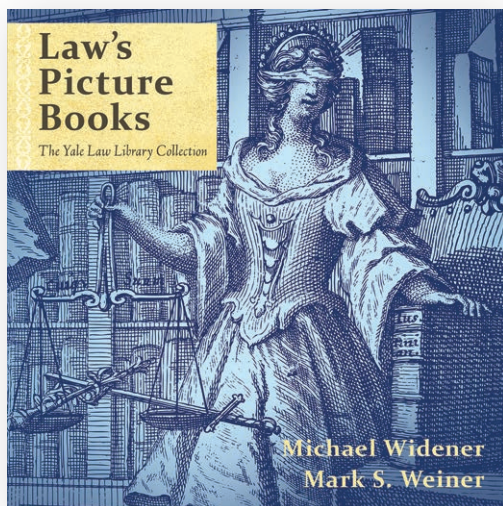
Saadia Pekkanen '04 MSL, ed.
**Asian Designs:
 Governance in the
 Contemporary World Order**
Cornell University Press, 2016

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).

OUR FACULTY



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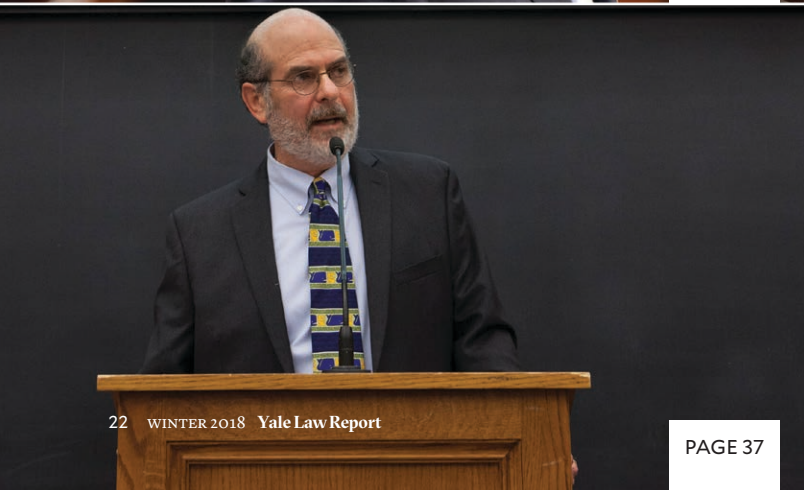
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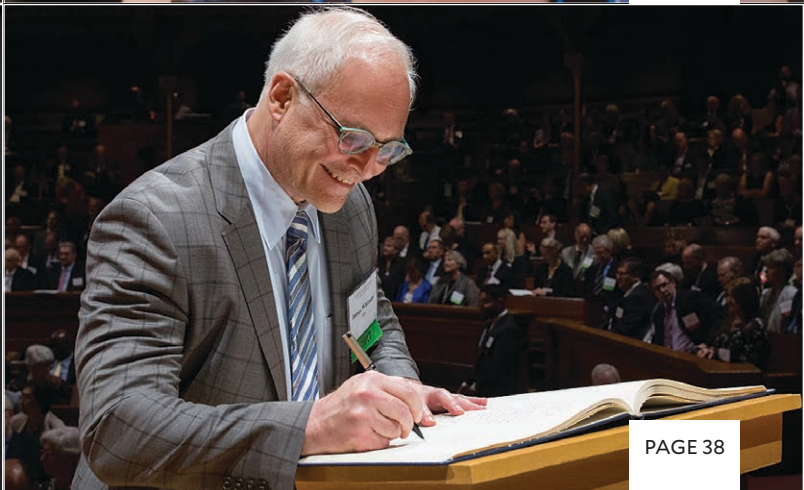
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President Trump Is Constitutionally Right on the CFPB Even If We Oppose Him Otherwise

Akhil Reed Amar and Steven G. Calabresi



President Trump's appointment of Mick Mulvaney as interim director of the Consumer Financial Protection Bureau in late November set the stage for a protracted political and legal battle. The following article by Akhil Reed Amar '84, Sterling Professor of Law, and Steven G. Calabresi '83, visiting professor of law, was originally published November 30, 2017 in *usatoday.com* and is reprinted here with permission of the authors.

In the latest round of high-stakes constitutional poker, President Donald Trump holds all the high cards.

Who gets to run the consumer watchdog agency created in 2010 by the Dodd-Frank Act? Richard Cordray, an Obama appointee, resigned [November 24, 2017] as the director of the Consumer Financial Protection Bureau and on his way out named Leandra English to serve as the Bureau's deputy director. Cordray's allies say that under Dodd-Frank, English is now in charge. But President Trump has invoked another statute, the 1998 Vacancy Reform Act, which he says allows him to fill the slot, at least for now, with his man, Mick Mulvaney. With lightning speed, the matter has been brought before a federal district court.

The statutes are ambiguous. On the one hand, in sharp contrast to many other statutes, Dodd-Frank does not expressly use the word "vacancy." It says that the Deputy may act in the Director's stead when the Director is "absent or unavailable," not when the Director is nonexistent because he has resigned, been fired, or been removed via impeachment. On the other hand, the phrase "absent or unavailable" can plausibly be read broadly to cover vacancies. Moreover, the Vacancy Act statute is itself equivocal. The Act provides the "exclusive" way a president can fill a vacancy unless some other statute provides otherwise; but the Act does not explicitly say that it provides a "non-exclusive" alternative mechanism for filling a vacancy if another statute (such as Dodd-Frank, read broadly) also applies.

But statutes do not stand alone. They stand alongside and beneath the Constitution itself. And the Constitution makes Donald Trump—not Richard Cordray, not former Representative Barney Frank (the co-sponsor of Dodd-Frank), not Senator Elizabeth Warren (another strong supporter of Dodd-Frank and the CFPB)—the decider-in-chief on this issue.

The big constitutional idea is that the president must be in charge of his own branch. Article II begins by vesting executive power in the president. Article II

goes on to say that the president, and no one else, is responsible for taking care that the laws are faithfully executed. He is thus the superintendent-in-chief, and he must be able to monitor all the executive departments, whose heads answer to him and him alone pursuant to another Article II provision, known as the Opinion Clause. For Departments headed by a single person, such as the State Department or the Defense Department, the president is also the sacker-in-chief, authorized to fire any department head at will.

This last point does not expressly appear in the Constitution's text, but was fixed by the First Congress and George Washington in a landmark settlement known as the Decision of 1789, which the Supreme Court has repeatedly and unanimously reaffirmed. True, the 1789 precedent does not apply to multi-member commissions, who can be statutorily insulated from at-will removal. But Cordray was not a commissioner; rather he was the sole head of his agency, constitutionally akin to a Cabinet Secretary.

Thus, even if Cordray had statutory authority to name English as his replacement, English can be fired at will under the Decision of 1789. True, Dodd-Frank purports to insulate the director from at-will presidential removal, but this statute does not expressly say this about the deputy. Even if it did, it would raise serious constitutional doubts, given the Decision of 1789. This fact alone means the president wins, because courts must construe the statute to avoid these constitutional doubts (just as the Roberts Court in 2012 upheld Obamacare by construing the statute in a way that avoided constitutional difficulty). In fact, a panel of the DC Court of Appeals has already ruled that even the director himself cannot be insulated from at-will presidential removal, thanks to the Decision of 1789; only



Richard Cordray, the first director of the Consumer Financial Protection Bureau. His appointment of his chief of staff as his replacement in November set into motion a political and legal power struggle for control of the bureau's future.

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District of Columbia Court of Appeals

Professor Ackerman Challenges Presidential War Powers in Court

On October 27, 2017, Bruce Ackerman '67, along with Attorney David Remes, presented the oral argument in *Smith v. Trump* before the U.S. Court of Appeals for the District of Columbia. The lawsuit challenges the legality of America's war against ISIS in Iraq and Syria under the War Powers Act of 1973.

As Professor Ackerman argued in October, "If the court fails to act in this case, it will have established a precedent that permits future presidents of the United States with a mere assertion [to declare] that one or another terrorist group, without any provision of evidence to anybody, is an object of war. Forever."



The Law School community celebrated Judge **Guido Calabresi's** 85th birthday on October 18, 2017. Dean Heather Gerken presented the Sterling Professor and former dean with a book of birthday wishes from more than five hundred alumni who wrote to express their affection for their mentor and friend, which can be viewed at law.yale.edu/guido85.

About the celebration, Calabresi wrote:

Heather, our magnificent Dean, handed me the book collecting all your notes to me on my birthday. I have been

reading them, smiling, occasionally almost crying, and always rejoicing. They are wonderful, as you are for taking the time to send them and for being the kind of people who have made this school what it is. There were so many that I cannot write each of you individually. But please know that I have read each and every one of them, and that I will treasure them for the rest of my life. Your friendship has made my years here an incredible joy.

Thank you from the bottom of my heart.

*Affectionately,
Guido*

FACULTY REPORTS



Bruce Ackerman PUBLICATIONS

- Stephen Skowronek, Stephen Engel & Bruce Ackerman eds, *THE PROGRESSIVES' CENTURY: DEMOCRATIC REFORM AND CONSTITUTIONAL GOVERNMENT IN THE UNITED STATES* (Yale University Press, 2016)
- *WHEN MELVIN THE CAMEL MEETS DONALD TRUMP* (with Cody Visnick), 2017
- *Good-bye Montesquieu*, in Susan Rose-Ackerman & Peter Lindseth eds, *COMPARATIVE ADMINISTRATIVE LAW* (2d ed. 2016)
- *What is to Be Done: A New Progressivism for a New Century*, in Stephen Skowronek, Stephen Engel & Bruce Ackerman eds, *THE PROGRESSIVES' CENTURY: DEMOCRATIC REFORM AND CONSTITUTIONAL GOVERNMENT IN THE UNITED STATES* (Yale University Press, 2016)
- *Four More Years?*, HUFFINGTON POST, May 19, 2017
- *Will Congress Cede Its War-Making Authority to Trump?*, THE ATLANTIC, June 20, 2017
- *The Worst Thing About Trump Jr.'s Revelations*, Canadian TV, July 10, 2017
- *Les Précédents Présidents Étaient des Personnes Sérieuses. Donald Trump ne L'est Pas*, LE NOUVEL ORDRE MONDIAL, July 11, 2017
- *Congress Should Call a Special Session to Halt Trump's Brinkmanship*, NPR "To the Point," Aug. 15, 2017
- *Congress Should Go Immediately Into Special Session and Stop Trump's Brinkmanship*, HUFFINGTON POST, Aug. 16, 2017
- *A Democratic Answer to the Tragedy in Barcelona?* (with Antoni Abat I Ninet), EL PAIS, Aug. 23, 2017 (English version, Aug. 27, 2017)
- *Unilateral Rocket Man*, SLATE, Sept. 21, 2017
- *The Case for Constitutional Reform in Poland*, YALE GLOBAL ONLINE, Sept. 28, 2017
- *Smith v. Trump in the D.C. Circuit: A Guided Tour of the Oral Argument*, LAWFARE, Nov. 1, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- *Professor Ackerman Challenges Presidential War Powers in Court*, YALE LAW SCHOOL NEWS, Oct. 30, 2017 (oral argument before the U.S. Court of Appeals for the District of Columbia in *Smith v. Trump*, a lawsuit challenging the legality of America's war against ISIS in Iraq and Syria under the War Powers Act of 1973)



Muneer I. Ahmad LECTURES AND ADDRESSES

- "Toward a Pedagogy of Fast Lawyering: Teaching Law and Lawyering in Extremis," Keynote Address, Annual New England Clinical Conference, Suffolk Law School, Boston, MA, Oct. 20, 2017
- "Litigating the Muslim Ban and DACA Termination: Legal and Social Constitutionalism," Roger Williams University Law School, Bristol, RI, Oct. 13, 2017
- "Litigating the Muslim Ban," Berkeley Law School, Berkeley, CA, Apr. 24, 2017
- "The Muslim Ban in Asian American History," Tufts University Day of Remembrance, Milford, MA, Mar. 30, 2017

PUBLICATIONS

- *Beyond Earned Citizenship*, 52 HARV. C.R.-C.L. L. REV. 257 (2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Deputy Dean for Experiential Education
- Director, Jerome N. Frank Legal Services Organization



Anne L. Alstott LECTURES AND ADDRESSES

- Yale Law School Faculty Commencement Speaker, 2017

PUBLICATIONS

- *The New Inequality of Old Age: Implications for Law*, 18 THEORETICAL INQUIRIES IN LAW (2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Yale Law Women, Award for Faculty Excellence, 2017



Ian Ayres

LECTURES AND ADDRESSES

- “Gun (Self) Control,” Cincinnati Yale Club
- “Title IX Under Trump,” Stanford Law School
- “Three Core Investment Mistakes,” Distinguished Financial Literacy Lecture, Federal Reserve Board/George Washington University
- “Government as Platform,” University of Cincinnati

PUBLICATIONS

- *The Rise and (Potential) Fall of Disparate Impact Lending Litigation*, in EVIDENCE AND INNOVATION IN HOUSING LAW POLICY (Cambridge University Press, 2017) (with Gary Klein and Jeffrey West)
- *How a “no guns” registry could help prevent firearm-related suicides*, THE BROOKINGS INSTITUTE, June 20, 2017 (with Frederick Vars)



Jack M. Balkin

LECTURES AND ADDRESSES

- “Terrorist Speech and the First Amendment,” Conference on Terrorist Incitement on the Internet, Fordham Law School, New York, NY, Apr. 7, 2017
- “Originalism and the Living Constitution,” Georgetown Center for the Constitution, Washington, DC, May 23, 2017
- “Trumping the Constitution,” Yale Alumni Association Meeting, New York, New York, June 13, 2017

- “Constitutional Rot and Constitutional Crisis,” American Political Science Association, San Francisco, CA, Aug. 31, 2017
- Addison C. Harris Lecture, “The Recent Unpleasantness: How to Understand the Cycles of Constitutional Time,” University of Indiana, Bloomington, Sept. 13, 2017



Guido Calabresi

LECTURES AND ADDRESSES

- Took part in a panel discussion and book launch for Justice Sonia Sotomayor’s memoir, IL MIO MONDO AMATISSIMO (the Italian translation of MY BELOVED COUNTRY), following her 2017 Alberico Gentili Lecture, University of Macerata, Macerata, Italy, May 3, 2017
- Participated in, and delivered closing remarks at the XXXII Conference of the Centro Nazionale di Prevenzione e Difesa Sociale Conference on “Fake news flooding internet: remedies without censorship,” Milan, Italy, May 5, 2017
- Addressed conference on La Responsabilità del Medico: A Quali Fini? (“Medical Liability: To What Ends?”), Università degli Studi di Bergamo, Bergamo, Italy, May 9, 2017
- Attended a two-day conference at Boston University School of Law on “The Future of Law & Economics and the Contributions of Guido Calabresi” and participated in a panel, “Co-authoring and Other Connections: Intersections with Guido” (with A. Douglas Melamed, Phillip Bobbitt & Frank Michelman); commented on each of the varied paper presentations by many and diverse participants; and gave closing remarks, Boston, MA, June 1–2, 2017
- Spoke at the Annual Dinner of the Yale Law School Association of Washington, DC, for A Celebration of Yale Law School Deans and Dean-designate Heather K. Gerken, The National Press Club, Washington, DC, June 21, 2017

- Attended the Cambridge Lectures of the Canadian Institute of Advanced Legal Studies (Queens’ College, Cambridge) and lectured on July 4, 2017: “Who Pays for Equality? Historical Musings About the Recent American Election”
- Lectured at “La Sapienza,” at the University of Rome, July 7, 2017, on “Extra Compensatory Damages”
- Attended “A Conference in Memory of Professor Guido Tedeschi,” July 10, 2017, at the University of Siena, and spoke on “Strict Constitutional Originalism: Thoughts on American and Italian Formalism”
- Attended “A Conference in Memory of Professor Guido Tedeschi,” July 12, 2017, at the Bocconi University of Milan and presided at a Roundtable on “Israeli Legal Culture Between Europe and the United States of America”

OTHER PROFESSIONAL HIGHLIGHTS

- Received the Orchard Street Shul Heritage Award, Orchard Street Shul-Congregation Beth Israel, New Haven, June 11, 2017
- Received the Pursuit of Justice Award from the American Association of Jewish Lawyers and Jurists, New York, NY, Aug. 9, 2017



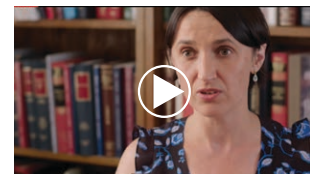
Fiona M. Doherty

LECTURES AND ADDRESSES

- Presenter, Panel on the Academy and the Public Interest, Liman Colloquium, Apr. 2017
- PUBLICATIONS**
- Criminal Justice Clinic, PAROLE REVOCATION IN CONNECTICUT: OPPORTUNITIES TO REDUCE INCARCERATION (Sept. 2017)
- OTHER PROFESSIONAL HIGHLIGHTS**
- Appeared in Frontline episode, “Life on Parole,” June 18, 2017
 - Board member, Focus Forward Project, a reentry initiative for federal prisoners
 - Member, Criminal Justice Act Attorney Advisory Group, U.S. Court of Appeals for the Second Circuit



Associate Professor Taisu Zhang ’08 and Paul Kennedy, the J. Richardson Dilworth Professor of History, spoke on the future of the United States and China at Davenport College in October.



Fiona Doherty ’99 was interviewed about her work with the Criminal Justice Clinic on parole reform as part of a PBS Frontline documentary, “Life on Parole.” law.yale.edu/doherty-frontline

MORE FACULTY REPORTS



Robert C. Ellickson

LECTURES AND ADDRESSES

- “How Damaging Were French Rent Controls Between 1914 and 1948?,” Department of Economics Seminar, Université Paris 2 Panthéon-Assas, Paris, France, May 29, 2017

PUBLICATIONS

- *A Hayekian Case Against Anarcho-Capitalism: Of Street Grids, Lighthouses, and Aid to the Destitute*, 11 N.Y.U. J. L. & LIBERTY 371–393 (2017)
- *In Memoriam: Michael E. Levine*, 11 N.Y.U. J. L. & LIBERTY 19–22 (2017)



Daniel C. Esty

LECTURES AND ADDRESSES

- “Economic Growth in Connecticut and Land Conservation,” Small Area Land Trusts (SALT) Group, New Preston, CT, Oct. 15, 2017
- “The Human Dimension of Climate Change: A Conversation with Dr. Kumi Naidoo,” Yale University, New Haven, CT, Sept. 25, 2017
- “Toward Better Environmental/Social/Governance Metrics,” Yale Initiative on Sustainable Finance Symposium, Yale University, New Haven, CT, Sept. 20, 2017
- “New Directions in Sustainable Investing: Using Innovative ESG Metrics to Reinforce the Paris Climate Change Agreement,” Climate Week Forum, New York, NY, Sept. 20, 2017
- “Recent Developments in Climate Change Finance,” CDP Climate Week Symposium, New York, NY, Sept. 19, 2017
- “Unstoppable Force,” Climate Week Opening Ceremony, The Climate Group Symposium, New York, NY, Sept. 18, 2017

- “Sustainability as a Megatrend,” Yale Sustainability Leadership Forum, New Haven, CT, Sept. 12, 2017
- “Creating a Sustainable Energy Future,” Annual Meeting of the Council of State Governments/Eastern Regional Conference, Uncasville, CT, Aug. 15, 2017
- “Wholesale Market Disruptions: Is Clean Energy to Blame?,” Aspen Clean Energy Innovation Forum, Aspen, CO, Aug. 13, 2017
- “Trumping Trump: Reinforcing Commitments to the 2015 Paris Climate Change Agreement,” Rocky Mountain Institute, Basalt, CO, Aug. 11, 2017
- “Carbon Pricing in the States,” National Caucus of Environmental Legislators, Boston, MA, Aug. 5, 2017
- “Paris Climate Agreement: From Breakdown to Breakthrough,” Yale Young Global Scholars Program, Yale University, New Haven, CT, Aug. 1, 2017
- “Rethinking NAFTA: The Environmental Dimension,” Peterson Institute for International Economics, Conference on Global Issues Beyond Traditional Trade in NAFTA, Washington, DC, July 17, 2017
- “La politique américaine du changement climatique d’Obama à Trump,” Annual Conference of the French Society for Environmental Law, Aix-en-Provence, France, June 29, 2017
- “Corporate Sustainability Research Developments,” Alliance for Research on Corporate Sustainability Research Conference, Erasmus University, Rotterdam School of Management, Rotterdam, The Netherlands, June 14–16, 2017
- “Climate Change After the 2015 Paris Climate Change Agreement,” Leadership Forum for Strategic Impact, Yale University, New Haven, CT, May 16, 2017
- “The Role of Investors in Promoting a Sustainable Future,” University of Amsterdam, The Netherlands, May 9, 2017
- “Implementing the 2015 Paris Climate Change Agreement in the Trump Era,” University of Amsterdam, The Netherlands, May 9, 2017
- “Red Lights to Green Lights: From 20th Century Environmental Regulation to 21st Century Sustainability,” Institute for Law and Economics, Erasmus University School of Law, Rotterdam, The Netherlands, May 8, 2017
- “New York’s Renewable Energy Future,” Columbia University, New York, NY, May 2, 2017
- “Environmental Protection under the New Administration: Where Changes Can Be Made Quickly—and Cannot,” Northeast States for Coordinated Air Use Management, West Greenwich, RI, Apr. 27, 2017
- “Towards a Green Economy,” Rhodes Scholars Climate Change Conference, Oxford University, Oxford, United Kingdom, Apr. 23–24, 2017

PUBLICATIONS

- *Corporate Sustainability Metrics: What Investors Want and Don’t Get* (with Todd Cort), J. ENVTL. INVESTING, 8(1): 11–53 (2017)
- *Climate Action Needs Green, Not Just Red Lights*, THE GUARDIAN, Apr. 28, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Connecticut Green Bank awarded the 2017 Ash Award for Innovation in Government



Owen M. Fiss

LECTURES AND ADDRESSES

- “Our Oedipus,” Tribute on the Deanship of Robert Post, New Haven, CT, May 23, 2017
- “Griggs at Sea,” delivered at conference on “North and South Constitutionalism: Dialogues and Trends,” Universidad Andina Simón Bolívar, Quito, Ecuador, June 8, 2017
- “Pillars of Justice” Book Talk, National Constitutional Center, Philadelphia, July 11, 2017
- “A War Like No Other,” Book launch for Spanish edition, Instituto de Tecnología Autónoma de México, Mexico City, Sept. 8, 2017
- “Equality in a Fragmented Society,” Lecture, Instituto de Tecnología Autónoma de México, Sept. 8, 2017
- “Pillars of Justice” Book Talk, Yale Law School, Sept. 11, 2017



James Forman Jr. ’92 gave a talk titled “Crime and Punishment in Black America” at Westminster Town Hall Forum in Minneapolis, Minnesota on November 28.



The Connecticut Green Bank, which was established by Governor Dannel Malloy based on the ideas of Professor Daniel C. Esty ’86, received the 2017 Innovations in American Government Award from the Ash Center at Harvard University.

PUBLICATIONS

- *Direito como razão pública: Processo, jurisdição e sociedade* (in Portuguese), EDITORA JURUÁ, Apr. 2017
- *Fazendo da Constituição uma verdade viva: Quatro Conferências sobre a 'structural injunction'* (in Portuguese), PROCESSOS ESTRUTURAIIS, Sergio Cruz Arenhart and Marco Félix Jobim (eds.), Editora Jus Podium, Salvador da Bahia, Brazil, May 2017
- PILLARS OF JUSTICE/LAWYERS AND THE LIBERAL TRADITION, Harvard University Press, May 2017
- *As formas de justiça* (in Portuguese), O PROCESSO PARA SOLUÇÃO DE CONFLITOS DE INTERESSE PÚBLICO, Susana Henriques da Costa, Kazuo Watanabe & Ada Pellegrini Grinover (eds.), Editora Jus Podium, Salvador da Bahia, Brazil, June 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Profesor Visitante Distinguido, del Instituto Tecnológico Autónomo de México, Sept. 2017
- Participant, Roundtable on the judiciary in times of terrorism, populism and social injustice, Mexico City, Mexico
- Moderator, Roundtable on the State of Democracy in the U.S., SELA, Quito
- Board of Directors, Libraries without Borders
- Advisory Board, Derecho PUCP, the Law Journal of the Pontificia Catholic University of Peru
- Co-director, Abdallah S. Kamel Center for the Study of Islamic Law and Civilization at Yale Law School
- Co-director, Latin American Legal Studies Program (LALS), Yale Law School
- Co-director, Yale Law School Middle East Legal Studies Seminar



James Forman, Jr.

LECTURES AND ADDRESSES

- Talks on "Locking Up Our Own: Crime and Punishment in Black America," given at Harvard Law

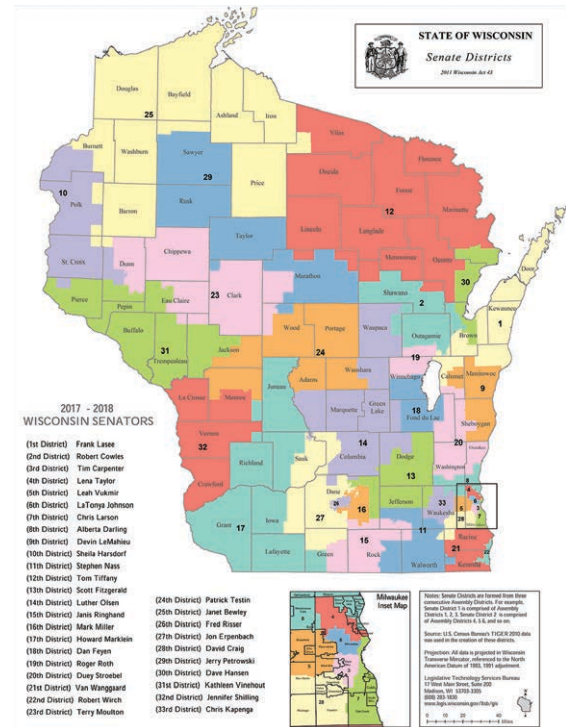
School; Columbia Law School; NYU School of Law; University of Pennsylvania Law School; The Philadelphia Free Library; Baker Botts (DC); Akin Gump (DC); Willkie Farr & Gallagher (NY); Powell's Books (Portland, OR); San Quentin Prison (CA); The Philadelphia Bar Association; The 1st Circuit Judicial Conference; Charlotte-Mecklenburg Police Department; Office of the King County (Seattle) State's Attorney; San Francisco Public Defender's Office; Los Angeles Federal Public Defender's Office; Amplify (NY); Emerson Collective (Palo Alto), and numerous other locations



Heather K. Gerken

LECTURES AND ADDRESSES

- Annual dinner, YLSA of Washington, DC, honoring past, current, and future Yale Law School deans, June 21, 2017
- "Fireside Chat," Cravath, Swaine & Moore, New York, NY, June 27, 2017
- Arnold & Porter and Yale Law Women reception for Yale Law School women to meet Dean Gerken, Washington, DC, July 18, 2017
- "Meet the Dean," Yale Club of New York City, Sept. 12, 2017
- Speech on Behalf of the Social Sciences, American Academy of Arts and Sciences, Cambridge, MA, Oct. 2017
- "The National Popular Vote Compact: An Election Lawyer's Perspective," Making Every Vote Count, Washington, DC
- "Going Rogue: What Happens When the State and Federal Government Disagree?," Aspen Ideas Festival, June 2017
- Keynote Address, Connecticut Bar Association Annual Meeting, June 2017
- "Progressive Federalism," American Constitution Society Convention, Washington, DC, June 2017



Dean Gerken Files Amicus Brief in Partisan Gerrymandering Case

Dean Heather Gerken filed an amicus brief with the U.S. Supreme Court in *Gill v. Whitford*, a Wisconsin case that tests the constitutional boundaries of partisan gerrymandering. The outcome of the Supreme Court’s decision in this case has the potential to shape American politics for years to come, according to legal experts. Gerken filed the brief on behalf of some of the top social scientists and election law experts in the country.

“This may be the best chance to persuade the Supreme Court to set limits on partisan gerrymandering,” Gerken said. “With the 2020 redistricting cycle fast approaching, the time for the Court to act is now.”

MORE FACULTY REPORTS

Los Angeles Times

Paul W. Kahn '80, in "Firing Mueller? Pardoning cronies? Trump could get away with that and more if Congress doesn't act," *Los Angeles Times*, July 21, 2017:

"Trump can divert attention from impeachment to a national security crisis. As president, he has extraordinary power to deploy the military. He already has attacked Syria with no authorization from Congress. In this respect, too, we have a pretty good idea of what he might do: attack North Korea. It would have to involve more than the limited, precise strikes against weapons facilities we saw in Syria, which didn't divert much attention for very long."

PUBLICATIONS

- *Federalism: A User's Guide*, 45 HOFS-TRA L. REV. 1087 (2017)
- *Playing Cards in a Hurricane: Party Reform in an Age of Polarization*, 54 HOUS. L. REV. 911 (2017)
- *Progressive Federalism: A User's Guide*, 44 DEMOCRACY JOURNAL (Spring 2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Testimony on federalism before the Speaker's Task Force on Intergovernmental Affairs, House of Representatives, Washington, DC, Oct. 2017
- Counsel of Record, Amicus Brief, *Gill v. Whitford*, Supreme Court partisan gerrymandering case
- Named to POLITICO's Top 50 Ideas



Abbe R. Gluck

LECTURES AND ADDRESSES

- Plenary Speaker, "Next Steps in Health Reform," American Society of Law, Medicine and Ethics conference, Oct. 2017
- "Health Care under Trump: A Conversation with Nancy Ann DeParle," Yale Law School, Sept. 2017
- "Congressional Gridlock and Health Reform," Yale Law School (with Senator Russ Feingold and Jeanne Lambrew), Oct. 2017
- "Mental Health and Two Great Books," Dean's Lecture with Andrew Solomon and Elyn Saks, Yale Law School, Oct. 2017
- National Association of Attorneys General Annual Summit, Panel on Health Care Reform, New York, Apr. 2017

PUBLICATIONS

- *Unorthodox Civil Procedure: Modern Multidistrict Litigation's Place in the Textbook Understandings of Procedure*, 165 U. PA. L. REV. 1669 (2017)
- *Justice Scalia's Unfinished Business in Statutory Interpretation: Where Textualism's Formalism Fell Short*, 92 NOTRE DAME L. REV. 2053 (2017)
- *Congress, Statutory Interpretation and the Failure of Formalism: The CBO Canon and Other Ways that*

Courts Can Improve on What They Are Already Trying to Do, 84 U. CHI. L. REV. 177 (2017)

- *President Trump admits he's trying to kill Obamacare. That's illegal!* VOX, Oct. 2017
- *The Hypocrisy of the 'Skinny' Repeal: The Republicans Themselves Said It Would be Disastrous*, BALKINIZATION, July 2017
- *How the G.O.P. Sabotaged Obamacare*, N.Y. TIMES, May 2017
- *ERISA: A Bipartisan Problem for the ACA and the AHCA*, HEALTH AFFAIRS (with Hoffman and Jacobson), June 2017
- *Goodbye, US Senate*, L.A. TIMES, Apr. 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Named member of the Gant Precision Medicine Consortium, University of Pennsylvania, Jan.-June 2017



David Singh Grewal

LECTURES AND ADDRESSES

- Stanford Law School Faculty Workshop, "The Commercial Oeconomy," Mar. 8, 2017
- "Political Theology of Laissez-Faire," Jansenism, Natural Law, and Economy Workshop, Stanford University, Apr. 28, 2017
- Global Law & Governance Summer Program, Sounio, Greece, "Law and the New Biotechnologies," July 26, 2017
- European Public Law Organization conference, Athens, Greece, "Artificial Cosmoi and the Law," lecture on "Artificial Living Worlds: The Challenge and Promise of Synthetic Biology," July 27, 2017
- Columbia Law School, Legal Theory Workshop, "The Commercial Oeconomy," Sept. 18, 2017

PUBLICATIONS

- *Inequality Rediscovered*, THEORETICAL INQUIRIES IN LAW 18 (2017): 61 (with Jedediah Purdy)
- *Before Peer Production: Infrastructure Gaps and the Architecture of Openness in Synthetic Biology*, STAN. TECH. L. REV. 20 (2017): P143

• *The Legal Constitution of Capitalism*, in Heather Boushey, J. Bradford DeLong & Marshall Steinbaum eds. AFTER PIKETTY: THE AGENDA FOR ECONOMICS AND INEQUALITY (Harvard University Press, 2017), pp. 471-490

- *Closing Remarks: Law and Inequality after the Crisis*, YALE L. & POL'Y REV. 35.1 (2017): 13
- *The Market Mirage*, in Nina Bandelj, Frederick F. Wherry & Viviana A. Zelizer eds., MONEY TALKS: EXPLAINING HOW MONEY REALLY WORKS, Princeton University Press, 2017, pp. 131-144

OTHER PROFESSIONAL HIGHLIGHTS

- Herman Phleger Visiting Professor, Stanford Law School, 2016-2017
- **PERSONAL**
- Artemis Rose Grewal, born Apr. 19, 2017



Oona A. Hathaway

LECTURES AND ADDRESSES

- "The Internationalists," Lauterpacht Center for International Law, Cambridge University, Cambridge, England, Oct. 2017
- SkyNews: All Out Politics, London, England, Oct. 2017
- "The Internationalists," Bonavero Institute for Human Rights, University of Oxford, Oxford, England, Oct. 2017
- BBC Radio: Start the Week with Andrew Marr, BBC4 Radio, London, Oct. 2017
- "The Internationalists," The New America Foundation, Washington, DC, Sept. 2017
- "Security by the Book," Hoover Institution, Washington, DC, Sept. 2017
- International Relations Faculty Colloquium, Princeton University, Sept. 2017
- Meet the Author, The National World War II Museum, New Orleans, LA, Oct. 2017
- C-Span BookTV, "The Internationalists," New Haven, Sept. 2017

- “The Authorization of Military Force,” Conference on Emergency Powers of the President, Brennan Center, Washington, DC, July 2017
- “The Role of the Legal Adviser in the Interagency Process,” U.S. Department of State, Washington, DC, June 2017

- “Human Rights and the Corporation,” Yale Law School Corporate Law Breakfast, New York, NY, May 2017

PUBLICATIONS

- THE INTERNATIONALISTS: HOW A RADICAL PLAN TO OUTLAW WAR REMADE THE WORLD (with Scott Shapiro) (Simon & Shuster, 2017) (also published in UK by Allen Lane/Penguin Random House)
- *Ensuring Responsibility: Common Article 1 and State Responsibility for Non-State Actors*, 95 TEXAS L. REV. 539 (2017) (with Emily Chertoff, Lara Domínguez, Zachary Manfredi & Peter Tzeng)
- *What Realists Don't Understand About Law* (with Scott Shapiro), FOREIGN POLICY, Oct. 9, 2017
- *The Internationalists vs. the Realists and Neocons* (with Scott Shapiro), LAWFARE, Sept. 25, 2017
- *Making War Illegal Changed the World. But It's Becoming Too Easy to Break the Law* (with Scott Shapiro), THE GUARDIAN, Sept. 14, 2017
- *Outlawing War? It Actually Worked* (with Scott Shapiro), N.Y. TIMES, Sept. 2, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Elected to the American Law Institute, Fall 2017
- Named Counselor to the Dean, Yale Law School, July 1, 2017
- Counsel of Record, Amicus Brief for International Law and Foreign Relations Law Experts, *Al-Alwi v. Trump*, U.S. Circuit Court of Appeals for the D.C. Circuit (Oct. 2017) (on appeal from the U.S. District Court)
- Yale Law School Center for Global Legal Challenges Sponsored Conference on Congress and Foreign Policy, with Keynote Address by Senator Chris Murphy, Yale Law School, Oct. 2017



Paul W. Kahn

LECTURES AND ADDRESSES

- “Ethics and the Study of Law: Reflections on Holmes’s Path of the Law,” University of Zurich, Apr. 30, 2017; and the University of Freiburg, May 2, 2017
- “The Significance of the 2016 Election,” University of Freiburg, May 3, 2017

PUBLICATIONS

- MAKING THE CASE: THE ART OF THE JUDICIAL OPINION (CONSTRUIR EL CASO: EL ARTE DE LAW JURISPRUDENCIA), Spanish translation, Editores, Universidad de los Andes, Instituto de Investigaciones Jurídicas, UNAM, Universidad de Palermo
- Interview on the Cultural Study of Law, ISONOMÍA No. 46—Abril 2017
- *America’s Divided Political Imaginary*, GLOBAL-E, Aug. 22, 2017, Volume 10, Issue 55
- *Firing Mueller? Pardoning cronies? Trump could get away with that and more if Congress doesn’t act*, L.A. TIMES, July 21, 2017



Amy Kapczynski

LECTURES AND ADDRESSES

- Engaged Scholarship in Law and Economics Workshop, Association for the Promotion of Political Economy and the Law, University of Maryland, Francis King Carey School of Law, Baltimore, MD, “Law and Political Economy,” June 15–16, 2017
- Intellectual Property Scholars Conference, Cardozo Law School, “The Boundaries of Intellectual Property: A Preliminary Exploration of Constitutional Salience,” Aug. 10–11, 2017
- Society for Social Studies of Science (4S) Conference, Boston, MA, “Patient Activist Histories and

Futures: Drug de-regulation and U.S. Right to Try Laws,” Sept. 1, 2017

- Connecticut Healthcare Cabinet Meeting, “Curbing Unfair Drug Prices in Connecticut” (with Ted Lee ’17 and Adam Pan ’18), Sept. 12, 2017

PUBLICATIONS

- GLOBAL HEALTH JUSTICE PARTNERSHIP, CURBING UNFAIR DRUG PRICES: A PRIMER FOR STATES (2017)
- Yale Collaboration for Research Integrity and Transparency, WHAT’S IN YOUR MEDICINE CABINET? ENSURING THE SAFETY AND EFFICACY OF PRESCRIPTION DRUGS, BIOLOGICS AND MEDICAL DEVICES IN THE UNITED STATES (2017)



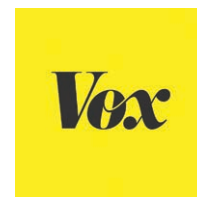
Harold Hongju Koh

LECTURES AND ADDRESSES

- “The Trump Administration and International Law,” Whitney Center, Hamden CT, Apr. 17, 2017
- Robinson Lecture, University of California Irvine School of Law, Irvine, CA, Apr. 20, 2017
- Keynote Lecture, Harvard International Law Journal, Cambridge, MA, Apr. 21, 2017
- Blavatnik School of Public Policy, Oxford University, Apr. 26, 2017
- Lady Margaret Lecture, Christ’s College, Cambridge University, Apr. 27, 2017
- Handa Center for Human Rights, Stanford University, May 11, 2017
- Yale Young Global Scholars, Aug. 3, 2017
- Yale Law School, Graduate Seminar, New Haven, CT, Sept. 6, 2017
- University of Buffalo School of Law and Baldy Symposium, Oct. 12–13, 2017
- “Threats to Human Rights,” Carr Center for Human Rights, Harvard Kennedy School of Government, Cambridge, MA, May 16, 2017
- “A Gathering of Deans,” Yale Law School Alumni Association of Washington, DC, June 21, 2017
- “The Law of Dissociation,” Yale Global Constitutionalism Seminar, Sept. 15, 2017



Oona A. Hathaway ’97, Gerard C. and Bernice Latrobe Smith Professor of International Law and Counselor to the Dean, was elected to The American Law Institute (ALI). The new class includes fifty-eight members who bring a wide range of perspectives and areas of expertise to ALI’s work of clarifying the law through restatements, principles, and model penal codes.



Abbe Gluck ’00, in “President Trump admits he’s trying to kill Obamacare. That’s illegal.” *Vox*, October 17, 2017:

“The president has a right not to like the ACA. But so long as it is the law of the land, he does not have the right to undermine it through the use of executive power.”

MORE FACULTY REPORTS

- “The Legacies of Nuremberg: 75 Years Later,” Massachusetts Supreme Judicial Court, Boston, MA, Sept. 28, 2017
- “Tobacco Control as a Human Rights and Public Health Imperative,” Boston University School of Public Health, Boston, MA, Sept. 28, 2017

PUBLICATIONS

- *The Trump Administration and International Law*, 56 WASHBURN L.J. 413 (2017)
- *Humanitarian Intervention: Time for Better Law*, AJIL UNBOUND
- *State of Play and the Road Ahead: Humanizing Security*, in Dapo Akande et. al., HUMAN RIGHTS & 21ST CENTURY CHALLENGES (OUP, 2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Dean’s Advisory Committee, Quinnipiac Law School
- Participant in U.S. Supreme Court-Court of Justice of the European Union Luxembourg Forum Conference, Washington, DC, Apr. 18, 2017
- General Course on International Law, Seoul Academy of International Law, Seoul, Korea, July 2017
- Counselor, Restatement (Fourth) of the Foreign Relations Law of the United States
- Amicus Curiae Briefs for Yale Law School Rule of Law Clinic on behalf of 50 Former National Security Officials in *IRAP v. Trump* (Supreme Court 2017); *IRAP v. Trump* (4th Cir. 2017) & *Hawaii v. Trump* Brief (9th Cir. 2017), and joint declarations before assorted district courts (challenging Travel Ban 1.0, 2.0 & 3.0)
- On behalf of Former National Security Officials in *Stone v. Trump* (D.D.C. 2017) (challenging transgender ban)
- On behalf of Former National Security Officials in *Blumenthal v. Trump* in support of Plaintiffs’ Memorandum in Opposition to Defendant’s Motion to Dismiss (arguing for applicability of Foreign Emoluments Clause to President’s private business dealings)
- Advisory Committee for Council on Foreign Relations Study on “Countering Sexual Violence in Conflict” (Jamille Bigio & Rachel Vogelstein, 2017)
- Consultant for “Legal Report for the Inquiry on Protecting Children in Conflict” submitted to Special

Representative for the Secretary General on Children in Armed Conflict and United Nations Special Envoy for Global Education Gordon Brown by Legal Panel headed by Shaheed Fatima, QC editor



Douglas A. Kysar

LECTURES AND ADDRESSES

- “The Public Life of Private Law: Tort Law as a Risk Regulation Mechanism,” University of Texas School of Law, Faculty Colloquium, Austin, TX, Sept. 28, 2017
- “The Public Life of Private Law: Tort Law as a Risk Regulation Mechanism,” Climate Change Law and Policy Works-in-Progress Symposium, Boulder, CO, Aug. 10–11, 2017

PUBLICATIONS

- *Fossil Fuel Industry’s Tobacco Moment Has Arrived*, LAW360.COM, July 28, 2017
- *In ‘the Most Important Lawsuit on the Planet,’ Who Exactly Should the Ninth Circuit Rein In?*, THE RECORDER, June 23, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Recipient of the Yale School of Management, Executive MBA Program, Sustainability Cohort 2017 Teaching Award
- Appointed faculty by courtesy at the Yale School of Management



John H. Langbein

PUBLIC SERVICE

- Connecticut Commissioner of the National Conference of Commissioners on Uniform State Laws
- Attended Meeting of Drafting Committee on Uniform Fiduciary Income and Principal Act, Washington, DC, Mar. 24–26, 2016

- Attended Plenary Annual Meeting of Uniform Law Commission, San Diego, CA, Jul. 13–20, 2017
- Attended Meeting of Drafting Committee on Uniform Electronic Wills Act, Philadelphia, PA, Oct 12–14, 2017

PUBLICATION

- *Absorbing South Australia’s Wills Act Dispensing Power in the United States: Emulation, Resistance, Expansion*, 38 ADELAIDE L. REV. 1 (2017)

LECTURES AND ADDRESSES

- ABA Joint Committee on Employee Benefits, Government Invitational Conference, Baltimore, MD, Mar. 29–31, 2017



Zachary D. Liscow

LECTURES AND ADDRESSES

- “Who’s in Who’s Out? Policy to Address Job Rationing During Recessions,” Inaugural Conference on Law and Macroeconomics, Yale Law School, May 11, 2017
 - American Law and Economics Association Annual Meeting, Yale Law School, “Are Court Orders Sticky? Evidence on Distributional Impacts from School Finance Litigation,” May 13, 2017
 - Junior Tax Conference, Toronto Law School, “How to Structure Transfers to Low-Income Americans,” June 16–17, 2017
 - Conference on Empirical Legal Studies, Cornell Law School, “Does Legal Status Affect Educational Attainment in Immigrant Families?,” Oct. 13, 2017; and discussant for: Investment Ramifications of Distortionary Tax Subsidies by James R. Hines Jr. and Jongsang Park, Oct. 14, 2017
 - Loyola Law School Tax Policy Colloquium, “Is Efficiency Biased?,” Oct. 9, 2017
 - Yale Law School Faculty Workshop, “Is Efficiency Biased?,” Sept. 11, 2017
- PUBLICATION**
- *Innovation Snowballing and Climate Law*, 95 WASH. U. L. REV. 385 (with Quentin Karpilow)



Tracey L. Meares in “The Path Forward: Improving the Dynamics of Community–Police Relationships to Achieve Effective Law Enforcement Policies,” *Columbia Law Review*, Vol. 117 No. 5:

“A focus on—and demand that police focus on—changing crime rates to the exclusion of other issues that are equally, if not more, important, such as enhancing trust in police, is a serious problem.”



Yair Listokin

LECTURES AND ADDRESSES

- “Law and Macroeconomics,” Duke Law School Faculty Seminar
 - “Law and Macroeconomics,” International Law and Business Conference, Rome, Italy
 - “Law and Macroeconomics,” Inaugural Conference on Law and Macroeconomics, Yale Law School
- #### OTHER PROFESSIONAL HIGHLIGHTS
- Chair, Program Committee, American Law and Economics Association Annual Meeting, Yale Law School, May 11, 2017
 - Chair, Conference on Law and Macroeconomics, Yale Law School, May 10, 2017



Jonathan R. Macey

LECTURES AND ADDRESSES

- “Insider Trading: A Law and Economics Perspective with an Emphasis on Public Policy,” Yale Global Executive Leadership Program, May 2, 2017
 - Presentation at Columbia University to the Program in the Law & Economics of Capital Markets, “Recovering the Promise of the Orderly and Fair Stock Exchange,” Oct. 5, 2017
- #### PUBLICATIONS
- *Their Bark is Bigger than Their Bite: An Essay on Who Bleeds When the Wolves Bite*, YALE L.J. F., Apr. 26, 2017
 - THE LAW OF BANKING AND FINANCIAL INSTITUTIONS, (Aspen Law & Business, Sixth Edition, 2017) (with Richard Cornell and Geoffrey P. Miller)
 - CASES AND MATERIALS ON CORPORATIONS INCLUDING PARTNERSHIPS AND LIMITED LIABILITY COMPANIES (Thomson*West, Thirteenth Edition 2017) (with Robert Hamilton and Douglas Moll)

- MACEY ON CORPORATION LAWS (two-volume treatise), Wolters Kluwer Law & Business, 2015 (updated annually)
- *Wall Street Profits by Putting Investors in the Slow Lane* (with David Swensen), N.Y. TIMES, July 18, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Guest Contributor, Harvard Corporate Governance Blog
- Member, Bipartisan Policy Center (BPC) Financial Regulatory Reform Initiative's Working Group on Capital Markets
- Member Economic Advisory Board, Financial Industry Regulatory Authority (FINRA)
- Provost's Standing Advisory & Appointments Committee for the Yale School of Management
- Chair, Yale University Advisory Committee on Investor Responsibility (ACIR)
- Chair, Yale Faculty Committee on Athletics
- Chair, Board of Managers, St. Thomas's Day School



Jerry L. Mashaw

LECTURES AND ADDRESSES

- “Regulating Emerging Technologies: from Steamboats to Autonomous Vehicles,” Visiting Lecture Series, U.S. Food and Drug Administration, Silver Spring, MD, Oct. 5, 2017
- “Presidential Administration in a Regime of Separated Powers: An Analysis of Recent American Experience,” Law, Society and Administration in a Changing World, WG Hart Legal Workshop, London, July 10, 2017

PUBLICATIONS

- *Regulatory Decision Making and Economic Analysis* (with Mariano-Florentino Cuellar), in Francesco Parisi ed., THE OXFORD HANDBOOK OF LAW AND ECONOMICS 59–83 (2017)
- *From Command and Control to Collaboration and Deference: The Transformation of Auto Safety Regulation* (with David Harfst), 34 YALE J. ON REG. 167 (2017)

- *The Inside Out Perspective: A First-Person Account*, in Nicholas R. Parillo ed., ADMINISTRATIVE LAW FROM THE INSIDE OUT: ESSAYS ON THEMES IN THE WORK OF JERRY L. MASHAW 501–520 (2017)
- *An Accidental Career*, in 3 INTELLECTUAL TRAJECTORIES, 122 (Kai Erikson ed.), Henry Koerner Center for Emeritus Faculty, Yale University (2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Appointed Senior Fellow, Administrative Conference of the U. S., Executive Office of the President, Washington, DC



Tracey L. Meares

LECTURES AND ADDRESSES

- Indiana University Ralph F. Fuchs Lecture, “The Future of Police Legitimacy and Police Reform,” Apr. 19, 2017
- Civilian Office of Police Accountability (COPA), Chicago Inaugural Training Academy, “Procedural Justice and Community Policing,” May 25, 2017
- National Academy of Arbitrators Meeting, Chicago, “Law Enforcement Labor Relations and Arbitration & 21st Century Policing,” May 26, 2017
- Vera Institute of Justice, Vera Prosecutor's Forum and Neil A. Weiner Research Speaker Series, “The Promise of Police Reform in the New Administration,” June 7, 2017
- Brazilian Forum on Public Safety, Sao Paulo, Brazil, Keynote Speaker, July 18, 2017
- The Scottish Centre for Crime & Justice Research, University of Edinburgh, Edinburgh, Scotland, Keynote, “Thinking Through the ‘Public’ in Public Legitimacy,” Oct. 11, 2017
- The Norwegian Academy of Science and Letters, Oslo, Norway, Symposium in Humanities and Social Sciences, Lecturer, “Politics of Law and Order,” Oct. 17, 2017
- Criminal Justice Roundtable, Columbia University, May 5–6, 2017



Tracey Meares, Scott Shapiro '90, and Gideon Yaffe—along with Meares's daughter—were the faculty team for a cooking competition at the Law School this fall that was inspired by the television show *Iron Chef*.

Noah Messing '00 was one of the authors of an amicus brief filed in federal court by Protect Democracy that argued that the pardon President Trump issued to former Sheriff Joe Arpaio in August is unconstitutional and should not be given effect by the Court. Messing became involved in the case based on his research into presidential pardons.

MORE FACULTY REPORTS

- Duke University School of Law, Culp Colloquium and lunchtime speaker, "Succeeding in Legal Academia," May 18, 2017
 - Annual Law and Society Conference, Mexico City: Collective Aspects of Procedural Justice, presenter, "Courting Death: The Supreme Court and Capital Punishment," Author Meets Reader, June 19–22, 2017
 - Princeton University, Ethics of Reading Graduate Course, Guest Lecturer re: Search and Seizure, Sept. 27, 2017
- PUBLICATIONS**
- *This is My Land?* (review of Risa Goluboff's VAGRANT NATION), 130 HARVARD L. REV. 1877 (May 2017)
 - *The Path Forward: Improving the Dynamics of Community-Police Relationships to Achieve Effective Law Enforcement Policies*, 117 COLUM. L. REV. 1355 (2017)
 - *Policing and Procedural Justice: Shaping Citizens' Identities to Increase Democratic Participation*, 111 Nw. U. L. REV. 1525 (2017)
 - *Policing: A Public Good Gone Bad*, Forum 3 BOSTON REV. 93, The President's House is Empty (2017)
 - *Policing: A Model for the Twenty-first Century*, in POLICING THE BLACK MAN, Angela J. Davis (Pantheon Books, July 2017) (with Tom Tyler)
- MEDIA AND OP-EDS**
- MSNBC Live: The Point with Ari Melber, "Attorney: Police shooting of black teen 'completely unjustified,'" May 7, 2017
 - Boston Review, "Abolish the Police?" Podcast with Vesla Weaver, Aug. 1, 2017
- OTHER PROFESSIONAL HIGHLIGHTS**
- Vanderbilt Divinity School Public Theology and Racial Justice Collaborative (2017–2020)



Teresa Miguel-Stearns
LECTURES AND ADDRESSES

- Led a parallel conference for Latin American law librarians at SELA, Quito, Ecuador, June 2017

- Led a pre-conference workshop on using ALLStAR, a data collection and analysis tool for academic law libraries developed by Teresa, American Association of Law Libraries Annual Meeting, Austin, Texas, July 15, 2017
- Panelist, Cuban law and legal research, American Association of Law Libraries Annual Meeting, Austin, Texas, July 18, 2017

PUBLICATION

- "Cuba in the International Arena," in *Guide to Cuban Law and Legal Research*, 45 INT'L J. LEGAL INFO. 76 (2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Participated in a mock appeal of Shylock (Shakespeare's MERCHANT OF VENICE), representing appellee Portia, Library of Congress, Washington, DC, with written brief and oral arguments before a panel of judges that included U.S. Supreme Court Justice Ruth Bader Ginsburg, June 21, 2017
- AALL Foreign, Comparative & Int'l Law Special Interest Section (FCILSIS) Reynolds and Flores Publications Award for *Research Guide to Mexican Law*, 35 LEGAL REFERENCE SERVICES QUARTERLY 1 (2016), chapter on "International Agreements"—award at AALL Annual Meeting, July 16, 2017
- Appointed to the Advisory Board of LLMC, a nonprofit cooperative of libraries that preserves and makes accessible legal information through digitization
- Law librarians installed two exhibits this fall: Law's Picture Books: The Yale Law Library Collection at the Grolier Club in NYC; and Pauli Murray: 1961–1965 in the Law Library reading room



John D. Morley
LECTURES AND ADDRESSES

- "New Special Study of the Securities Markets: Institutional Intermediaries," Conference on the New Special Study of the Securities Markets

- "Too Big to be Activist," American Law and Economics Association Conference

PUBLICATIONS

- *New Special Study of the Securities Markets: Institutional Intermediaries*, working paper (with Allen Ferrell), website of the Columbia Law School New Special Study of the Securities Markets project

OTHER PROFESSIONAL HIGHLIGHTS

- The Uniform Directed Trust, for which Prof. Morley was the reporter, was formally approved by the Uniform Law Commission in Sept. 2017
- Brief of Amicus Curiae Professor John Morley Supporting Respondent, *Heller Ehrman LLP v. Davis Wright Tremaine LLP*, No. S236208 (Cal. filed May 2, 2017), (arguing that the doctrine of unfinished business liability should be restricted only to contingent-fee matters in law firms)



Samuel Moyn
PUBLICATIONS

- *Barbarian Virtues*, THE NATION, Oct. 23, 2017
- *A Problem Worse than Tyranny* (with David Priestland), N.Y. TIMES, Aug. 13, 2017
- HUMAN RIGHTS AND THE USES OF HISTORY (new expanded edition), New York, 2017
- *The Red Cross and the Holocaust*, WALL ST. J., July 19, 2017
- *Legal Theory among the Ruins*, in Justin Desautels-Stein & Christopher Tomlins eds., SEARCHING FOR CONTEMPORARY LEGAL THOUGHT (Cambridge: Cambridge University Press, 2017)
- *Human Rights and the Crisis of Liberalism*, in Stephen Hopgood, Jack L. Snyder & Leslie Vinjamuri eds., HUMAN RIGHTS FUTURES (Cambridge: Cambridge University Press, 2017)



Douglas G. NeJaime

LECTURES AND ADDRESSES

- Constitution Day Lecture, “The Promise of Assimilation,” Loyola Law School, Los Angeles, Sept. 2017
- Presented draft article, “Differentiating Assimilation,” Faculty Workshop, UC Davis School of Law, Sept. 2017

PUBLICATIONS

- *The Nature of Parenthood*, 126 YALE L. J. 2260 (2017)
- *The Family’s Constitution*, 32 CONSTITUTIONAL COMMENTARY 413 (2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Official observer, Uniform Parentage Act 2017, Uniform Law Commission
- Working group member, Child Study Center/Law School Collaboration, Yale University



Nicholas R. Parrillo

LECTURES AND ADDRESSES

- Invited Commentator, Administrative Law New Scholarship Roundtable, Ohio State University Moritz College of Law, June 27, 2017
- “Fiduciary Government and Public Officers’ Incentives,” Conference on Fiduciary Government, UCLA School of Law, June 7, 2017
- “Negotiating Governmental Compliance with Court Orders: A Preliminary Discussion,” Research Roundtable titled “Beyond Deference: Judicial Review and Agency Accountability,” Center for the Study of Administrative State, Antonin Scalia Law School, George Mason University, Sept. 15, 2017

PUBLICATIONS

- FEDERAL AGENCY GUIDANCE: AN INSTITUTIONAL PERSPECTIVE, DRAFT REPORT TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES, Sept. 18, 2017



Robert C. Post

LECTURES AND ADDRESSES

- “First Amendment Academic Freedom,” Program in Law and Public Affairs, Princeton University, May 1, 2017
- “Data Privacy and Dignitary Privacy,” Program in Law and Public Affairs, Princeton University, May 2, 2017
- “Boundaries of Constitutional Adjudication,” International Association of Constitutional Law Roundtable, Rome, Italy, May 5, 2017
- “Data Privacy and Dignitary Privacy,” joint conference of MLRC and the Berkeley Center for Law & Technology, “Legal Frontiers in Digital Media,” Mountain View, CA, May 18, 2017
- Faculty Law and Justice program, Aspen Institute, July 2017
- “Hate Speech,” conference, Cardozo Law School, Sept. 18, 2017
- “We the People,” opening of an exhibit of poster-art on “We the People” at Cooper Union

PUBLICATIONS

- *An Analysis of DOJ’s Brief in Masterpiece Cakeshop*, TAKE CARE blog, Oct. 18, 2017
- *Leadership in Educational Institutions: Reflections of a Law School Dean*, 69 STAN. L. REV. 1817 (2017)
- *Do Trump’s NFL Attacks Violate the First Amendment?*, POLITICO, Sept. 27, 2017
- *Friends, Enemies, and Trump’s First Amendment Violations*, TAKE CARE blog, Sept. 26, 2017
- *Preface*, in Robert A. Burt, JUSTICE AND EMPATHY (Yale University Press 2017)
- *National revulsion over the Charlottesville March shows why we shouldn’t ban hate speech*, VOX, Aug. 16, 2017



J.L. Pottenger, Jr.

LECTURES AND ADDRESSES

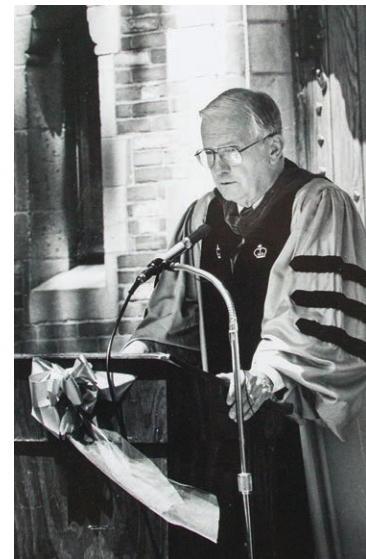
- “Deploying Clinical Methodology in Professional Training,” Ministry of Justice and Human Rights, Buenos Aires, Argentina
 - “Clinical Teaching of Ethics in Interdisciplinary Settings,” Universidad Torcuato Di Tella
 - “Teaching Substantive Law Through Clinics,” University of Buenos Aires
 - Faculty Workshops, UTDT and UBA
 - Taught clinic class at UBA Human Rights Clinic and Centro de Estudios Legales Y Sociales
 - Met with Argentinian delegation of legal educators, Yale Law School
- #### OTHER PROFESSIONAL HIGHLIGHTS
- Co-sponsored law student interns’ argument before the Connecticut Supreme Court in *Connecticut Housing Finance Authority v. Alfaro*, SC#19720
 - Appointed to Governor’s Advisory Committee on Housing Court Matters



Claire Priest

LECTURES AND ADDRESSES

- “Conquest and Property,” book talk on Daniel Sharfstein’s THUNDER IN THE MOUNTAINS: THE CLASH OF TWO AMERICAN LEGENDS, OLIVER OTIS HOWARD AND CHIEF JOSEPH OF THE NEZ PERCE (2017), Yale Law School, Apr. 19, 2017
 - “Cuba’s History and Transformation through the Lens of the Sugar Industry,” Head of School Symposium, Lake Forest Academy, Apr. 17, 2017
- #### PUBLICATIONS
- CREDIT NATION: A HISTORY OF PROPERTY LAWS AND INSTITUTIONS IN EARLY AMERICA (book manuscript in progress)



As the *Law Report* was going to press, we learned that **Geoff Hazard**, Sterling Professor of Law, (shown above at commencement in 1994) passed away in Philadelphia on January 10, 2018. Geoff was a leading scholar and teacher in the fields of civil procedure and legal ethics. He began teaching at Yale Law School in 1971, and was appointed Sterling Professor of Law in 1986, retiring from full-time teaching at the Law School in 1994. The summer issue of the *Law Report* will include more information about his life and professional legacy.

MORE FACULTY REPORTS

Fiona Doherty has been promoted to Clinical Professor of Law. She directs the Criminal Justice Clinic, which defends indigent clients in New Haven and handles a wide variety of sentencing cases, including federal clemency petitions. Her current scholarship focuses on supervised release, probation, and parole.

- *Political Economy and the American Revolution*, 36 LAW & HIST. REV. (forthcoming 2018) (book review of Steve Pincus, THE HEART OF THE DECLARATION: THE FOUNDERS' CASE FOR AN ACTIVIST GOVERNMENT)
- *State-Making through the Custom Houses*, 35 LAW & HIST. REV. 549 (2017) (book review of Gautham Rao, NATIONAL DUTIES: CUSTOM HOUSES AND THE MAKING OF THE AMERICAN STATE)

OTHER PROFESSIONAL HIGHLIGHTS

- Appointed, Advisory Committee, Council on Latin American and Iberian Studies, Yale's MacMillan Center for International and Area Studies



George L. Priest

LECTURES AND ADDRESSES

- Participated in a discussion on a panel entitled, "Judicial Authority within the Judiciary" at the conference, "The Constitutional Dilemmas of Social Democracy," Seminario en Latinoamérica de Teoría Constitucional y Política, Quito, Ecuador
- Presented a lecture on a panel entitled "Vertical Restraints—Risks and Trends" at the Forum on Competition and Regulation: Trends and Challenges in Competition Policy, the Universidad del Pacífico, Lima, Peru

PUBLICATIONS

- *A Principled Approach Toward Insurance Law: The Economics of Insurance and the Current Restatement Project*, 24 GEORGE MASON L. REV. 635 (2017)



W. Michael Reisman

LECTURES AND ADDRESSES

- Moderated Panel, "Investment Disputes Year in Review," 3rd Annual

GAR Live BITs, Washington, DC, May 23, 2017

- Delivered Speech "Shaping Nuclear Policy Within International Law," Foreign Policy Association Conference, "Nuclear Policy: Taking Stock and Looking Ahead," United Nations Trusteeship Council Chamber, New York, NY, May 31, 2017
- Panelist on Panel, "Current Challenges to International Law," 78th Session of the Institut De Droit International, NALSAR University, Hyderabad, India, Sept. 6, 2017
- Panelist on Panel "Ethical Challenges: Evolving Norms & Practices for Arbitrator Disqualification," International Law Weekend 2017 Conference, Fordham University School of Law, New York, NY, Oct. 20, 2017

PUBLICATIONS

- *Legal Decisions and Their Implementation in International Law* (with Mahnoush H. Arsanjani), in THE INTERNATIONAL LEGAL ORDER: CURRENT NEEDS AND POSSIBLE RESPONSES: ESSAYS IN HONOUR OF DJAMCHID MOMTAZ (Crawford, Koroma, Mahmoudi, Pellet eds.), Brill 2017, pages 149–161
- *Lex mercatoria: utopie capitaliste* (with Mahnoush H. Arsanjani), in DICTIONNAIRE DES IDÉES REÇUES EN DROIT INTERNATIONAL: EN CLIN D'OEIL AMICAL À ALAIN PELLET, (Hervé Ascensio et al, eds.), Editions Pedone 2017, pages 367–368

OTHER PROFESSIONAL HIGHLIGHTS

- Attended the Foreign Policy Association Board of Directors Meeting, New York, NY, May 9, 2017
- Attended the 78th Session of the Institut De Droit International, NALSAR University, Hyderabad, India, Sept. 3–7, 2017
- Attended Symposium "Sir Elihu Lauterpacht: A Celebration of His Life and Work," University of Cambridge Faculty of Law, Cambridge, UK, Oct. 13, 2017
- Attended the American Journal of International Law Board of Editors' Fall Meeting, NYU School of Law, New York, NY, Oct. 21, 2017
- Attended the Foreign Policy Association Board of Directors Meeting, Oct. 25, 2017



Judith Resnik

LECTURES AND ADDRESSES

- Paper presented: "A2J/A2K: Access to Justice, to Knowledge, and the Potential for Courts and Arbitration to Produce Public Knowledge about Justice" for the panel, "Confidentiality of Judicial Settlements and Arbitration Proceedings," Institute for Law & Economic Policy 23rd Annual Symposium, Secrecy, Naples, FL, Apr. 21, 2017
- Panelist: "Limits on Judicial Participation in and Approval of Non-class Settlements," Multi-District Litigation Roundtable, George Washington University Law School, Washington, DC, Apr. 28, 2017
- Co-moderator: ASCA-Liman Racial Disparities and Incarceration Workshop, Yale Law School, May 5, 2017
- Presenter: "Inventing Democratic Courts," Yale Club of Paris, Paris, France, June 14, 2017
- Keynote speaker: "From Court-houses to Prisons: Spaces of Legal Imagination, Despair, and Rights," for the conference, "The Dark Sides of the Law in Common Law Countries," Université Paris II Panthéon-Assas, Paris, France, June 16, 2017
- Paper presented: "The Invention and Fragility of Democratic Courts," for the conference, "The Space of Justice: Innovation, Courtroom Design and Social Justice," La Trobe University, Melbourne, Australia, July 7, 2017
- Speaker: "Punishment and Prisons," Advanced Design Study/Gehry Studio, Yale School of Architecture, Sept. 7, 2017
- Chair: Reconstituting Constitutional Orders, Global Constitutionalism Seminar, A Part of the Gruber Program for Global Justice and Women's Rights, Yale Law School, Sept. 13–16, 2017
- Presenter: "Religion, Arbitration, and the State" for the Debating Law and Religion Series, Yale Law School, Sept. 27, 2017

- Panelist: “Managerial Judges After 35 Years,” Civil Procedure Workshop, University of Arizona James E. Rogers College of Law, Tucson, AZ, Oct. 7, 2017

PUBLICATIONS

- “Vital” *State Interests: From Representative Actions for Fair Labor Standards to Pooled Trusts, Class Actions, and MDLs in the Federal Courts*, 165 U. PA. L. REV. 1765 (2017)

- Editor, RECONSTITUTING CONSTITUTIONAL ORDERS, volume prepared for Global Constitutionalism 2017, a part of the Gruber Program for Global Justice and Women’s Rights, published online as an e-book, Fall 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Member, Daniel J. Meltzer Award Committee of the AALS Section on Federal Courts, May 2017
- Evaluator, Individual Research Grants, The Israel Science Foundation, May 2017
- Member, Advisory Board, Berkeley Comparative Equality & Anti-Discrimination Law Study Group, Sept. 2017
- Brief of Amici Curiae Constitutional Law Professors in Support of Appellees and Affirmance, *International Refugee Assistance Project, et al. v. Donald J. Trump, et al.*, No. 17-1351, U.S. Court of Appeals for the Fourth Circuit, filed April 19, 2017
- Brief of Amici Curiae Professors of Federal Courts Jurisprudence, Constitutional Law, and Immigration Law in Support of Respondents, *Donald J. Trump v. International Refugee Assistance Project, et al.* and *Donald J. Trump v. State of Hawaii, et al.*, Nos. 16-1436 and 16-1540, U.S. Supreme Court, filed Sept. 18, 2017



Roberta Romano

LECTURES AND ADDRESSES

- University of Chicago Law School Law and Economics Workshop, “Does Agency Structure Affect Agency Decisionmaking?”

Implications of the CFPB’s Design for Administrative Governance”

- Department of Treasury, “Core Principles for Regulating the U.S. Financial System” (Consumer Protection presentation)
- NYU School of Law Institute for Corporate Governance & Finance Spring Corporate Governance Roundtable on The Fit between Activists and Institutional Investors, “Comment on Catan, The Insignificance of Clear-Day Poison Pills”
- Yale Law School Law and Macroeconomics Conference, “Comment on Krishnamurthy, The Logic and Limits of Prudential Regulation”
- Global Corporate Governance Colloquia (GCGC) 2017 Conference, Tokyo, “Does Agency Structure Affect Agency Decisionmaking? Implications of the CFPB’s Design for Administrative Governance”
- 2017 Law and Banking/Finance Conference on State Intervention and Market Reactions, “Does Agency Structure Affect Agency Decisionmaking? Implications of the CFPB’s Design for Administrative Governance”
- 11th Annual Columbia-Ono Conference, Corporate Law and Governance, Tel Aviv, “The Private Ordering Solution to Multiforum Shareholder Litigation: An Empirical Analysis of Exclusive Forum Clauses”
- 12th Annual Conference on Empirical Legal Studies, “Does Agency Structure Affect Agency Decisionmaking? Implications of the CFPB’s Design for Administrative Governance”; and discussant, “The Utility of Financial Regulation”

PUBLICATIONS

- *The Market for Corporate Law Redux*, in F. Parisi ed., OXFORD HANDBOOK OF LAW AND ECONOMICS (Oxford University Press, 2017)
- *The Making of Contemporary Corporate Law Scholarship*, in H. Siekmann, et al., eds., UNTERNEHMENSRECHT IM 21. JAHRHUNDERT—BUSINESS LAW IN THE 21ST CENTURY (Mohr Siebeck, Tübingen, 2017)
- FINANCIAL REGULATION AFTER THE GLOBAL FINANCIAL CRISIS: U.S. AND CHINA PERSPECTIVES (with Shen Wei, ed.) (China Law Press, 2017) (in Chinese) (translated articles: *For*

Diversity in the International Regulation of Financial Institutions: Critiquing and Recalibrating the Basel Architecture; and Regulating in the Dark)



Carol M. Rose

LECTURES AND ADDRESSES

- Presented: “Climate Change and Cognition,” Keynote Address, Third Annual Sustainability Conference of American Legal Educators, Arizona State University, Sandra Day O’Connor College of Law, May 12, 2017
- Presented: “Utilitarian and Law and Economics Approaches to Property: Critics and Experiences, North and South,” May 10, 2017, Conference on Property in Transition for Peace: Challenges to Property Theory in Colombia’s Transitional Justice Setting, Bogota and Barranquilla, Colombia, May 17–19, 2017
- Presented: “Commons and Cognition,” Conference on The Tragedy of the Commons at Fifty, CEGLA Center for Interdisciplinary Research on the Law, University of Tel Aviv, Buchman School of Law, Tel Aviv, Israel, June 28–29, 2017
- Attended: Advisers and Members Consultative Group, Restatement Fourth of Property, American Law Institute, Oct. 12–13, 2017

PUBLICATIONS

- *Commons, Cognition and Climate Change* (Distinguished Environmental Lecture, Florida State Law School), 42 J. LAND USE & ENVTL. L. 297 (2017)



Susan Rose-Ackerman

LECTURES AND ADDRESSES

- Keynote address, “Macroeconomics, International Financial Flows, and Corruption in Latin America,”



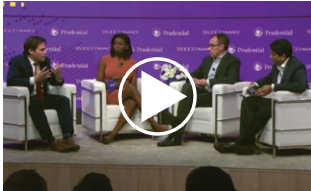
On Twitter

Vicki Schultz

@VickiSchultzLaw

Thrilled my early wk on #sexualharassment and #workplaceequality quoted in a #SCOTUS brief filed for #LGBT groups!
<https://t.co/pRve6ivnXw>

MORE FACULTY REPORTS



David Schleicher speaking during a *Yahoo! Finance* panel about the sharing economy:

“The current relationship between sharing economies and firms is conflict. But in the future, I think we’re going to see a lot more cooperation. And this is because the industries they are in are industries that cities want to be a success... Cities care about having good taxis.” law.yale.edu/schleicher-yahoo-finance

Inter-American Development Bank, Network of the Central Banks and Finance Ministries, Washington, DC

- Panelist, “Fighting Corruption”, IMF Annual Meetings, Washington, DC
- “Corruption and Purity,” Daedalus Conference, American Academy of Arts and Sciences, Cambridge, MA

PUBLICATIONS

- Editor with Peter Lindseth and Blake Edwards, *COMPARATIVE ADMINISTRATIVE LAW*, 2d edition, (Edward Elgar, Cheltenham, UK)
- *Citizens and Technocrats: An Essay on Trust, Public Participation and Government Legitimacy*, in Susan Rose-Ackerman, Peter Lindseth and Blake Emerson, *COMPARATIVE ADMINISTRATIVE LAW*, 2d Edition, (Cheltenham, UK: Edward Elgar, 2017) pp. 251–267
- *Collaboration: Making Eclecticism Possible*, in Michael Szenberg and Lall B. Ramrattan eds., *COLLABORATIVE RESEARCH IN ECONOMICS: THE WISDOM OF WORKING TOGETHER*, Palgrave, Macmillan, 2017, pp. 295–304.
- *The Feds Need to Stop Keeping Secrets on National Security*, *THE HILL*, Aug. 11, 2017
- With Natalia Volosin, *Argentina Must Reform to Tackle Government and Business Corruption*, *THE HILL*, June 20, 2017
- *Brazil’s Tide against Corruption Swells*, *THE CONVERSATION*, May 19, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Member, Expert Advisory Group on Transparency, Inter-American Development Bank



David N. Schleicher
LECTURES AND ADDRESSES

- “Democracy in the Anthropocene,” Breakthrough Dialogues, Sausalito, CA, June 22–23, 2017
- UConn Symposium on Municipal Distress, University of Connecticut, Sept. 15, 2017

- Discussion of *Gill v. Witford* with Emily Murphy, Yale Law School Federalist Society Event, Yale Law School, Sept. 18, 2017
- “Why Is it So Expensive to Build a Subway in the United States?,” Yale Law School Urbanist Society, Yale Law School, Sept. 28, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- We The People Podcast with Jeffrey Toobin, “Should the 17th Amendment Be Repealed,” July 13, 2017
- Macro Musings Podcast, “Local and State Regulation and Declining Mobility,” May 22, 2017
- Work Featured in *WALL ST. J.*, *Struggling Americans Once Sought Greener Pastures—Now They’re Stuck*, Aug. 2, 2017
- Work Featured in *THE ECONOMIST*, *In Detroit, The End of Blight Is In Sight*, Sept. 14, 2017
- Work Featured in *Yahoo! Finance*, *A Legal Fight Over New York City Dog-Sitters Highlights a Bigger Problem in America*, July 25, 2017
- Work Featured in *CURBED*, *America’s declining mobility has millennials feeling stuck*, May 23, 2017
- Work Featured in *THE ECONOMIST*, *Globalisation Has Marginalized Many Regions in the Rich World*, Oct. 21, 2017

PUBLICATIONS

- *Federalism and State Democracy*, 95 *TEX. L. REV.* 763 (2017)
- *How Land Use Law Impedes Transportation Innovation*, in *EVIDENCE AND INNOVATION IN HOUSING LAW AND POLICY* (Lee Anne Fennell & Benjamin Keys eds., Cambridge University Press, 2017)



Peter H. Schuck
LECTURES AND ADDRESSES

- Talk on ONE NATION UNDECIDED: CLEAR THINKING ABOUT FIVE HARD ISSUES THAT DIVIDE US, Goldman School of Public Policy, University of California at Berkeley
- Talk on ONE NATION UNDECIDED, Institute for Governmental Studies, University of California at Berkeley

- Podcast interview for *THE AMERICAN INTEREST JOURNAL ON ONE NATION UNDECIDED*
- Interview with Vietnam TV station on Agent Orange
- Interview with Minneapolis public radio on ONE NATION UNDECIDED
- Interview with Brigham Young University radio on ONE NATION UNDECIDED
- Podcast with Intelligence Squared on ONE NATION UNDECIDED
- Conference in Berlin on international migration
- Talk at Eastern District of New York courthouse on ONE NATION UNDECIDED
- Conference at Roger Williams University Law School on birthright citizenship
- Debate on affirmative action, Soho Forum, New York City
- *Taking a Knee: How to Squander a Teaching Moment*, *HUFFINGTON POST*, Oct. 11, 2017



Vicki Schultz
LECTURES AND ADDRESSES

- “Reimagining Affirmative Action,” Twelfth Annual Colloquium on Employment and Labor Law, Texas A&M Law School, Fort Worth, TX, Sept. 15, 2017
- “The Importance of Linking Harassment to Other Forms of Workplace Discrimination, and Demanding Effective Forms of Enforcement to Achieve Change,” Harassment in Employment Conference, Centro de Investigación y Docencia Económicas, Mexico City, Mexico, June 26, 2017
- “Rationalizing the Workplace: Title VII’s Lasting Contribution to American Society,” International Meeting on Law and Society, Law and Society Association, Mexico City, Mexico, June 22, 2017
- “Equal Pay Day: History, Causes, and Personal Stories of the Gender Wage Gap,” panelist discussing the gender wage gap, sponsored by Law Students for Reproductive Justice, Yale, New Haven, CT, Apr. 4, 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Discussed in Elizabeth C. Tippet, *What Post-Weinstein Hollywood Can Learn from '90s Sexual Harassment Training*, THE CONVERSATION, Oct. 17, 2017
- Quoted in Tyler Kingkade, *Shielded: Want To Fire A Professor For Sexual Harassment? It's Going To Take A While*, BUZZFEED, Aug. 17, 2017
- Quoted in Nitasha Tiku, *VC Firms Promise to Stamp Out Sexual Harassment. Sounds Familiar*, WIRED, July 17, 2017
- Quoted in Pavithra Mohan, *It's Time To Regulate the VC-Founder Relationship To Curb Sexual Harassment in Silicon Valley*, FAST COMPANY, July 7, 2017
- Quoted in John Hecht, *The Surprising Sexism of Maternity Leave*, BUS-TLE, June 15, 2017
- Discussed in Julie Beck, *Online Dating Tries to Flirt with the Workplace*, THE ATLANTIC, May 3, 2017
- Top 10% of Authors on SSRN by new downloads

**Reva Siegel****LECTURES AND ADDRESSES**

- Presented Manuscript of “Community in Conflict: Same-Sex Marriage and Backlash,” Yale Law School Faculty Workshop, Apr. 24, 2017
- “Same-Sex Marriage and Backlash: Consensus, Conflict, and Constitutional Culture,” Panel on Social Movements and Constitutional Adjudication, International Association of Constitutional Law (IACL) Roundtable: Constitutional Adjudication: Traditions and Horizons, LUISS Guido Carli University, Rome, Italy, May 6, 2017
- “What the Muslim Ban Litigation Obscures about Minority-Protective Equal Protection Review,” Racial Justice Reform After Obama: Reconsidering Goals and Means, University of Virginia Law School, June 6, 2017
- “ProChoiceLife: Asking Who Protects Life and How—and Why It Matters in Law and Politics,” panel

- on “Defending New Ground in Reproductive Rights,” American Constitution Society Annual Meeting, Washington, DC, June 9, 2017
- “On the Basis of Sex’: Antidiscrimination Approaches to Pregnancy Accommodation in the Workplace,” panel on Theories of Discrimination, ICON-S 2017 Annual Conference on Courts, Power, Public Law, Copenhagen, Denmark, July 6, 2017
- Presented manuscript of “Community in Conflict: Same-Sex Marriage and Backlash,” Graduate Colloquium, Yale Law School, Sept. 12, 2017

**James J. Silk****LECTURES AND ADDRESSES**

- “From Nuremberg to the Netherlands to Nineveh? The Book of Jonah, International Criminal Justice and the Promise of Human Rights,” Binger Clinical Professor of Human Rights Inaugural Lecture, Yale Law School, Oct. 2017

OTHER PROFESSIONAL HIGHLIGHTS

- Visiting Fellow, Law Department, European University Institute, Florence, Italy, June 2017

**Kate Stith****PROFESSIONAL HIGHLIGHTS**

- Reflections, former U.S. Attorney Preet Bharara, Program on Corporate Compliance and Enforcement, New York University School of Law, May 9, 2017
- Model Penal Code Sexual Assault Provisions, American Law Institute Annual Meeting, Washington, DC, May 23, 2017
- Model Penal Code Sentencing Provisions, American Law Institute Annual Meeting, Washington, DC, May 24, 2017

**Rodríguez****Silk****Cristina Rodríguez’s Inaugural Lecture as Surbeck Professor**

In November, Professor Cristina Rodríguez ’00 delivered her inaugural lecture as the Leighton Homer Surbeck Professor of Law. The talk, “The President, Immigration Law, and the Politics of Constitutional Structure,” explored the president’s power to shape immigration law.

Rodríguez joined Yale Law School in 2013 after serving for two years as deputy assistant attorney general in the Office of Legal Counsel at the U.S. Department of Justice. Her research interests include constitutional law and theory; immigration law and policy; administrative law and process; language rights and policy; and citizenship theory.

▶ Watch at law.yale.edu/rodriguez-surbeck

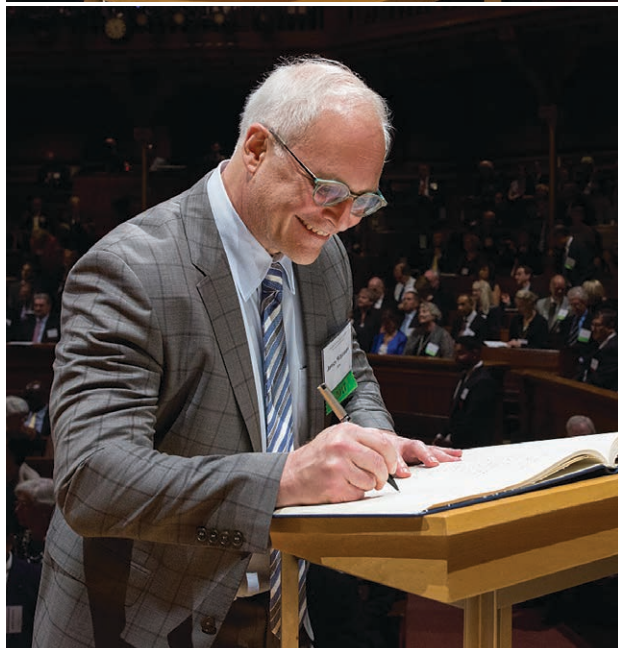
James Silk’s Inaugural Lecture as Binger Clinical Professor

Professor James Silk ’89 delivered his inaugural lecture as the first Binger Clinical Professor of Human Rights in October. Silk leads the Allard K. Lowenstein International Human Rights Clinic and is director of the Orville H. Schell, Jr. Center for International Human Rights. His lecture was titled “From Nuremberg to the Netherlands to Nineveh? The Book of Jonah, International Criminal Justice, and the Promise of Human Rights.” Silk discussed whether the Book of Jonah carries any useful lessons for the modern struggle for human rights.

▶ Watch at law.yale.edu/silk-binger

Gerken and Whitman Inducted into AAAS

Dean Heather Gerken and Professor James Whitman '88 were inducted in the 237th class of fellows of the American Academy of Arts and Sciences on October 7, 2017. Gerken also spoke at the induction ceremony about the balance between argument and truth. She was introduced by former Supreme Court Justice David Souter, for whom she clerked.



FACULTY REPORTS

- Connecticut Public Broadcasting Network, Celebrating Women's Leadership, Marriott Downtown, Hartford, CT, June 1, 2017
- Faculty Sponsor, Women's Campaign School at Yale, Yale Law School, June 4-9, 2017
- Chair, Yale Law School Dean of Admissions Search Committee
- Organizer and Convener (with Office of the U.S. Attorney for D. Conn), Conference on "The Opioid Crisis in Connecticut," Yale Law School, Sept. 29, 2017



James Q. Whitman

LECTURES AND ADDRESSES

- "The Two Primitive Modes of Imagining Property: Owning Land, Owning Humans Beings," Boston College Law School
- Interviews and Reviews of HITLER'S AMERICAN MODEL: THE UNITED STATES AND THE MAKING OF NAZI RACE LAW, in Harper's, Bill Moyers, The Atlantic, Salon, The Los Angeles Review of Books, The Globe and Mail, History Channel, Foreign Affairs, Times of Israel, Washington Post Book World, Time.com, Jerusalem Post, Chronicle of Higher Education, Daily Telegraph, BBC World Service Newshour, New York Journal of Books, Inside Higher Ed, and numerous other outlets

PUBLICATIONS

- *The Hunt for Truth in Comparative Law*, AM. J. COMP. L. 65 (2017): 181-190



Tom R. Tyler

LECTURES AND ADDRESSES

- Comment at panel on Dark Money in Judicial Elections, DePaul University Law School, Chicago, Apr. 21, 2017
- Presentation on police and community relations, Congressional briefing at the House of Representatives, National Prevention Science Coalition, May 16, 2017
- Community development and crime control, Law and Society meeting, Mexico City, June 20, 2017
- Plenary speaker, Procedural justice as an approach to case management, Annual meeting, National Association of Administrative Law Judiciary, New York, NY, Oct. 8, 2017
- Discussant, paper on expressive theories of law, Conference on Empirical Legal Studies, Cornell University, Oct. 13, 2017

PUBLICATIONS

- *From Harm Reduction to Community Engagement: Redefining the Goals of American Policing in the 21st Century*, NW. L. REV. 111(6), 1537-1564
- *Procedural Justice and Policing: A Rush to Judgment?*, ANNUAL REVIEW OF LAW AND SOCIAL SCIENCE, 13, 29-53 (2017)
- *Experimenting with Procedural Justice Policing* (with K. Murphy), JOURNAL OF EXPERIMENTAL CRIMINOLOGY, 13(3), 287-292 (2017)



Michael J. Wishnie

LECTURES AND ADDRESSES

- "Suppression Motions in Deportation Proceedings," Legal Aid Justice Center, Annandale, VA, Oct. 2017
- "Refugees, Law Students, and the Future of the Trump Administration's Travel Bans," University of Wyoming College of Law, Laramie, WY, Oct. 2017
- "Asylum Seeker, Refugee, or Undocumented Immigrant? Labels with Life-Changing Consequences," Building One Community, Stamford, CT, Oct. 2017
- "Bad-Paper": Examining the Long-Term Impact on Veterans and Families, and Identifying Policy Solutions," Vietnam Veterans of America and Veterans of Foreign Wars, Washington, DC, Sept. 2017

- “Emerging Issues with the 2020 Census and Prison Gerrymandering,” NAACP National Convention, Baltimore, MD, July 2017
- “Litigating the Muslim Ban,” Branford Rotary Club, Branford, CT, July 2017

- “The Role of State Attorneys General in Protecting Diverse Communities,” American Constitution Society, Hartford, CT, June 2017
- “Fighting the Muslim Ban,” International Festival of Arts & Ideas, New Haven, CT, May 2017

- “Immigration Enforcement at Court-houses,” University of Denver Sturm School of Law, Denver, CO, May 2017
- “Transparency Litigation and Advocacy in Law School Clinics,” AALS Conference on Clinical Education, Denver, CO, May 2017
- “Evidentiary Issues in Immigration Court,” National Immigration Project of the National Lawyers Guild Seminar, Atlanta, GA, Apr. 2017

- “Serving the Military by Suing It,” Yale-West Point Civilian Military Symposium, U.S. Military Service Academy, West Point, NY, Apr. 2017

PUBLICATIONS

- “A Boy Gets Into Trouble”: *Service Members, Civil Rights, and Veterans’ Law Exceptionalism*, 97 B.U. L. REV. 1709 (2017)

OTHER PROFESSIONAL HIGHLIGHTS

- *Monk v. Shulkin*, 855 F.3d 1312 (Fed.Cir. 2017) (reversing nearly thirty years of decisions and holding veterans may pursue class actions before U.S. Court of Appeals for Veterans Claims)
- *Batalla Vidal v. Duke*, No. 1:16-cv-4756-NGG (EDNY filed Sept. 19, 2017) (amended complaint challenging Sept. 2017 termination of DACA)
- *In re Giammarco* (USCIS) (approving naturalization of wartime veteran and fifty-year lawful resident of Connecticut who had been deported in 2012, thus allowing him to return home to his family in 2017)
- *In re Carson* (Army) (upon remand from U.S. District Court, upgrading discharge status to “honorable” for Connecticut veteran who deployed in combat, suffered mental health injuries, and received bad paper)

- *In re Chavarria* (EOIR Hartford) (granting emergency stay of removal to single mother of four who took sanctuary in New Haven church, allowing her to return home *pendente lite*)



John Fabian Witt

LECTURES AND ADDRESSES

- “Can Law Restrain War?,” Plenary Session of the Society for Historians of American Foreign Relations, Washington, DC, June 22, 2017
- Yale College Forum on Deferred Action for Childhood Arrivals, Sept. 6, 2017
- Asylum Law and Advocacy with Conchita Cruz, Davenport College, Yale, Sept. 13, 2017
- Grand Strategy with Professors Julia Adams and Beverly Gage, Hopper College, Yale, Sept. 27, 2017
- “The Fund: A Story of Money and Politics in America,” ACS Progressive Scholarship Workshop, Sept. 28, 2017
- Locking Up Our Own with Professor James Forman, Davenport College, Yale, Oct. 3, 2017
- “The Art of Legal History,” Yale College Mellon Forum, Oct. 11, 2017

PUBLICATIONS

- *Foreword* to Robert W. Gordon, *TAMING THE PAST: ESSAYS ON LAW IN HISTORY AND HISTORY IN LAW* (Cambridge University Press, 2017)
- *Adjudication in the Age of Disagreement*, 85 FORDHAM L. REV. 149 (2017)

OTHER PROFESSIONAL HIGHLIGHTS

- Named Head of Davenport College at Yale, Apr. 2017
- Brief of Amici Curiae Historians in support of the Appellees in *Gill v. Whitford* at the U.S. Supreme Court, Sept. 5, 2017
- Brief of Amici Curiae of Law Professors in Support of *Soto v. Bushmaster Firearms International, LLC*, Supreme Court of the State of Connecticut, April 24, 2017
- Media appearances on BBC Radio and MSNBC

Professor Amar Testifies Before Senate on Special Counsel Legislation

Sterling Professor of Law Akhil Reed Amar

'84 testified before the U.S. Senate on September 26, 2017 about two new bills that attempt to protect Special Counsel Robert Mueller from being fired by the President. The hearing came in response to widespread speculation that President Donald Trump could attempt to fire Mueller as he pursues an investigation of possible collusion between the Trump campaign and the Russian government.

At the hearing, Professor Amar said the bills are problematic because they could violate the separation-of-power doctrine and might also inadvertently give the President greater authority over special counsels in the end.

“It is very hard to be both inferior and independent at the same time; it’s like a square circle,” Amar said at the hearing of the Senate Judiciary Committee. “And these bills try to make someone who is inferior also independent, and constitutionally that’s a problem.”



→ Amar and Calabresi: The CFPB (from page 23)

multi-member commissions can be insulated. Although that ruling has not yet reached the Supreme Court, when it does the Court should and likely will affirm this well-reasoned panel decision.

Consider, finally, one other constitutional trump card in Trump’s hand. Unlike Cordray and Mulvaney, English has never been confirmed by the Senate, nor was she picked by a president. Under the Article II appointments clause, she must therefore be an “inferior” officer. But she also now claims to be an agency head. Which is it? How can she be both at the same time—head and inferior? If she is truly inferior (as she must be, to be constitutional), how can she also claim to be independent? She cannot be both, and thus she loses under the clear language and crisp logic of two recent Supreme Court inferior-officer cases, *Edmond v. United States* (1997) and *FEC v. PCAOB* (2012).

Those of us who oppose President Trump politically must concede that he is the president. When he violates the Constitution, we must resist via all lawful and appropriate measures. But if we insist that he follow the Constitution, we must do the same ourselves. 🗳️

ALUMNI WEEKEND 2017



Classmates Reaffirm Friendships; Justice Myron H. Thompson '72 Honored

Dean Heather Gerken on Justice Myron H. Thompson '72:

“He possesses one of the finest minds of any modern jurists, but he also has the compassion to step into the world of those whose lives intersect his only within his courtroom.”





Alumni and their families were greeted with beautiful weather, friendly faces, and a packed schedule of activities for Alumni Weekend 2017 on October 20–22. In addition to many chances for individual classes to reconnect over meals and discussions, there were opportunities for all to attend new diversity events, panels on civil rights and international law, a state-of-the-school address by Dean Heather Gerken, and an all-alumni luncheon.

This year's Award of Merit recipient, honored at the lunch on Saturday, was Myron H. Thompson '72. After graduating, Thompson became the first African-American Assistant Attorney General for the State of Alabama. After time in private practice and in the Alabama Legal Services Corporation, he was nominated to the federal bench by President Jimmy Carter and is a United States District Judge for the Middle District of Alabama.

"He possesses one of the finest minds of any modern jurists, but he also has the compassion to step into the world of those whose lives intersect his only within his courtroom," said Dean Gerken in her remarks about Thompson.



In his remarks, Thompson warmly thanked those who had come to New Haven with him, including his family, his law practice partner, and friends. He also spoke of overcoming challenges in his childhood—from polio to segregation—and the Yale Law School student who inspired him to attend Yale College and Yale Law School.

"What I learned from that initial Yale Law student, what I've learned from the many students who have clerked for me over the years, is the importance of public service," said Thompson. "It has driven me and it's driven them."

The weekend closed with Sunday brunches, hosted by faculty members and alumni. ♡



See more reunion photos on pages 88 and 114.

ALUMNI WEEKEND 2017

Panel: Yale Law Women at Work: 5, 10, and 15 years after YLS



Panel on “A Civil Rights Agenda for the 21st Century”

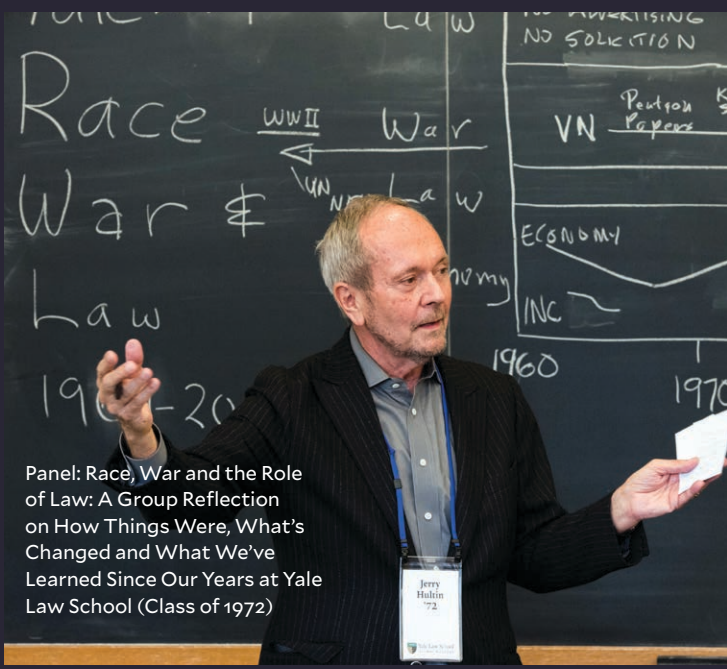
Margo Schlanger '93:

“I think what’s going on [in the travel ban court cases] is that there had been a rejection of equality in the immigration system... And what we’re left with is this moment in time—unless things change significantly in the courts and in the culture—where we are prepared to say immigration, too, needs to be a place where white supremacy has no role and where civil rights values can be given their full effect.”



Panel: A Civil Rights Agenda for the 21st Century, moderated by Bruce Ackerman '67





Panel: Race, War and the Role of Law: A Group Reflection on How Things Were, What's Changed and What We've Learned Since Our Years at Yale Law School (Class of 1972)



Members of the Class of 1992 at brunch at the home of David Grewal '02 and Daniela Cammack



Members of the Class of 2012 in the Sol Goldman Courtyard





Panel on “The Future of the International Legal Order”

Ian Solomon '02:

“What are we worried about?

Poverty. Inequality. Climate Change.

Issues of refugees and this backlash against immigration.
Human rights violations. What do these have in common?

None of these are issues the U.S. or any one country
can handle alone. Every single one of them,
if we want to address them, requires a degree of
coordination, collaboration, and cooperation
among a range of international actors, both states
and non-state institutions.”



A discussion on criminal justice reform with
Senator Christopher Coons '92 and Professor
James Forman, Jr. '92 (Class of 1992)



Life- Changing Legal Education

The Yale Law School experience transforms the lives of students, alters the future of their clients, and changes the national conversation.

**Worker and Immigrant
Rights Advocacy Clinic**

**Arbitration Project
Clinic**

**Financial Markets and
Corporate Law Clinic**

**Global Health
Justice Partnership**

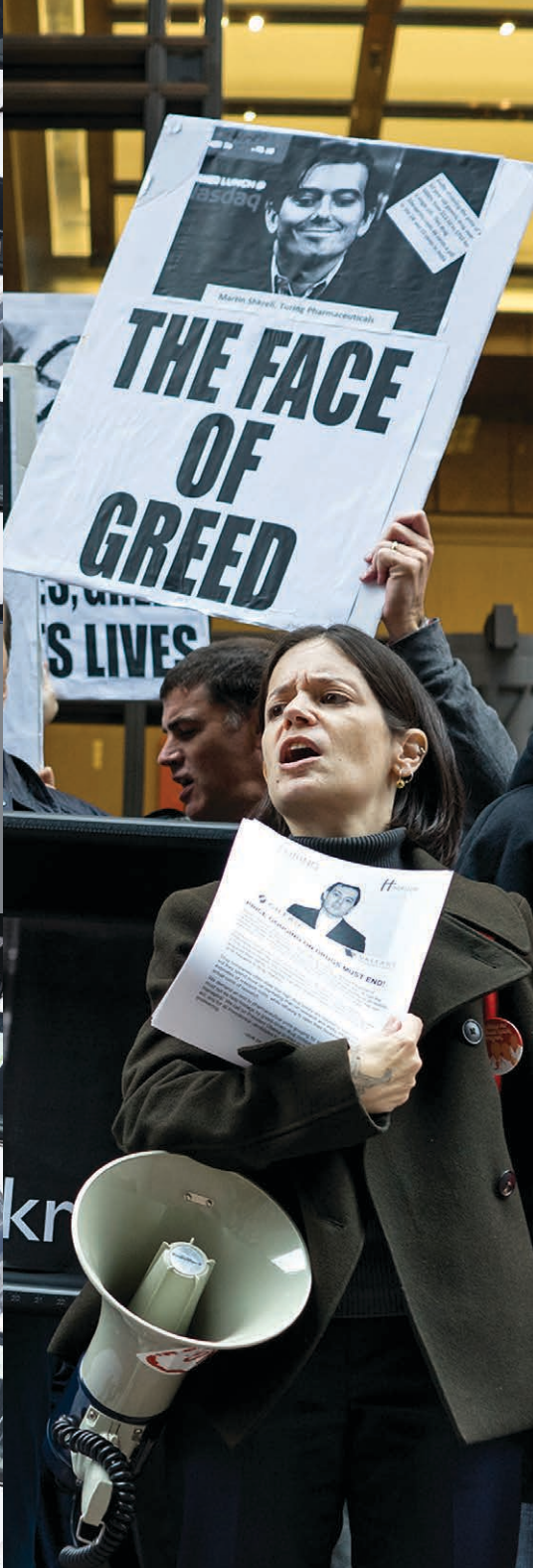
Filing the country's first legal challenge to the abrupt termination of the Deferred Action for Childhood Arrivals



DACA protest. Columbus Circle photo by Rhododendrites is licensed under CC BY-SA 4.0



Deciding actual disputes, awarding damages, and lightening the State's overburdened judicial docket



Addressing the skyrocketing cost of medicines and what it means when people cannot afford life-saving medications



Exploring theories of corporate finance, studying emergent financial technologies, and participating in the process of making policy



Martín Batalla Vidal addressed the media on September 14, 2017 during a press conference about his federal lawsuit challenging the Trump administration's termination of the Deferred Action for Childhood Arrivals (DACA) program. Batalla Vidal is twenty-six years old and grew up in Brooklyn, New York after coming to the United States from Mexico when he was seven years old. He is represented by the Worker and Immigrant Rights Advocacy Clinic (WIRAC) at Yale Law School.

Worker and Immigrant
Rights Advocacy Clinic

Defending the Dreamers

Yale Law School students mobilized to protect their clients from the abrupt termination of the Deferred Action for Childhood Arrivals

When news broke that the President was terminating the Deferred Action for Childhood Arrivals (DACA) this past September, the Worker & Immigrant Rights Advocacy Clinic (WIRAC) wasted no time leading the charge to stand with Dreamers.

In a matter of hours, students and faculty from the clinic went back to federal district court on behalf of Martín Batalla Vidal, a young immigrant New Yorker, and the organization Make the Road New York (MRNY) in the Eastern District of New York. The September 5, 2017 filing argues that President Donald Trump's actions violate federal law and the equal protection guarantee under the Constitution. It was the first legal challenge to DACA in the

nation, coming on the heels of WIRAC's success in securing the first national injunction to the Administration's travel ban back in January 2017.

Members of the clinic were able to act quickly by amending a lawsuit that had originally been filed in 2016 challenging a ruling in *United States v. Texas* that blocked Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) and the expansion of DACA from going into effect. The outcome of this case, which is currently being litigated in both the district court and the second circuit, will have major national implications.

"The stakes are immense," said Emily Villano '19. "Eight-hundred thousand DACA recipients stand to lose their status as a consequence of the Trump administration's decision. Knowing that this touches the lives of so many across the country, including family and friends, is in the background of all the work we do in this case."

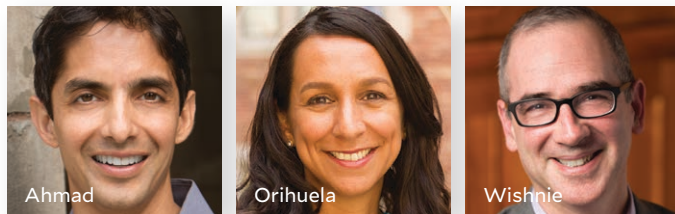
The DACA case is a prime example of the unparalleled clinical experience students receive at Yale Law School. Over the course of the last several months, WIRAC students have researched and drafted briefs, argued their merits in federal court, and led high-profile press conferences with national media outlets.

"Being involved in this case has helped me tremendously in my development as a lawyer," said Hannah Schoen '19, noting how students worked quickly to make multiple filings before the district judge, the magistrate judge, and the Second Circuit. "All of this has allowed me to improve my litigation skills across the board. But more generally, I have learned how law can protect people and ensure that they are treated fairly and non-arbitrarily."

Healy Ko '19 said she came to law school because she wanted to improve the lives of immigrants and workers, and has found WIRAC a rewarding experience as it has helped her reach those goals.

"As a clinical student, I have worked on a wide range of cases that use the law differently to achieve positive changes in the community, from direct legal representation to local advocacy to impact litigation," said Ko. "These experiences have allowed me to explore what it means to be a lawyer and discover what kind of lawyer I hope to be after law school."

Students in WIRAC are guided and trained by some of the top faculty in the country, including Muneer Ahmad, deputy dean for experiential education and clinical professor of law, Marisol Orihuela '08, associate clinical professor, and Michael Wishnie '93, the William O. Douglas Clinical Professor of Law. While these faculty members are integral to the success of the clinic, they stay largely in the background, encouraging students to step up and realize their full potential.



As a former WIRAC student, it is an unbelievable joy for me to work with the students on this case. Since its inception, the clinic has been providing students with the opportunities to blossom into excellent lawyers and social justice advocates.

MARISOL ORIHUELA '08
ASSOCIATE CLINICAL PROFESSOR

"As a former WIRAC student, it is an unbelievable joy for me to work with the students on this case," said Orihuela. "Since its inception, the clinic has been providing students with the opportunities to blossom into excellent lawyers and social justice advocates."

Whether standing before a judge for the first time, consulting with clients, or pulling an all-nighter writing up a brief, Orihuela said the students "live the clinic values by working tirelessly and fighting on behalf of their clients."

Students in the clinic not only get incredible hands-on experience, but they also have the power to change lives. Through their legal advocacy, WIRAC gives a voice to underrepresented clients—immigrants—who at this juncture in the nation's history are finding themselves increasingly vulnerable.

"Though the work has been challenging, I feel very lucky to be part of a team of tireless advocates, DACA recipients, lawyers, students, and allies throughout the country fighting on all fronts to protect this program," said Ko. "Working on the DACA case, in particular, has been very meaningful to me because it is a program that has intimately affected the lives of my family and friends."

"Facing the magnitude of this case, I have been blown away by the courage and fortitude of our clients," added Villano. "I feel honored to be advocating on their behalf, and am simply lucky to be able to stand beside them."

After experiencing WIRAC both as a student and now as faculty member, Orihuela agreed that what truly fuels this passionate team is a strong sense of duty to protect their clients.

"There is no doubt that students came to Yale Law School to become skilled at legal advocacy, which they are doing by litigating in various courts," said Orihuela. "But what is defining their law school experience is the opportunity to stand next to Dreamers, and to fight to make sure the government does not disrupt hundreds of thousands of people's lives at the stroke of a pen." 🗨️

The Cost of Saving Lives

As Yale Law School's Global Health Justice Partnership works to reform prescription drug pricing, its ideas are having a national impact.



Activists hold signs containing the image of Turing Pharmaceuticals CEO Martin Shkreli during a protest in New York highlighting pharmaceutical drug pricing.

States are playing a role now that they often have historically, which is being a laboratory of democracy.

AMY KAPCZYNSKI '03
FACULTY DIRECTOR, GLOBAL HEALTH JUSTICE PARTNERSHIP



Recent headline-grabbing stories such as the epi-pen cost spike and Martin Shkreli's price gouging have provided watershed moments for national conversations about health care and the rising cost of prescription drugs, drawing attention to the alarming trends in the cost of medicines and what it means when people cannot afford life-saving medications. According to the U.S. Centers for Medicare & Medicaid Services, the United States spent \$122 billion on prescription medication in 2000. By 2015, that number had jumped by 266 percent, to \$324.6 billion.

This problem—at the intersection of global health, human rights, and social justice—is the kind of challenge taken up by the Global Health Justice Partnership (GHJP), a program hosted jointly by Yale Law School and Yale School of Public Health that was founded in 2011 by Amy Kapczynski '03, Alice Miller, and Gregg Gonsalves.

In 2016, Kapczynski and students Hannah Brennan '13, Christine H. Monahan '16, and Zain Rizvi '17 published an article in the *Yale Journal of Law & Technology (YJoLT)* titled "A Prescription for Excessive Drug Pricing: Leveraging Government Patent Use for Health." In it, the authors argued that a little-known patent law (U.S. Code Section 1498), which had been used in the 1960s to procure the production of cheaper generic drugs, could be called upon again. And now Rebekah Gee, Louisiana's health secretary, is rallying support for a proposal to the Department of Health and Human Services to invoke Section 1498 to help her state and its citizens.

Brennan, who works for a plaintiff-side law firm that focuses on domestic access to medicines issues and who was an author on GHJP's *YJoLT* article, says that Gee's work is a real breakthrough. "When we first started working on the Section 1498 paper, most people, other than a handful of activists, thought the approach was a bit 'out there' (to say the least)," Brennan told YLR. "Secretary Gee's willingness to explore this option represents a recognition that the status quo in medication procurement does not work for most people, and there are other, workable options that need to be explored."

In May of 2017, Kapczynski and Aaron Kesselheim, who was in fall 2017 the Irving S. Ribicoff Visiting Associate Professor of Law at YLS, wrote an article in *Health Affairs* about Section 1498; Kapczynski, Kesselheim, and Rivzi also wrote an op-ed in the *Washington Post* that month, stating: "By invoking this power, the government could transform our approach to important but drastically overpriced new medicines. Consider the implications for just this one class of medicines: In 2014, the government treated only about 2 percent of all Medicaid recipients who have hepatitis C with Sovaldi, for nearly \$1 billion. If it uses our approach, it could treat all those left untreated for less than \$150 million, plus a reasonable royalty for the company."

In its latest white paper, GHJP is providing more tools to combat high drug prices with a report on legislative actions states can take. "Curbing Unfair Drug Prices: A Primer for States" provides strategies on transparency laws, which seek to clarify the basis upon which drug companies set their launch prices, and price gouging laws, which explicitly prohibit either price increases or absolute launch prices above a certain threshold of unconscionability.

"States are playing a role now that they often have historically, which is being a laboratory of democracy," said Kapczynski.

Adam Pan '19, one of the students who collaborated on the report, was impressed by how important state legislation can be to national policy reform. Pan, along with Kapczynski and Ted Lee '18, presented to the Connecticut healthcare cabinet about the report. "We were able to answer a few questions that members of the cabinet had about legislative efforts occurring in other states," says Pan, "Something we found during our work on the report was that sometimes states were unaware of drug-pricing initiatives in other states."

While GHJP will continue advocating for drug pricing reform, the alumni coming out of the clinic extend the work throughout the country. "More than anything," said Brennan, "GHJP instills a patient-focused approach in its students, ensuring that the patient need drives any intervention. ...[T]oo often in impact litigation the face of the individual client becomes obscured. GHJP reminds its student not to allow that to happen, and I think that is invaluable." ❖

Decision Makers

In the Law School's innovative Arbitration Project Clinic, students hear real cases and award damages in disputes over things such as the New Car Lemon Law Program.



At law schools around the country, it's not uncommon to see arbitration clinics where students represent clients in real-life disputes. However, there are few—if any—like the one at Yale Law School, where students don't simply represent clients but actually decide the case.

"The arbitration project is the only clinic I know where law students get experience adjudicating actual disputes," said Ian Ayres '86, the William K. Townsend Professor of Law and an expert in contract law who leads the clinic.

The Arbitration Project began several years ago as an extracurricular activity available to law students, and in 2017 became an official clinic. The clinic works through a partnership with the Connecticut Department of Consumer Protection (DCP), which provides Connecticut residents with an avenue to resolve disputes over things such as defective cars or problematic home repairs.

The experience gives students a unique look into the world of arbitration while also helping the State hear more cases and avoid clogging up the judicial docket with lawsuits. Each semester, students are responsible for awarding hundreds of thousands of dollars in damages.

"This clinic gives students a rare opportunity as law students—they apply law to facts in the capacity of decision makers, rather than advocates," explained Ayres. "They learn to weigh the value of different types of evidence in order to determine the most likely truth of the situation. They also learn how to run a hearing, ensuring that each side has the opportunity to tell its side of the story and that they receive all of the information they need to come to a fair decision."

Students are prepared for this role with a mix of theoretical and hands-on training. They start by listening to a series of lectures on the substantive law and procedure, then participate in mock arbitrations, and lastly, they observe real hearings.



This clinic gives students a rare opportunity as law students — they apply law to facts in the capacity of decision makers, rather than advocates.

IAN AYRES '86
WILLIAM K. TOWNSEND PROFESSOR OF LAW

Currently, the clinic is mainly responsible for handling the New Car Lemon Law Program and the Lottery Delinquency Assessments Program for the DCP, though in the past they have also handled home repair claims.

"It's a wonderful opportunity to get that real-world experience," said Jeremy Aron-Dine '18, who has served as a co-director of the clinic. "You have a lot of responsibility on your shoulders, and with that comes the opportunity to do a lot of good."

The collaboration enables DCP's legal division to handle an increased workload within its existing resources, which DCP Commissioner Michelle Seagull said has been a tremendous benefit to the State.

"We have had an incredibly positive experience working with Professor Ayres and his students," said Seagull. "They have provided us with well-thought-out decisions and have prompted us to take a fresh look at how we interpret our laws and regulations and how we administer the Lemon Law program, all to the benefit of DCP and consumers."

Ayres and his current and former students agreed that the clinic program provides tangible benefits in the real world while providing an incredibly valuable experience for law students.

"Just the existence of the Lemon Law arbitration program leads many car manufacturers to settle with consumers, and we find that a large fraction (on the order of half) of even those cases set for arbitration settle before the hearing," said Ayres.

"I find it really rewarding that with the arbitration process, we are producing resolutions at a much lower cost than if the parties had gone to court," added Lindsay Brewer '17, who graduated last spring. "It is a much less time-intensive option for consumers to seek redress. I hope our participation in the program gives them a positive interaction with the legal system that is expeditious and comes out with the right result. That's our goal." 🗨️



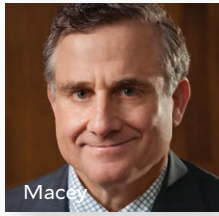
(from left) Lindsay Brewer '17 and Jeremy Aron-Dine '18, alumni of the Law School's Arbitration Project



Financial Markets and
Corporate Law Clinic

New Horizons in Financial and Corporate Law

Led by student-generated interests, the Financial Markets and Corporate Law Clinic explores theories of corporate finance in the context of emergent financial technologies and the creation of regulatory and public policy.



An area of concern for companies wanting to act in an ethical way is the fact that a lot of these conflict minerals originate in countries that lack the rule of law or are being run by militias, where there are horrific and persistent instances of human rights abuses.

JON MACEY '82

SAM HARRIS PROFESSOR OF CORPORATE LAW, CORPORATE FINANCE, AND SECURITIES LAW

Our money is increasingly digital. From paying a dog sitter with an app to consolidating loans, the future is now for financial technology companies. But as our money glides across computer networks, how can we know that financial technology companies are all regulated by the same standards—and working in our best interests?

And the devices on which those apps manage our checking accounts and newsfeeds—how can we know if the component minerals inside our phones and tablets are sourced from conflict-ravaged regions where the extraction and trade of natural resources contribute to humanitarian crises?

These were two issues chosen by students as they thought broadly about the rapidly changing world of emerging financial technologies and regulatory law in Yale Law School's Financial Markets and Corporate Law Clinic, led by professor Jon Macey '82, visiting lecturer Greg Fleming '88, and lecturer Logan Beirne '08.

Students chose to address the conflict mineral laws in the Dodd-Frank Wall Street Reform and Consumer Protection Act. "An area of concern for companies wanting to act in an ethical way, particularly high-tech companies that use certain minerals in manufacturing things like motherboards and cell phones, is the fact that a lot of these conflict minerals originate in countries that lack the rule of law or are being run by militias, where there are horrific and persistent instances of human rights abuses," said Macey, the Sam Harris Professor of Corporate Law, Corporate Finance, and Securities Law.

Clinic students sent a comment letter to the Department of State on Dodd-Frank's conflict mineral laws advocating for changes in the existing laws. They proposed the creation of a report on companies who do not use conflict minerals to reinforce and publicize this behavior and the establishment of an international coalition to promote self-regulation. Aaron Levine '17, a student member of the clinic, said: "Advocates of the regulatory scheme argue that consumers are entitled to know which companies are using conflict minerals, and that these regulations will act as a deterrent to their further use. Opponents contend, among other arguments, that the due diligence required by the rules is too costly for companies and that they might actually hurt the [people] it is supposed to help." The conflict mineral

laws are still being debated as the administration and others claim that these regulations put economic strain on smaller companies.

The clinic's students also looked at the way technology was disrupting the traditional delivery of financial services, particularly banking services. They sent a comment letter to the Office of Innovation at the Office of the Comptroller of the Currency (OCC) to propose special purpose national bank charters for fintech companies (lenders like SoFi [Social Finance], On Deck [a small business lender], and Lending Club [a peer to peer lender] and payment companies like Payoneer and Ripple). These charters would "allow fintech companies to organize themselves and submit themselves to regulations that are appropriate and uniform," said Macey.

According to Drew Ruben '17, who worked on the comment letter to the OCC, granting fintech companies a special purpose national bank charter would make those financial services "more accessible, inclusive, and efficient for consumers." Ruben believes bank charters will be given to fintech companies in the future but says that it remains uncertain which statutory authority should grant them.

The Financial Markets Clinic is just one of the many offerings for students interested in financial markets and regulatory law. The Yale Law School Center for Corporate Law, led by Professor Roberta Romano '80, organizes an array of lectures, roundtables, and panels, in which academics, government officials, and members of the bar and business community participate. Other experiential options include a transactional law competition and the planned launch of an entrepreneurial clinic next year. These activities are enriching ways for students to be active in the industry and be mentored by alumni in the field.

Ruben said that his time in the Financial Markets Clinic taught him "how policy gets made and how to participate in the process." And Levine is seeing the impact of his clinical experience in his first job after law school. "I just started as an associate at a law firm and so much of the work requires teams and collaboration," said Levine. "I'm grateful the clinic gave me the opportunity to work on a real legal issue and in the team-based model that is so common to the legal profession." 📌

A Call to Serve

Bonded by shared experiences and love of country, veterans Aaron Haviland '19 and Tianyi "Tian Tian" Xin '19 bring global perspectives and leadership skills to Yale Law School.



As a small child, Aaron Haviland '19 moved from Manhattan to Haiti, traveling around the world with his family through his father's various State Department postings.

Around the same time, his classmate, Tianyi "Tian Tian" Xin '19, left Dalian, China to move to Texas with her family for a better life in the United States.

Despite these contrasting childhood experiences, both Haviland and Xin remember a strong calling to service at a very early age.

"I had always grown up knowing I wanted to serve," said Haviland, recalling how his uncle was killed in the 9/11 attacks. "I had grown up around Marine security guards at the U.S. Embassies where we lived and always looked up to them."

"I've always had a strong sense that I needed to give back to my adopted country from a very early age," recalled Xin, who grew up in Texas where her parents worked to achieve the American dream.

Xin was drawn to the U.S. Military Academy at West Point, serving as an Officer in the Army upon graduation, while Haviland gravitated to the U.S. Naval Academy and ended up in the Marines. Both served in a multitude of roles in the military and happened to deploy to Afghanistan within two years of each other — Xin as an individual augmentee of the Army's 75th Ranger Regiment in 2014 and Haviland with the 3d Battalion, 9th Marine Regiment in 2012.

Immediately following their service, both students arrived in New Haven in the fall of 2016, drawn to Yale Law School's intimate community and driven by an intellectual curiosity and interest in international law.

Today, their shared experiences in the military and sense of calling to serve the country they love are what bond them here at Yale Law School, even as they engage in different interests and activities.

"Aaron is one of my favorite people at the law school. On paper, we shouldn't be friends at all," said Xin. "We had very different upbringings, we're on opposite ends of the political spectrum, and we root for competing teams in a very intense college football rivalry of Army versus Navy.

"But I respect Aaron a great deal and what I admire about him is that, at the end of the day, we can both put our differences aside and focus on our common interests in the law and on our love of country."

"Tian Tian is one of the most hard-working and well-rounded people I have ever met," said Haviland. "She always looks for common ground and makes friends with everyone, even those with whom she disagrees. Most importantly, she is an amazing friend and one of my favorite people at Yale Law School."

Their friendship embodies the relationship many veterans at the law school have formed with each other. Together through the Yale Law Veterans student group, Xin and Haviland work to come up with fun, social activities that bring student veterans together for support and a sense of community. The group helps incoming students navigate the financial aid process and keeps veterans bonded together during their time here.

"We all look out for each other," said Xin. "We're a small enough group where everyone knows each other and we've all got each other's backs."

"We all come from very different backgrounds and have different — sometimes conflicting — political and ideological beliefs," said Haviland. "Our goal, as a group, is not to push a political agenda. In fact, we go out of our way to make sure that we are not perceived as partisan. What brings us together is a shared common experience of having served our country in uniform."

YLS EXPANDING SUPPORT TO VETERANS THROUGH YELLOW RIBBON PROGRAM

Starting in 2017, Yale Law School expanded its Yellow Ribbon program to provide support to additional qualified veterans who are interested in attending.

The Post-9/11 GI Bill, or Yellow Ribbon Program, provides aid for tuition and fees towards attending both public and private educational institutions.

"It is critical that Yale Law School is doing everything possible to recruit and matriculate more veterans," said Dean Heather Gerken. "Student veterans have tremendous experiences and have made extraordinary sacrifices to serve our country. They make our community a better place and they have our full support."

Under the program, degree-granting institutions of higher learning participating in the Post-9/11 GI Bill Yellow Ribbon Program enter into an agreement with the U.S. Department of Veterans Affairs and choose the amount of tuition and fees that will be contributed. The VA matches that amount.

"Student veterans have tremendous experiences and have made extraordinary sacrifices to serve our country. They make our community a better place and they have our full support." HEATHER GERKEN

"We have increased our contribution to 'unlimited' as of the 2017-2018 academic year, which means that a student who is 100% eligible for Post 9/11 GI Benefits will have all tuition and mandatory fees covered by Chapter 33 Tuition, Chapter 33 Yellow Ribbon match, and the YLS contribution," explained Jaqueline Outlaw, Director of Financial Aid at Yale Law School.

Tianyi Xin said she felt the move was a very positive step for the Law School to take. The Yale Law Veterans student group, which provides resources and support to other veterans at the school, is working to make sure prospective students are aware of these changes and can navigate the application process.

"The move makes Yale that much more attractive a school for veterans applying to top law schools," said Xin. "Helping to decrease the financial burden of attending law school through this change also sends a strong message to all veterans that YLS cares about and values their service and their experiences."



Tian Tian Xin '19
in Iraq, 2016

Tianyuan “Tian Tian” Xin '19

The General’s Speechwriter with a First-Degree Black Belt

At 22 years old, Tian Tian Xin’s first military assignment in the Army was not your ordinary post. Xin was commissioned to be the taekwondo platoon leader for an American military taekwondo demonstration team in the 2nd Infantry Division. In this role, her unit put on martial arts demonstrations around South Korea as a gesture of goodwill to the South Korean population.

“While I did all of the traditional platoon leader things like oversee training, manage my soldiers’ development and military readiness, and deal with the administrative duties of the platoon, I also got to train in Taekwondo,” said Xin. “I had no experience in martial arts when I arrived, but left with a first-degree black belt!”

After that assignment, Xin was deployed to Afghanistan with the 75th Ranger Regiment, serving in the role of an intelligence officer.

There Xin was responsible for quickly assessing intelligence from various sources to identify the “bad guys on the battlefield,” and help advise more senior military commanders how to handle the enemy. She remembers sitting in front of a computer screen quickly sifting through critical intelligence while also watching things play out on a television screen as soldiers conducted raids on compounds.

Her last assignment was serving as speech writer for the three-star general who commanded troops at Fort Hood, during which she was deployed briefly to Baghdad as a member of the military coalition to defeat ISIL.

“In that position, I got a bird’s eye view of how the major military operation to defeat ISIL managed tricky internal Iraqi politics, the sometimes even trickier politics within the American national security apparatus, and the incredible bravery of the Iraqi and Kurdish forces we fought alongside,” said Xin.

Xin prepared for these remarkable experiences in the military through her training at West Point, which she was drawn to after meeting a graduate during a summer program at Yale. She remembers feeling a need to give back to the country that opened up so many doors to her and her family.

Xin moved to the U.S. from China when she was four years old, and her parents — both graduate students at the time — struggled to get by at first.

“For several years, my mom waited tables at a Chinese restaurant to support our entire family, and we bought food from the slightly expired but cheaper vegetables bin at the grocery store,” recalled Xin. “But even during those tough times, my parents never let me forget how privileged I was to live in America. To them, this was the land of freedom and opportunity, and that has proven to be the case a thousand times over.”

Coming straight from Iraq, Xin arrived in New Haven in 2016, drawn to Yale Law School for its small class size and collegial atmosphere. Ever since, Xin has been involved in a diverse array of activities, including Yale Law Women, the *Yale Law Journal*, the Asian Pacific American Law Students Association, the Center for Global Legal Challenges, Yale Law Veterans, and the Rule of Law Clinic. She is particularly interested in national security, holding a unique perspective on how things work in this realm.

“My experiences in the military have helped me appreciate the very tangible consequences of the legal and policy choices that we discuss in class,” said Xin. “I still have many friends and loved ones in the military, and even theoretical ‘what if’ scenarios about foreign policy or national security laws can have direct impacts on people I care about. I think when you have skin in the game, you no longer have the luxury of theorizing about hypothetical scenarios in a vacuum. And that has forced me to think more critically about the second- and third-order effects of decisions we talk about in class.”

One of the things she loves about the Law School is how many of her classmates similarly bring their “rich professional and personal experiences to the classroom.”

“Yale Law School is famous for its legal theory, but the diverse backgrounds of my classmates very much ground our classroom discussions, even the more theoretical ones, in the real world,” explained Xin.

With a long list of impressive accomplishments already behind her, Xin is only just getting started. She hopes to pursue work in national security after graduation and knows that heading back to serving the country she loves could certainly be along her path.

“YLS has some wonderful professors and programs that have helped me explore my interest in national security,” said Xin. “Even though I’m no longer wearing the uniform, I don’t think my tenure working for Uncle Sam is over yet. I’d eventually like to go back to serving my country in some capacity.”

Aaron Haviland '19

From State Department Kid to Marine Officer

Even before joining the military, Aaron Haviland had already traveled the world.

As a child, his family routinely moved across the globe as a result of his father's job. During his childhood, Haviland lived in Bangladesh, Senegal, Pakistan, and India.

Through it all, he knew that he would one day wear a U.S. military uniform, feeling a sense of calling, particularly after he lost an uncle in the 9/11 attacks. In 2005, he attended the U.S. Naval Academy after which he was awarded a scholarship for two years at Cambridge to study international relations.

From there, Haviland went through the Basic School in Quantico, Virginia, where all new Marine Officers learn foundational skills like leadership, navigation, platoon tactics, and operational planning. Following that, he was assigned to be an Adjutant at Camp Lejeune in North Carolina, managing the administrative section for a battalion of 750 to 1,100 Marines. In this role, he oversaw personnel matters, maintained unit orders and policies, and handled correspondence and awards.

During this time, Haviland also coordinated all legal affairs for his unit, including 60 administrative separations, 20 brig confinements, and 30 courts-martial for crimes ranging from drug abuse to sexual assault.

"On legal issues, I had to be my commanding officer's go-to guy," said Haviland. "I coordinated with the on-base lawyers for all our courts-martial. It was a very interesting experience and was one of the things that got me interested in law."

Haviland said while he never expected to be doing this kind of detailed, administrative work in the military, it gave him a true appreciation for the broader mission.

"I realized that the success of the big efforts never comes down to one person and it's often a lot of people doing very menial tasks that don't feel like a big deal at the time," said Haviland. "When you sign up wanting to serve, you have this idea that I'm going go out and change the world and it's going to be like the movies, but you find out it's a lot of nitty gritty grunt work. Seeing how all those fine details come together and how much it matters is humbling."

Deployed to Helmand Province, Afghanistan, from October 2012 to May 2013, Haviland took on even more managerial tasks, supervising the accountability of more than 800 military personnel, 50 civilian linguists, and 400 classified computer hard drives spread across seven forward operating bases. For his work, he was awarded the Navy and Marine Corps Achievement Medal for exemplary service that contributed to the successful closure or turnover to Afghan forces of five military bases. He was also awarded the Navy and Marine Corps Commendation Medal for service in Camp Lejeune.

Once completing his service, Haviland said he was ready to engage in an intellectual community like Yale Law School, and recalls being thrilled when he got in.

"I liked the idea of a small community where people are interested in thinking about complex legal issues," said Haviland.

Haviland has been making the most of his time here, finding himself most interested in constitutional law, international law, and war powers issues. He is on the board of the Yale Law School Chapter of the Federalist Society, and is involved with the Catholic Law Student Association, the Yale Law Veterans group, and the Center for Global Legal Challenges at Yale Law School.

"When you sign up wanting to serve, you have this idea that I'm going go out and change the world and it's going to be like the movies, but you find out it's a lot of nitty gritty grunt work. Seeing how all those fine details come together and how much it matters is humbling."

AARON HAVILAND

This coming summer, Haviland has a position lined up working at Sidley Austin and plans to clerk after graduation before joining a firm in Washington, D.C.

As a decorated military officer and accomplished scholar, Haviland could take any number of paths from law school. He thinks about one day returning to serve in the government. But for now, Haviland is focused on the tasks at hand, understanding that just like in the military, every experience counts.

"In the military I learned the value of gaining experience," said Haviland. "I've realized there is a lot to gain in any job, even if it doesn't seem like the dream job. Eventually you will find out you learned a lot." 🍀



Aaron Haviland '19 in the airport in Bangor, Maine in October 2012, about to leave for Afghanistan.

ALUMNI NEWS



Affinity Groups Meet in NYC

On Tuesday, July 11, 2017, Yale Law School alumni, students, and guests gathered for the New York City Alumni Diversity Reception. Former and current members of the Black Law Students Association, Latinx Law Students Association, OutLaws (the Law School's LGBTQ organization), and the former PANA—now the Asian Pacific American Law Students Association, Middle Eastern and North African Law Students Association, Native American Law Students Association, and South Asian Law Students Association—mingled over drinks and hors d'oeuvres in the waterfront setting of Chelsea Piers. Dean Heather K. Gerken joined more than 120 attendees in celebrating this milestone event.



Throughout the year and in cities across the country, alumni gather for events organized by Yale Law School's Office of Alumni Affairs. Here is a sampling of the events that have taken place over the past six months. Events details are posted on our website law.yale.edu/alumni. Please contact the alumni affairs office if you want to update your contact information, by phone at (203) 432-1690 or by email at alumni.law@yale.edu.

Meet the Dean in NYC

On September 12, several hundred alumni and guests gathered at the Yale Club of New York City to meet Dean Heather K. Gerken and to hear her vision for Yale Law School.



NYC Corporate Law Alumni Breakfast

Sixty alumni and guests joined the Yale Law School Center for the Study of Corporate Law for a **Craig Wasserman '86**/Wachtell, Lipton, Rosen & Katz alumni program about “Financial Regulation: The Future of the Words and Spirit of Dodd-Frank.” The program was held at the Century Association in New York City on November 16, 2017. Moderated by **Roberta Romano '80**, YLS Sterling Professor of Law and director of the Center for the Study of Corporate Law, the panelists were Paul S. Atkins, CEO, Patomak Global Partners LLC, and former commissioner, U.S. Securities & Exchange Commission; Andrew Metrick, Michael H. Jordan Professor of Finance and Management, Yale SOM; **Gabriel D. Rosenberg '09**, partner, Davis Polk & Wardwell LLP; Lawrence White, Robert Kavesh Professor in Economics, New York University Stern School of Business; and Michael M. Wiseman, partner, Sullivan & Cromwell LLP.



Two Judges in Conversation

On November 13, 2017, about 60 alumni and their guests gathered at Dentons for a reception followed by dinner and a conversation between the Honorable **Margaret H. Marshall '76**, former chief justice of the Massachusetts Supreme Judicial Court, and the Honorable **Sidney H. Stein '72**, of the U.S. District Court for the Southern District of New York. **Richard Zuckerman '75** and Dentons co-hosted.



NYC, DC, ILLINOIS

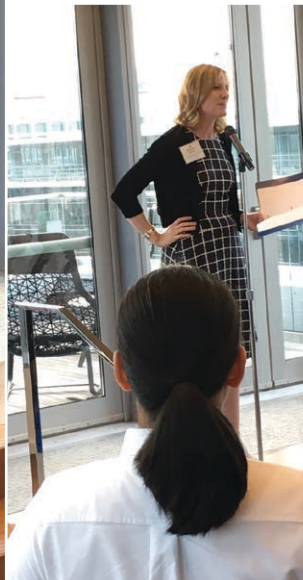
Supreme Court Watchers

On June 28 Yale Law School alumni, current and admitted students, and their guests enjoyed a breakfast panel discussion of the Supreme Court’s Term, hosted by Skadden, Arps, Slate, Meagher & Flom LLP in their New York City offices. **Linda Greenhouse ’78 MSL**, the Knight Distinguished Journalist-in-Residence and Joseph Goldstein Lecturer in Law at Yale Law School, was moderator. Panelists **Boris Bershteyn ’04**, Andrew J. Pincus, **Paul M. Smith ’79**, and **Kenji Yoshino ’96** provided wide-ranging analyses of the justices’ opinions. Supreme Court Watchers gathered in the DC offices of Skadden, Arps, Slate, Meagher & Flom LLP on June 29. Greenhouse again moderated and the panelists were **Beth S. Brinkmann ’85**, **Martin Lederman ’88**, **Jonathan Marcus ’94**, and Andrew J. Pincus.

A third Supreme Court Watchers session took place in Illinois on June 29 in the Chicago offices of Skadden, Arps, Slate, Meagher & Flom LLP. **Renato T. Mariotti ’02**, partner, Thompson Coburn, Chicago, IL, was the moderator. Panelists **Boris Bershteyn ’04**, **Daniel Hemel ’12**, **Candace Jackson-Akiwumi ’05**, and **Michael Scodro ’96** provided analysis.



Supreme Court Watchers sessions were held in New York, DC, and Illinois.



WASHINGTON, DC

Yale Law Women Reception

On July 18, Arnold & Porter Kaye Scholer and Yale Law Women co-hosted a Women’s Reception in DC for alumnae, current students, and incoming students to meet Dean Heather K. Gerken, the Law School’s first female dean. **Amy Jeffress ’92** welcomed everyone to her firm. **Helen White ’18**, speaking on behalf of Yale Law Women, introduced Dean Gerken, who spoke about the trajectory of women at YLS, from their earliest days at the Law School in the 19th century to today’s tally of 52% women in the first-year class.





Martha's Vineyard Summer Cocktail Party

On August 10, **John Firestone '85** and Sandra Miller hosted about 50 alumni and their guests for the 14th Annual YLS Martha's Vineyard Summer Cocktail Party at their home in the historic Oak Bluffs Campground.

NEW JERSEY

New Jersey Dinner and Health Care Fraud Talk

YLS alumni in New Jersey gathered on September 19, 2017, for a reception and dinner at the Harvest Moon Brewery in New Brunswick. The group heard from **Kathleen Boozang '90 LL.M.**, Dean and Professor of Law at Seton Hall Law, about "Healthcare Fraud: A Crippling Problem, A Cash Cow, or a Rogue (DOJ) Agenda?"



PENJERDEL



PenJerDel Garden Party

About thirty alums and their guests attended the annual Garden Party on September 17, 2017, at the home of **Sarah Ricks '90** and **Tom Dolgenos '90** in Philadelphia. **Sarah Light '00** gave a talk about innovation and regulation,

inspiring a vigorous and thoughtful discussion about, among others, Uber and Airbnb.





Buon Compleanno!

On October 18, 2017, the Law School community celebrated Guido Calabresi's 85th birthday in the Ruttenberg Dining Hall. Staff, faculty, students, and alumni gathered to offer their affection and praise for the beloved former dean, professor, and federal judge who has inspired and mentored generations of Yale Law School alumni. Read more on page 24.

Yale Law Report

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