

OUR FACULTY



Parental Recognition and Rights

Douglas NeJaime is a Professor of Law at Yale Law School.



Yale Law Report What problem in family law does your research and scholarship address?

Douglas G. NeJaime Individuals have long parented children to whom they are not biologically related. And with the rise of assisted reproductive technologies and the growth of families formed by same-sex couples, more and more people are forming nonbiological parent-child bonds. But law has insufficiently and inconsistently recognized these individuals as legal parents, if they have not formally adopted their children. And this leads to a lot of practical—and often heartbreaking—problems for these families.

We have available to us legal mechanisms that can solve this problem. Law can continue to provide pathways to parental recognition based on biological connection, but it can also provide pathways based on nonbiological factors. Two leading candidates are intent and function.

For example, consider an unmarried different-sex couple who decides to have a child together using donor sperm because of the man's infertility. We can have a legal rule that provides that a person who consents to a woman's assisted reproduction with the intent to be a parent of the resulting child is a parent of the resulting child. The man would be recognized as a legal parent when the child is born because he is an intended parent.

Or consider an unmarried same-sex couple who has been raising a child together for several years. The woman who gave birth to the child is the legal mother, but what about the other woman? We can have a legal rule that recognizes an individual as a parent if, with the consent of the existing legal parent, that individual formed a bonded parental relationship with the child without expectation of financial compensation. The nonbiological mother would be recognized as a legal parent because she functioned as a parent.

What are some examples of the difficulties faced by parents not legally recognized as parents?

A lot comes with legal recognition as a parent. You can make decisions for the child, register the child for school, oversee the child's medical care, and share benefits with the child (like health insurance). If a couple breaks up and only the biological parent is rec-

ognized as a legal parent, the harms are much worse. The biological parent can cut off contact between the nonbiological parent and the child. This is of course harmful to the parent, but it's especially harmful to the child, who is likely to experience trauma when a primary attachment relationship is severed.

In your article “The Nature of Parenthood” (Yale Law Journal 126, no. 8, June 2017) you argue that a greater legal emphasis on the social dimensions of parenthood could promote greater equality in terms of parental recognition. How can this contribute to the promotion of equality?

For female same-sex couples who marry, law has increasingly treated the nonbiological mother as a legal parent because she is married to the biological mother. In other words, the law that has traditionally applied to a man married to the woman who gives birth can now apply to a woman married to the woman who gives birth. But what about same-sex couples who do not marry? To treat same-sex couples as fully belonging in our system of parenthood, law must provide paths to parental recognition not premised on biological connection and not requiring formal steps like marriage or adoption. Some jurisdictions have recognized this and have opened intentional and functional paths to parental recognition to unmarried nonbiological parents.

It's not just lesbian and gay parents who are disadvantaged in our current system. It's also women in different-sex couples. Notice that historically law could recognize a husband as a father even if he was not the biological father. But for women, parentage flowed inevitably from the biological fact of birth. Women in different-sex couples still struggle to attain parental recognition when they do not have a biological connection to the child. With assisted reproduction, a woman can be a gestational mother but use a donor egg; or she can be a genetic mother but require the services of a gestational surrogate. In deciding whether the gestational or genetic “mother” is the legal mother, law increasingly turns to intent; the woman who intended to be the mother is the legal mother. But for a woman who needs both a donor egg and a gestational surrogate, law requires her to adopt the child—regardless of whether her husband is the biological father.

On February 16, 2018, the Iowa Supreme Court ruled that gestational surrogacy agreements are enforceable in the State, citing the work of Professor Douglas NeJaime in its decision.

The case involved a couple in Iowa who had used a surrogate to have a child through a surrogacy agreement. After the child was born, the surrogate wanted to keep the child, and a court battle ensued. The ruling, which reaffirmed a lower court ruling, was the first time Iowa determined surrogacy contracts can be enforced.

The decision cites Professor NeJaime's article “The Nature of Parenthood” (*Yale Law Journal* 126, no. 8, June 2017).

For a more detailed listing of faculty scholarship and activities, visit law.yale.edu/FacultyActivitiesS18

NEJAIME (CONTINUED)

In other words, for women in different-sex couples, unlike men in different-sex couples, some biological connection is required. Some jurisdictions have repudiated this differential treatment by extending the doctrine of intentional parenthood to men and women who engage in assisted reproduction and are not biologically related to the child.

The New York Times

Case Handled by Kohler-Hausmann '08 cited in NYTimes editorial

A piece by the editorial board argued for the reconsideration of parole for juveniles and cited a case that Issa Kohler-Hausmann handled in which the state appeals court ordered that they take the age of her client into account.

What drew you to work on this legal issue, and why is it important in our current historical moment?

For many years, I've been focused on questions of LGBT equality and family law. Such questions obviously arose in the context of relationship recognition, and specifically marriage. But they continue to arise with respect to parenthood—and they present much more complicated issues. Simply allowing same-sex couples to marry does not treat LGBT people as full members of the community. If different-sex couples can attain parental recognition without marrying, shouldn't same-sex couples as well?

SIEGEL

Reva Siegel Elected to American Philosophical Society

Reva Siegel has been elected to the American Philosophical Society in its 2018 class. Siegel is one of thirty-five new members elected April 27 at the society's



Reva Siegel

annual meeting. The group's mission is to promote knowledge in the sciences and humanities through excellence in scholarly research, professional meetings, publications, library resources, and community outreach. Election to this society, which only numbers about 1,000 members,

honors extraordinary scholarly accomplishment. Siegel was elected as a member of the Social Sciences Class.

Professor Siegel's writing draws on legal history to explore questions of law and inequality and to analyze how courts interact with representative government and popular movements in interpreting the Constitution.

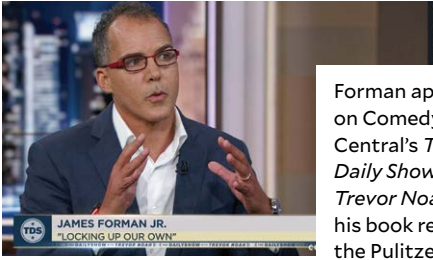


Lawrence Fox, "In Supreme Court, Skepticism of Lawyer Who Overrode Client's Wish To Plead Not Guilty," January 17, 2018:

"The client gets to decide because the client is the person who is going to suffer whatever the result is, and we can imagine many situations where the lawyer could be overbearing."



Henry B. Hansmann '74, Oscar M. Ruebhausen Professor of Law, was the 2018 recipient of the Simeon E. Baldwin Award from the Yale Law School Center for the Study of Corporate Law. In presenting the award, Roberta Romano '80, director of the Center, praised Hansmann's important scholarship in business law: "...Henry has not only made well-cited normative contributions, but also is equally, if not better known for his research on the foundational question of why organizations are structured as they are, rather than writing on how organizations should be organized, and his work has reoriented the field in thinking about corporations."



Forman appeared on Comedy Central's *The Daily Show with Trevor Noah* after his book received the Pulitzer Prize.

Professor Forman Wins 2018 Pulitzer Prize for Book on Race and Criminal Justice

James Forman Jr. '92 received the 2018 Pulitzer Prize in General Nonfiction for his book, *Locking Up Our Own: Crime and Punishment in Black America*. The book, which was also named one of the "10 Best of 2017" by the *New York Times*, explores the complex relationship between race, class, and the American criminal justice system in a new and original light.



James Forman, Jr.

In *Locking Up Our Own*, published by Farrar, Straus and Giroux, Forman wonders—how is it that the number of black elected officials has increased dramatically since the Civil Rights Era, alongside an almost equal increase in black incarceration? By exploring the decisions that many black mayors, judges, and police chiefs made—ostensibly in the hopes of stabilizing what they saw as struggling African American communities—Forman shows that these leaders had a significant, albeit unintended, role to play in the creation of the current state of the criminal justice system.

"James has been an extraordinary voice in one of the country's most important conversations," said Dean Heather Gerken. "It's wonderful to see him getting the recognition he deserves."

STITH

Professor Kate Stith Receives Legal Educator Award

The Connecticut Bar Association (CBA) presented Kate Stith with the 2018 Tapping Reeve Legal Educator Award on April 12, 2018. The award is presented to educators who have made significant contributions to the cause of legal education over a period of years and have distinguished themselves as a legal educator of the highest quality.



Kate Stith

ROMANO



Roberta Romano '80 with Davison M. Douglas '83, dean of William & Mary Law School

Professor Romano Receives Highest Honor from William & Mary Law School

Roberta Romano '80, Sterling Professor of Law and Director of the Yale Law School Center for the Study of Corporate Law, received the 2017–2018 Marshall-Wythe Medallion from William & Mary Law School. The award was presented at a dinner in her honor on March 15, 2018. The medallion is the highest honor conferred by the William & Mary Law School faculty and recognizes those who have demonstrated exceptional accomplishment in law.



Roberta Romano

To illustrate the esteem in which Romano is held by other scholars, William & Mary Law School dean Davison M. Douglas '83 shared excerpts by William & Mary law faculty about her stature and contributions.

One faculty member, Douglas said, wrote that Romano "has done truly path-breaking work in corporate law with sweeping policy implications. Perhaps her signal contribution was to raise serious doubts about Professor Carey's hypothesized 'race to the bottom' among states.... It is no exaggeration to say that her writings on this critical topic have to a large extent disrupted and reshaped the debate on state competition for incorporation business."

Another faculty member hailed Romano as "one of her generation's leading voices in corporate and securities law" and described how she deftly combines empirical evidence and compelling arguments in her writing.

Douglas said an award named in part for George Wythe, Thomas Jefferson's mentor, seemed particularly fitting for Romano, who has mentored many young scholars throughout her career.



On Twitter

Tracey Meares
@mearest
April 5

"My thoughts on police reform after the Stephon Clark shooting in Sacramento." After Stephon Clark Shooting, Questions Remain About Police Use of Force <https://t.co/rxMXIsKgZM>

THE
NEW YORKER

Balkin's Concept of Information Fiduciary Widely Cited in Testimony and Media

In April, **Jack Balkin** and his concept of an information fiduciary was discussed during Mark Zuckerberg's testimony in the Senate. This idea was seized upon by the press and Balkin's scholarship was discussed in the *New Yorker*, the *Verge*, and *Bloomberg View*.

PARRILLO

Professor Parrillo Testifies Before Congress on Regulatory Process

On March 14, 2018, Professor Nicholas R. Parrillo '04 testified before the U.S. House of Representatives Committee on Oversight and Government Reform. Parrillo spoke during a hearing entitled, "Shining Light on the Federal Regulatory Process."



Nicholas R. Parrillo

Parrillo was called to give testimony about a study he conducted in 2016-17 of how federal agencies issue and use guidance documents and how those documents affect regulated parties and other stakeholders. The study was commissioned by the Administrative Conference of the United States (ACUS), an independent federal agency that devises best practices for government administration. Its decision-making body is a combination of agency political appointees, civil servants, industry and NGO representatives, and academics. This past December, ACUS used Parrillo's study as its empirical basis in unanimously adopting a new set of best practices for how agencies should use guidance.

Guidance documents, as a category, cover all public statements that federal agencies issue, short of binding regulations, that advise the public on how the agency plans to exercise its discretion or interpret law.

"They are essential and ubiquitous instruments of government administration, and individual companies find them really valuable in figuring what they need to do to stay on the right side of the law," Parrillo said. "However, these documents are also controversial, because while they are legally supposed to be nonbinding, business people have often complained that, in real life, you have no practical choice except to follow them. To the extent these documents are in fact coercive, they are open to criticism because the bureaucracy has the



Nicholas R. Parrillo '04 testified before the U.S. House of Representatives Committee on Oversight and Government Reform

power to issue them at will, with little process or transparency."

For example, the law lays out standards for how safe an airplane has to be before it can fly, or what characteristics a food product needs to have before it can be sold as "organic." But the law contains a lot of provisions that are open-ended, so agencies like the Federal Aviation Administration or the Department of Agriculture issue guidance documents that provide airlines or farmers with more specifics about what they should do to comply, Parrillo explained. In the day-to-day work of airplane maintenance or organic farming, the guidance rather than the law is often what provides practical answers to immediate questions. The guidance isn't itself law—it's only supposed to be suggestive—but business people sometime think it goes farther than that, according to Parrillo.

“However, these documents are also controversial, because while they are legally supposed to be nonbinding, business people have often complained that, in real life, you have no practical choice except to follow them.”

NICHOLAS PARRILLO ON GUIDANCE DOCUMENTS



Donald Elliott, in "EPA in the Trump Era: The Superfund Enforcement Initiative," February 21, 2018:

"Perhaps this is the most controversial aspect of the Pruitt EPA's Superfund enforcement initiative: the expanded use of unilateral administrative orders to a point that stretches the bounds of statutory and perhaps even constitutional limits. UAOs were intended by Congress to deal with relatively clear situations that pose an immediate 'imminent and substantial endangerment' to public health, not merely situations in which the EPA has become frustrated by 'protracted' delays in its own administrative processes."

DISCUSSIONS



Professor Daniel Esty '86 collaborated on a Facebook Live broadcast with Yale President Peter Salovey from the World Economic Forum 2018 in Davos, Switzerland. They discussed the important role that science plays in addressing environmental challenges like climate change.



Professor Amy Chua was in conversation with General David H. Petraeus at New York's 92nd Street Y on February 29, 2018 about political tribes.

DOHERTY

Q+A Professor Doherty on Mass Incarceration and the Continuum of Punishments

Fiona Doherty '99 was promoted to Clinical Professor of Law at Yale Law School in the fall of 2017. She has taught the Criminal Justice Clinic, the Advanced Sentencing Clinic, a seminar on federal sentencing, and the Veterans Legal Services Clinic. In 2014, Professor Doherty received the Yale Provost's Teaching Prize. Professor Doherty's current scholarship focuses on supervised release, probation, and parole. She has published in the NYU Law Review and in the Georgetown Law Journal.

On the occasion of Professor Doherty's promotion, we asked her a few questions about her research and teaching.

Yale Law Report Tell us about the Criminal Justice Clinic (CJC), which you direct.

What kinds of cases does the clinic handle?

Fiona Doherty Students in the Criminal Justice Clinic (CJC) represent indigent clients in state and federal criminal cases. When they first enter the clinic, the students defend people who are charged with criminal offenses in the local New Haven courthouse. In subsequent semesters, returning students have handled sentencing cases and policy initiatives that involve systemic issues. CJC students have worked on federal clemency petitions, for example, and juvenile resentencing cases. The clinic's mission, above all else, is to achieve the best possible outcomes for its clients.

Our work in CJC is enhanced by the varied nature of the cases that the students take on. Over the years, CJC students have represented clients in a large number of misdemeanor cases (involving charges like larceny, assault, and disorderly conduct) and a wide range of felony cases (involving charges like violations of

protective orders, weapons charges, and drug charges that carry mandatory minimums). Many students have also represented clients who simultaneously face new criminal charges and petitions to revoke their probation or parole. I've found that the complexity of the clinic's docket allows students to develop deeper insights about the real-world structure and impact of the criminal justice system.

CJC recently released a report on Connecticut's parole revocation process. Tell us about the report and the impact it has had thus far?

CJC agreed to study the parole revocation process in Connecticut, at the request of the governor and his staff, in order to suggest ways to reduce the high rate of incarceration attributable to violations of parole conditions in Connecticut. As part of our study, CJC students and faculty observed 49 different parole revocation hearings and interviewed parolees in depth about their experiences. In September 2017, CJC released a public report that detailed its findings:

"Parole Revocation in Connecticut: Opportunities to Reduce Incarceration."

The parole project is an example of the policy work that the clinic has taken on to let students explore the different roles that lawyers can inhabit in pursuit of a broad law reform agenda. The project has led to many significant reforms of Connecticut's parole system. In response to the students' findings, for example, the Board of Pardons and Paroles began to hold automatic preliminary hearings in all cases involving parolees accused of technical violations of parole. These hearings provide an early opportunity for the Board to review the strength of the evidence against parolees and evaluate the necessity of detention.



Fiona Doherty



Thomas Ullmann

In Memoriam: Thomas Ullmann

Thomas Ullmann, a Visiting Clinical Lecturer in Law at Yale Law School, passed away on April 14, 2018, while hiking the Adirondack Mountains in New York.

Ullmann brought to the Law School a wealth of experience as a public defender. He joined the New Haven Public Defender's office in 1985 and was named chief public defender in 1992. Until his retirement in the fall of 2017, Ullmann provided indigent clients with legal defenses in major felony cases in the towns and cities that comprise the New Haven Judicial District. He was recognized as a "Champion of Liberty" by the Connecticut Criminal Defense Lawyers Association in 2011 and for "Distinguished Service to the Bar" by the *Connecticut Law Tribune* in 1995. A graduate of Quinnipiac College and the University of Connecticut School of Law, Ullmann was a member of the Connecticut Sentencing Commission, a member of the advisory board of the *Connecticut Law Tribune*, and past president of the Connecticut Criminal Defense Lawyers Association.

W WalletHub

David Schleicher, in "2018's States with the Best & Worth Taxpayer ROI," April 2, 2018:

"If I had to isolate one tool for using revenue more efficiently, it would be to empower individual officials and hold them publicly accountable. Mayors, governors and county executives are prominent enough that they can be monitored by voters and public interest groups in ways that myriad legislators and other officials cannot be. This publicity and potential accountability give them better incentive. Giving these officials lots of power, asking them to govern directly, and then making cost overruns, their problems should lead to greater efficiency. As Mark Twain's Pudd'nhead Wilson said, 'Put all your eggs in one basket and watch that basket.'"

Q+A Professor Listokin Breaks Down the New Tax Bill

Yair Listokin '05 is the Shibley Family Fund Professor of Law at Yale Law School. His scholarship examines tax law, corporate law, and contract law from both empirical and theoretical perspectives. He is particularly interested in the interactions between law and macroeconomics.

In December 2017, new legislation made sweeping changes to the U.S. tax code that will begin impacting the economy this year. Professor Listokin has examined the new tax legislation and offers his opinions on how some of the biggest changes could play out.



Yair Listokin

Yale Law Report What are some of the major changes in the recently passed tax legislation?

Yair Listokin The reduction in the corporate tax rate from 35% to 21% is the biggest change. Other big changes include the creation of a special deduction for income earned by pass-through entities such as partnerships and LLCs, and the partial elimination of the alternative minimum tax, and the deductibility of state and local taxes from federal taxable income.

Proponents of the bill believe the large corporate tax cut will encourage companies to invest in the United States, leading to more jobs and higher wages. Do you think that is the case?

Fifteen years ago, I would have answered unambiguously yes. Corporate finance predicts that investment rises as the after-tax return on capital increases and falls as the cost of capital (the relevant interest rate) decreases. Lowering the corporate tax rate raises the after-tax return on capital. So, lowering the corporate tax rate should, in theory, raise investment.

The problem is that this prediction of corporate finance hasn't been performing so well. Returns on capital have been very high over the last few years. Interest rates have reached historic lows. So corporate investment should be booming, but it hasn't been. I'm reluctant to double down on a theory that hasn't been performing well. But that's what we are doing by lowering corporate taxes in the hope of an investment boom.

Ultimately, in your opinion, who stands to gain the most from this bill and who stands to lose the most?

Owners of capital stand to gain the most. Corporate taxes fall largely on shareholders. And the rules on

who is eligible for the special rate for pass-through entities make it easier for capital-heavy businesses, like real estate, to qualify for the deduction relative to labor-intensive industries, like law or consulting. So, owners of capital—the rich—benefit the most.

The losers are the people whose taxes rise or whose benefits get cut in order to pay for the reduction in taxes on capital. We don't know exactly who these are as of today, because the tax cut is largely unfunded. We know that high earners in states with high rates of state and local taxes will benefit less from the bill than people with similar incomes in other states. In the long run, middle class families also lose, because more of their income will be in higher tax brackets as time goes on due to a change in the way brackets are adjusted for inflation. But until we know what else changes to pay for the tax cut, we don't know the identities of all the people who stand to lose the most from this legislation.

What aspect of the bill will you be examining the most over the next few years and why?

I am very interested in the interaction of law and macroeconomics, so I'll be focusing on the macroeconomic implications of the changes. In particular, I'm concerned that the bill weakens the power of the income tax as an automatic stabilizer. Automatic stabilizers are economic policies and programs designed to offset business cycle fluctuations in the economy without requiring the passage of a new law.

Profits fluctuate dramatically with the business cycle. In 2009, for example, corporate profits were almost 30% less than in 2007. As a result, the corporate income tax is a great automatic stabilizer. When the economy is booming, corporate profits are high and we collect a lot of tax revenue. But when the economy plunges into a deep recession, corporate tax revenues automatically go down with corporate profits.

Because the tax bill reduces tax rates, it reduces the power of the income tax as an automatic stabilizer. Now, we'll collect less revenue from corporations in booms, making them frothier, and less in busts, making them harsher. Indeed, I estimate that, if this bill had been in effect in 2009, it would have caused the equivalent of an anti-stimulus bill equal to 1.5 times the size of the tax cut provided by the Obama stimulus in 2009. That's a big problem, especially if our political system continues to be unable to respond to the business cycle.

DAILY NEWS

NYDAILYNEWS.COM

Yair Listokin '05, in "Let the Fed's Cap on Tax Deductions Stand," March 9, 2018:

"There are already plenty of ways to legitimately minimize tax obligations by taking advantage of the many deductions in our tax code. If people take advantage of these provisions in unintended ways as well, then the integrity of the tax code is deeply compromised. And if states and localities are willing to pass laws that enable an end run around the intent of a tax statute, then it's hard to argue that ordinary citizens should show greater respect for the purpose of the tax laws."

theguardian

Samuel Moyn, in "A crisis for human rights: new index reveals global fall in basic justice," January 31, 2018:

"Within many nations, these fundamental rights are falling prey to the backlash against a globalising economy in which the rich are winning. But human rights movements have not historically set out to name or shame inequality."

SCHULTZ

Yale Law Hosts Panel on the #MeToo Movement

On April 10, 2018, Yale Law School hosted a panel titled, “Sexual Harassment Law in the Age of Trump and #MeToo.” Panelists included Professor Vicki Schultz of Yale Law School, Tanya Hernández ’90 of Fordham Law School, Rachel Tuchman ’17 of Kaplan & Co, Shannon Minter of the National Center for Lesbian Rights, Cari Simon of the Fierberg National Law Group, and Anna McNeil of the student activist group Engender.



Vicki Schultz



Each panelist spoke about diverse problems labeled as “sexual harassment” and the ways to address them effectively. Professor Schultz called upon the #MeToo movement and the media to adopt the broader legal definition of sexual harassment that includes not only unwanted sexual advances, but any conduct that deems or excludes people because of their sex — including many non-sexual forms of sexism and mistreatment such as gender-based ridicule, social ostracism, non-sexual assault, and work sabotage. Focusing narrowly on sexual misconduct alone erases these everyday forms of harassment, which research shows are far more prevalent than unwanted sexual advances and particularly harm women in male-dominated settings, LGBTQ people, and others who defy conventional gender norms.

See video at <https://vimeo.com/264468235>

Yale Law Journal, Stanford Law Review Publish #MeToo Symposium

The *Yale Law Journal* and the *Stanford Law Review* collaborated in June to publish a special companion symposium titled, “#MeToo and the Future of Sexual Harassment Law.”

In an effort to bring law into conversation with the #MeToo movement, the symposium outlines lessons from #MeToo for activists, scholars, policymakers, lawyers, and judges. The series of articles offers 12 leading scholars’ insights on the ways sexual harassment produces and is produced by broader forms of inequality in the workplace and beyond. Their essays challenge the understanding of sexual harassment that has largely dominated media reporting about the #MeToo movement. Together, they provide the most comprehensive legal analysis of the issues surrounding the #MeToo movement to date.

“These essays develop a much broader conception of sexual harassment than most media reports in the #MeToo era have adopted,” said Yale Law Professor Vicki Schultz, who 20 years ago pioneered a new understanding of sexual harassment in two groundbreaking *Yale Law Journal* articles. “This symposium focuses not only on sexualized advances and assaults, but also on the many other, even more common ways that harassment upholds workplace sexism, polices gender roles, and limits opportunities at work and elsewhere.”

The symposium includes an “Open Statement on Sexual Harassment from Employment Discrimination Law Scholars,” which is signed by 10 of the top scholars in this field. This statement offers 10 principles for addressing sexual harassment, along with more than 60 specific legal reform proposals.

To read more about this work, visit law.yale.edu/MeTooSymposium



John Morley

“The Common Law Corporation: The Power of the Trust in Anglo-American Business History” by **John Morley ’06** was selected as one of the Top 10 Corporate and Securities Articles of 2017 by *Corporate Practice Commentator*. The list was a result of the publication’s annual poll of teachers in corporate and securities law and selected from more than 565 articles suggested.

APPEARANCES



Professor Ian Ayres ’86 spoke at the University of Texas on February 22, 2018. His keynote address was on “Government as Platform.”



Professor Abbe R. Gluck ’00 spoke about the opioid crisis at Georgia State Law’s Order of the Coif Distinguished Visitor Lecture on March 27, 2018.

Q+A Professor Liscow Studies Economic Impact of Immigration Status

Associate Professor Zachary Liscow has co-authored a paper titled, “Does Legal Status Affect Educational Attainment in Immigrant Families?” The paper measures the effect of legal immigration status on the educational choices of Hispanic teenagers by comparing siblings who differ in their legal status due to their birth country. Liscow’s teaching and research interests focus on tax law, tax policy, empirical legal studies, and law and economics. We asked Liscow about the findings of his paper and why it is important to understand the economic impacts of immigration status.



www.tolerancemeans.com

William Eskridge and Robin Fretwell Wilson, a professor at the University of Illinois College of Law, have collaborated on a website *Tolerance Means Dialogue*, which promotes public discussions with students and thought leaders to find more constructive approaches to living together in a pluralistic society. Chris Talbot '20 won the first scholarship offered by the initiative. Eskridge and Wilson are writing a book on this topic, which will be published later in 2018.

Los Angeles Times

Ian Ayres and Frederick Vars, in “A New Way to Reduce Gun Suicides, and Maybe Mass Shootings Too,” March 12, 2018:

“The idea is simple: Give people who believe that they may become a risk to themselves or others a way to put distance between themselves and firearms. Under the new law, Washington citizens can add their names to a do-not-sell list, thereby suspending their ability to buy guns from licensed dealers.”

Yale Law Report What made you interested in examining this topic?

Zachary Liscow Over the last several years — and especially in the past year — the legal status of immigrants who arrived in the U.S. as children without documentation (the so-called “Dreamers”) has been a major policy issue. As an empiricist who has worked on some education-related topics, I (along with my coauthor William Woolston) thought that it would be helpful to bring some more empirical evidence to this area to help inform the policy discussion. In particular, this was a case in which we could both help to answer an important policy question — what’s the impact of documentation status on high school educational attainment? — while using the rigorous methodology of comparing undocumented children with their U.S.-born (and thus U.S. citizen) siblings. Doing so helps address a variety of concerns that one might have about the existing studies that just compare undocumented teenagers with citizens, which could be confounded by a variety of factors, like different families and different environments.

The findings suggest that being undocumented roughly doubles high school students’ dropout rate relative to their U.S.-born sibling and leads to substantial wage decreases. How does that affect the U.S. economy?

Of course, impacts on the economy are complicated. But the most direct impact is probably that more educated people tend to earn more money. Our results suggest that granting documentation status would lead to an increase of more than \$8,000 per undocumented immigrant, which in turn implies billions of extra dollars of earnings across all undocumented teenage immigrants. More educated and thus more

productive residents are likely to lead to increased government revenues as well.

If the DREAM Act becomes law, will it improve this trend?

Yes, I think that it is reasonable to infer that, if something like the DREAM Act becomes law and grants permanent legal status to undocumented children, more high school students will graduate, since, for example, they will have the incentive to invest in the education to get jobs that they would not otherwise be able to get if they were undocumented.

Why is it important that economists pay attention to this issue moving forward?

Education is one of the most important tickets to economic success in the 21st century. Our paper shows that changing documentation status has a large impact on educational attainment for this segment of the population. And, as one among a host of other considerations, we think that this impact on education is one important factor to consider in the debate on the DREAM Act and similar legislation.



Zachary Liscow



Susan Rose-Ackerman was a panelist at the Annual Meeting of the World Bank Group International Monetary Fund in October 2017 on the subject of Fighting Corruption.

RESNIK

Professor Judith Resnik Awarded Andrew Carnegie Fellowship

On April 25, 2018, Professor Judith Resnik, the founding director of the Arthur Liman Center for Public Interest Law at Yale Law School, was selected as a member of the 2018 class of Andrew Carnegie Fellows, awarded to support innovative scholarship on pressing contemporary issues.

Resnik is among a group of thirty-one extraordinary scholars and writers to receive the two-year grants that enable recipients to have time for sustained research and writing. Resnik, the Arthur Liman Professor of Law, received this fellowship to write a book, *The Impermissible in Punishment: Whipping, Isolating, Disenfranchising—and Imprisoning*. As she explains, the “question of punishment is not, of course, new, but what happens after sentencing and in prison has not been much in focus.”

The Andrew Carnegie Fellowship enables Resnik to trace the transnational history of prison reform and to analyze the remarkable efforts of individuals who, despite horrid conditions of incarceration, insisted that they were entitled to law’s protection and succeeded in gaining recognition as rights holders. Her goal is to explore the implications of that status for the legitimacy and legality of the totalizing control that is common in many prisons today. In short, this project analyzes how obligations of democratic states toward people in and out of prison are forged, and why the debilitation that many prison systems impose is beyond what governments should be able to inflict as punishment for crimes.

“I am thrilled that Judith Resnik’s important scholarship has been recognized by the Andrew Carnegie Fellowship,” said Dean Heather Gerken. “I look forward to seeing what brilliant work she will produce in the coming years.”



Judith Resnik

PETERS

Jean Koh Peters to Retire in 2019

Professor Jean Koh Peters will retire and take Emerita status as of July 1, 2019, after 30 years at the Law School and 36 years in law practice.

“My time at the Law School, with my students, clients, and with this Community, has been the adventure of a lifetime, for which I will eternally be grateful,” Peters said.

Peters is the Sol Goldman Clinical Professor of Law at Yale Law School. An expert in children, families, and the law, she joined Yale Law School in 1989 as an associate clinical professor and supervising attorney for the Jerome N. Frank Legal Services Organization. She was named clinical professor in 1993 and was named the Sol Goldman Clinical Professor of Law in October 2009.



Jean Koh Peters

She currently supervises students in the Sol and Lillian Goldman Family Advocacy for Children and Youth Clinic and the Immigration Legal Services Clinic.

Professor Peters has published numerous articles and is author of the book, *Representing Children in Child Protective Proceedings: Ethical and Practical Dimensions*, now in its third edition. She is the co-author, with Mark Weisberg of Queen’s University in Kingston, Ontario, of *A Teacher’s Reflection Book: Stories, Exercises, Invitations*, forthcoming from Carolina Academic Press. She is also the co-creator, with Susan J. Bryant of CUNY School of Law, of the Habits of Cross-Cultural Lawyering, a curriculum now taught in law school clinics around the country. Professor Peters and Bryant are currently writing a chapter following up on the Habits after a decade; this chapter will be published in a forthcoming anthology on clinical pedagogy.



On Twitter

Michael J Wishnie
@MikeWishnie
April 19

“Another day, another big step: CT agency issues guidance ‘warning employers they could be breaking the law if they discriminate against veterans with less-than-honorable discharges.’ @iavct1 @CT_CHRO lead the way in honoring service of those with #badpaper”
<https://t.co/Oy4mmXoeCH>



On Twitter

Miriam Gohara
@msgohara
April 19

“Reflecting on the relentless work of reforming the criminal legal system: it takes exposing all the invisible pockets of injustice to the light, making a record. It matters, every time, even if we don’t win every time. We shed light, we tell client’s stories, we document wrongs.”

Professor Gluck ’00 Elected to ALI Council



Abbe R. Gluck

Abbe R. Gluck ’00 was elected to the American Law Institute’s (ALI) Council on May 21, 2018. Gluck was one of only two people elected to the highly selective Council. ALI is the leading independent organization in the United States producing scholarly work to clarify, modernize, and improve the law.

Council members are elected from the Institute membership for terms of five years. Five incumbent members of the group were also re-elected, including Yale Law Professor Harold Hongju Koh and Justice Goodwin Liu ’98. Donald B. Ayer of Jones Day was elected to the Council along with Professor Gluck.