

# DEAN'S NOTE



Dean Gerken enjoys a visit with alumni in Houston, one of the more than a dozen “meet the dean” events she participated in this past year.

## Dear Graduates and Friends of Yale Law School:

As I reflect on the first year of my deanship, I am grateful for the enormous outpouring of support I have received from this community. For the past 12 months, I’ve taken part in “meet the dean” events in 14 cities, participated in focus groups, and had hundreds of individual meetings. I feel fortunate to have had the chance to speak to almost 3,000 alumni since starting this job.

More importantly, I listened. Here is what I heard.

I heard you speak of your love for this school. So many of you told me stories about the way that this law school challenged you, affected your careers, even changed your lives.

You shared with me your pride in the work our students and faculty are doing. We remain unchallenged leaders in the academy. Many of you regaled me with stories about the extraordinary discussions that took place in your classes, your admiration for your classmates, and your moving interactions with the faculty. (I’ve also collected enough Guido stories to fill a book!)

You also gloried in the fact that our students are doing practical work of a scope and ambition unknown at any other law school. **This year, we've proudly watched our clinics secure not one, not two, but three nationwide injunctions. It's a heroic feat, unmatched by any other institution, let alone a law school.** Other schools have clinics that serve veterans as they move through the system. Our veterans clinic made it possible for veterans to bring class actions for the first time in history. Other community and economic development clinics help write licenses for small businesses. Ours started the first community bank in New Haven and negotiated a massive real-estate deal to bring a Stop&Shop supermarket to a neighborhood that lacked access to fresh vegetables. At other schools, clinic are shunted to the sidelines of the school's intellectual life, and only a handful of students take part. At Yale, 80 percent of our students participate in a clinic, and they can do so for five semesters. The next time someone teases you about Yale students "not knowing the law," ask them what their law school has been doing on the practice front.

Spend a year on the road talking to alumni, and you'll quickly discover that Yale Law School graduates lead in every sector of society. While the Law School's role in training leaders in the public sector is well known, it plays just as dominant a role in training leaders in the private sector. Many of our graduates travel from Wall Street to Wall Street. They found intellectual movements, companies, and nonprofits. They work in the Department of the Treasury and the Department of Justice. They are hedge-fund managers and judges. They lead law firms and government agencies.

While *leadership* is a word often associated with Yale Law School, our educational model is fundamentally different from those found at business or policy schools. Our model produces sharply analytic thinkers who are deeply steeped in legal discourse, trained to problem-solve, and able to work through the thorniest ethical issues. Given the combination of training and talent that our graduates enjoy, it is no surprise that almost all of them *lead* at some point in their careers.

**The YLS degree, in short, has served as an all-purpose leadership degree for a remarkable number of graduates.**

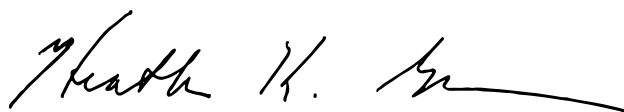
Finally, you celebrated our efforts to diversify the community and make it a welcoming place for all. **We have admitted the three most diverse classes in our history.** While we don't yet have official numbers for this year's new admits, 48 percent of our rising 2Ls are students of color, almost 20 percent are the first in their family to go to professional school, and almost 10 percent are the first in their family to graduate from college.

Here's what touched me the most about those conversations: When I noted that many of our students come to Yale without robust professional networks, you immediately volunteered to help. With your support, in the next few years I hope to build robust professional networks. Our aim is to provide mentorship for our students from the moment they are admitted to well after they graduate. As this issue makes clear, you have all pursued many paths. Now you are offering to light up the paths for the many students who want to follow in your footsteps.

As the 17th dean of Yale Law School, it is a great privilege to build upon the School's remarkable legacy as we train the next generation to meet the challenges of the 21st century. None of this is possible without the resources and the wisdom that generations of you have provided. You have invested in our students, giving generously of your time and talents. Because of your service to this School, we thrive.

Please stay in touch.

Warmly,



Heather  
[heather.k.gerken@yale.edu](mailto:heather.k.gerken@yale.edu)



# OPENING STATEMENT



Allana Kembabazi '15 (top); Former Fellows Michelle Jonker-Argueta '11, Sharanya Kanikannan '11, Erin Evers '11, and Alisha Bjerregaard '08, with Jim Silk '89.

# At 2018 Bernstein Symposium, Bernstein and Robina Fellows Discuss Solidarity in the Face of Hostility to Human Rights

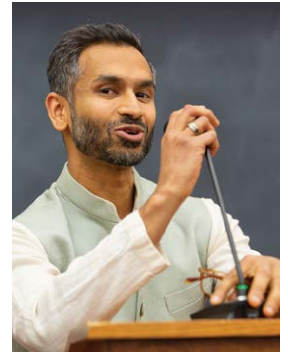
**At the 2018 Bernstein** International Human Rights Symposium, panels made up entirely of Yale Law School alumni discussed the threats facing human rights today and how to respond to them. The conversation ranged from the theoretical—such as the limits of traditional legal frameworks in upholding human rights—to the personal, covering challenges speakers have encountered in their own careers. With support from the Oscar M. Ruebhausen Fund at Yale Law School, 63 of the 85 former Bernstein and Robina fellows attended the symposium, which celebrated the 20th anniversary of the Bernstein Fellowship and the 10th anniversary of the Robina Fellowship in human rights.

At the beginning of the symposium, Professor Harold Hongju Koh honored the symposium’s namesake, Bob Bernstein, who helped to found Human Rights Watch and the Bernstein Fellowship. Koh recalled the vision he and Bernstein had shared for the fellowship—that it would open a door to human rights careers for generations of Law School graduates. Gesturing to the former fellows in the audience, Koh said, “Look at what you’ve got, Bob—a roomful of Bernsteins.”

In the keynote address, Vivek Maru ’01, CEO of Namati, addressed the limits of today’s legal systems. Maru stressed that while many laws exist to protect people’s rights, most people either do not know about them or mistrust them. Maru’s organization trains and deploys paralegals—often known as “barefoot lawyers”—who work with local communities to bridge the gap between people and the law. Maru urged, “We need to turn law from abstraction into something everyone can understand, use, and shape.” Several former fellows responded to Maru’s keynote, including Allana Kembabazi ’15, who works at the Initiative for Social and Economic Rights in Uganda. Kembabazi echoed Maru and added that human rights, as well as the law, are becoming increasingly inaccessible and irrelevant to the people who need them most. “We have forgotten how to build relevant movements,” she said. In the discussion that followed Maru’s keynote address, Sari Bashi ’03—the director of Human Rights Watch’s Israel-Palestine office—compared human rights work to marathons and advised the audience to “find beauty in the struggle.” She added, “With the right

amount of awareness and humility, we can achieve more than we think.”

In the symposium’s closing remarks, Jeff Prescott ’97, executive director of National Security Action and former Special Assistant to President Barack Obama, summarized many of the points made during the symposium about defending and improving the human rights movement. “To take this on,” he said, “It has to start with a community. I can really think of no better one to do this than a room full of Bernstein and Robina Fellows.”



“ We need to turn law from abstraction into something everyone can understand, use, and shape.” VIVEK MARU ’01, CEO OF NAMATI



(top) Vivek Maru ’01; (clockwise from above left) Bob Bernstein, Jeff Prescott ’97, Sari Bashi ’03; Tara Melish ’00, Ryan Thoreson ’14, Meghan McCormack ’14, Efren Olivares ’08, and Sharanya Kanikkannan ’11 discussed clashes that occur between human rights and cultural traditions.



# SCHOOL NEWS



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# Yale Law Clinics Secure Third Nationwide Injunction

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**In the span of 14 months**, Yale Law clinics secured three significant nationwide injunctions affecting thousands of people around the country. The rulings reflect the unparalleled ambition, scope, and impact of the clinical experiences at Yale.

The third injunction came in February 2018, when the Worker and Immigrant Rights Advocacy Clinic (WIRAC) secured a federal order halting the abrupt termination of the Deferred Action for Childhood Arrivals program (DACA). WIRAC was the first legal organization in the country to file a challenge to the DACA termination in September 2017, along with their co-counsel at Make the Road New York and the National Immigration Law Center. The preliminary injunction affirmed protections for hundreds of thousands of Dreamers just weeks before the program was set to expire.

The second injunction occurred in November 2017, when a federal judge granted a permanent injunction that prohibited the Trump Administration from denying funding to sanctuary cities—a major victory for students in the San Francisco Affirmative Litigation Project (SFALP) who worked closely with the San Francisco City Attorney's Office in filing and litigating the case.

The original injunction was obtained by WIRAC in January 2017 when students worked to secure a nationwide order stopping the Trump administration's hastily ordered travel ban. That work became the template for an army of lawyers around the country who gathered at airports to provide relief as the chaotic aftermath of the executive order unfolded.

“When the students in my clinic helped in a nationwide injunction against the sanctuary-city order, I told them it was a once-in-a-career experience,” said Dean Heather Gerken. “How many organizations in the country can you think of that have been directly involved in winning three nationwide injunctions in a little over a year? Talk about punching above your weight!”

Muneer Ahmad, deputy dean for experiential education, director of the Jerome N. Frank Legal Services Organization (LSO), and a clinical professor of law, said the high-profile rulings have been critical to defending principles of equality during a turbulent time in the country, particularly in regard to immigration.

“I'm incredibly proud of the work our students and faculty are doing every day,” said Ahmad. “Our clinics are leading the charge to fight for what is right, working around the clock to file motions, appearing in court before federal judges, collaborating with co-counsel, clients, and community-based organizations, and ultimately securing rulings that impact hundreds of thousands of people all over this country.”

Dean Gerken said Yale Law School will remain committed to training the next generation of leaders and standing up for the rule of law.

“As a school and as lawyers, we share a deep commitment to constitutional rights and a refusal to accept discrimination in any form,” said Gerken. “The values of this profession run deep and they are shared across partisan lines.”

## Students and Alumni Receive Record Number of Public Interest Fellowships

Yale Law School students received more than 50 public interest fellowships this year.

**ACLU Reproductive Freedom Project Fellow**  
Rebecca Chan '18

**Bernstein Fellows**  
Lara Dominguez '16  
Kai Fees '18  
Julia Wang '18  
Evan Welber '18

**Clifford Chance Foundation Fellow**  
Lauren Hobby '18

**Environmental Law & Policy Center Fellow**  
Alda Yuan '18

**FASPE Fellow**  
Tomo Takaki '20

**Guggenheim Fellow**  
Dwayne Betts '16, PhD candidate

**Gruber Fellows**  
Elizabeth Deutsch '16  
Laura Portuondo '18  
Victoria Roeck '18

**Heyman Fellows**  
William Bekker '18  
Adam Bradlow '18  
Mattie Wheeler '18

**Hillary Rodham Clinton Fellows**  
Chelsea Colwyn '18  
Claudia Wack '18

**Immigrant Justice Corps Fellow**  
Erika Nyborg-Burch '16

**Institute for Justice Fellow**  
Ben Rump '18

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“As a school and as lawyers, we share a deep commitment to constitutional rights and a refusal to accept discrimination in any form. The values of this profession run deep and they are shared across partisan lines.”

DEAN HEATHER K. GERKEN ON INJUNCTIONS OBTAINED BY WIRAC AND SFALP



## Baker Hall Set to Open in August

### BAKER BOTTOM LINE

Less than 180 yards from the Sterling Law Building

Adds 137,000 square feet to the Law School

111 beds in one- and two-bedroom suites

Three-tiered student center

Two-story lecture hall and six additional classrooms

Suites furnished by Hugo & Hoby with pieces crafted from the wood of felled trees



Architect's rendering of Baker Hall Courtyard

**Next month, the opening** of Baker Hall will herald the return of residential living to the Law School and mark the first physical expansion of the campus since 1931.

The Law School began construction in 2017 to transform the building formerly known as 100 Tower Parkway into a new academic, social, and residential hub that will feature classrooms, study spaces, lounge areas, and one- and two-bedroom suites.

Alumni returning to campus for Alumni Weekend in October will have the opportunity to tour the new building.

Yale Law School raised more than \$60 million for the Baker Hall renovation, led by a \$25 million gift by Christina and Robert C. Baker '56 B.A., '59 LL.B., for whom the building is named. Dean Heather Gerken said the new addition will be a crucial investment for the future that will provide a more dynamic and immersive educational experience.



## VISITING THE LAW SCHOOL



**David S. Scharfstein**, Edmund Cogswell Converse Professor of Finance and Banking and Chair of Doctoral Programs at Harvard Business School, gave the 2017–2018 Judge Ralph K. Winter Lecture on March 5, 2018, on "Pension Policy and the Financial System."



**Guy Standing**, an economist and Professorial Research Associate at SOAS University of London, gave two Storrs Lectures on February 5 and 6, 2018. The topics of his lectures were "Rentier Capitalism: Why the Precariat Is Today's Dangerous Class" and "Basic Income: Democratic Justice, Republican Freedom, Universal Security."

## CENTERS

## Paul Tsai China Center Announces New Collaboration with Brookings Institution

**The Brookings Institution's** John L. Thornton China Center and Yale Law School's Paul Tsai China Center are launching a new collaboration to advance each institution's agendas related to China. The new initiative will involve joint programming, research, publications, and cooperative educational activities with an eye toward informing policymaking and public debates on U.S.-China relations.

The Brookings-Yale initiative will leverage the leading roles of each institution in the field of China studies, generating new, creative, and influential policy ideas for addressing the challenges and opportunities of the U.S.-China relationship, often considered the most consequential bilateral relationship in the world. Through this partnership, the expanding Tsai Center will increase its Washington, D.C., presence and its capacity to inform public debates on U.S.-China relations. The Thornton Center will build on its reputation for academic depth and policy analysis through deeper collaboration with a pioneering university center focused on China.

The new project will feature a variety of cooperative activities, including an annual symposium on U.S.-China relations, working group meetings and Track 1.5 or Track 2 diplomatic initiatives, and new professional development opportunities for students and young professionals. In addition, scholars from each institution will publish working papers and other policy-relevant analyses leveraging the academic resources, extensive networks, and public platforms of the respective centers.

Professor Paul Gewirtz, Director of Yale's Paul Tsai China Center, said: "This is a terrific new initiative, combining the excellence and distinctive strengths of two great China Centers to increase the effectiveness and reach of both. My Yale colleagues and I are greatly looking forward to this collaboration with Brookings' world-class experts, for whom we have great respect."

"I am delighted that the John L. Thornton China Center and Yale Law School's Paul Tsai China Center are partnering to bring our collective strengths to bear on the important geopolitical and geo-economic

issues shaping U.S.-China relations," Brookings Vice President for Foreign Policy Bruce Jones said. "This collaboration will leverage capacities on both sides to conduct innovative research that catalyzes the policy discussions around this critical relationship."

## The Justice Collaboratory Releases Report of Practical Guidelines for Policing

**The Justice Collaboratory**, in conjunction with the National Initiative for Building Community Trust & Justice, unveiled a new set of practical guidelines aimed at incorporating procedural justice into policing practices. Written for an audience of policy-makers and policing executives, these guidelines are meant to aide departments in adapting and developing policies that will strengthen legitimacy and trust in interactions with the communities they serve.

*Principles of Procedurally Just Policing* translates the empirical evidence gleaned from research into a set of ideal goals and actionable policies that police departments can implement. Three key areas of policymaking for departments that this report addresses are: 1) transparency and public engagement between law enforcement and communities; 2) procedural justice within the internal hierarchy of police departments; and 3) unique challenges in exchanges between police and community groups that experience significant contact with law enforcement, including minority groups, young people, immigrants, and LGBTQIA individuals. The 41 principles are intended for policy-makers and police executives to adapt existing police department general orders. These policies elaborate policing practices that give members of the public a voice and make decisions in fair and neutral ways.

The primary authors of *Principals of Procedurally Just Policing* are the Justice Collaboratory's co-founding faculty members Professors Tracey L. Meares and Tom R. Tyler as well as former Center Director Megan Quattlebaum. Discussing the process of preparing the document, Tyler said, "Preparing this report presented us with the exciting challenge of turning the abstract principals of procedural justice into workable ideas for improving American policing."

→ Public Interest Fellowships  
(from page 7)

**Justice Catalyst Fellows**  
Patrick Baker '18  
Christopher Desir '18  
Wally Hilke '18

**Justice Catalyst/  
Public Rights Project Fellow**  
Callie Wilson '18

**Liman Fellows**  
Skylar Albertson '18  
Benjamin Alter '18  
Olevia Boykin '17  
Natalia Friedlander '18  
Joanne Lee '18  
Maya Menlo '18  
Elizabeth Pierson '18  
Joseph Saei '18  
Theo Torres '18  
Henry Weaver '18

**Robina Fellows**  
Elena Brodeala '18 LLM  
Hyun-Soo Lim '18

**Sabin Center Fellow**  
Ama Francis '18

**San Francisco Affirmative  
Litigation Project Fellow**  
Jeremy Pilaar '18

**Skadden Fellows**  
Minju Cho '16  
Conchita Cruz '16  
Kathy Lu '18

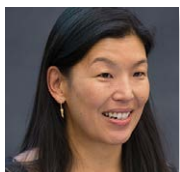
**Soros Fellows**  
HaoYang (Carl) Jiang '20  
Aseem Mehta '20  
Wazhma Sadat '19  
Joel Sati [incoming student]

**YLS International  
Court of Justice Fellow**  
Beatrice Walton '18

**YLS Permanent Court  
of Arbitration Fellow**  
Michael Gale '18

**YLS Public Interest Fellows**  
Laika Abdulali '18  
Katherine Haas '17  
Steven Lance '18  
Alexandra Schluntz '18  
Aleksandr Sverdlík '18

**Yale Law Journal Fellows**  
Allison Frankel '17  
Joaquin Gonzalez '18  
Aaron Korthis '17



**Ai-jen Poo**, Director of the National Domestic Workers Alliance and the Co-director of the Caring Across Generations campaign, gave the Gruber Distinguished Lecture in Women's Rights on February 26, 2018, on "Care and the Future of Work."



**Martti Koskenniemi**, Academy Professor of International Law at the University of Helsinki and Director of the Erik Castrén Institute of International Law and Human Rights, gave the 2017-2018 Sherrill Lecture on March 26, 2018 on "After Globalization: International Law and the Backlash against Global Rule."



## CONFERENCES

**A group of** Yale Law School Solomon Center students submitted a comment to the U.S. Department of Health & Human Services, Office for Civil Rights on March 27, 2018, advocating against a proposed rule that they say would have harmful effects on both patients and providers. Rule HHS-OCR-2018-0002 would allow health care providers with any articulable objections to certain services to opt out of providing relevant, often medically necessary information to patients seeking those services, including referrals to those services.

**Solomon Center student** Sam Marullo '20 has taken his interest in health care policy and advocacy to the Connecticut General Assembly. Marullo, who was the policy director for Rhode Island Governor Gina M. Raimondo '08 prior to coming to Yale, leveraged his expertise and the resources at Yale Law School to champion proposed legislation that would require Connecticut to provide its prisoners with access to medication-assisted treatment, the gold standard treatment for opioid-use disorder. The final bill partially expands access to treatment, and Sam will return next year to fight for full expansion.



(left to right) Richard Schilsky, Abbe Gluck, Erik Fatemi, and Nancy Goodman on the panel about federal government and cancer policy.

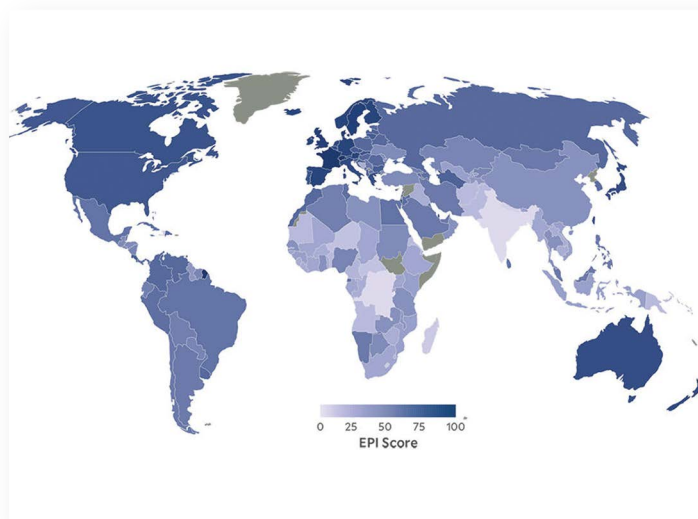
## Solomon Center Hosted Conference on Cancer Policy

**The Solomon Center** for Health Law and Policy at Yale Law School, in collaboration with Smilow Cancer Hospital and Yale Cancer Center, held a major interdisciplinary conference addressing topics at the cutting edge of cancer policy on February 8 and 9, 2018. This event brought together leading figures in the worlds of cancer care, research, regulation, and policymaking to assess the current state of cancer policy and discuss ways in which law can influence its development. Keynote lectures were given by Siddhartha Mukherjee, Pulitzer Prize-winning author of *The Emperor of All Maladies*, and Ned Sharpless, Director of the National Cancer Institute.

"This was an extraordinary opportunity to engage with the leading voices in cancer in a truly interdisciplinary way—bringing the policy chops and creative

thinking Yale Law School is known for to the brilliance of the physicians, scientists, and system leaders attending," said Professor Abbe R. Gluck '00, faculty director of the Solomon Center.

Speakers examined the role Washington, D.C. plays in cancer research and treatment—through politics, legislation, and lobbying as well as by incentivizing and protecting research—and the ways cancer policy is shaped outside the federal government, including through private entities such as cancer centers and insurance companies, and through state governments. The conference addressed special challenges in drug development and pricing as well as how cutting-edge advances in cancer treatment—including precision medicine, immunotherapy, and improvements in the genetic profiling of tumors—interface with existing and proposed government regulations. Speakers also considered how disparities and inequalities impact cancer research, regulation, and treatment.



### The 2018 Environmental Performance Index (EPI)

finds that air quality is the leading environmental threat to public health. Now in its twentieth year, the biennial report is produced by researchers at Yale and Columbia Universities in collaboration with the World Economic Forum. The tenth EPI report ranks 180 countries on 24 performance indicators across 10 issue categories covering environmental health and ecosystem vitality. Switzerland leads the world in sustainability, followed by France, Denmark, Malta, and Sweden.

## STUDENT-LED CONFERENCES

## New Directions in Environmental Law

The eighth annual New Directions in Environmental Law conference was held on March 3, 2018. The conference, planned by students at Yale Law School and Yale School of Forestry and Environmental Studies, focused on the theme "Centering Justice." Participants discussed practical policy recommendations and legal frameworks for advancing environmental equity.

Mustafa Ali, former senior adviser and assistant associate administrator for environmental justice at the Environmental Protection Agency, joined climate organizer of the Sunrise Movement, Varshini Prakash, and regional environmental justice powerhouse, Eddie Bautista of the New York City Environmental Justice Alliance, as keynote speakers.

## Rebellious Lawyering Conference

The 24th annual Rebellious Lawyering Conference (RebLaw) was held February 16 and 17, 2018. This year's conference included more than 25 panel sessions and workshops addressing a wide range of topics, including Disability Justice in Legal Advocacy for/beyond Civil and Human Rights; Ferguson to Palestine;

Lawyering for Liberation; Labor Organizing in the Age of Trump; Movement Work in Native America: NoDAPL; Should Good People Be Good Prosecutors? Revisiting the Question in the Era of Both Sessions and Krasner; Beyond Impact Litigation: Queer & Trans Liberation Through Direct Service; Systemic Discrimination Against Indigenous Children: Reflections on Ongoing Issues within Canada and the United States; Girls in the School to Prison Pipeline; and Litigating Charlottesville - Civil Rights, Litigation Strategies, and Organizational Differences. The conference also featured four keynote speakers: Kimberlé Crenshaw, sujatha baliga, Chinyere Ezie, and Ashley Diamond.

## Critical Race Theory Conference

The 2018 Critical Race Theory conference was held on March 24, 2018, with the theme "A Critical Moment for Critical Race Theory." The conference brought together practitioners, legal scholars, and other academics from across the country to discuss a wholesale re-evaluation of Critical Race Theory frameworks and their ability to describe the events of the last several years and to chart a course going forward. Gerald Torres '77, Jane M.G. Foster Professor of Law at Cornell University, delivered the opening keynote address.



Yale Law School's chapter of the Federalist Society (FedSoc) received the organization's James Madison Award for Chapter of the Year. The award was presented at the National Student Symposium on March 10, 2018.

"The award recognizes the chapter's vibrant intellectual community and continued commitment to excellence. Each year we bring in around forty judges, law professors, and lawyers to discuss legal issues. We also host a number of debates, provide professional support for our members, and host a weekly reading group, among many other activities," said Sam Adkisson '18, president of Yale's FedSoc.

## Lowenstein Report on Myanmar Genocide Cited by New York Times

A 2015 paper by Yale Law School's Allard K. Lowenstein International Human Rights Clinic, analyzing whether abuses against Rohingya Muslims in Myanmar satisfy the criteria for finding genocide, was cited in a prominent *New York Times* column bringing attention to the atrocities that continue to occur in the country.

Titled *Persecution of the Rohingya Muslims: Is Genocide Occurring in Myanmar's Rakhine State?—A Legal Analysis*, the paper has been cited and utilized by many news outlets and human rights organizations to argue that the persecution of the Rohingya is genocide and that the actions of Myanmar's government forces should be condemned. The publication came out before the most recent rounds of violence that the Rohingya have suffered, which have led 146,000 Rohingya people to flee the country and have left 400,000 people trapped in conflict zones or interned in camps.

The paper recommended that the United Nations Human Rights Council establish a Commission of Inquiry to conduct an urgent, comprehensive, and independent investigation of the human rights situation in Rakhine State.

## VISITING THE LAW SCHOOL



**Robert Gibbons**, Sloan Distinguished Professor of Management at MIT's Sloan School of Management, gave the John R. Raben/Sullivan & Cromwell Fellowship Lecture on April 9, 2018, on "Discord (and Repair?) in Relational Contracts: An Introduction to Work in Progress."



**Elizabeth Hinton**, assistant professor in the Department of History and the Department of African and African American Studies at Harvard University, gave the James A. Thomas Lecture on February 19, 2018, on "Second Chances: Redemption and Reentry after Prison."





### Secretary Jeh Johnson

was at the Law School on February 28, 2018, talking about navigating national security challenges in the Trump Era. The discussion with Professor Oona Hathaway '97 drew on lessons learned during his time as the Secretary of the Department of Homeland Security and as the General Counsel of the Department of Defense where he dealt with a wide array of issues ranging from counterterrorism, responses to national disasters, border security, immigration reform, maritime security, to upgrading our nation's cybersecurity capabilities.



## The 2018 Liman Center Colloquium: Who Pays? Fines, Fees, Bail, and the Cost of Courts

**The challenges of poverty** haunt the legal system. In many jurisdictions, courts themselves are underfunded, as are large numbers of litigants who appear before them. Pressures for change are coming from many directions, as growing numbers of people seek to use the courts, government budgets decline, and arrest and detention rates remain high.

These problems have garnered a good deal of attention. In the last few years, several states have chartered task forces to understand the costs of their system and the ways in which courts themselves are sources of debt for many users. The 2018 Liman Center Colloquium, *Who Pays? Fines, Fees, Bail, and the Costs of Courts*, took up the many issues raised by court and litigant financing.

The problems were put into sharp relief by Professor Alexes Harris, whose 2016 book *A Pound of Flesh* detailed the impact of court debt on low-income individuals and how it exacerbates racial and economic inequality. Connecticut's Governor Dannel Malloy joined Chief Justice Nathan Hecht of the Texas Supreme Court and Chief Judge Diane Wood of the U.S. Court of Appeals for the Seventh Circuit in discussing about what the judiciary can and should do. Konstantina Vagenas, Director of the Access to Justice Initiatives of the National Center for State Courts provided a glimpse of the many court-based innovations underway. Judith Resnik, the Liman Professor of Law, brought into focus the disjuncture between the constitutional commitments to open courts and rights-to-remedies and the limited support currently provided to many seeking to use court services.

Through intense exchanges, the 21st Annual Arthur Liman Center Colloquium addressed how constitutional democracies might begin to meet their obligations to make justice accessible. The volume of

readings, *Who Pays?* can be downloaded at [law.yale.edu/2018ColloquiumBook](http://law.yale.edu/2018ColloquiumBook), and a fuller account can be found on the Liman website ([law.yale.edu/liman](http://law.yale.edu/liman)), where the syllabus for the Liman class, *Rationing Access to Justice in Democracies: Fines, Fees, and Bail*, is also available at [law.yale.edu/limanworkshop](http://law.yale.edu/limanworkshop). Next spring, the Liman Center will continue working on these issues in its 2019 Workshop, *The Costs and Contributions of Courts in Democracies: From Fees, Fines, and Bail to Online Dispute Resolution and Class Actions*.

### Liman Colloquium Panelists

Emily Bazelon '00	Mike Lawlor
Monica Bell '09	Cathy Malloy
Brandon Buskey	Dannel Malloy
Bill Clendenen	Michael Morse '19
Beth Colgan	Mitali Nagrecha
Fiona Doherty '99	Marisol Orihuela '08
Robert Ebel	Stephen Pflaum '65
Danieli Evans '12	Devon Porter '15
Keith Fisher	Nina Rabin '03
Tim Fisher	Judith Resnik
James Forman '92	Tanina Rostain '86
Lisa Foster	Jeffrey Selbin
Cary Franklin '05	Reva Siegel
Nancy Gertner '71	Robin Steinberg
Gloria Gong '14	Konstantina Vagenas
Miriam Gohara	Anna VanCleave
Andrew Hammond '14	Ivy Wang '13
Alexes Harris	Joanna Weiss
Paul Heaton	Diane Wood
Nathan Hecht	Jon Wool '96
Alec Karakatsanis	Crystal Yang
Miriam Krinsky	

## MFIA Clinic Pushes for Transparency in High-Profile Cases

### MFIA Moves for Summary Judgment in EPA FOIA Case

**On March 20**, the Media Freedom and Information Access Clinic (MFIA) moved for partial summary judgment on behalf of the *New York Times* and reporter Eric Lipton in their Freedom of Information Act (FOIA) lawsuit against the Environmental Protection Agency. The FOIA asserts that the agency must release EPA Administrator Scott Pruitt's calendar—including the topics of his meetings and the names of the people he meets with—on a regular basis.

The clinic initiated the lawsuit last year on behalf of the journalist who has been chronicling the Trump administration's efforts to remake the EPA, the top federal agency charged with safeguarding the environment and public health.

### MFIA Urges FISA Court of Review to Protect Public Access

**On February 23**, 2018, the MFIA clinic and the ACLU filed a brief before the Foreign Intelligence Surveillance Court of Review (FISCR) urging the appellate court to recognize that judicial opinions of the Foreign Intelligence Surveillance Court (FISC) should be public.

The filing is the latest in a years-long effort to advance the public's First Amendment right of access to the FISC's secret judicial opinions authorizing some of the government's most controversial mass surveillance activities. MFIA and the ACLU originally filed the case in 2013 after Edward Snowden revealed that the FISC had authorized widespread surveillance of Americans.

### MFIA Clinic Seeks FISA Court Records in Carter Page Case

**On February 5**, 2018, the MFIA clinic filed a motion on behalf of *New York Times* reporters Adam Goldman and Charlie Savage '98 MSL and the New York Times Company seeking publication of all Foreign Intelligence Surveillance Court (FISC) orders authorizing surveillance of Carter Page, as well as the warrant application materials upon which those orders were issued. Page served briefly as a foreign affairs advisor to the Trump Campaign in 2016. The journalists are seeking to disclose those orders to facilitate the ongoing public debate over the propriety of the surveillance orders and the related investigation being conducted by Special Counsel Robert Mueller.

### Army Vet Wins Discharge Upgrade

**In April**, Connecticut veterans' leader and decorated soldier Stephen Kennedy won his eight-year battle to have his Army discharge status upgraded to honorable. Kennedy, president of the Connecticut branch of Iraq and Afghanistan Veterans of America (IAVA-CT), will continue his federal class action lawsuit on behalf of Army veterans nationwide who received less than honorable discharges for behavior later attributed to post traumatic stress disorder. The case was filed by the Veterans Legal Services Clinic in April 2017.



### CED Clinic Provides Training for Local Refugee Food Entrepreneurs

**This spring**, Yale graduate students and fellows in the Ludwig Center for Community & Economic Development (CED) held training sessions for participants in Sanctuary Kitchen's Kitchen Incubator Program.

The Kitchen Incubator Program is a ten-week training program designed to provide resources, mentorship, and support to refugee and immigrant food entrepreneurs who seek to market food products from their home countries' culinary traditions.



## CLINIC ROUNDUP

## Food Law Leaders Join the Farm Bill Fray

**On March 29, 2018**, the Farm Bill Law Enterprise (FBLE) released three reports that apply a justice lens to the farm bill debate underway on Capitol Hill. The reports are the product of a novel partnership between eight law school programs, including Yale Law School. FBLE's reports coincided with the imminent release of draft farm bills in the House and Senate.

## Yale Law School Clinics Help Launch Legal Food Hub

**Building on a growing interest** in food law, two Yale Law School clinics helped launch the Connecticut Legal Food Hub, a free legal services clearinghouse that matches income-eligible farmers, food entrepreneurs, and related non-profits to pro bono legal help.

The concept relies on a network of volunteer attorneys, including Yale law students, working to provide support to some of the most innovative, sustainable, and healthy businesses in the industry.

The program launched on March 1, 2018, as a collaboration among the Conservation Law Foundation, The Ludwig Center for Community & Economic Development (CED) at Yale Law School, and the Environmental Protection Clinic at Yale Law School. It is one of four initiatives around the country.

Read more at [law.yale.edu/foodhub](http://law.yale.edu/foodhub)

## Supreme Court Advocacy Clinic Files Brief in Voting Rights Case

**Students from the** Yale Supreme Court Advocacy Clinic filed an amicus brief with the U.S. Supreme Court in April on behalf of Common Cause and the Voting Rights Institute.

The brief was filed in support of a challenge to Texas legislative districts that argued the map had been drawn to minimize the voting strength of racial minorities.

## Court Declares that EPA Failed to Protect Civil Rights

**On April 2, 2018**, a federal court ruled that the Environmental Protection Agency (EPA) violated the law by waiting a decade or more to investigate civil rights complaints filed by community groups across the country. The decision comes after a lawsuit, litigated by students from the Environmental Justice Clinic at Yale Law School and Earthjustice, challenged EPA's failure to protect civil rights in the environmental context. Five communities were plaintiffs in the litigation, arguing that EPA had failed to complete civil rights investigations within 180 days as required by law.



**“Yale’s civil litigation clinic aims to train law students and make a difference”**

**The San Francisco** Affirmative Litigation Project was profiled in the April issue of the *ABA Journal*.



## San Francisco Files Student-Generated Civil Rights Case

**During a March visit from** San Francisco City Attorney Dennis Herrera to Yale Law School, a first-year law student pitched an idea for a case that just two weeks later became a federal lawsuit.

The lawsuit, filed on April 5, 2018, challenges U.S. Attorney General Jeff Sessions's decision to repeal U.S. Department of Justice (DOJ) civil rights documents that protected the poor, youth, immigrants, people of color, and people with disabilities.

Alisa Tiwari '20 raised the idea during the “new ideas” working group of the San Francisco Affirmative Litigation Project (SFALP), a clinic at the Law School led by Dean Heather Gerken that has a unique partnership with the San Francisco City Attorney's Office.

“Joining SFALP and developing this lawsuit with some of the country's most innovative affirmative litigation attorneys provided an opportunity to translate part of my frustration into action,” said Tiwari. “It has allowed me to think creatively about the law as a vehicle for change for the good. That is why I came to law school—and especially Yale Law School—in the first place.”

## Clinic Files Class Action on Behalf of Marine Corps Vets with PTSD

**Tyson Manker**, a Marine veteran of the 2003 invasion of Iraq, filed a federal class-action lawsuit on March 2, 2018, seeking relief for the thousands of Navy and Marine Corps veterans of Iraq and Afghanistan who developed post-traumatic stress disorder (PTSD) and other mental health conditions during their military service, only to be separated with a less-than-honorable discharge. The Yale Law School Veterans Legal Services Clinic and co-counsel from Jenner & Block are representing Manker and the National Veterans Council for Legal Redress (NVCLR), a Connecticut-based organization whose members include Marine Corps and other veterans with less-than-honorable discharges.

The case is similar to a 2014 Veterans Clinic class-action lawsuit on behalf of five Vietnam combat veterans and three veterans' organizations seeking relief for tens of thousands of Vietnam veterans who developed PTSD during their military service and subsequently received an "other than honorable" discharge. In June 2015, as a result of that lawsuit, the Pentagon agreed to upgrade each man's other-than-honorable discharge status. The case was first reported in the *New York Times*.

## VA Defies Court Orders to Release Documents Sought by Poisoned Veterans

**A federal judge ordered** the Department of Veterans Affairs (VA) to explain why they should not be held in contempt due to repeatedly failing to comply with court orders requiring documents to be handed over in a timely manner.

For more than two years, the VA has stonewalled veterans seeking documents about its handling of benefits for the hundreds of thousands of Marines and sailors who unknowingly drank, cooked with, and bathed in contaminated water that supplied Marine Corps Base Camp Lejeune for the latter part of the 20th century, according to students from the Veterans Legal Services Clinic, who are representing veterans affected in the case.

"The VA's disrespect for the law and these veterans is unacceptable," said Shikha Garg '19, a law student intern in the Yale Veterans Legal Services Clinic. "Not only are these veterans—who were poisoned by their own government—entitled to records under the Freedom of Information Act, they are owed answers by any standard of decency. It is traumatic enough to

be denied benefits for their own illnesses, but many of these veterans also lost loved ones or saw their children permanently disabled by the drinking water."

## Veterans Groups Sue VA for Data on Bias, Sexism

**Protect Our Defenders** and the Connecticut Veterans Legal Center filed suit in U.S. District Court on March 7, 2018, to compel the Department of Veterans Affairs to release data on potentially widespread problems of discrimination and bias against veterans applying for disability benefits related to military sexual trauma. The suit comes in the wake of a 2015 revelation that over the course of eight years, senior Veterans Law Judges (VLJs) at the Board of Veterans Appeals (BVA) exchanged virulently homophobic, racist, and sexist messages over government email and in an online, self-described, "Forum of Hate." As a result, advocates fear that an unchecked culture of bias has compromised the BVA's ability to fairly adjudicate the claims of male survivors of sexual assault. The organizations are being represented by the Veterans Legal Service Clinic at Yale Law School.

“It is traumatic enough to be denied benefits for their own illnesses, but many of these veterans also lost loved ones or saw their children permanently disabled by the drinking water.”

SHIKHA GARG '19, LAW STUDENT INTERN IN THE YALE VETERANS LEGAL SERVICES CLINIC, ON THE VETERANS WHO UNKNOWINGLY DRANK CONTAMINATED WATER AT MARINE CORPS BASE CAMP LEJEUNE



## GHJP Releases Report on Maternity Mortality

**The Yale Global Health Justice Partnership (GHJP)** released a policy report showing how the state of Georgia is failing in its obligations to women by making decisions that perpetuate a maternal mortality crisis disproportionately impacting black women.

The report was conceptualized by the GHJP in collaboration with the Black Mamas Matter Alliance (BMMA) and the Center for Reproductive Rights (CRR).

Focusing on state-level systems under the influence of policy makers, the report aims to understand and guide structural changes that can ameliorate the burdens of maternal death, particularly on those most vulnerable in this crisis.



## *Rule of Law Clinic Works on National Cases*

### **ROLC, NAACP Sue CT Over Prison Gerrymandering**

**On June 28, 2018**, the clinic filed the first statewide challenge to “prison gerrymandering,” the practice of counting prisoners as residents of the state legislative districts where they are incarcerated instead of in their home districts. The National Association for the Advancement of Colored People (NAACP), the NAACP Connecticut State Conference, and five individual NAACP members are a part of the lawsuit against the State of Connecticut.



### **ROLC Releases “Reader’s Guide” for the 25th Amendment**

**On April 18, 2018**, the Rule of Law Clinic at Yale Law School released “The Twenty-Fifth Amendment to the United States Constitution: A Reader’s Guide,” a document that provides guidance on critical interpretive and procedural questions regarding the 25th Amendment. Adopted in 1967, the 25th Amendment addresses what happens if the President of the United States is removed, dies, is incapacitated, or otherwise unable to fulfill the powers and duties of the presidency.

The clinic decided to produce the report after realizing that in more than fifty years since ratification, Section 4 of the 25th amendment has never been invoked. There are no judicial or other authoritative opinions on its proper implementation, according to the clinic.

To provide an authoritative analysis, the clinic studied all available sources on the amendment and the intent underlying it. The clinic examined the text, legislative history, critical academic commentary, and judicial analyses of the amendment, and consulted closely with leading experts, including Professor John D. Feerick, past Dean of the Fordham University School of

Law, a principal drafter of the 25th Amendment who continues to be its preeminent commentator.

Read the report online at [law.yale.edu/rolcreport](http://law.yale.edu/rolcreport)

### **ROLC Files Suit Over Census Preparations**

**On March 28, 2018**, the ROLC filed suit on behalf of The National Association for the Advancement of Colored People (NAACP), Prince George’s County, Maryland, the NAACP Prince George’s County Branch, and two county residents, against the federal government over the 2020 census.

The lawsuit alleges that the Census will cause inequalities in political representation and deficiencies in federal funding of those communities. The plaintiffs are being represented by the Rule of Law Clinic at Yale Law School, Jenner & Block, and the NAACP Office of the General Counsel.

The lawsuit, filed in the U.S. District Court for the District of Maryland, seeks to compel the Bureau of the Census, an agency within the Department of Commerce, to prepare for and conduct a full and fair Census in 2020, as the U.S. Constitution expressly requires.

## Law Library Provides Access to Legal Research for Developing Countries

The International Labour Organization and a group of academic partners that includes the Lillian Goldman Law Library at Yale Law School have launched a program to provide free or inexpensive access to legal information and training to promote research in low and middle income countries and help strengthen the rule of law.

The program, known as GOALI (Global Online Access to Legal Information) will give users in more than 115 developing countries access to a wide range of essential legal information for their work and studies that they would not normally be able to obtain.

Eligible institutions include governments, universities, law schools, research and not-for-profit institutions, as well as the administrators of national workers' and employers' organizations.

Some of the key topics covered in the program are international law, human rights, humanitarian law and labor law – areas that can help strengthen legal frameworks and institutions in many developing countries. The program will also contribute to UN Sustainable Development Goal 16—Peace, Justice and Strong Institutions.

The Lillian Goldman Law Library at Yale Law School, for its part, is “adding hundreds of legal journals and ebooks daily, along with associated metadata to ensure the content is easily discoverable by GOALI users,” explained its Law Librarian Teresa Miguel-Stearns. “As of today, we have more than 10,000 legal titles from more than 60 publishers.”

## Housing Clinic Wins Connecticut Supreme Court Case

On January 26, 2018, the Housing Clinic at Yale Law School secured its first victory before the Connecticut Supreme Court in *Connecticut Housing Finance Authority v. Alfaro*. The clinic represented Asdrubal Alfaro on his appeal to the court, authoring his successful petition for certification and merits briefs and presenting oral argument before the court.

The case concerned a law that authorizes attorney's fees for consumers who successfully prosecute or defend a contract action. In a 5-2 decision, the court articulated how to determine if a consumer has successfully defended an action: if the termination of proceedings in some way favors the defendant, the court ruled that there would be a rebuttable presumption that the defendant was entitled to fees.



**Yale Law School and Yale University Bands** presented the 2018 Stan Wheeler Memorial Jazz Concert on April 8, in memory of Stan Wheeler, Ford Foundation Professor Emeritus of Law and the Social Sciences at Yale Law School. The concert featured the Yale Jazz Ensemble, Thomas C. Duffy, Music Director, and the Reunion Jazz Ensemble, Jeff Fuller, Director.



## MAKING CONNECTIONS



Amanda Elbogen and Farshad Ghodoosi

## Opposite Sides of the Travel Ban

*When a controversial executive order on immigration was implemented in January 2017, two YLS alumni reunited in the most unexpected way*

**Farshad Ghodoosi** '15 JSD, '12 LLM was returning from a family vacation in Morocco with his wife on January 29, 2017, when Customs and Border Protection agents at JFK Airport detained him on his way off the flight.

Ghodoosi, a green card holder and permanent resident of the United States, knew he might encounter trouble after hearing about the hasty and chaotic rollout of a controversial ban on immigrants from several Muslim-majority countries. However, he had no idea what a nightmare the next several hours would become.

Separated from his wife, Ghodoosi was detained for four hours in a small back room, uncertain of what was happening and humiliated by not even being able to use the restroom without supervision.

"My heart was beating, hoping that [the agent] would not send me to the 'other room,' but he did," recalled Ghodoosi, an attorney for an international arbitration firm in Washington, D.C., who was born in Iran.

Outside, the country was processing the executive order issued by the Trump administration, which came with little explanation or guidance for how it should be handled. Protests erupted around the country. Legal organizations — including the Worker & Immigrant

Rights Advocacy Clinic at Yale Law School — worked around the clock to challenge the constitutionality of the ban. And an army of lawyers arrived at airports to help those like Ghodoosi, who were being unjustly detained.

Amanda Elbogen '13, an attorney with Kirkland & Ellis LLP in New York, was one of those lawyers. As the granddaughter of four Holocaust survivors, Elbogen was particularly horrified by the ban. She jumped at the chance to help.

"I got the email from my firm's pro bono coordinator saying that help was urgently needed at JFK Airport," said Elbogen. "I wrote back and asked her to let me know what I could do."

When Elbogen arrived at JFK, she saw about a dozen lawyers hunched over laptops, furiously working on habeas petitions — petitions developed by WIRAC students and faculty who were leading the charge to fight the ban back in New Haven.

"I recognized a colleague of mine at the law firm, who was writing a habeas petition for someone detained," recalled Elbogen. "Soon after I joined him, he got an email from someone at the firm saying that a partner had heard of a particular individual detained, whose wife was at the airport and could still communicate with him via text, and they were hoping someone could take that case and find her."

"I looked at the name — Farshad Ghodoosi," recalled Elbogen. "And I realized, this is someone I know — someone I was friends with in law school. It was a surreal moment."



Photos courtesy of Amanda Elbogen

Here they were, two Yale Law graduates who bonded in New Haven during a reading group on Islamic law and jurisprudence, now on opposite sides of the attorney-client experience simply because of one's national origin and religion.

"She cared about and respected other cultures and would approach them with intellectual curiosity, not biases," said Ghodoosi.

Communicating via text, Ghodoosi was providing updates to his wife, Monica, who was now with Elbogen outside the gate. Elbogen began to interview Monica as she filled out Ghodoosi's habeas petition, and offered advice over the phone. She also petitioned the Customs and Border Protection officers directly for his release.

"I spoke to CBP officials several times, telling them I was Farshad's attorney and wanted access to see him, and informing them that he was a green card holder and that they were acting in violation of recent injunctions issued by the federal courts," said Elbogen.

Outside of the airport, WIRAC had teamed up with other legal organizations and secured the first of several nationwide injunctions ordering the government not to remove, among others, any "individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen legally authorized to enter the United States."

But inside the interview room, Ghodoosi was still dealing with two agents who were grilling him on his trip.

"I remember the officer started with a serious tone asking questions about my trip, my family, and my connection to Iran," said Ghodoosi, who was watching as the agent took extensive notes. Once the agent realized that Ghodoosi was educated at Yale and worked as a lawyer, his attitude quickly changed. "I remember in the process his tone became friendly," recalled Ghodoosi. The agent then asked Ghodoosi how he felt about the ban.

"I told him my opinion and he quickly confessed that they themselves didn't believe it would be effective and they really didn't know what they were doing," said Ghodoosi.

From there, a rapport was established, and he was released. Ghodoosi later learned that on the same day, the White House decided the ban would not apply to green card holders.

"I quickly left the room and the area and reunited with my wife," said Ghodoosi. "It was there where I saw Amanda. I was really happy that Amanda was there to help me and give courage to my wife during this process."

"After Farshad was released, we felt a rush a relief," said Elbogen. "I interviewed him to memorialize what had happened. I can't claim any direct cause and effect in his release, but I am confident that the cumulative

impact of all the lawyers assembled in JFK made a big difference in ensuring individuals were released, and sooner rather than later."

It was an experience that up until that day would have seemed unimaginable in America.

"I never would have thought that the U.S. would undertake such an obviously discriminatory action," said Ghodoosi, who had many friends and family members affected by the executive order.

"My Iranian friends' parents have been prevented from seeing their children and grandchildren," he added. "I could see the distress and anxiety in all of my Iranian friends—surprised by the ban and uncertain about the future. This still continues to this day and will continue."

“ I looked at the name — Farshad Ghodoosi, and I realized, this is someone I know — someone I was friends with in law school. It was a surreal moment.”

AMANDA ELBOGEN '13, AN ATTORNEY WITH KIRKLAND & ELLIS LLP, WHO WORKED TO HELP THOSE UNJUSTLY DETAINED AT JFK IN 2017

"There was the very dark side to the story," said Ghodoosi. "But the bright side was the overwhelming support we received from lawyers and others during this process. It was truly inspiring."

"The experience will stay with me as a reminder of my obligations as a lawyer, citizen, and human being to stand up and fight injustice," said Elbogen. "It is ordinary people's apathy and indifference that has allowed the world's worst human rights abuses to take place, and it is heartening to know that U.S. citizens and the legal community are not going to stand by and let our democratic institutions and principles be weakened."

