



The United Nations Security Council met in special session to debate alleged North Korean nuclear proliferation in December 2017.

# The Future of International Order

A look at the implications of the Administration’s foreign policy and what can be done to mitigate those effects



Harold Hongju Koh  
**The Trump Administration and International Law**  
 Oxford University Press, 2018



**In his latest book**, *The Trump Administration and International Law*, Sterling Professor of International Law Harold Hongju Koh provides an answer to the question that has perplexed international political and legal thinkers since President Donald Trump's election: will the Trump Administration’s policies permanently alter the post-war international order?

Koh argues that Trump’s “America First” foreign policy is not “winning” at the international level. Rather, Trump’s repeated efforts to weaken, or entirely disengage, the deep-seated connections between domestic and global governance “has thus far proven largely ineffective.”

Trump's actions are as much symptom as cause of a larger struggle over competing visions of global order. With the global rise of populist authoritarian governments and the global challenge to human rights and the rule of law, America's actions take on greater significance and urgency...

*The Trump Administration and International Law* supports this claim by surveying immigration and refugee law, human rights, climate change, denuclearization, trade diplomacy, relations with North Korea, Russia and Ukraine, America's "Forever War" against Al Qaeda and the Islamic State, and the ongoing tragedy in Syria. Koh's sweeping tour d'horizon illustrates the various techniques that players in what he calls the "transnational legal process" have used to blunt the harmful implications of Trump's early international initiatives.

As Koh describes it, transnational legal process as a counter-strategy is not a passive, self-correcting mechanism, but requires intentional collective action if it hopes to remain intact beyond Trump. Koh outlines an "inside-outside" strategy for those who would join in the effort to resist the damage to international law worked by Trump's broad global agenda: actors both external and internal to the government must "engage-translate-leverage" their power: i.e., work synergistically to maintain commitment to constructive foreign policy engagement, hold Trump accountable to the letter and spirit of existing laws and international agreements, and leverage legal approaches into enduring policy solutions.

Koh admits that this is not an optimal political state of affairs — nonetheless he demonstrates how this counter strategy can prevent serious damage, and, through the concentrated effort and determined purpose of political allies, bequeath to a post-Trump world a situation that remains curable.

Ultimately, Koh argues, Trump's actions are as much symptom as cause of a larger struggle over competing visions of global order. With the global rise of populist authoritarian governments and the global challenge to human rights and the rule of law, America's actions take on greater significance and urgency. Koh reminds, "The example America sets over the next few years will be very closely watched," and its response to this global struggle will profoundly shape the future of global order. While the struggle may be exhausting, he argues, the high stakes of this struggle and its broader implications for the future of global governance make this counter-strategy both worthwhile and necessary.

## SURVEY OF BOOKS

Here's just a sampling of the many other books recently written or edited by our alumni, faculty, staff, and students. We welcome your submissions. Please contact us: [lawreport@yale.edu](mailto:lawreport@yale.edu).



John Attanasio  
**Politics and Capital:  
Auctioning the American  
Dream**

*Oxford University Press, 2018*

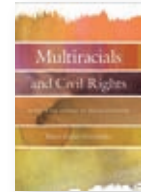
Attanasio '85 LLM shows how recent Supreme Court decisions and campaign finance regulations created a constitutional arrangement that correlates with the dramatic rise in U.S. wealth and income inequality since the 1970s. Because this radical inequality reduces autonomy, he proposes the principle of distributive autonomy, arguing that good governance must concern itself with the distribution of freedom for all. If my autonomy matters, Attanasio argues, so does yours.



James G. Dwyer  
**Liberal Child Welfare Policy  
and its Destruction  
of Black Lives**

*Routledge, 2018*

Dwyer '87 offers a child-centered perspective on intergenerational cycles of poverty in urban black neighborhoods. Liberal policy recommendations rely upon parent-centered analyses, which, due to conflicts between the rights of children and parents, ignores the reality that analysts and policy makers must choose sides. Dwyer's critique of liberal child welfare policy paves the way for his policy recommendations.



Tanya Katerí Hernández  
**Multiracials and Civil Rights:  
Mixed-Race Stories of  
Discrimination**

*NYU Press, 2018*

Hernández '90 debunks the idea that multiracial identities destroy racism by virtue of racial mixture. By drawing on court cases to demonstrate the types of racism that multiracial people face, Hernández demonstrates the inadequacy of existing legal tools to confront this type of discrimination, and offers a strategy for how law can respond and move us toward a more just society.



Alan Hirsch  
**Impeaching the President:  
Past, Present, and Future**

*City Lights Books, 2018*

Hirsch '85 revisits the scope, purpose, and history of impeachment to draw lessons that can guide those who might try to impeach Donald Trump. Through an in-depth look at the impeachment cases of Andrew Johnson, Richard Nixon, and Bill Clinton, Hirsch makes the case that any action toward impeachment must proceed with caution, learn from the mistakes of the past, and avoid using impeachment as a partisan weapon, concluding that failure to re-elect is another way to remove a president.

## SURVEY OF BOOKS



Ji Li  
**Clash of Capitalisms?:  
 Chinese Companies in the  
 United States**

Cambridge University Press, 2018

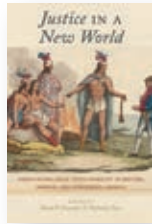
Li '07 provides insights on the nature and impact of investment from Chinese companies in the U.S. Focusing on how Chinese companies that invest in the U.S. adapt to U.S. legal and regulatory institutions, Li draws together empirical evidence to suggest that these companies largely internalize U.S. economic and legal norms.



John B. Nann and  
 Morris L. Cohen  
**The Yale Law School Guide  
 to Research in  
 American Legal History**

Yale University Press, 2018

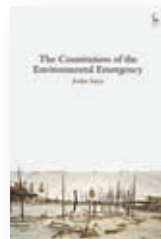
Yale Law librarian Nann and the late Yale Law librarian Cohen provide a reference to the study of law in America. Focusing on the needs of non-specialists, this reference book introduces researchers to the important legal sources, resources, and historical contexts for scholarly engagement with American law.



Brian P. Owensby and  
 Richard J. Ross  
**Justice in a New World:  
 Negotiating Legal  
 Intelligibility in British, Iberian,  
 and Indigenous America**

NYU Press, 2018

Ross '89 and co-editor Owensby present a collection of essays that examines how indigenous people and settlers in the British and Iberian New World empires used each others' ideas of law as a political, strategic, and moral resource. By comparing legal understandings within these empires, the volume traces how people in the colonial era struggled to make law and codes of justice intelligible.



Jocelyn Stacey  
**The Constitution of the  
 Environmental Emergency**

Hart Publishers, 2018

Stacey '11 LLM argues for the need to reframe environmental law from the perspective of emergency. Environmental issues pose a fundamental challenge to law because it is impossible to reliably predict which issues contain the possibility of an emergency and what to do in response to unforeseen events.



Ronald C. Slye  
**The Kenyan TJRC:  
 An Outsider's View  
 from the Inside**

Cambridge University Press, 2018

Slye '89 details the history and legacy of the Kenyan Truth, Justice, and Reconciliation Commission (TJRC). By exploring the strategies used in the TJRC to address the violence following Kenya's 2007 elections, Slye offers lessons for other countries and those working in transnational peacebuilding.



John Smiley  
**From Slaves to Prisoners of  
 War: The Ottoman Empire,  
 Russia, and International Law**

Oxford University Press, 2018

Smiley '14 discusses how the concept of prisoner of war emerged during the the Ottoman-Russian wars of the 18th century. In the 18th century, the Ottoman state and its rival, Russia, worked out a new system of regional international law. Rules that abolished ransom and established the prisoner of war concept delineated sovereignty, redefined individuals' relationships to states, and prioritized political identity over economic value. In the process, the Ottomans marked out a parallel, non-Western path toward elements of modern international law.

## ALSO OF NOTE

Reyna Marder Gentin '91  
**Unreasonable Doubts:  
 A Novel**

She Writes Press, 2018

Vincent R. Johnson '79 LLM,  
 Stephen L. Pepper '73, et. al.  
**Legal Ethics, Professional  
 Responsibility, and the  
 Legal Profession**

West Academic Publishing, 2018

Charles Mechem '55  
**Total Anecdotal:  
 A Unique and Fun Guide  
 to Help You Become  
 a Better Speaker and Writer**

Half Nelson Enterprises, 2018

Ryan Craig '99  
**A New U:  
 Faster + Cheaper  
 Alternatives to College**

BenBella Books, Inc., 2018

Pintip Dunn '03  
**Star-Crossed**

Entangled: Teen, 2018

Laquesha Shantelle Sanders '09  
**All Things Work Together:  
 A Journey Surmounting  
 Sexual Abuse and Mental  
 Illness Through Achievement**

The Shantelle Company, 2018

Norm Leventhal '68  
**Rene, El Tigre, and Me:  
 Up Close and Personal—  
 Spanish Television in America**

RoseDog Books, 2018

Sigmund P. Martin '88 LLM et. al.  
**Grauer Kapitalmarkt:  
 Anlegerschutz durch  
 Strafrecht?**

Peter Lang, 2016

Stephen Scher '75 MSL  
**Rethinking  
 Health Care Ethics**

Palgrave Pivot, 2018



## SPOTLIGHT

## Finding Common Ground between LGBT Rights and Religious Freedom

A collection of essays spans perspectives on belief, rights, and freedom

**In *Religious Freedom, LGBT Rights, and Prospects for Common Ground***, John A. Garver Professor of Jurisprudence William N. Eskridge Jr. '78 and co-editor Robin F. Wilson tackle the thorny

problem of how to balance religious freedom rights and lesbian, gay, bisexual, and transgender (LGBT) rights. The compilation includes 35 essays that bring into dialogue leading voices in the faith and LGBT advocacy communities, together with equality and religious liberty scholars, to examine whether laws can be created that protect LGBT individuals from discrimination without encroaching on religious liberty.

"This dialogue comes at an important moment," Eskridge and Wilson write in their introduction, as previous LGBT rights achievements "are being recalibrated in real time." Certain faith communities and social conservatives,

they point out, contest the rights of LGBT persons. This confrontation continues to gather more steam following the adjudication of a number of recent legal cases. As a flood of arguments enters the political arena, the question becomes whether the law can reconcile contested positions.

This question took center stage in the U.S. Commission on Civil Rights' high-profile September 2016 report, *Peaceful Coexistence: Reconciling Non-Discrimination Principles with Civil Liberties*. Eskridge and Wilson worry that the report reached a dim conclusion that placed religious protections and nondiscrimination laws in competition, without leaving space for their reconciliation. The Commission chairman's claims

provoked sharp dissent from moderate commentators and an equally strong response from some social conservatives and faith leaders.

*Religious Freedom, LGBT Rights, and Prospects for Common Ground* assembles important thought leaders from the Human Rights Campaign and ACLU to the National Association of Evangelicals and Catholic and LDS churches to address the concerns of their communities and to consider ways forward. The contributors offer an expansive view of contemporary culture-war conflicts around faith and sexuality — from *Obergefell* to *Masterpiece Cakeshop* — and explore whether communities with significant differences in belief can reach mutually agreeable solutions.



William N. Eskridge Jr. and Robin F. Wilson, eds.

### Religious Freedom, LGBT Rights, and the Prospects for Common Ground

Cambridge University Press, 2018

## Personal History

Professor Carter Publishes *Invisible*, a biography of his grandmother

In his latest book, William Nelson Cromwell Professor of Law Stephen L. Carter '79 tells the moving story of the life and work of his grandmother, Eunice Hunton Carter (1899–1970), the mastermind behind the operation that successfully captured and prosecuted mobster Lucky Luciano.

*Invisible: The Forgotten Story of the Black Woman Lawyer Who Took Down America's Most Powerful Mobster* opens with the 1906 race riots in Atlanta, GA. A seven-year-old Eunice and her family huddled in their house listening to white mobs inch closer, as they smelled the smoke from the fires from burning homes.

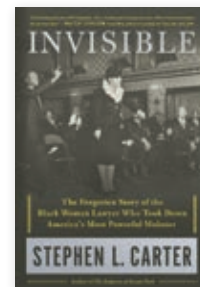
Carter's narrative underscores Eunice's ambitious leanings, which emerged at an early age. At age eight she announced that she would become a lawyer, a promise she fulfilled two decades later. Despite the myriad racial barriers she faced, Eunice graduated from Smith University with both a bachelor's and master's degree in just four years, graduated from Fordham Law School, became the first black woman lawyer in New York, and the first black woman federal prosecutor in the country.

Eunice eventually landed the most desired legal job in New York at the time: working with Thomas Dewey on his Organized Crime Task Force. In this capacity she pioneered the investigation that proved the mob was running New York City's brothels and helped identify the witnesses that confirmed Luciano's involvement.

As a result of her work taking down Luciano, Carter notes that Eunice became "one of the best-known Negro women in America." This feat was only the beginning, however, as "she would receive honorary degrees, be featured in *Life* magazine, lecture around the world, be handed medals and plaques from civic organizations everywhere...[and] become a prominent and influential figure in the Republican party." She later turned her attention to international activities as president of the Conference of International Organization, consultant for UNESCO, and influential member of the International Board of the YWCA.

Carter's portrait of his grandmother reveals a complex picture that includes not only her accomplishments but her struggles: from her tense relationship with her brother, whose Communist ties probably hindered her success, to her difficult marriage.

Bestselling author Walter Isaacson called *Invisible* "a riveting and moving story, one with enormous resonance for our own time."



Stephen L. Carter

### **Invisible: The Forgotten Story of the Black Woman Lawyer Who Took Down America's Most Powerful Mobster**

Henry Holt and Company, 2018