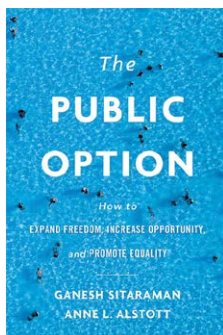




Public libraries, like the New Haven Free Public Library (pictured), which compete with bookstores, are examples of “public options.” Alstott argues that expanding this model could meet needs from childcare to broadband access.



Anne Alstott
and Ganesh Sitaraman
**The Public Option:
How to Expand Freedom,
Increase Opportunity, and
Promote Equality**
Harvard University Press, 2019



What the Local Library Shows Us about Expanding Opportunity

A model solution for a host of challenges is as close as the nearest public library, school, or pool in this argument for the public option

Say “*the public option*,” and many Americans will immediately think of the proposal for government-supported health insurance that often comes up during health-care policy debates. Somehow, this never-enacted proposal is better known as a public option than some examples that Americans use every day—institutions like schools, libraries, the postal service, and Social Security. And yet, Jacquin D. Bierman Professor Anne Alstott ’87 and coauthor Ganesh Sitaraman argue in *The Public Option: How to Expand Freedom, Increase Opportunity, and Promote Equality* (Harvard University Press), these examples are models of how the government can deliver services that improve the lives of all Americans. What’s more, they assert, expanding this model could have transformative results.

The key is that a public option guarantees universal access to important goods at a reasonable price—without foreclosing the option to pursue additional, or alternative, goods through the private marketplace.

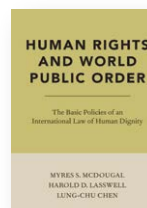
A government-provided resource is a public option, according to Alstott and Sitaraman's definition, if it has two features: first, it makes a service available to everyone at a reasonable cost, and second, it coexists with private alternatives. The United States Postal Service, for example, competes with FedEx, and public libraries offer an alternative to bookstores. Even an ordinary neighborhood playground, they write, competes with swing sets in the backyards of private homes. The competitive aspect is key, and, they note, particularly American: "it leverages public resources without preempting private provision."

Since the passage of the Affordable Care Act in 2010, the public option—at least in health care—has been part of the national conversation like never before. Why, then, hasn't the concept taken off? Alstott and Sitaraman note that the libertarian view that government is corrupt and bloated has become standard. A related belief is that the free market can deliver services more efficiently—a popular sentiment until the financial crisis of 2008 gave Americans an equally dismal view of corporations. The result today, Alstott and Sitaraman write, is that Americans trust neither the government nor the free markets. The authors take a different approach, concluding that government can develop new public options to meet needs ranging from childcare to banking to retirement plans to broadband access. The key is that a public option guarantees universal access to important goods at a reasonable price—without foreclosing the option to pursue additional, or alternative, goods through the private marketplace.

Alstott and Sitaraman reach this conclusion by demonstrating how public options have worked historically. They then make the case for expansion by highlighting successes in areas such as public libraries and Social Security while acknowledging the uneven record of public options in other spheres, namely, K-12 education and housing. Even with some shortcomings (which, they argue, have often been exaggerated), the authors are resolute that public options can succeed where the marketplace alone has not. "Public options are evidence of our common civic faith," they write, "restoring our confidence in them, and expanding their reach, will ensure that the 21st century is a time of security and prosperity for all."

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.



Myres S. McDougal '31 JSD,
Harold D. Lasswell, and
Lung-Chu Chen
**Human Rights
and World Public Order:
The Basic Politics of an
International Law
of Human Dignity**

Oxford University Press, 2019

Chen '62 LL.M., '64 JSD has rereleased *Human Rights and World Public Order* nearly four decades after its initial publication. As Chen writes in the new preface, among its many contributions, this book provides a formulation of world public order that privileged the "protection and fulfillment of human dignity for all people."



Emily Bazelon
**Charged: The New Movement
to Transform American
Prosecution and
End Mass Incarceration**

Random House, 2019

District attorneys wield increasing power in shaping the contours of the justice system. Through a close examination of their work and the human costs of their decisions, Bazelon '00 considers the importance of prosecutors, the extraordinary rise of prosecutorial power since 1980, and the recent nationwide efforts to elect more progressive prosecutors. In her closing chapter Bazelon provides 21 steps that prosecutors can take to curb mass incarceration and point toward a more just future.



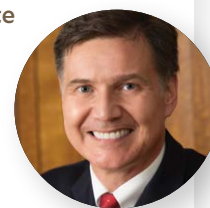
Daniel C. Esty, ed.
**The Labyrinth
of Sustainability:
Green Business Lessons
from Latin American
Corporate Leaders**

Anthem Press, 2019

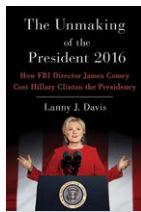
Can Latin America Be Green?

Case studies on sustainability strategies of corporate Latin America

Esty '86 offers a collection of case studies that focus on the sustainability strategies and initiatives of companies with business operations in Latin America, drawing out key themes and highlighting both successes and challenges. By exploring the growth of corporate sustainability in Latin America, Esty's volume aims to provide actionable insights to business leaders, policymakers, NGOs, academics, and journalists.



SURVEY OF BOOKS

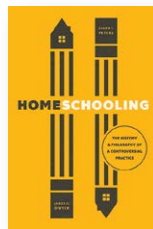


Lanny J. Davis

The Unmaking of the President 2016: How FBI Director James Comey Cost Hillary Clinton the Presidency

Scribner, 2018

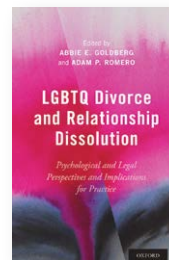
Davis '70, longtime Washington insider, argues that former FBI Director James Comey's letter to Congress — just 11 days before the election — swung a significant number of voters away from Hillary Clinton '73, winning Donald Trump an Electoral College victory and the presidency. Davis traces the beginnings of the Clinton email controversy to the days leading up to the election, providing a string of evidence to support his claim.

James Dwyer
and Shawn Peters

Homeschooling: The History and Philosophy of a Controversial Practice

University of Chicago Press, 2019

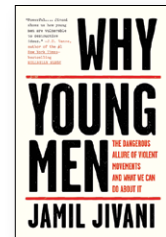
Dwyer '87 and Peters examine the controversial history of homeschooling, the various methods associated with it, and the fundamental questions that guide debates over state oversight and regulation. Through their evaluation of competing arguments for and against homeschooling, the authors generate policy prescriptions that carefully attend to the rights of parents, children, and the state.

Abbie E. Goldberg
and Adam P. Romero, eds.

LGBTQ Divorce and Relationship Dissolution

Oxford University Press, 2019

Romero '07 and Goldberg tackle issues related to relationship dissolution and divorce among sexual and gendered minorities. The book brings together social science and legal perspectives to address the unique challenges that LGBTQ individuals face to provide an informed and comprehensive volume and to expand current knowledge on these important topics.

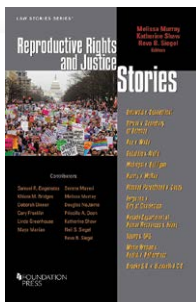


Jamil Jivani

Why Young Men: The Dangerous Allure of Violent Movements and What We Can Do About It

All Points Books, 2019

Jivani '13 explores how race, minority experiences, failed integration of newcomers, and identity politics are weaponized by violent movements to recruit young men, promote resentment, and encourage conflict. Jivani warns of the destruction made possible when we don't understand this weaponization and why it is so effective.

Melissa Murray,
Katherine Shaw, and
Reva B. Siegel, eds.

Reproductive Rights and Justice Stories

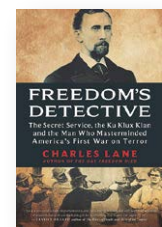
Foundation Press, 2019

The History of the Reproductive Legal Landscape

The movement and cases that shaped the current state of reproductive rights

In *Reproductive Rights and Justice Stories*, editors and contributors Melissa Murray '02, Katherine Shaw, and Nicholas deB. Katzenbach Professor of Law Reva Siegel highlight a set of essays that tell the movement and litigation stories behind reproductive rights and justice cases, situating them in the social and political contexts in which they were developed and decided. The stories focus on the individuals behind the litigation: the judges, advocates, and parties whose struggles changed the reproductive legal landscape.

Through these cases, *Reproductive Rights and Justice Stories* employs a wide-lens perspective that illuminates the complex ways law is debated and forged — in social movements, in representative government, and in courts. Some chapters shed new light on cases that are very much part of the constitutional law canon, others introduce the reader to new cases from state and lower federal courts.

Charles Lane
Freedom's Detective: The Secret Service, the Ku Klux Klan, and the Man Who Masterminded America's First War on Terror

Hanover Square Press, 2019

Lane '97 MSL tells the story of Hiram Whitley, the little-known head of the Secret Service who helped break the growth of the Ku Klux Klan in the Reconstruction era. Whitley and his agents led a covert war against the KKK and in the process created strategies of undercover work still deployed in cases of terrorism.

SPOTLIGHT

Is the Constitution the Problem?

Two scholars debate the way forward

Democracy and Dysfunction features a series of exchanges about our current political predicament between two prominent scholars of American constitutional law, Knight Professor of Constitutional Law and the First Amendment Jack M. Balkin and University of Texas Professor Sanford Levinson. In a series of letters written between October 2015 and early 2018, the authors debate whether we are in the middle of a constitutional crisis, and whether the Constitution itself is behind our current political troubles.

Levinson argues that the U.S. Constitution is the root cause of our difficulties. It is undemocratic and ineffective. It has made political polarization worse. The Executive branch has grown so powerful and unaccountable that it verges on “presidential dictatorship.” We need a series of new constitutional amendments, or even a new constitutional convention. If we do not act soon, the country may fall apart.

Balkin argues that we are experiencing dysfunction because the Reagan regime that has dominated American politics for almost 40 years is slowly grinding to an end; Donald Trump’s “corrupt” presidency represents its final unraveling. We are not in a constitutional

crisis, but we are experiencing “constitutional rot:” a decay in the norms and practices that maintain our system as a democracy and a republic. Political polarization and economic inequality are both causes and symptoms of this rot; our system of government has become an oligarchy controlled by its wealthiest members. The end of the Reagan era marks a crucial turning point. Things look bad now, but if people mobilize for change, our current quandary offers the possibility for political renewal.

Balkin and Levinson discuss possible fixes for our political institutions. Levinson argues that a new constitutional convention is necessary. Balkin lists eight reforms that could improve our democracy without requiring a constitutional amendment. Although the authors differ about the causes and the cures of our dysfunction, they agree that an obsessive concern with Supreme Court doctrines is a distraction. Americans must focus on deeper institutional reforms, as they have before at important moments in our nation’s history.



Sanford Levinson and
Jack M. Balkin
**Democracy and
Dysfunction**
University of Chicago
Press, 2019

Can Law Cure a Recession?

Using law as a tool in economic crises

In his new book, *Law and Macroeconomics: Legal Remedies to Recessions*, Shibley Family Fund Professor of Law Yair Listokin ’05 argues that the law has the potential to substantially ease the effects of the next economic crisis.

The Great Recession of the late 2000s continues to cast its shadow across the economic world, but from this legacy economists and policy makers can, and must, learn important lessons, Listokin argues.



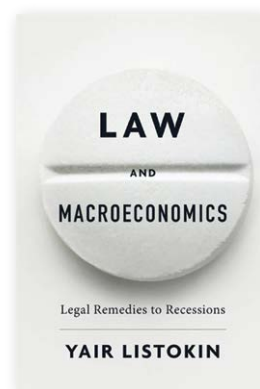
Listokin recounts that policy makers had two tools at hand to harness the effects of the Great Recession: monetary and fiscal policy. The central bank’s monetary policy, which leveraged interest rates to stimulate “aggregate demand,” might have prevented the recession from causing further damage, but it raised fears that financial market bubbles would emerge.

Additionally, many raised questions about whether the central bank evaded democratic accountability. Fiscal policy, the second tool, remained dormant as policymakers largely abandoned it after initial discretionary stimulus attempts.

Despite having survived the worst of the damage, Listokin claims “officials still lack the tools to reverse such a downturn

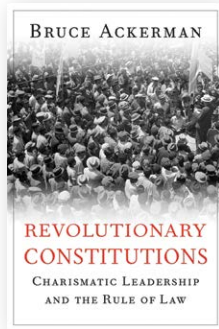
when it occurs next.” Without any changes to macroeconomic policy, he worries, the central bank’s actions in future recessions may further erode democratic legitimacy.

Listokin proposes an alternative, underutilized macroeconomic tool for preventing and managing the effects of recessions: the law. The government has used the law as a macroeconomic tool in the past (e.g., the New Deal, Bretton Woods post-World War II, and the inflation of the 1970s). Listokin argues that, under certain conditions, the law offers a vital alternative to fiscal and monetary policy tools. He builds his argument by recalling positive and caution-



Yair Listokin
**Law and Macroeconomics:
Legal Remedies to Recessions**
Harvard University Press, 2019

ary examples from the New Deal to the Keystone Pipeline, including the constitutionally fraught bond-buying program unveiled by the European Central Bank at the nadir of the Eurozone crisis, the ongoing Greek crisis, and the U.S. price controls in the 1970s. New and existing legal instruments can offer a means to stimulate aggregate demand when monetary policy proves ineffective, Listokin suggests. Moreover, whereas monetary policy can press the legitimacy of central banks to their breaking point, law can ease this tension.



Bruce Ackerman '67
**Revolutionary
Constitutions:
Charismatic Leadership
and the Rule of Law**

Harvard University
Press, 2019

A Defense of Democratic Populism

"Populism" is a principal
engine of constitutional
democracy

In his most recent book, *Revolutionary Constitutions*, Sterling Professor of Law and Political Science Bruce Ackerman '67 argues that the indiscriminate condemnation of "populism" is a big mistake. Though it has become a term of derision, he argues that many of the greatest constitutional achievements of the modern era owe their success precisely to mass

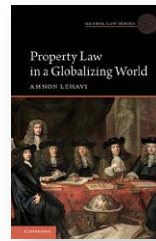
popular mobilizations that succeed in repudiating illegitimate power structures imposed by the old regime.

Ackerman outlines the four stages of this revolutionary dynamic: mobilized insurgency, triumphant constitutionalization of principles committing We the People to a revolutionary new beginning, managing a succession crisis as the revolutionary generation dies off, and consolidating the founding legacy in ways that creatively confront the challenges of succeeding generations.

According to Ackerman, each stage presents formidable difficulties for populist movements. The first half of the book presents four cases in which revolutionary systems have succeeded in moving through the life cycle: India, South Africa, post-war France, and Italy. Next, the book considers the ways in which other revolutionary cases — from the Gaullist Fifth Republic to Polish Solidarity, from the Zionist struggle for an independent Israel to the Iranian struggle for an Islamic Republic to Myanmar's current efforts to overthrow its military dictatorship — complicate the analysis.

In the final chapter, Ackerman turns to the United States and considers how these worldwide constitutional revolutions permit a new perspective on the 20th-century American experience. He invites readers to reflect on the achievements and mistakes of other countries as they confront the 21st-century challenges of sustaining a constitutional democracy in the name of We the People of the United States.

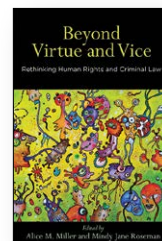
In succeeding volumes in this series, Ackerman considers countries that have travelled non-revolutionary paths to constitutional democracy and demonstrates that these nations confront very different predicaments as they seek to sustain their traditions of liberal democracy for future generations.



Amnon Lehavi
**Property Law in
a Globalizing World**

Cambridge University Press, 2019

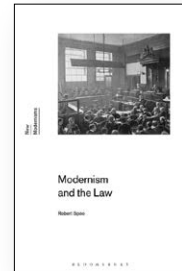
Lehavi '00 LL.M., '03 J.S.D. identifies the challenges that globalization poses for the study and practice of property law. Through an analysis of prominent legal scenarios, Lehavi details the legal strategies used to decrease the gap between the cross-border nature of markets and the domestic tenets of property law and how these rely upon cross-border property norms and institutions.



Alice M. Miller and
Mindy Jane Roseman, eds.
**Beyond Virtue and Vice:
Rethinking Human Rights
and Criminal Law**

UPenn Press, 2019

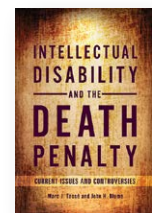
Miller is an Associate Professor (Adjunct) of Law; Roseman is the Director of International Programs and Director of the Gruber Program at Yale Law School. Each chapter considers the extent to which human rights law proves compatible with criminal law, giving special attention to scholarship regarding sexuality, gender, and reproduction, to create a dialogue about how to move beyond state practices that compromise human rights.



Robert Spoo
Modernism and the Law

Bloomsbury, 2018

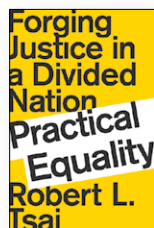
Spoo '00 explores the legal contexts of transatlantic Anglo-American modernist culture. Spoo excavates the submerged relations between law and literature through modernist texts from Oscar Wilde to Ezra Pound. Examining the interplay between legal regulation and literary text's negotiations with their legal contexts, this book explores critical legal issues and cases of the period.



Marc J. Tasse and John H. Blume
**Intellectual Disability
and the Death Penalty:
Current Issues
and Controversies**

Praeger, 2018

Blume '84 and Tasse consider the aftermath of *Atkins v. Virginia*, in which the Supreme Court struck down the death penalty for people with intellectual disabilities. Because some states deviate from a recognized professional consensus for determining intellectual disability, the authors review the major clinical and legal issues surrounding intellectual disability to provide a resource to professionals.



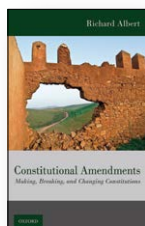
Robert Tsai
**Practical Equality:
Forging Justice
in a Divided Nation**
W.W. Norton, 2019

Tsai '97 revisits the history of justice in the U.S. to develop what he calls "practical egalitarianism" as a means to overcome injustice and inequality. Lessons learned from the oppression of emancipated slaves after the Civil War, the internment of Japanese Americans during World War II, and President Trump's ban on Muslim travelers, he argues, can help shed light on the possibilities for justice on other pressing contemporary issues.



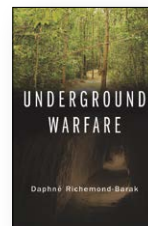
Patrick Radden Keefe
**Say Nothing: A True Story
of Murder and Memory in
Northern Ireland**
Doubleday, 2019

Keefe '05 weaves an intricate narrative about a well-known killing in Northern Ireland and its extensive repercussions. Beginning with the abduction of Jean McConville in 1972, one of the most notorious episodes during the conflict in Northern Ireland, Keefe explores the tale of a society wracked by a violent guerrilla war whose consequences have never been adequately addressed.



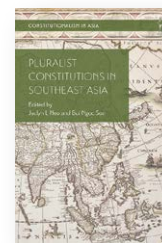
Richard Albert
**Constitutional Amendments:
Making, Breaking,
and Changing Constitutions**
Oxford University Press, 2019

Albert '03 offers a framework to understand constitutional amendments and a blueprint for navigating future constitutional change. Starting from a comparative perspective, Albert seeks to answer two important questions: What is an amendment and how should constitutional designers structure the procedures of constitutional change?



Daphne Richmond-Barak
Underground Warfare
Oxford University Press, 2018

Richmond-Barak '02 LLM examines the global reemergence of underground warfare and the challenges this type of warfare present for democracies that seek to act in accordance with the law. She brings traditional concepts from the law of war to bear upon the practices of underground warfare, identifies the unique issues it raises, and provides long-term strategies and a legal framework to address this growing threat.



Ngoc Son Bui and
Jaclyn L. Neo, eds.
**Pluralist Constitutions
in Southeast Asia**
Hart Publishing, 2019

Neo '08 LLM, '14 JSD and her co-editor curate a group of essays that interrogates the presence of ethnic, religious, political, and ideological pluralities in Southeast Asian societies and how constitutions respond to these pluralities.

ALSO OF NOTE

Stacey Abrams '99
**Lead From the Outside:
How to Build Your Future and
Make Real Change**
Picador, 2019

Mary Adkins '10
When You Read This
Harper, 2019

Joseph Amiel '62
**Death Can Delight:
A Trio of Mysteries**
Lambent Publishing LLC, 2019

Peter Clark '73
**Alpha One Sixteen: A Combat
Infantryman's Year in Vietnam**
Casemate, 2018

Don Furtado '66
The Narrows
Chapel Hill Press, Inc., 2019

Jo Watson Hackl '88
**Smack Dab in
the Middle of Maybe**
Random House, 2018

Vincent Johnson '79 LLM
**Mastering Torts: A Student's
Guide to the Law of Torts
(Sixth Edition)**
Carolina Academic Press, 2018

Vincent Johnson '79 LLM
and Chenglin Liu
**Studies in American Tort Law
(Sixth Edition)**
Carolina Academic Press, 2018

Walter Lamp '58
The Melting Pot
*RunningLight Publishing
Company, 2019*

C. Gwendolyn Landolt,
Patrick Redmond,
Douglas A. Alderson '93 LLM
**From Democracy to
Judicial Dictatorship in Canada:
The Untold Story
of the Charter of Right**
*The Interim Publishing
Company, 2019*

James Anderson O'Neal '78
**Riley and
the Roaring Twenties**
Three Ocean Press, 2018

Gretchen Rubin '94
**Outer Order, Inner Calm:
Declutter and Organize
to Make More Room
for Happiness**
Harmony Books, 2019

Reshma Saujani '02
**Brave Not Perfect: Fear Less,
Fail More, and Live Bolder**
Currency, 2019

Sonia Taitz '81
Great With Child
McWitty Press, 2017

Rolf Margenau '62
**Longevity: Should We Prolong
Human Life By 30 Years?**
Frogworks Publishing, 2019