

Yale Law Report

THE ALUMNI MAGAZINE OF YALE LAW SCHOOL
SUMMER 2020

Toward a More Flexible
Model of Philanthropy

Students Teach Civics
and Constitutional Rights to
New Haven Teens

Faculty Viewpoints on COVID-19



“

In the face of an unprecedented pandemic, our entire way of life and learning changed in an instant. But true to form, this community has faced it all with tenacity and resilience. This has always been a community marked by its graciousness and decency, but never more so than during this crisis.”

— DEAN HEATHER GERKEN

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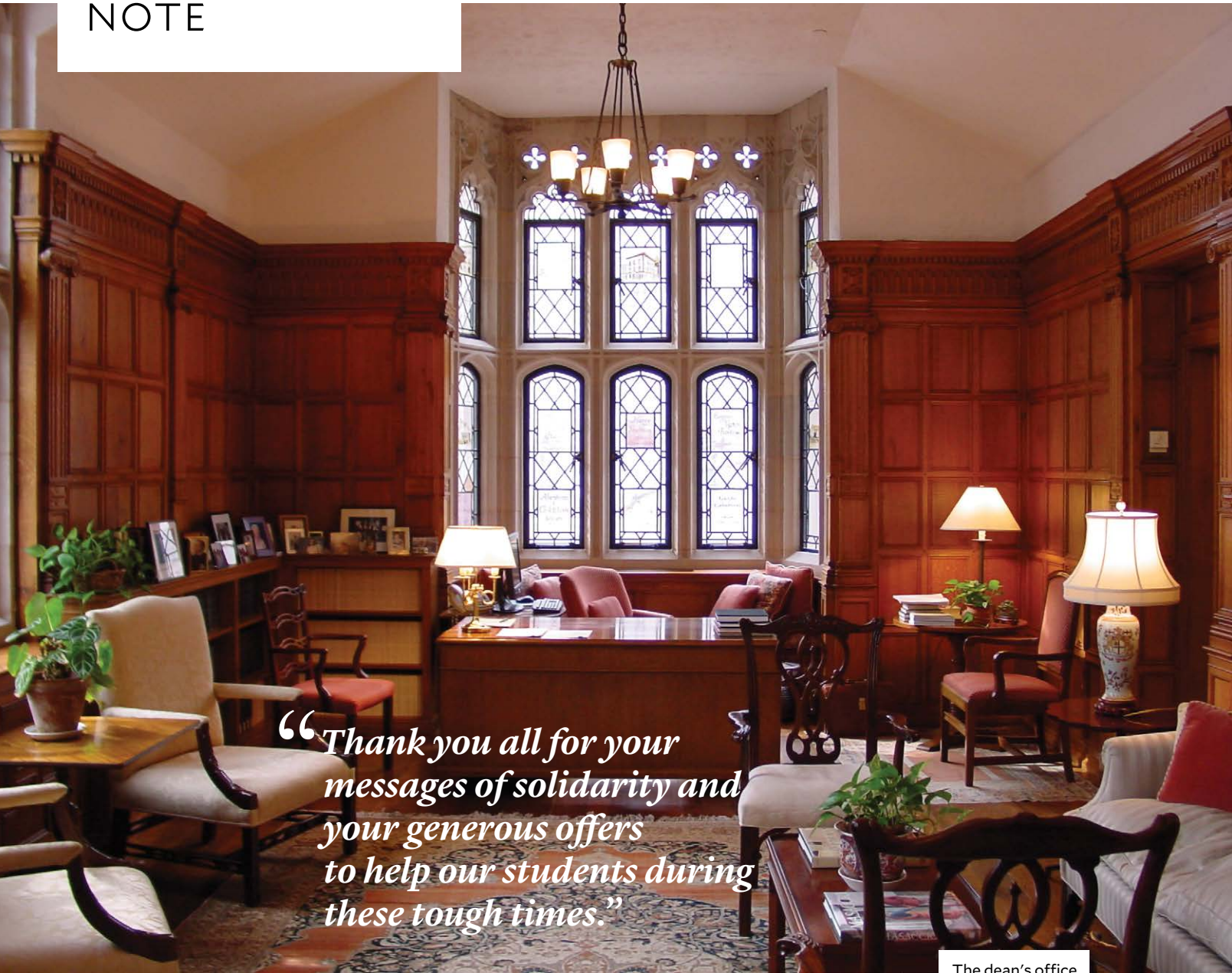
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(ON COVER) The Law School building may have been empty during the COVID-19 crisis, but the community remained vibrant.

(BELOW) New Haven high school students participated in the Marshall-Brennan Constitutional Literacy Project's Winter Moot Court Tournament held at the Law School in February 2020 (see page 30).



DEAN'S NOTE



“Thank you all for your messages of solidarity and your generous offers to help our students during these tough times.”

The dean's office

To the Members of our Alumni Community:

In the nearly 200-year history of Yale Law School, we have never been through a semester quite like this spring. Since the last issue of the *Law Report*, the world has changed. As a result of the pandemic, the Law School was forced to shift our traditional model of teaching and learning in an instant, finding innovative ways to sustain the communal intellectual life that lies at the core of this institution. These have been hard times for everyone, and the challenges that the School has faced have been significant. But in spite of everything, the Law School has remained itself. Perhaps unsurprisingly, our faculty, students, staff, and alumni have met the moment with tenacity, resolve, and grace. As exhausting as the days have been, I've found sustenance in being part of this exceptional community.

I've been especially inspired by the faculty and staff's fierce devotion to the mission of the school and the care of our students. From the moment that COVID-19 hit the United States, we had urgent and difficult decisions to make. Working around the clock and in consultation with University and public health experts, we shifted classes entirely online without missing a beat. We attended to the needs of our students, assisting those who had been displaced, providing financial resources and emergency housing for those in need, and helping students navigate the myriad of personal, academic, and professional challenges they encountered as a result of this crisis. Once our students' emergency needs were met, our Office of Student Affairs and our Graduate Programs office called every single student to check in. Knowing the stresses being placed on our students, the faculty changed the grading system, adopted innovative new teaching strategies, and went out of their way to get their students across the finish line. And then on May 18, we celebrated our 229 remarkable graduates as they embarked on the next phase of their journey. While we will welcome our graduates back to campus for a proper celebration when conditions permit, we tried to produce a bit of Commencement's traditional magic through nontraditional means, which you will read about in the pages to follow.



Dean Gerken on a Zoom event in May 2020

While it is impossible to know how the next semester will unfold at this moment, we are ready for whatever comes next. Yale Law School's fall term will begin on August 24. As I write this letter, however, I am still awaiting guidance from state and University officials as to whether we can hold classes in-person or will need to start online. We are doing everything in our power to maximize opportunities for in-person learning while ensuring that the safety of our community remains the top priority. No matter what happens in the fall, our teaching will meet our standard of excellence, and our community will remain warm and vibrant.

As with the moment in which we find ourselves, this issue of the *Law Report* will be a little different. In the pages ahead, you will read how the Law School responded to the crisis. I know you will be inspired by the extraordinary work our faculty, students, clinics, and centers are doing to help others during this pandemic. We also are proud to share what some of our talented alumni are doing in the field of philanthropy — work that has taken on even greater importance in the wake of this pandemic.

Let me close by thanking all of you for your extraordinary support of this institution during a time of need. When I first began this job, an alum referred to all of you as the School's "standing army." I have felt that support keenly during the last few months. Thank you all for your messages of solidarity and your generous offers to help our students during these tough times. Your support means the world to me and to our students, and you are doing so much to help us get through this challenging moment.

I promise we will keep you updated on our progress as we steer through this uncharted territory. This is a moment when you can also support one another, so I hope you will stay connected with us and each other via The Courtyard, our virtual community, which has grown at an impressive pace and provided just the platform we need right now.

I am thinking of you all and wishing you comfort and good health in the months ahead. Please continue to take care of yourselves and the ones you love.

Warmly,

Heather K. Gerken

SCHOOL
NEWS



Flipping a Centuries-Old Teaching Model on Its Head

Adapting to the Challenges of COVID-19

As the COVID-19 pandemic reached the United States, the Yale Law School administration moved quickly to make a number of pressing decisions and logistical changes to ensure the continuity of the spring semester. First and foremost, the administration strove to protect the health and safety of the community. In March, the administration extended spring break by a week so that students could avoid unnecessary travel. When it became clear that students could not return to campus, the administration began a comprehensive and rapid transition to distance learning, with online classes beginning on March 23 and lasting through the remainder of the term. The IT Department worked around the clock to prepare the new systems needed for remote learning. And faculty flipped a centuries-old teaching model on its head, all while providing critical expertise on pressing topics of the day and working with students in clinics, centers, and programs to serve clients and provide assistance to vulnerable populations around the country.

“Nothing about this has been easy,” wrote Dean Heather Gerken in a message to the community a month after making the shift online. “Yet as hard as things have been in recent weeks, I take enormous pride in how our community has met this unparalleled challenge.”

The faculty found ways to turn remote teaching into more than a substitute, finding silver linings in the middle of a difficult situation. Students went on Zoom field trips to the National Resources Defense Council and the *New York Times*, joined webinars and coffee chats with legal experts from around the world, and even managed to host book club meetings and movie nights while stretched across time zones.

“The heart of the Yale Law School experience is touching the brain, the heart, and the soul at the same time,” said Sterling Professor of International Law Harold Hongju Koh. “Doing all three is much harder in a two-dimensional setting where so many cues are missing and you don’t have the capacity to follow up a tough classroom grilling with a quick pat on the back as the student heads out the classroom door. But there were unexpected surprises, like the guest who could now pop in from Geneva for 20 minutes, the student presentation and powerpoint that could be generated from three different locations across the continent, and

the desire for connection that brought clinic students to virtual happy hours after circuit court oral arguments practiced over the telephone.”

“As different as it felt, it felt so much the same, maybe the sign of a different future than our past, but one in which our shared devotion to a community of commitment continues,” added Koh.

Once the switch to online learning took place, faculty voted unanimously to adopt a credit/fail grading system for the spring semester — one that would reward hard work while acknowledging that the students were uprooted from their lives and coping with their own personal challenges academically and at home.

While the School worked to move operations online, the Law School’s Office of Student Affairs went to great lengths to make sure students had the resources they needed. They helped displaced students get into temporary housing and tried to ensure that all students would receive baseline health coverage while out of state, including mental health and counseling services wherever possible. The Career Development Office kept in regular contact with employers in the public and private sector, and with other law schools, to help students adapt to the changing professional landscape. The academic affairs team provided important resources and counseling regarding changes to the bar exam around the country. The Graduate Programs staff worked to help its students with a variety of unique and complex issues that they faced around the globe. All of this work continues, as the Law School monitors the evolving situation to provide students with the tools and information they need to succeed.

“This has been a trying time for our students who are experiencing this pandemic in very different ways,” said Associate Dean of Student Affairs Ellen Cosgrove. “The Office of Student Affairs team has checked in with every student. We are triaging problems as they arise, and trying to ensure our students know we are here to support them as we navigate these challenges together.”

Dean Gerken also recently created a Safety Net Fund to provide financial assistance to students facing unexpected hardships. The fund, along with other forms of support, helped the Law School meet the pressing needs of students dealing with the pandemic.



“The heart of the Yale Law School experience is touching the brain, the heart, and the soul at the same time.” — HAROLD HONGJU KOH

Faculty members in the video created to celebrate the Class of 2020

“I am enormously grateful to the Executive Committee, the Fund Board, and individual alumni for helping us create the Safety Net fund. If we ever needed proof of its importance, COVID-19 made clear how much it matters. I have also never been more grateful for annual giving. The generous support from our alumni gave us the flexibility we needed to deal with a crisis that no one anticipated.”

After classes concluded and exams were finished, the Law School devised a creative way to celebrate the remarkable graduates of the Class of 2020, since an in-person commencement ceremony was not possible. In an online tribute video, faculty and staff spoke to the accomplishments and strengths of the graduates and their impact on the Law School and the world.

“[The Class of 2020] will be the people, who in town and country and world, will be the ones who come up with the ideas and with the work to make this very sad and difficult and yet wonderful world a better place,” Sterling Professor Emeritus of Law Guido Calabresi ’58 said in the video.

The video concluded with a touching moment of members of the community applauding graduates from their homes. Students also received a personal note from

a faculty member and a call from Student Affairs or the Graduate Programs office. As a final send off, faculty also held virtual office hours during which graduates and their families could drop in to celebrate the happy occasion. Watch the video at law.yale.edu/2020. An in-person celebration will be scheduled for a later date.

Looking ahead, the Law School is preparing for a range of scenarios that could occur during the new academic year, prioritizing the health and safety of the community while aiming to implement in-person learning whenever possible. While the future in the era of COVID-19 is unpredictable, the Law School is prepared for whatever comes next and will steer through the uncertainty guided by the mission of this institution — to provide an outstanding legal education, develop the leaders of tomorrow, and make a positive impact on the world at large.

“In the face of an unprecedented pandemic, our entire way of life and learning changed in an instant,” said Dean Gerken, reflecting on the spring semester. “But true to form, this community has faced it all with tenacity and resilience. This has always been a community marked by its graciousness and decency, but never more so than during this crisis.” ❤️

Rising to Meet the Needs of a Pandemic

Yale Law Community Shares Expertise on COVID-19

Law School clinics, faculty, and centers immediately emerged as central players in critical debates over public health, economic change, national security, and immigration this spring as the coronavirus pandemic rapidly changed the country and the world. Often collaborating across time zones and via countless Zoom meeting rooms, clinics filed new lawsuits addressing the vital need for equity and justice for vulnerable populations. Faculty explained the legal impact of the pandemic as sought-after experts in the media and worked to advance pressing research on current societal challenges. And centers were at the forefront of national and international efforts concerning issues posed by the crisis.

“I’m proud that Yale Law School stands out as a voice of reasoned, principled leadership in this time,” said Dean Heather Gerken. “We have a responsibility to apply our knowledge and expertise to the pressing challenges unleashed by COVID-19. I have been so heartened to watch our community rise to the occasion.”

CENTERS

Professor of Law Amy Kapczynski ’03 and epidemiologist Gregg Gonsalves, the faculty codirectors of the Global Health Justice Partnership (GHJP), led the charge in offering concrete policy solutions that would protect vulnerable individuals; address current economic, social, legal, and political failures; and help the nation rebuild.

In March, they joined a panel of Yale University experts at a virtual town hall to answer the public’s questions about the pandemic. There, they shared a fact sheet for Connecticut residents on protecting their rights during the COVID-19 response.

An expert letter drafted by GHJP outlined evidence- and rights-based considerations for federal, state, and local policymakers and leaders. Signed by more than 800 experts and organizations with experience in pandemic response, the letter stressed the need to protect health-care workers, those with chronic health conditions, incarcerated individuals, and the elderly. The letter received widespread attention with the endorsement of *The New York Times* editorial board on March 6, 2020.

In a major three-part series for the *Boston Review*, Kapczynski and Gonsalves also explored the decades

of policy decisions that helped create conditions that exacerbated the pandemic’s devastation in the U.S.

“This crisis should serve as a warning that the struggle we face is not only political, but existential — with pandemics and plagues, global warming and climate disaster waiting just around the bend, coming whether we learn their lessons in time, or not,” they wrote.

Faculty, staff, and students from the Solomon Center for Health Law & Policy tackled urgent health care-related legal issues, from easing restrictions on telehealth to ensuring health care access for students home from colleges and universities. Solomon Center faculty director and Professor of Law Abbe R. Gluck ’00 joined a team of experts that issued a set of detailed policy recommendations to legislators for a comprehensive COVID-19 stimulus response bill. Through its innovative Medical Legal Partnerships, the Center also worked locally to deliver on-the-ground assistance to the populations they serve in New Haven, including incarcerated individuals and immigrant detainees.

Professor of Law David Schleicher and Gluck also organized a weekly faculty workshop that explored the ways — from tax law implications to health law, federalism, immigration law, and criminal justice — that COVID-19 intersects with virtually every legal area.

Under the leadership of Potter Stewart Professor of Constitutional Law Paul Gewirtz and Executive Director Robert Williams, the Paul Tsai China Center led public calls for global pandemic response cooperation. Working with the state of Connecticut and nationwide volunteer organizations and hospitals, including Yale New Haven Hospital, the Center aimed to secure reliable ongoing supplies of urgently needed personal protective equipment (PPE) from China for delivery to frontline health-care professionals in the United States. Center faculty and fellows organized and participated in bilateral strategic dialogues and medical professional exchanges, engaged with U.S. and Chinese counterparts on pressing legal and regulatory issues, and maintained a database of translated and Chinese-language materials that provided unique insight into China’s response to the pandemic as well as practical references for other nations.

The Arthur Liman Center for Public Interest Law led efforts that responded to incarcerated individuals,

“Protecting prisoners from pandemics is not just a ‘should’ or an ‘ought’ but a ‘must’—as a matter of U.S. constitutional law.”

JUDITH RESNIK

renters, and immigrants. Led by founding director and Arthur Liman Professor of Law Judith Resnik, the Center filed motions and declarations in court cases across the country to decrease the number of people in detention, halt evictions, and advocate for incarcerated individuals at risk of contracting COVID-19. Resnik contributed to critical dialogue in the press through several op-eds, including a commentary for Bloomberg Law that outlined why protecting prisoners from the pandemic is a Constitutional imperative.

“Protecting prisoners from pandemics is not just a ‘should’ or an ‘ought’ but a ‘must’—as a matter of U.S. constitutional law,” wrote Resnik.

CLINICS

As soon as the scope of the crisis became clear, students in Law School clinics quickly began work on the leading edge of the law and strove to protect the vulnerable during the pandemic.

In March, the Worker & Immigrant Rights Advocacy Clinic (WIRAC) filed a class action that sought the release of ICE detainees who were at imminent risk of COVID-19 infection due to conditions at the Bristol County House of Corrections in Massachusetts.

WIRAC also urged the Supreme Court to consider COVID-19’s impact on DACA recipients in a letter it submitted in March in *Wolf v. Batalla Vidal*, the Clinic’s case challenging the 2017 termination of the Deferred Action for Childhood Arrivals policy. Tens of thousands of DACA recipients are on the frontlines of the pandemic through their role in the U.S. health care sector, and the Clinic urged the court to take full account of the consequences of terminating DACA in the case, which has garnered extensive coverage in the national press.

In April, the newly created Criminal Justice Advocacy Clinic and partners filed a class action lawsuit against the Bureau of Prisons to require federal



Photo by Mara Lavitt

officials to provide emergency measures to protect the more than 1,000 women and men at the low security federal prison in Danbury, Connecticut from the virus. In a ruling that made national headlines in May, the District of Connecticut ordered the prison to immediately take steps to ensure the safe release of individuals imprisoned at FCI Danbury to home confinement. Clinical Associate Professor of Law Marisol Orihuela '08, who codirects the Clinic, called the ruling a necessary step toward ensuring the basic safety of those imprisoned at FCI Danbury.

The Veterans Legal Services Clinic (VLSC), representing nearly a dozen veterans groups and advocacy organizations, called on the state of Connecticut to release certain incarcerated veterans and other at-risk individuals. The clinic and its partners drafted an FAQ for Veterans surrounding the COVID-19 pandemic. The VLSC also represents David Terwilliger, an 80-year-old disabled former Marine and Navy sailor incarcerated in Connecticut who sought release due to the risks posed by COVID-19. The same week the Clinic filed its lawsuit, the Connecticut Department of Correction responded by releasing the man to a halfway house.

In conjunction with the ACLU of Connecticut, the Allard K. Lowenstein International Human Rights Clinic and the Advanced Sentencing Clinic filed a lawsuit in April that sought an immediate reduction of the prison population in Connecticut Department of Corrections prisons due to the severe impact the spread of COVID-19 may have on these facilities. The Clinic also released a set of national recommendations to help solve the crisis of COVID-19 in prisons, jails, and immigration detention centers across the United States.

In a separate matter, the Lowenstein Clinic argued in a letter to the United Nations that isolating sick prisoners at Connecticut's Northern Correctional Institution, a facility the Clinic called "punitive by design," violated international law. The letter contended that inflicting solitary confinement on incarcerated COVID-19 patients amounted to cruel, inhuman, and degrading treatment of prisoners, which international law prohibits. The April 22, 2020 letter was the second submission that the Clinic made to the U.N. regarding inhumane practices at Northern, Connecticut's only supermax prison.

IN NEW HAVEN

To assist New Haven-area small businesses and nonprofit organizations, several dozen students united to develop educational materials and access to legal services for the local small business community.

In the days prior to passage of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Jeff Schroeder '21, a student in the Housing Clinic, orga-

nized the COVID Student Small Business Support Project along with several other second-year law students.

On April 1, 2020, Adam Kinkley '21, Michael Pelle '21, and Schroeder presented information on the new CARES Act to a group of about 20 New Haven nonprofits and continued educational outreach in the weeks that followed.

Simultaneously, Clinical Associate Professor of Law Anika Singh Lemar and Hannah Abelow '21, a student in the Ludwig Center for Community & Economic Development (CED), connected the Clinic's efforts to ameliorate economic inequality in greater New Haven by building capacity to provide legal representation to affected businesses and nonprofits. *The Connecticut Law Tribune* spotlighted the initiative, which also offered informational conversations with business owners and free legal services to those who showed a deeper need.

"This pandemic is revealing so many of the ways that our economic resources, including small business financing and legal services, are made inaccessible to the poor and the precarious middle class," said Lemar. "We hope to do our small part to address those inequities."

LEGAL HISTORY

On the academic side, Allen H. Duffy Class of 1960 Professor of Law John Fabian Witt '99 used the pandemic as an opportunity to produce series of short Zoom lectures on the legal history of epidemics and infectious diseases in the U.S. that are accessible to the public online. (*See more on page 22.*)

"This is a first draft on a subject in which we're all suddenly and tragically and unavoidably immersed," Witt said. "We're already reproducing patterns laid down in past epidemics. We're doomed to repeat the worst parts of our past if we don't understand them. Studying the history helps us see what's new about this coronavirus."

For a full roundup of all of the remarkable legal work, advocacy, and expertise being produced by the Yale Law community, visit law.yale.edu/covid19news.

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ANIKA SINGH LEMAR

Police Reform and Procedural Justice

In January 2015, Yale Law School faculty cofounders Tracey Meares and Tom Tyler began the Justice Collaboratory (the JC) as part of the U.S. Justice Department's National Initiative for Building Community Trust and Justice. The JC's primary aim has been to lead fundamental criminal justice reform that is evidence-based. Following the killing of George Floyd in Minneapolis, *YLR* spoke to Professor Meares, Professor Tyler, and Executive Director of the Justice Collaboratory Caroline Nobo Sarnoff. Read more of this conversation at ylaw.us/3gX0aVr.

Yale Law Report: The mantra of the Justice Collaboratory is “Serious Science, Serious Impact.” What does the data tell us about where we are right now?

Meares: American policing has largely been shaped by improvisation, with leaders engaging in a recurrent pattern of reacting to immediate perceived crises and public panics with quick fixes. These efforts are often guided by guesses and intuitions, many of which are found to be erroneous at best and counterproductive at worst. History tells us we need a deep dive into developing evidence-informed policies and practices before doing anything drastic, like dismantling the police.

There are glimmers of hope. For example, the images of police chiefs kneeling with protesters—we feel strongly this wouldn't have happened 10 years ago or even before President Obama's Task Force on 21st Century Policing. These actions are not idiosyncratic: The leaders of major national police organizations, like the International Association of Chiefs of Police (IACP), have also issued statements of support for policing changes.

YLR: What are the biggest obstacles that get in the way of creating a fairer and more effective justice system?

Tyler: Federal support, in terms of both significant financial and policy investments. To make transformation possible there must be substantial buy-in from the federal government. For perspective, the NYPD's annual budget is around \$5.5 billion, but the last federal initiative to reform policing was funded at a mere pittance of \$5 million, across three years, in six cities.

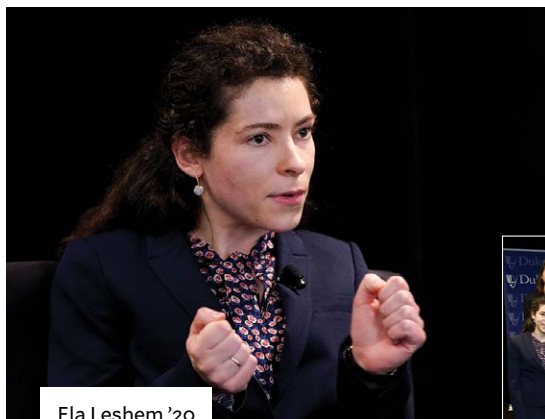
Beyond the fundamental hurdle of support, there has never been a conscious articulation of what Americans believe the connection between the police and the community ought to look like. And, large segments of those impacted by policing have been, and continue to be, excluded from any influence over how policing in their communities has occurred. If America is to move beyond its troubled and conflict-laden relationship with its police, it is necessary to have a broader serious discussion about what democratic policing can and should look like.

YLR: What is the best first step to take to implement meaningful change?

Sarnoff: We need to think about how we can immediately reduce harm while investing in a long-term strategy of change. For example, eliminating certain “use of force” policies—like chokeholds and neck pressure that inhibit the carotid artery is a must. There are no reasons why police departments cannot simultaneously start a historical accounting of all the transgressions and violence against people of color in their communities. It is necessary that communities of color see police departments acknowledging the pain and fear they are inflicting.

Liman Center Cited in Federal Report

On February 26, 2020, the U.S. Commission on Civil Rights released its report, *Women in Prison: Seeking Justice Behind Bars*, which documents the challenges incarcerated women face and calls for reforms to respond to female prisoners' “specific needs.” This encyclopedic overview draws from testimony and submissions from last year's briefing, at which Judith Resnik, Arthur Liman Professor of Law, spoke and submitted a statement from The Arthur Liman Center for Public Interest Law, coauthored by Alexandra Harrington '14, Senior Liman Fellow in Residence, and Molly Petchenik '21.



Ela Leshem '20

For the first time, the editors in chief of the top 16 law reviews in the U.S. are all women, including Ela Leshem '20 of *Yale Law Journal*. They met in Washington, D.C. in the winter for a conference titled “Honoring the Advancement of Women in Law.”



SOLOMON CENTER

New Elder Law Project Launches

Over the 2019–2020 academic year, the Solomon Center for Health Law and Policy at Yale Law School launched The Adrienne C. Drell and Franklin W. Nitikman Elder Law Project to explore aging and the law through multiple prongs — academic, experiential, and theoretical. This exciting new project is inspired and supported by Adrienne Drell '92 MSL and Frank Nitikman '66.



Adrienne Drell '92 MSL (left) and Frank Nitikman '66

As part of the launch, the Solomon Center offered a pathbreaking seminar on “Aging and the Law,” during the Spring 2020 semester. The course was co-taught by Visiting Professor of Law Nina Kohn, a leading elder law expert from Syracuse University College of

Law, and Kevin Cremin '00, Director of Litigation for Disability and Aging Rights at Mobilization for Justice. It included an innovative experiential component in which students worked on a variety of real-world projects ranging from a project for the Center for Medicare Advocacy on home healthcare to an AARP project focusing on health disparities in later life.

The project also expands the Center's clinical offering — the Medical Legal Partnership (MLP) program — to include a Geriatric MLP that will target legal services to the elderly.

A series of important academic initiatives are also underway through the Elder Law Project, including a groundbreaking new book coedited by Professor of Law Abbe R. Gluck '00 and Jacquin D. Bierman Professor in Taxation Anne Alstott '87. The book aims to reconceive the entire U.S. legal and regulatory system — from education to housing to reproductive rights — in light of the 100-year-old American.

Finally, the Center is also launching a first-of-its kind collaboration on palliative care policy with the Center to Advance Palliative Care (CAPC). The new partnership involves developing a unique state

palliative care policy database to educate practitioners and families about options available while also providing an essential tool for policymakers seeking to address significant gaps in palliative care treatment and access. To launch the collaboration, in February 2020, the Center hosted a standing room-only event with Dr. Diane Meier — a pioneer in the field of palliative care who is Director of CAPC.

Students and Alumni Receive Public Interest Fellowships

Yale Law School community members received more than 50 public interest fellowships this year. These fellowships support one or two years of work in the public interest, jumpstarting careers while serving the legal needs of underserved members of society.

Bernstein Fellows

Laith Aqel '20
Patricia Cruz Marin '20 LLM
Paul Rink '19

Cochran Fellow

Katie Haas '17

CBF Singer Public Service Fellow

Alden Pinkham '20

Curtis-Liman Clinical Fellow

Alexander Wang '19

Equal Justice Works Fellows

Faith Barksdale '20
Dana Bolger '19
Rita Gilles '20

Gruber Fellows

Hannah Hussey '20
Carolyn Lipp '18

Heyman Fellows

Samuel Marullo '20
Alexander Mechanick '20

Justice Catalyst Fellows

James Campbell '20
David Chen '18
John Giammatteo '17
Sarah Levine '20
Joseph Meyers '18
Scott Stern '20
Zoe Tucker '20

Liman Fellows

Colin Antaya '19
Josh Blecher-Cohen '20
Samuel Frizell '20
Elise Grifka Wander '19
Nathan Leys '20
Kelley Schiffman '18
Joseph Schottenfeld '19
Mary Ella Simmons '20
Megan Yan '20

Reporters Committee Fellow

Mailyn Fidler '20

Robina Fellows

Talya Lockman-Fine '20
Abigail Pershing '20
Louise Willocx '19 LLM

Skadden Fellows

Esther Araya '20
Eric Baudry '19
D'Laney Gielow '18
Iva Velickovic '19
Jesse Williams '20
Kath Xu '20

Soros Fellows

Saúl Ramírez '19

YLS International Court of Justice Fellowship

Idriss Fofana '18

YLS Permanent Court of Arbitration Fellowship

Reddy Kethireddy '19

YLS Public Interest Fellows

Rafael Bezerra Nunes '18 LLM
Jade Ford '20
Leanne Gale '20
Rebecca Loomis '18
Samantha Peltz '20
Rebecca Steinberg '20

YLJ Fellows

Alexandra Gutierrez '18
Patrick Hulin '20
Emily Villano '19

VISITING THE LAW SCHOOL



Trevor W. Morrison, the Dean of New York University School of Law, gave the 2019–2020 Brennan Center Jorde Symposium Lecture on February 27, 2020, titled, “Constitution by Convention.”



Edward Glaeser, the Fred and Eleanor Glimp Professor of Economics at Harvard University, delivered the Storrs Lectures on March 2 and 3. The lectures, titled “The Law and the City,” examined the positive and negative social interactions of urban density and how laws can make an impact.

CAFE LAB

Students Tackle Industrial Agriculture Exploitation

The Climate, Animal, Food and Environment (CAFE) Law and Policy Lab, a course offered by the Law, Ethics & Animals Program (LEAP) at Yale Law School, was designed to provide hands-on skills training to teach students how to apply systems thinking and build durable interventions in policy, legislation and litigation. Throughout the semester, the course challenged six interdisciplinary teams to develop new strategies to address patterns of exploitation and abuse that jointly affect animals, people, the environment,

and related causes, such as consumer safety, worker safety, fair markets, rural economies, and public health. The industrial-scale practices that dominate U.S. meat production are leading contributors to animal suffering, worker exploitation, and environmental degradation worldwide.

In their final presentations, teams presented novel solutions to a variety of the most systemic and urgent industrial animal agriculture issues. Based on extensive research, interviews with experts, and an iterative feedback process during the semester, teams laid out diverse proposals for novel litigation strategies, private-sector incentives, advocacy movements, institutional transformation, and academic research.

The CAFE Lab included 27 graduate and professional students from across Yale's campus, including the Law School, the School of the Environment, the School of Public Health, the School of Management, and the Jackson Institute for Global Affairs.

"The CAFE Lab embodies the wide diversity of backgrounds and specialties of the students enrolled. Students have distinct expertise, but are united in their understanding of the tremendous and neglected consequences stemming from animal agriculture," said Manny Rutinel, Law '21.



Legislative Advocacy Clinic

Through the Legislative Advocacy Clinic, and with support from the Solomon Center, Sam Marullo '20 and Patrick Hulin '20 secured funding for an opioid treatment program in Connecticut prisons. In 2018, Marullo, Hulin, and others from the Clinic worked with Connecticut state legislators to introduce a bill that requires Connecticut to provide prisoners with access to medication-assisted treatment (MAT).

MFIA CLINIC

MFIA Clinic Launches Local News Initiative

The Media Freedom and Information Access (MFIA) Clinic is providing journalists at small and nonprofit news sites in New England with pro bono legal services to support their newsgathering and defend their publications through this new program.

The Local News Initiative is being launched to address an unmet need. "While society today increasingly obtains its news and information online, journalists working locally and for online publishers often have limited access to legal assistance," said MFIA Clinic Co-Director David A. Schulz '78.

The project's mission is twofold: to assist investigative journalists who do not otherwise have access to legal resources, and to train the next generation of

media lawyers. MFIA Clinic lawyers and law students work with journalists with varying degrees of experience in developing strategies to reduce potential liability from newsgathering activities — including source protection, trespass, intrusion and other privacy concerns.

The MFIA Clinic is further defending journalists in their case on behalf of PEN America. In the case, PEN America accuses the President of violating the First Amendment by using his official powers to punish journalists whose work he dislikes. In April, U.S. District Court Judge Lorna Schofield ordered that the lawsuit proceed into discovery.

In February, MFIA scored a victory in another case when a Massachusetts district judge ordered the unsealing of a batch of documents from grand juries convened during the Pentagon Papers case.

VISITING THE LAW SCHOOL



The Rev. Dr. **William J. Barber II** gave the Gruber Distinguished Lecture in Global Justice on February 24, 2020. Barber is pastor of Greenleaf Christian Church in Goldsboro, North Carolina.



Randal K. Quarles '84, the Vice Chair for Supervision, Board of Governors of the Federal Reserve System, gave a Dean's Lecture on February 11, 2020. The talk was co-sponsored by the Yale Law School Center for the Study of Corporate Law.

CLINIC ROUNDUP

SFALP Clinic



In May, the SFALP Clinic helped the San Francisco City Attorney's Office to take leading rideshare companies to task for misclassifying workers and denying them their legal rights as employees. San Francisco joined Los Angeles, San Diego, and the California Attorney General's Office to sue Uber and Lyft for misclassifying their drivers as independent contractors in violation of a state law known as AB 5.

The complaint alleges that Uber and Lyft made the calculated business decision to misclassify their on-demand drivers as independent contractors rather than employees, depriving workers of critical workplace protections such as the right to minimum wage and overtime, and access to paid sick leave, disability insurance, and unemployment insurance.

For more work by the SFALP Clinic, see the online feature "SFALP Clinic Takes the Fight Beyond the Courtroom" at ylaw.us/2YPzkYP.

Veterans Legal Services Clinic

According to a new white paper released on May 8, 2020 by the Vets Clinic and the National Veterans Legal Services Program, veterans who served on Guam from 1962 to 1975 satisfy the U.S. Department of Veterans Affairs legal standard for exposure to Agent Orange and other dioxin-containing herbicides.

"Official government accounts of herbicide mishandling, improper hazardous waste disposal, and high concentrations of dioxin across Guam establish exposure pathways to support claims of service connection based on herbicide exposure," said James Campbell '20, a law student in the Clinic. "We hope that veterans advocates and lawmakers will build on this report to address unremediated health risks and military pollution in Guam."

Peter Gruber Rule of Law Clinic (ROLC)

In April, the ROLC filed Freedom of Information Act (FOIA) requests on April 22, 2020 with the U.S. Department of Defense (DoD) seeking accurate numbers for U.S. troops serving in Afghanistan, Iraq, and Syria since December 2017 on behalf of Just Security and the Project On Government Oversight.

"These numbers have been publicly available for years, and there is no reason why they should now be hidden from public view," said Nicole Ng '22, a law student intern with Yale Law School's Peter Gruber Rule of Law Clinic. "It is up to DoD to do the right thing in response to these requests."

In March, students and faculty delivered testimony at the Connecticut House of Representatives in support of the Connecticut Parentage Act, a bill currently before the state legislature that will help ensure that all CT children — regardless of the circumstances of their birth or the marital status, gender, or sexual orientation of their parents — have equal access to the security of a legal parent-child relationship.



(above, from left) Josh Blecher-Cohen '20, Will Poff-Webster '22, Cara Newlon '21, CT State Rep. Jeff Currey, Shannon Manley '20, Professor Doug NeJaime, and Soren Schmidt '20.

SFALP Clinic Photo by Harold Shapiro



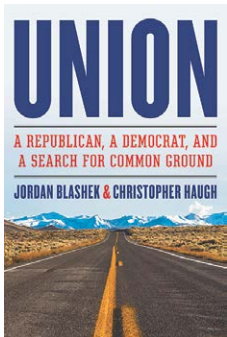
Dwayne Betts '16 delivered a Dean's Lecture on his latest book of poetry, *Felon*, on February 17, 2020.



Ray Dalio of Bridgewater Associates delivered the 2019-2020 Judge Ralph K. Winter Lecture titled "Principles for Navigating Big Debt Crises" on January 27, 2020.



Jordan Blashek '18 (left) and Christopher Haugh '18



Jordan Blashek and Christopher Haugh
Union: A Democrat, a Republican, and a Search for Common Ground

Little, Brown, 2020

On the Road with the Other Side

Two friends and classmates look for America

Coauthors and friends Jordan Blashek '18 and Christopher Haugh '18 took a series of road trips across the United States to observe the country — red states, blue states, and everything in between. Blashek, a Republican and former Marine, and Haugh, a Democrat and journalist, met at Yale Law School and enjoyed friendly debates on thorny issues while in New Haven. They wanted to see if they could create the same environment for discussion away from campus. “Without Yale Law School, this book would likely have never happened,” Haugh said. “There are few institutions out there where Jordan and I would have had the opportunity to get to know one another, exchange views, and think creatively about what we wanted out of life.”

“The two of us were constantly amazed to find how warm and welcoming Americans were across the country. Everywhere we went, people invited us into their lives and homes.”

In their cross-country drives and the book *Union* that documents them, they sought common ground — ways to connect with people regardless of their beliefs. The pair attended a Trump rally, rode along with a truck driver, and set sail with a lobsterman. They spent time with immigrants, veterans, and former inmates. “The two of us were constantly amazed to find how warm and welcoming Americans were across the country,” Blashek said. “Everywhere we went, people invited us into their lives and homes. These were people with whom we shared almost nothing in common, and even more, likely disagreed with on fundamental issues. But when we engaged with each other just as people, all the labels and biases fell away.”

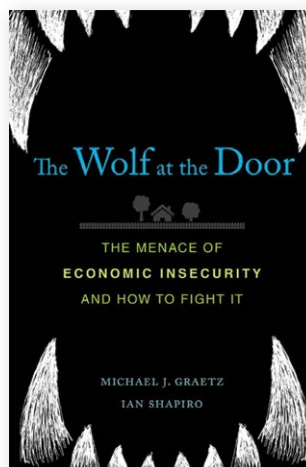
Through their travels, the coauthors increased their empathy for the people they encountered while recognizing that true connection is hard to achieve. “One of the moments that really stuck with me was the conversation at the Trump rally in Phoenix between two Black Lives Matters supporters and two Trump supporters,” Blashek recalled. “What seemed like a heated argument turned out to be a respectful exchange among four Americans who were actually listening to each other.” The authors believe that as long as people keep trying, bonds can be forged. “On our best days, I think *Union* made us more humble and reminded us no one has a monopoly on truth,” said Haugh. “As Jordan said to me on the road, common ground these days isn’t necessarily about agreement; it’s about getting to a place where the disagreements aren’t so salient.”



Tulsa, OK (May 2019) — portrait of Woody Guthrie.

Photo courtesy of Christopher Haugh

SPOTLIGHT



Michael Graetz and
Ian Shapiro
**The Wolf at the Door:
The Menace of
Economic Insecurity
and How to Fight It**

Harvard University Press, 2020

The Economics Behind Populist Movements

An analysis of and recommendations
to solve economic insecurity in the U.S.



**Michael
Graetz**



**Ian
Shapiro**

In their new book *The Wolf at the Door: The Menace of Economic Insecurity and How to Fight It*, Yale Law School’s Justus S. Hotchkiss Professor of Law Emeritus Michael Graetz and Yale University’s Sterling Professor of Political Science Ian Shapiro trace the sources of insecurity in America and describe potentially effective and politically viable policy recommendations to restore economic security.

The authors argue that people fear not what the rich are making but the prospect of losing what they have, whether jobs, social status, or physical safety. A “toxic combination of economic distress and political dysfunction” has fueled the recent populist movements in the United States on the left and the right, but solutions like protectionism or class warfare will not alleviate the fears and frustrations of middle-class or poor Americans. Instead, the dangers posed to the livelihoods of workers by innovations in technology and globalization can be ameliorated by pursuing and implementing effective policies through the political system.

At the heart of *The Wolf at the Door* is a framework for a successful distributive politics, written to inform lawmakers, politicians, and activists. The authors propose substantive ideas to reward work, increase wages, increase jobs, protect families suffering from unemployment, and provide health insurance and childcare. Their suggestions range from expanding the earned income tax credit to broadening medical insurance coverage to increasing private-public partnerships for infrastructure projects. With insight and clarity, Graetz and Shapiro provide a compelling analysis of the crisis and the potential tools at policymakers’ disposal.

The Affordable Care Act Turns 10

Groundbreaking book of scholarship on the ACA



Abbe R. Gluck

When President Barack Obama signed the Affordable Care Act (ACA) into law on March 23, 2010, it became a monumental and almost immediately polarizing achievement. Not since the Medicare and Medicaid legislation of 1965 had such an ambitious health care bill touched so many aspects of American life.

The Trillion Dollar Revolution: How the Affordable Care Act Transformed Politics, Law, and Health Care in America, edited by Abbe R. Gluck '00, Professor of Law and Faculty Director of the Solomon Center

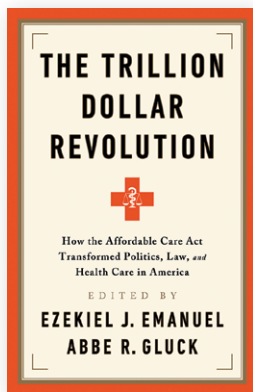
for Health Law and Policy at Yale Law School, and Dr. Ezekiel J. Emanuel, Vice Provost for Global Initiatives at the University of Pennsylvania, collects essays by an all-star roster of health care experts, policymakers, lawyers, and scholars on all sides of the political spectrum. Contributors include two former Secretaries of Health and Human Services, Kathleen Sebelius and Sylvia Mathews Burwell; two former U.S. Solicitors General, Paul Clement and Donald Verrilli; the former House Majority Leader Eric Cantor, who led Republicans in the House during the ACA's first years; President Obama's chief of staff Rahm Emanuel; noted health care journalist Jonathan Cohn, and many more leading academics and former government officials.

"The ACA has been the most attacked and — as it turned

out — the most resilient piece of social welfare legislation Congress has ever passed," Gluck and Emanuel write in the book's introduction. "Challenged in court minutes after it was enacted...the ACA was partially gutted by the Supreme Court before its main provisions even took effect." In surviving a decade of challenges, Gluck and Emanuel note that the ACA's "protections, coverage aims, and vision for a changing health care system have created a new understanding of what the American health care system should be." Indeed, "the ACA seems to have shifted the baseline of what Americans understand to be the goals of their health care system...an alternative that would undo a substantial part of the law's coverage gains no longer appears acceptable to the public."



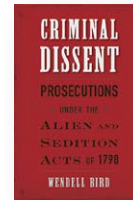
Ezekiel Emanuel



Abbe R. Gluck & Ezekiel Emanuel, eds.
The Trillion Dollar Revolution: How the Affordable Care Act Transformed Politics, Law, and Health Care in America
PublicAffairs, 2020

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.

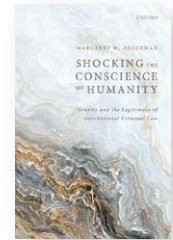


Wendell Bird

Criminal Dissent: Prosecutions under the Alien and Sedition Acts of 1798

Harvard University Press, 2019

Bird '78 combines deep research with rigorous analysis to provide an authoritative history of the Alien and Sedition Acts and their influence on the political culture of the 1790s. He documents how the infamous acts threatened the fragility of the new republic and the central role an active citizenry played in restoring the hard-won freedoms of speech and press.



Margaret M. deGuzman
Shocking the Conscience of Humanity: Gravity and the Legitimacy of International Criminal Law

Oxford University Press, 2020

DeGuzman '99 explores the central role that the concept of gravity has played in the development of international criminal law. The author also proposes strategies for regime decision-making aimed at increasing the legitimacy of the field.

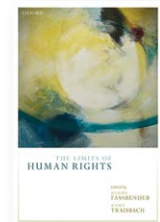


Ray Brescia

The Future of Change: How Technology Shapes Social Revolutions

Cornell University Press, 2020

Brescia '92 identifies a series of "social innovation moments" in American history from the Revolutionary Era to the present. He argues that advances in technology have contributed to and shaped civic engagement and social movements. *The Future of Change* also provides an assessment of contemporary communications technologies and the promise they may hold for those interested in bringing about social change.

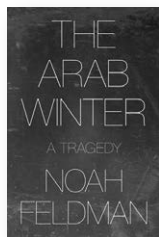


Bardo Fassbender and Knut Traisbach, eds.

The Limits of Human Rights

Oxford University Press, 2020

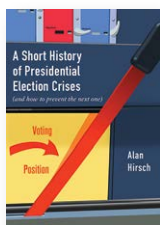
Fassbender '92 LL.M., '99 J.S.D. and Traisbach bring together leading scholars of international law in *The Limits of Human Rights* to consider the functional, pragmatic, and ideological limits of human rights from an interdisciplinary perspective. Each contribution is followed by a response from another scholar in order to generate further debate about the arguments for and effects of the expansion of human rights.



Noah Feldman
**The Arab Winter:
A Tragedy**

Princeton University Press, 2020

Focusing on events in Egypt, Syria, Iraq, and Tunisia, Feldman '97 provides an original account of the political consequences of the Arab Spring, including the reaffirmation of pan-Arab identity, the devastation of Arab nationalisms, and the death of political Islam with the collapse of ISIS. He also challenges commentators who say that the Arab Spring was never truly transformative, that Arab popular self-determination was a mirage, and even that Arabs or Muslims are less capable of democracy than other peoples.



Alan Hirsch
**A Short History of
Presidential Election Crises
(and How to Prevent
the Next One)**

City Lights, 2020

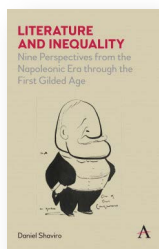
Hirsch '85 presents a concise history of presidential elections that resulted in crises and advocates clear, common-sense solutions, including abolishing the Electoral College and the creation of a permanent Election Review Board to prevent or remedy future crises.



Lea Shaver
**Ending Book Hunger:
Access to Print
Across Barriers
of Class and Culture**

Yale University Press, 2020

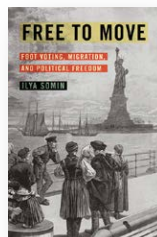
The most reliable predictor of children's achievement is the size of their families' book collections, yet many people suffer from "book hunger." Shaver '06 highlights innovative nonprofit solutions to expand access to print. She reveals the powerful roles of copyright law and licensing and calls for readers to contribute to the fight.



Daniel Shaviro
**Literature and Inequality:
Nine Perspectives from
the Napoleonic Era through
the First Gilded Age**

Anthem Press, 2020

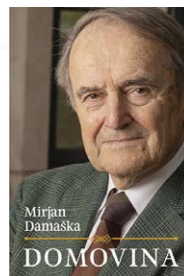
Shaviro '81 posits that great works of literature — from Austen to Wharton — can help readers to better understand inequality. The author draws parallels between America's First Gilded Age in the late 19th century and the current Second Gilded Age. Shaviro takes a sociological and humanistic approach in analyzing these books to illuminate inequality's ramifications.



Ilya Somin
**Free to Move:
Foot Voting, Migration,
and Political Freedom**

Oxford University Press, 2020

People can vote with their feet by making decisions about whether to immigrate, where to live within a federal system, and what to purchase or support in the private sector. Somin '01 explains how these three areas have major common virtues and can be mutually reinforcing. He contends that all forms of foot voting should be expanded and shows how both domestic constitutions and international law can be structured to increase opportunities for foot voting while mitigating possible downsides.



Mirjan Damaška
Domovina

Školska knjiga, 2019

irony because Damaška spent many years of his life with his wife, Mary, away from Croatia. Damaška reflects on the historic events in the former Republic of Yugoslavia that led to Croatia's independence, and how his specialization in comparative criminal law helped bridge his experience in America with his patriotic affection for Croatia. A previous advisor to the Croatian government during its dealings with the International Court of Justice, Damaška gives readers a window into his personal dealings with the Hague and how they shaped his legal philosophy.

A Life in the Law

Sterling Professor Emeritus Mirjan Damaška's latest book, *Domovina* (available currently in Croatian), is his most intimate, detailing the legal scholar's personal memories, fears, anxieties, hopes, and joys that shaped him during his illustrious professional legal career. The title, which translates to *Homeland*, contains a hint of

ALSO OF NOTE

Lance Compa '73 et al.
**The Right to Strike
in International Law**
Hart Publishing, 2020

Ron Goldfarb '60 LL.M., '62 JSD
(under pseudonym R.L. Sommer)
Recusal
Turner, 2020

Valarie Kaur '12
**See No Stranger:
A Memoir and Manifesto
of Revolutionary Love**
One World, 2020

Larry I. Palmer '69
**Scholarship Boy:
Meditations on Family and Race**
Paul Dry Books, 2020

John Wang '09 JD/MBA
and Storm Garner
**The World Eats Here:
Amazing Food and
the Inspiring People
Who Make It at New York's
Queens Night Market**
The Experiment, 2020

OUR FACULTY

Faculty members teaching their courses on Zoom during the spring semester



Faculty Viewpoints

Members of the faculty at Yale Law School responded to the COVID-19 pandemic, offering expertise in their respective fields from healthcare to national security to the economy. Here are pieces by seven faculty members, demonstrating some of the ways they are contributing to the national dialogue.

ON COMMUNITY HEALTH CORPS

The New Politics of Care



**Gregg
Gonsalves**

As the COVID-19 crisis stretches from weeks to months — and in all likelihood years — we urgently need reforms that both curb the pandemic and address the vast wave of hardship that it has caused for working people and families. A massive new jobs program, a “Community Health Corps,” is one part of the solution. Funded federally and organized locally, it would put millions of Americans to work not only to track and trace the virus, but to support those in need, all while securing our health and building solidarity and trust in our institutions.



**Amy
Kapczynski**

We can build on existing models, from

the WPA to the community health worker program, to roll out this new corps quickly, bringing jobs and care to vulnerable rural and urban communities.

The United States may have the most technologically advanced health care system in the world, but we’re leading the number of worldwide coronavirus cases because we’ve badly trailed other industrialized nations in health outcomes for years. Many of the hardest-hit communities in the COVID-19 pandemic have been reeling from long-term health crises, from the opioid epidemic and deaths of despair in Appalachia to the burden of maternal deaths and the ongoing HIV epidemic in the South, to an explosion of obesity across the country with its downstream effects: type 2 diabetes, hyperlipidemia, high blood pressure, cardiovascular disease, and cancer. The United States is sicker now with COVID-19, but we’ve been sick for a long while in many other ways.

Beyond helping to manage the current crisis, a Community Health Corps would help to improve the health of people historically left out of the circle of care. For too long we’ve focused at the top, spending on expensive, technologically advanced specialty care, while neglecting primary and community care and underpaying caregivers themselves. Even in the midst of the pandemic, community health centers, which

should be the core of our health approach, have teetered on financial ruin. Meanwhile, the domestic workers and home health aides who perform the essential act of care have been underpaid and left out of federal labor protections. Not to mention that much of the work of caring is still done at home, falling disproportionately on women and people of color.

Shoring up the foundations of U.S. health care by valuing care itself isn’t just the first step toward a more rapid, effective response to health threats in the future. It will also move us toward a new politics of care, that starts from the ground up, in the places we live, work, and socialize. A politics that builds power among the caregivers, as the act of caring becomes publicly recognized and compensated for the productive work it is. Done right these new jobs can be a source of power for those who have never been fully allowed a voice in our democracy.

By Gregg Gonsalves, Associate Professor (Adjunct) of Law and Co-Director, Global Health Justice Partnership, and Amy Kapczynski ’03, Professor of Law and Faculty Director, Global Health Justice Partnership
Adapted from *The Boston Review*
(see ylaw.us/3b4KnzK)

“A Community Health Corps would help to improve the health of people historically left out of the circle of care. For too long we’ve focused at the top, spending on expensive, technologically advanced specialty care, while neglecting primary and community care and underpaying caregivers themselves.”

The U.S. Is Getting National Security Wrong

The United States national security system is the best funded, best equipped, and most powerful the world has ever seen. In the years since the September 11 attacks, if a terrorist group anywhere in the world posed a potential threat to Americans, eradicating that threat became an immediate national priority. And yet, here we are today, contemplating the likelihood of more than 100,000 American lives lost to COVID-19.



Oona Hathaway

This disconnect has revealed that our national security priorities have been completely wrong. It is past time to rethink what national security should mean.

Just as the 9/11 attacks led to a reorientation of national security policy around a counterterrorism mission, the COVID-19 crisis can and should lead to a reorientation of national security policy. There should be a Commission styled on the 9/11 Commission to assess the failures of the U.S. government, both federal and local, to respond to the pandemic and to chart a better course forward. Until then, a few key steps that we should take are already clear:

“Just as the 9/11 attacks led to a reorientation of national security policy around a counterterrorism mission, the COVID-19 crisis can and should lead to a reorientation of national security policy.”

First, we should spend less time and resources on counterterrorism efforts abroad. Second, that money should be redirected in part to global health programs and rejuvenating international institutions capable of responding to global threats like COVID-19. Third, we should recognize that U.S. national security is put at risk by our inadequate health care system. Last, we should broaden the lens of national security to think about all serious global threats to human life. The assessment of threats should be based on scientific assessments of real global threats that require serious global solutions. That’s what “national security” must mean in the post-COVID-19 world.

By Oona Hathaway '97, Gerard C. and Bernice Latrobe Smith Professor of International Law
Adapted from *Just Security* (April 7, 2020)
(see ylaw.us/2SysH9x)

Economic Policy at the Federal and Local Level

Law and regulation are the only tools that can direct spending to channels that do not threaten public health. We therefore need to combine legal mandates that protect public health with funding for those mandates. Consider, for example, the paid-sick leave mandate that Congress passed on March 18. It protects public health by enabling workers feeling ill to stay at home without losing wages, reducing the spread of coronavirus. But it may cause employers to lay off workers before they get sick.



Yair Listokin

A mix of mandates and fiscal policy is the best response to the unique combination of public health and economic pressures we now face. If Congress had funded the paid sick leave mandate with public money, then public health would be protected at the same time that unemployment was reduced.

There are other policy changes that can be done at the state and local level. The poor spend a disproportionate amount on utilities, and lower utility prices increase their discretionary income and spending — exactly what we need during a recession. If regulators hold down prices in recessions, then they need to allow prices to increase in booms so that utilities earn a fair rate of return over the business cycle.

Another set of policies that could be very effective is temporary changes in zoning laws. Housing construction tends to plunge in recessions. To avoid this outcome, housing developers and financiers need a reason not to wait until the recession ends to start new building projects. A temporary loosening of zoning regulations would do the trick. This type of incentive, passed at the state level, could be enough to stimulate construction spending, mitigating what might otherwise be a terrible downturn in the sector.

By Yair Listokin '05, Shibley Family Fund
Professor of Law (see more at ylaw.us/2WOpUrJ)

ON LOCAL GOVERNMENT

State Strengths and Weaknesses

The COVID-19 pandemic exposed some long-standing trends and tensions in state and local government law.

In the early days of the crisis, governors seized the stage, stepping into a breach created by polarization and inaction at the federal level. Strong gubernatorial administration has been a quietly growing theme in state politics for years. In an era when voter



David Schleicher

knowledge of state and local politics has diminished, governors have taken advantage of the fact they alone are known by voters in state politics to seize greater control of state apparatus. Further, state power over local governments has been another major growing trend. Using emergency laws and the politics that followed, many governors exercised greater control over state governance than ever before, pushing aside state legislatures and local governments to respond to the crisis. COVID-19 created national heroes and villains — and dominant local forces — out of state chief executives.

However, the story of COVID-19 is not only about triumphant governors, but also about state governmental weakness. The COVID-19 recession created giant holes in state and local budgets — huge amounts of lost income and sales tax revenue, plus tons of new expenses. Because of their needs to keep budgets balanced and limits on their legal and practical capacities to finance deficits with debt, states — ascendant as first responders to the virus — face huge fiscal problems that will curtail their capacity to make policy in any other areas. The problem of pro-cyclicality in state finance has been well known for years, but in this crisis, we have seen how brutal this problem is, with states and cities needing to cut spending and raise taxes during the middle of an economic catastrophe. Both Congress and the Federal Reserve have developed policies and allocated money to help states and cities through this, and may do more going forward, but this has left states dependent on federal largess and conditions. Where the fiscal picture will end is, of course, still to be determined, but we can say that the tensions inherent in fiscal federalism broke into full view.

By David Schleicher, Professor of Law

ON HEALTH INSURANCE

The Way the ACA Has Protected Us and What Still Needs to Be Done

One of the most remarkable things about the COVID-19 pandemic is what has gone unremarked: we do not have the kind of crisis in healthcare access and insurance coverage that we would have had just a few years ago. That is because of the Affordable Care Act. The ACA turned 10 quietly in March.

The ACA's safety net subsidizes insurance for families making up to \$103,000 a year; it guarantees coverage that otherwise might not be available for the more than 100 million with preexisting conditions. Before the ACA, most states did not cover childless adults through Medicaid at all. Now, 17 million more are covered, plus three million children.



Abbe R. Gluck

But the ACA's supports also highlight unacceptable gaps that remain. Fourteen states still haven't expanded Medicaid, which leaves some 2–4 million uninsured. More than half the states still refuse to run their own ACA insurance markets. As a result, the President controls them — and for weeks so far he has refused to reopen the insurance rolls to let new people on. These inequities must be eliminated.

Institutionalized populations — especially the incarcerated and the elderly — also have suffered tragic losses that expose serious gaps in regulation and capacity and, in some instances, a greater, and immoral, tolerance for deaths among those populations. And we have fallen short in protecting and shoring up our health care workforce.

Our public health infrastructure — tracing, testing, vaccine development — is a different kind of crisis that must be addressed. But even with these gaps, the ACA has significantly ameliorated what could have been another massive hit — millions unable to afford or access healthcare during this unprecedented pandemic.

By Abbe R. Gluck '00, Professor of Law and Faculty Director of the Solomon Center for Health Law and Policy

“Fourteen states still haven't expanded Medicaid, which leaves some 2–4 million uninsured... These inequities must be eliminated.”

Protecting Prisoners in Pandemics is a Constitutional Must



Judith Resnik

Social distancing is what governments have mandated. What happens to people in prison in light of that prescription? COVID-19 is an unprecedented event that has raised the legal question of whether sentences (that had been lawful when they were imposed) cannot lawfully be served when the setting puts an individual in a position of untenable risk. Not only does the Eighth Amendment protect against putting people deliberately into harm's way, it also requires that prison officials not be deliberately indifferent to known serious medical needs. (See more thoughts on this at ylaw.us/2WmMOto.)

In courts around the country, individuals and classes of prisoners have sought relief based on sentencing statutes, civil rights acts, and the “great writ” of habeas corpus. I have provided declarations in several cases to explain the provisional remedies available to judges, including a little known facet of habeas — enlargement, through which judges can order the custody “enlarged” (for example to a person’s home or hospital or halfway house) while deciding the merits of the many legal issues raised. While courts have not faced COVID-19 before, they have faced urgent situations, which is why such provisional legal remedies exist.

It is an extraordinary and painful moment in which we are all living. Ordinary life has been upended in an effort to keep as many people as possible alive and not debilitated by serious illness. The people at risk include prison staff and the communities in which prisons are located. In these circumstances, judges have the obligation and the authority to interpret statutes and the Constitution to preserve the lives of people living in and working in prisons.

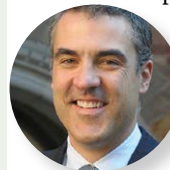
By Judith Resnik, Arthur Liman Professor of Law
Adapted from a declaration submitted to the United States District Court for the District of New Jersey



U.S. Office of War Information employees receiving free inoculation against smallpox, diphtheria, and typhoid in 1943.

The Legal History of Contagious Disease

Professor John Fabian Witt '99 has produced a series of short Zoom lectures on the legal history of epidemics and infectious diseases in the U.S. (View them at ylaw.us/2XgcabT.)

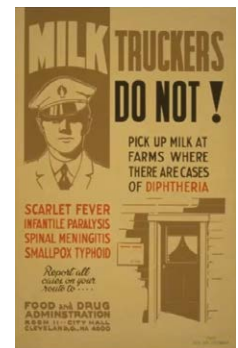


John Fabian Witt

The lectures were initially given as part of Witt’s American Legal History course at Yale.

The central thesis of the lecture series is that domestically and for elites, American public health law has been liberal, or “sanitationist” to use the language of public health history. But at the border and for the poor and for non-whites, according to Witt, the law of epidemics has been authoritarian or “quarantinist.” Either way, the history of public health crises illuminates the enduring significance of our legal institutions in shaping public health policies. Yale University Press will be publishing a book on the topic by Witt in the fall, titled *American Contagions: A Short History of Law and Democracy in Crisis*.

A poster encouraging truck drivers to report to proper authorities cases of communicable diseases encountered on their routes, c. late 1930s.



MEARES

Professor Tracey Meares Selected as Phi Beta Kappa Visiting Scholar

The Phi Beta Kappa Society has selected Tracey Meares, the Walton Hale Hamilton Professor of Law and a Founding Director of The Justice Collaboratory, as a 2020–2021 Phi Beta Kappa Visiting Scholar. Since 1956, the Society's Visiting Scholar Program has been offering undergraduates the opportunity to spend time with some of America's most distinguished scholars. The purpose of the program is to contribute to the intellectual life of the institution by making possible an exchange of ideas between the Visiting Scholars and the resident faculty and students.

Each year, members of the Committee on the Visiting Scholar Program select top scholars in the liberal arts and sciences to travel to universities and colleges where Phi Beta Kappa chapters are located. Visiting Scholars spend two days on each campus meeting informally with undergraduates, participating in classroom lectures and seminars, and giving one major lecture open to the academic community and general public.



Tracey Meares

KAHAN

Report by Dan Kahan Surveys Science Video Audiences

Research by Elizabeth K. Dollard Professor of Law and Professor of Psychology Dan Kahan has helped Northern California public radio station KQED learn more about its audiences, and specifically, why more women weren't watching its "Deep Look" science video series.



Dan Kahan

The series, which is produced by KQED and presented on YouTube by PBS Digital Studios, has 1.2 million subscribers and reaches millennials, an audience that PBS is eager to serve. But the percentage of women who watch the series is considerably lower than the percentage of men.

KQED received a grant award from the National Science Foundation for the project Cracking the Code: Influencing Millennial Science Engagement. Kahan is among a team of academic researchers from Texas Tech University's Science Communication and Cognition Lab and Yale Law School's Cultural Cognition Project working in partnership with KQED on the project.

RODRÍGUEZ

Cristina Rodríguez Elected to the American Academy of Arts & Sciences

The American Academy of Arts & Sciences, one of the nation's most prestigious honorary societies, has elected Leighton Homer Surbeck Professor of Law Cristina Rodríguez '00 to its 2020 member class.



Cristina Rodríguez

The 240th class of new members includes the election of 276 artists, scholars, scientists, and leaders in the public, nonprofit, and private sectors. The Academy was founded in 1780 by John Adams, John Hancock, "and others who believed the new republic should honor exceptionally accomplished individuals and engage them in advancing the public good," according to the Academy.

Rodríguez's research interests include constitutional law and theory, immigration law and policy, administrative law and process, language rights and policy, and citizenship theory.

The Academy's projects and publications are focused on the arts and humanities, democracy and justice, education, global affairs, and science.

AAP ASSOCIATION OF AMERICAN PUBLISHERS

Honors for Faculty Books

Origins of Order: Project and System in the American Legal Imagination by Paul W. Kahn (Yale University Press) and *Law and Macroeconomics* by Yair Listokin (Harvard University Press) were finalists for the Association of American Publishers' 2020 Prose Awards.

THE TIMES

The Times of London named Daniel Markovits's *The Meritocracy Trap* one of the 50 best books of 2019.



Monica Bell gave the Seymour Lecture at University of Tulsa College of Law on January 16.

**An enhanced emphasis
on data.**

**Yale Law School alumni
are driving some of the biggest
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A MORE**

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BY REBECCA BEYER

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**Increased collaboration
among donors.**



Laura Arnold '00
Arnold Ventures



Nishka Chandrasoma '06
Ford Foundation



Carol S. Larson '78
David and Lucile Packard
Foundation



When the National Women’s Law Center was entering its first leadership transition in the organization’s more than four decades of fighting for gender justice, it received a gift that historically has been hard to come by in the philanthropic world: flexible funding.

The five-year, multi-million-dollar grant came from the Ford Foundation as part of the funder’s Building Institutions and Networks (BUILD) initiative, a \$1 billion effort launched in 2016 to help nonprofits become stronger and more sustainable. Unlike a more typical “project grant,” which would require the National Women’s Law Center (NWLC) to spend the money in a certain way, by a certain time, for a specific purpose, Ford provided the money more generally for the organization’s infrastructure and operations. That, in turn, meant the NWLC was better prepared to fulfill its mission: In 2018, after the #MeToo movement gave rise to a newfound awareness of rampant sexual harassment and assault, the NWLC became home to the TIME’S UP Legal Defense Fund, which connects would-be plaintiffs with lawyers and helps defray the costs of litigating discrimination claims.

“It’s not just about providing grantees with flexibility or recognizing the importance of supporting institutional strength,” says Nishka Chandrasoma ’06, Ford’s Vice President, Secretary, and General Counsel. “It’s also an attitude shift. The grantees are the experts. The role of the funder is to support them and give them the capacity to deal with the issues.”

Ford’s BUILD initiative is just one example of the changing dynamics of philanthropy, according to Chandrasoma and other Yale Law School alumni who advise or serve in leadership positions at some of the largest and most influential foundations in the country. In addition to more flexible funding, which is part of what has been called the “trust-based philanthropy” model, foundations and funders are working together—and with for-profit entities—more than ever before, pooling their expertise and resources to advance collective public-interest goals. And, to do so, they are increasingly turning to a tool more traditionally relied upon in the private sector: data.

“In everything that we do, we start from basic principles and ask the fundamental, but bigger, questions that often are overlooked,” says Laura Arnold ’00, Founder and Co-chair of Arnold Ventures, an umbrella LLC organization created in 2019 by Arnold and her husband John to oversee their family’s philanthropic and political expenditures. “That is how transformative change happens.”

And, within the field of philanthropy, transformation is exactly what has occurred.



Jean L. Tom '02
Davis Wright Tremaine



María Santos Valentin '87
Rockefeller Foundation

At the 2018 Global Climate Action Summit, Carol Larson '78 addressed funders who together committed \$4 billion to combat climate change.



“Really effective, long-lasting nonprofits need to be supported in their financial health.”

Carol Larson '78

“It’s been a tremendous time of change in philanthropy,” says Carol S. Larson ’78, who recently stepped down as President and Chief Executive Officer of the David and Lucile Packard Foundation.

Larson’s first introduction to what she calls “giving away other people’s money” came when she was working at a nonprofit focused on the rights of children with disabilities and was asked to distribute \$6,000 for a donor who wanted to fund student service projects at a local university.

“I remember calling my parents and saying, ‘I just helped give away \$6,000,’” she recalls, laughing. “I had no idea I would eventually have a career in philanthropy.”

FORMING ALLIANCES

Larson says she definitely saw an increase in collaboration among funders in her 31 years with the Packard Foundation, including 16 at the helm. That only makes sense, she says, given the “size of the goals we’re taking on.” (Packard’s areas of focus include fighting climate change, providing access to early learning, advancing reproductive rights, ensuring a better future for the ocean, and helping farmers.)

“You do need the benefit of others,” she says.

María Santos Valentin ’87, General Counsel and Corporate Secretary of the Rockefeller Foundation, agrees.

“As a general matter,” there’s been a shift away from “the idea that philanthropy can do things on its own,” Valentin says. “As time has gone on and there are a lot more foundations, things are a little bit more dispersed. What becomes important is being creative in thinking through what are the particular areas where you can have an impact.”

Two of the joint efforts Larson is most proud of are ClimateWorks, which Packard, the William and Flora Hewlett Foundation, and the McKnight Foundation created in 2008 with the goal of giving away more than \$1 billion toward mitigating climate change; and the Collaborative for Gender and Reproductive Equity, created in 2018 in conjunction with other funders, including Ford, to advance women’s rights in the United States.

“It’s really about aligning strategies and learning from each other,” Larson says.

A DEEP DIVE INTO DATA

In addition to combining forces to combat systemic problems, foundations are becoming more empirical in their approach. At Arnold Ventures, which focuses on four issue areas (criminal justice, health, education, and public finance), data is at the heart of all giving. That’s because when the Arnolds started their foundation in 2010, they felt there wasn’t enough reliable research to make informed decisions about who or what to fund and why.

“We always talk about the process of navigating a spectrum from idea generation to policy change,” Laura Arnold says. “We view it as a process that includes finding the right interventions, testing those interventions, and then looking to scale the successful models. But to do that process correctly and effectively, you must maintain fidelity to the data.”

Arnold Ventures funds research replication projects to draw attention to the fact that not all data is created equal (one showed that only 40 percent of psychology findings in top journals could be definitively recreated); asks its grantees to adhere to guidelines promoting

“In everything that we do, we start from basic principles and ask the fundamental, but bigger, questions that often are overlooked.”

Laura Arnold '00

transparency and openness in their own projects; and distributes grants for randomized controlled trials. The organization then pushes for solutions based on what the research suggests will work.

In 2019, the Trump Administration cited an Arnold Ventures-funded study when it proposed new rules designed to increase accountability and availability in the nation's organ supply. The study had showed that reforms to the organ transplant system could save 25,000 lives per year and \$13 billion in taxpayer funds over five years.

“It's safe to say that Arnold Ventures has had a significant impact on this country's approach to research itself,” Arnold says. “There was not a broad-based conversation taking place on the topic of ‘research integrity’ when we first started our philanthropy, but it's now a common theme that's being openly discussed.”

Other foundations are taking a different approach to integrating more data into philanthropic and non-profit work. In 2016, Ford created a Technology Fellows program that embeds people with expertise in data use in its grant-making teams; in January, Rockefeller announced it had partnered with Mastercard's Center for Inclusive Growth to launch *DATA.org*, which aims to build the field of data science for public good and follows the \$50 million Data Science for Social Impact Collaborative the two entities launched in 2019.

So far, the Rockefeller-Mastercard collaboration has been used to help a university identify and offer assistance to students who are at risk of dropping out of school and to help bring customers to black-owned businesses in New Orleans. As part of the *DATA.org* launch, Rockefeller and Mastercard also announced a \$10 million challenge seeking data science solutions to

improve access to capital, ensure productive employment, and make cities more inclusive and sustainable.

“We have a data and tech team looking specifically at these issues, both within the foundation and for the social sector generally,” Valentin says. “How can we incentivize data scientists to provide services to the social sector, and not just the Facebooks of the world?”

EMPOWERING GRANTEES WITH FLEXIBLE FUNDING

In general, Larson says philanthropy became “much more professionalized,” including with greater attention to quantifying and measuring the impact of grant-making, during her three decades in the field. The recent move toward providing more flexibility in the funder-grantee relationship is a “nice self-correction,” she says—a recognition that grantees need “the ability to change their minds without fear of losing their funding.”

“It started with philanthropists understanding the basic power imbalance they have with those they support and asking how often does that get in the way of actually doing good and effective work,” she says.

Jean L. Tom '02, who advises philanthropists and foundations as a partner at Davis Wright Tremaine in San Francisco, agrees. She says some of her foundation clients—in compliance with relevant tax laws—have moved away from requiring grantees to document the impact of every grant dollar with customized reports and are asking for “check-in meetings” instead.

“With reports, there's no opportunity to have a dialogue or for the philanthropist to engage with the grantee over what worked, what didn't work, and what the grantee truly needs to achieve the change that



Laura Arnold '00 and John Arnold meeting with Alex Azar '91, the Secretary of Health and Human Services in September of 2019.

“The grantees are the experts. The role of the funder is to support them and give them the capacity to deal with the issues.”

Nishka Chandrasoma '06



Participants in the Power, Influence, Change convening for nonprofit leaders as part of the Ford Foundation's BUILD grant program in March 2019

both the grantor and grantee are seeking,” she says. “Rather than act like the philanthropists with money have all the answers, it becomes more of a partnership in learning. You’re trying to drive impact together.”

At Ford, Chandrasoma says, the BUILD initiative came about because “we wanted to have an initiative to put our money where our mouth is — instead of just talking about flexibility to actually operationalize it,” she says.

BUILD put Ford’s grantmaking staff on the hook for spending part of their budgets on five-year, flexible grants that help organizations plan for their long-term future. BUILD grantees also agree to undergo an organizational assessment and an analysis of their finances.

In order to save their finite budgets for mission-related work, nonprofits often put off “unsexy things,” like information technology systems, human resources, and accounting, Chandrasoma says.

“We’re trying to protect them from all the factors that disincentivize focusing on longterm organizational health and sustainability,” she adds.

The National Women’s Law Center called the BUILD grant it received from Ford “transformational.” Under the leadership of its new — and first Black — Chief Executive Officer Fatima Goss Graves ’01, the organization has used the funds to invest in staff development, including anti-bias training; adjust its recruiting practices to bring on more people of color; and bolster its human resources team.

“None of this would have been possible” without the BUILD grant, the organization wrote on its blog.

Changes are coming to more traditional grants as well. In September — in another example of collaboration — Ford, Packard, and three other foundations announced they would allocate more money for grantees’ essential operating costs in project-specific funding. Historically, foundations have allowed grantees to use 10 percent of a project grant’s total value for the actual costs of running their organizations. But, in recent years, nonprofit leaders pushed back, saying, “I need your money, but you’re starving us,” Larson explains.

“We needed to change the narrative — this idea that somehow if you’re a nonprofit that means you have to scrape things together and make do with very little,” she adds. “Really effective, long-lasting nonprofits need to be supported in their financial health.”

This spring, in response to the novel coronavirus COVID-19, Ford spearheaded and Packard and several hundred other organizations signed a pledge to loosen or eliminate restrictions on existing grants and to make future grants as flexible as possible to help nonprofits respond to the economic and public health consequences of the pandemic.

“Crisis is the mother of invention,” Larson says. “It could be that this will show us this is a better way to do business.”

THE PATH TO PHILANTHROPY

In philanthropy, lawyers have a unique opportunity to make an impact by helping direct resources to where they are needed most. Chandrasoma went to Yale Law School thinking she would pursue public-interest law. Her work as the general counsel of a major foundation fulfills that desire in a more indirect way.

“So much of what [grantmaking staff] want to achieve is why I went to law school,” she says. “And even though I’m not doing that directly myself, to work with other people who make that their day-to-day objective is incredibly satisfying.”

Valentin, Arnold, Chandrasoma, Larson, and Tom all found their way into philanthropy at different stages of their careers and come from different professional backgrounds. But they each credit Yale Law School with helping cultivate their interest in public service generally. Tom says her experience in the Community

“Rather than act like the philanthropists with money have all the answers, it becomes more of a partnership in learning. You’re trying to drive impact together.”

Jean L. Tom ’02

and Economic Development and Housing clinics was especially formative.

“The clinics were my home, allowing me to distinguish what I enjoyed about lawyering from what I didn’t enjoy,” she says, adding that she “really loved the constructive aspect of advising and building nonprofits as part of the solution” to intractable community problems.

More than the content of specific courses, the alumni say they draw most on a particular way of thinking that they learned at Yale Law School.

“It’s not only looking at the legal solution but what are the larger-picture things that are important, that should be put into the mix,” Valentin says. “It’s about being a thought partner so that you can actually help with systems change.”

Arnold agrees.

“At YLS, learning black letter law was the beginning of the journey, not the ultimate objective,” she says. “We were empowered to think not so much about what was the law, but rather about what the law should be. That spirit of questioning, of not constraining oneself to what currently exists, is something that I’ve brought with me to Arnold Ventures.” 🍷

Knowing Your Rights

Yale Law School students teach civics and constitutional rights to New Haven teens through the Marshall-Brennan Project

By Alden Ferro

Photos by Mara Lavitt

Takeira Bell arguing
her case while finalist
Gloriannis Vasquez listens



When her name was announced as the winner of the Marshall-Brennan Constitutional Literacy Project’s Winter Moot Court Tournament, cheers erupted from Takeira Bell’s classmates in Room 127. After a full day of preliminary and semifinal rounds, she had won the tournament by arguing her side of a fictional Supreme Court case, the culmination of work done in three New Haven public schools as part of Yale Law School’s Marshall-Brennan Project.

Bell, a student at New Haven’s Cooperative Arts and Humanities High School (Co-Op), was one of nearly 40 high school students who participated in the tournament, held at the Law School on February 28, 2020.



(from left) Becca Steinberg '20, John Gonzalez '20, and Timur Akman-Duffy '21

The Marshall-Brennan Project is part of a national civics education program that sends law students into New Haven public high schools to teach courses in constitutional law and oral advocacy. The program stands out by going beyond a typical civics course and increasing students' awareness of their own constitutional rights.

Throughout the school year, students learn to argue both sides of the law and are encouraged to bring their stories into the classroom.

"They bring in their personal experiences, and so the program combines their personal experiences with what the law is and what the law should be," said Becca Steinberg '20, who, with John Gonzalez '20, directed the program this past year.

The program focuses on "the 21st century skills of creativity, problem solving, collaboration, and critical thinking — skills that are necessary to support an empowered, active, questioning democratic citizenry," according to the national organization.

The moot court competitions with other local schools give students a chance to put these skills to the test and determine which teens will go on to compete at nationals.

Beyond the Civics Curriculum

Through the Marshall-Brennan program, participating Law School students had a unique opportunity to gain public school teaching experience, prepare high schoolers for oral argument through constitutional literacy, and connect with the New Haven community.

Law students ran all aspects of the program, from working closely with the classroom teacher on curriculum design and lesson planning to the actual classroom teaching. Classroom teachers also helped the law student teachers navigate the structure of the high

schools and helped coordinate logistics for attending tournaments. In New Haven this year, six students taught in pairs at one of three public high schools: Co-Op, Hillhouse High School, and High School in the Community.

The school year began with studying the Fourth Amendment and its relevance to a school setting — issues like searches and seizures, mandatory drug testing, and locker searches. An examination of free speech rights under the First Amendment may involve what speech a school can regulate and when schools are able to regulate a student's speech outside of the classroom. And a student's Fifth Amendment *Miranda* rights would be implicated if, for example, a school official or police officer is interrogating them.

The high school students also trained in appellate advocacy and prepared for the moot court competition. The winter competition in February, the culmination of a major unit of the course, was a lively schoolwide affair, with morning preliminary rounds taking place in classrooms throughout the Law School.

Nearly 60 Law School students volunteered to serve as judges for the preliminary and semifinal rounds after completing a training session covering the details of the case and how to evaluate students' performances fairly and consistently.

The teens argued a fictional Supreme Court case in which a high school student was convicted of a misdemeanor cyberbullying charge based on his social media posts. After being charged and suspended from school, the student sued, arguing that his First and Fifth Amendment rights were violated. In the case, a U.S. District Court ruled in favor of the student, but an appeals court reversed the decision and the student was now seeking review in the U.S. Supreme Court.

The finals, between Bell and Gloriannis Vasquez from High School in the Community, were judged by Professor of Law Justin Driver, Leighton Homer Surbeck Professor of Law Cristina Rodríguez '00, and Harvey Karp Visiting Lecturer in Law Stephen B. Bright.

“The finalists were incredibly impressive in the face of some challenging questions that required them to think on their feet,” Driver said. “The judges did not hold back, and the students exceeded even our lofty expectations.”

In addition to the overall winners, prizes were given for Best Oralist and Best Legal Reasoning categories. A total of 13 students from New Haven were scheduled to compete at the Marshall-Brennan National High School Moot Court Competition in March at Rutgers Law School, but the competition had to be cancelled due to the coronavirus pandemic.

Last year, eight New Haven students went to the national tournament, and one finished as a semifinalist.

The pandemic brought other changes to the teaching program as well, with classroom teachers making adjustments based on what worked best in the context of their classroom, according to Steinberg.

“The students [were] all facing different circumstances, so we thought it was important to tailor the approach based on their needs and ability to be engaged right now,” she said. “Some of the classes [worked] on projects about famous court cases; others [worked] on doing oral arguments remotely through audio recording.”

For the Law School students who taught, the Marshall-Brennan program represented a large time commitment on top of their regular coursework.

“It’s a lot of time, you have around five hours in the classroom,” Gonzalez said. “You have prep. It’s early morning so there are some classes you can’t take.”

Steinberg and Gonzalez worked closely with Driver, who joined the Law School faculty from the University of Chicago Law School in fall 2019. They approached him about working with the Marshall-Brennan Project even before he arrived in New Haven. Driver, the author of an acclaimed book on students’ constitutional rights called *The Schoolhouse Gate: Public Education, the Supreme Court, and the Battle for the American Mind*, said he “leapt at the opportunity.”

“John came to me in the spring [of 2019] and showed me Professor Driver’s book, and it gives really good background to what’s going on in these cases,” Steinberg said. “So we reached out to him, and he was so receptive.”

Driver also teaches *The Constitution Goes to School*, a Law School course that examines how the Supreme Court’s constitutional opinions have shaped America’s public schools. Gonzalez and some of the law students teaching this year were enrolled in the class during the spring.

“John and Becca both demonstrate remarkable intellect, creativity, and commitment in their work with New Haven students, and working with the two of them has been a highlight of my first year at YLS,” Driver said.



Co-Op High School student Jontae McDonald argues his case in front of opponent India Kellman and three Yale Law School student judges.

An Opportunity to Teach

Some law students are drawn to the program through their previous teaching experience; Steinberg and Gonzalez both taught before law school in the Teach for America program. Peter Calello '21 also taught before starting law school and was excited to get back in the classroom.

“Teaching Constitutional Law at High School in the Community has been one of the best experiences I have had at law school,” he said. “It has also been interesting seeing Constitutional Law through the lens of a high schooler. Having to explain case law and legal rules and applying rules to fact for high schoolers has definitely made me understand how law works better.”

After he arrived in New Haven, Driver had the opportunity to witness three Law School students coaching high schoolers for the moot court competition.

“I found most impressive how the YLS students communicated high expectations, and how the oralists rose to meet the challenge,” Driver said. “Although they were only in high school, the students already evinced impressive understandings of complicated legal concepts involving students’ constitutional rights.”

In her class, Bianca Herlitz-Ferguson '21 had students debate and practice writing and arguing constitutional cases. “The material is difficult, and the students never fail to impress me,” she said.

For the law student teachers, participation in the Marshall-Brennan Project had a meaningful impact not only on their own lives but also the way they approached law school and the profession.

“I have learned so much from my students about how they think about the law and the ways in which the law affects and regulates their lives,” Herlitz-Ferguson said. “Thinking through how the law uniquely applies to students and schools has also made me more interested in education law.”

“It has been interesting seeing Constitutional Law through the lens of a high schooler. Having to explain case law and legal rules and applying rules to fact for high schoolers has definitely made me understand how law works better.” PETER CALELLO '21



Semifinalist Alissa Jones argues her case.

A New Dimension

A new outgrowth of the Marshall-Brennan Project this year involved Steinberg and Gonzalez teaching an undergraduate course in Yale College through the Residential College Seminar Program, which offers unique courses within each of Yale’s undergraduate colleges outside of the traditional undergraduate curriculum.

As former Yale College students, Gonzalez and Steinberg noticed that there weren’t many opportunities to teach in a classroom as undergraduates.

“A lot of students in the college are going to teach after graduation, and they look at teaching from an academic perspective but not a concrete mechanics perspective,” Gonzalez said.

So the two created an undergraduate course, Teaching the Constitution, which aimed to reach Yale College students who were interested in both the law and teaching.

Drawing on the teaching material used in the Marshall-Brennan classrooms, Steinberg and Gonzalez’s syllabus was selected by a group of undergraduates for sponsorship in Pierson College. Eleven

Yale College students took the seminar this year.

Gonzalez and Steinberg tied the undergraduate seminar back to the Marshall-Brennan program by having their undergraduate students do the types of oral argument and moot court simulations done in the high schools. Students in the seminar also practiced being teachers themselves, by visiting Marshall-Brennan high school classrooms with the freedom to design and deliver their own lessons. “It’s basically a law class and a teacher training class,” Gonzalez said.

Connecting with New Haven

Through the classroom teaching and moot court competition, and with the addition of this year’s undergraduate seminar, bridges were built between the New Haven high schools, Yale Law School, and Yale College communities. The three high schools are not far from the Law School, so the program was an opportunity for law students to get into the New Haven community and strengthen ties. Steinberg and Gonzalez said that the law school teachers put a lot of effort into building a positive culture and cohesive classroom environment for their students.



Highschooler Manny Camacho (right) reviews his case with coach Timur Akman-Duffy '21



(left to right, back row) Stephen Bright, Justin Driver, Cristina Rodríguez, Takeira Bell, Marlen Pineda, Anthony Fiore, Manny Camacho, Heather Gerken, and Mahogany Rawls; (front row) Mellody Massaquoi, Gloriannis Vasquez, Alissa Jones, India Kellman, and Kayla Rountree

Usually during the year, Steinberg said, the students realized that their law school teachers were actually volunteers with a passion for civics, teaching, and creating a sense of community. “At some point... the high school students realize that the teachers don’t get paid to do this and they’re like, ‘What is going on? Why are you here every day if you’re not getting paid?’” she said.

Harry Murphy, a social studies teacher at Co-Op High School, has worked with student teachers from the Law School for five years. Generally, classroom teachers oversee the class and act as a certified teacher in the room. “Ultimately, as the teacher of record, the buck stops with me,” he said.

Over the course of the year, Murphy said he can see a huge transformation in his students.

“I see these kids start off refusing to talk in class, and then by [the moot court competition], they are literally arguing cases and citing the appropriate law,” he said. “They get and understand nuance, which many adults don’t.”

For Murphy, watching students experience the program can be memorable. At nationals in Boston one year, a former student made

it to the finals. “As the two students argued their cases in front of the panel of real judges, I was so sure Ashley had lost. The other student argued like a scene out of *Law and Order*,” he said.

But Ashley remained calm during her argument, and prevailed. “When she won, I was shocked,” Murphy said. “But the lead judge made a point that it’s not the theatrics in a moot court competition, it’s the well thought out and argued case!”

Steinberg and Gonzalez are excited to see the continued development of the Marshall-Brennan Project after they graduate. Next year, the program will be directed by Felisha Miles ’21 and Timur Akman-Duffy ’21, who taught at Hillhouse this year.

“I think the program has really grown over the last three years as we’ve gotten more recognition both from the University and also from the student body and from New Haven schools,” Gonzalez said. “That’s really cool to see.”

“It really is remarkable to see how far they come in just a short amount of time,” Murphy said. “When you see them stand up and answer some tough questions, you see their confidence. It is amazing.”

YLS ALUMNI LEADERSHIP

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Chair of the Executive Council

Carl L. Reisner '78
Chair, Law School Fund Board

Paul S. Mandell '98
Vice Chair, Law School Fund Board

Heather K. Gerken
Dean

Jeannie Forrest
*Associate Dean,
Alumni Engagement & Development*

OFFICERS (Two-year Term)

Chair: Laura Seigle '93
President: Craig B. Brod '80
Secretary: Karlanna Lewis '15
Treasurer: Sushma Soni '90
Vice Presidents:
 J. Cunyon Gordon '81
 Paul Kim '02
 Paul Rodriguez '11
 McGregor Smyth '99
 Erica Villanueva '04

TERM MEMBERS (Three-year Term)

Class of 2020*
 Swati Agrawal '95 (DC)
 Deborah N. Archer '96 (NY)
 Carlos Barrezueta '06 (NJ)
 Raj Borsellino '13 (NY)
 Olivia S. Choe '04 (DC)
 Addisu S. Demissie '08 (CA)
 Anna M. Durbin '76 (PA)
 Kenneth N. Ebie '06 (NY)
 Joseph M. Field '55 (PA)
 Amy Glickman '88 (NY)
 Peter E. Harrell '08 (GA)
 Joshua Hill Jr. '02 (CA)
 Christine E. Kwon '17 (CT)
 Monica M. Marquez '97 (CO)
 Ricardo Martínez-Cid '00 (FL)
 Arthur J. Ochoa '95 (CA)
 Mary Hutchings Reed '76 (IL)
 David B. Rigney '69 (NY)
 Maile Tavepholjalern '11 (AK)
 Gregg A. Walker '97 (NY)
 Andrea R. Wood '98 (IL)

Class of 2021

Ali Ahsan '02 (Pakistan)
 Kaitlin Ainsworth Caruso '10 (NY)
 Oluwaseun Ajayi '04 (VA)
 Cornell Brooks '90 (VA)
 Yasmin Cader '92 (CA)
 Peter Chen '13 (NJ)
 Rufus Cormier '73 (TX)
 Deborah Freedman '92 (PA)
 Jimmy Golen '99 MSL (MA)
 Stephen Graham '76 (WA)
 Steven Kargman '86 (NY)
 Lara Kayayan '05 (CA)
 Julie Kelley '92 (CA)
 Elaine Kim '05 (CA)
 Amber Koonce '17 (NC)
 Regan Ralph '91 (VA)
 Lori Schechter '87 (CA)
 Nancy Smith '81 (CA)
 Sam Valverde '07 (DC)
 Alda Yuan '18 (IL)

Class of 2022

Jasmeet Ahuja '13 (PA)
 Mark Barnes '84 (MA)

Jacqueline Becerra '94 (FL)
 Dana Bennett '03 (DC)
 Tessa Bialek '13 (CT)
 Jorge Camacho '10 (NY)
 Elisabeth Centeno Lopez '11 (MD)
 Colleen Culbertson '19 (CA)
 John Ericson '97 (NY)
 Peter Fisch '89 (NY)
 Eric Fleisig-Greene '04 (CA)
 Michael Gervais '11 (NY)
 Robert Giuffra '87 (NY)
 Diane Gujarati '95 (NY)
 Cynthia Lamar-Hart '88 (AL)
 Jennifer Luo '13 (NY)
 Ngozi Ndulue '07 (DC)
 Sue Paik '07 (IL)
 Betsy Rader '86 (OH)

Class of 2023

New member selection delayed due to COVID-19 pandemic

EX OFFICIO MEMBERS

Stephen Ackley-Ortiz '02, *Acting Director of Development*
 Muneer Ahmad, *Deputy Dean*
 Sharon Brooks '00, *Special Advisor*
 Ellen M. Cosgrove, *Associate Dean*
 Joseph M. Crosby, *Associate Dean*
 Jeannie Forrest, *Associate Dean, Alumni Engagement & Development*
 Heather K. Gerken, *Dean and Sol & Lillian Goldman Professor of Law*
 Miriam F. Ingber '04, *Associate Dean*
 Douglas Kysar, *Deputy Dean*
 Paul S. Mandell '98, *Chair, Fund Board*
 Carl L. Reisner '78, *Chair of the Executive Council, Fund Board*
 Eleiah Sexton, *Acting Director of Alumni Engagement*
 Mike K. Thompson, *Associate Dean*

YAA REPRESENTATIVES

(Three-year Term)

To 2020*

Marvin E. Krakow '74 (CA)
 Krishanti Vignarajah '08 (MD)
 Robert L. Weinberg '58 (VA)

To 2021

Rakim Brooks '16 (NY)
 Reyna Gentin '91 (NY)
 Janet Levit '94 (OK)
 Meng Jia Yang '15 (DC)

To 2022

Carmine Boccuzzi '94 (NY)
 Chris Suarez '11 (DC)
 Callie Wilson '18 (CA)
 Jason Wolff '94 (CA)

HONORARY MEMBERS (Lifetime)

Alexander D. Forger '50 (NY)
 Joan Zeldes Bernstein '51 (DC)
 Shigeru Oda '52 LLM, '53 JSD (Japan)
 John G. Simon '53 (CT)
 Ellen Ash Peters '54 (CT)
 Stephen M. Schwebel '54 (DC)
 Frederick Wiseman '54 (MA)
 Guido Calabresi '58 (CT)
 Carla Anderson Hills '58 (DC)
 Floyd Abrams '59 (NY)
 Alan Appelbaum '60 (NY)
 Max Nathan, Jr. '60 (LA)
 Ralph K. Winter '60 (CT)
 Patricia Connell Shakow '61 (MD)
 Michael A. Doyle '62 (GA)
 Rosalyn C. Higgins '62 JSD (UK)
 Neil Peck '62 (CO)
 Sangwoo Ahn '63 (CT)
 John C. Danforth '63 (MO)
 Marian Wright Edelman '63 (DC)
 Neal H. Pilson '63 (MA)
 Edmund G. Brown Jr. '64 (CA)
 Gary W. Hart '64 (CO)
 Joseph D. Mandel '64 (CA)
 Eleanor Holmes Norton '64 (DC)
 Robert E. Rubin '64 (NY)
 Drayton Nabers Jr. '65 (AL)
 Luzius P. Wildhaber '65 LLM, '68 JSD (France)
 David Boies II '66 (NY)
 Drew S. Days III '66 (CT)
 Hugh B. Price '66 (NY)
 Benno C. Schmidt Jr. '66 (NY)
 Joseph I. Lieberman '67 (DC)
 Laurence T. Sorkin '67 (NY)
 John C. Roberts '68 (IL)
 Richard E. Ayres '69 (DC)
 John E. Bryson '69 (CA)
 James Gustave Speth '69 (VT)
 Edward L. Strohbehn Jr. '69 (CA)
 William Drayton Jr. '70 (VA)
 Ben W. Heineman Jr. '71 (CT)
 Randall T. Shepard '72 (IN)
 Myron H. Thompson '72 (AL)
 Hillary Rodham Clinton '73 (NY)
 William J. Clinton '73 (NY)
 Clarence Thomas '74 (DC)
 Samuel A. Alito Jr. '75 (DC)
 Anthony T. Kronman '75 (CT)
 James Dabney Miller '75 (MD)
 Margaret Hilary Marshall '76 (MA)
 Robert C. Post '77 (CT)
 Linda J. Greenhouse '78 MSL (MD)
 Sonia Sotomayor '79 (DC)
 Victoria Cundiff '80 (NY)
 Rhonda Joy McLean '83 (NY)
 John R. Firestone '85 (NY)
 Cynthia H. Cwik '87 (CA)
 Carmela Castellano-Garcia '91 (CA)
 Linda Rottenberg '93 (NY)
 Christine Adams '94 (CA)

Gina M. Raimondo '98 (RI)
 Harold Hongju Koh (CT)
 Gloria R. McHugh (CT)

REGIONAL REPRESENTATIVES (Three-year Term)*

AR: Chad Doellinger '01 (2023)
CO: Mishele Kieffer '10 (2021)
CT: David Wilkinson '06 (2020)
DC:
 Amanda Flug Davidoff '03 (2020)
 Cassandra Fields '11 (2021)
 Jason Green '08 (2020)
 Gary Horlick '73 (2022)
 Catherine Livingston '91 (2021)
 Eva Rigamonti '12 (2022)
 Bryan Tramont '93 (2022)
FL: Lauren Morse '10 (2021)
GA: Peter Canfield '79 (2021)
IL:
 Lisa Bohl '14 (2020)
 Lilly Farahnakian '99 (2021)
 Matthew Hinerfeld '92 (2021)
 Shruti Jayaraman '07 (2020)
IN: Richard Garnett '95 (2022)
MA:
 Steven Hansen '76 (2020)
 Brent Henry '72 (2021)
 David Peloquin '11 (2021)
 Aisha Saad '18 (2022)
 Yael Shavit '13 (2021)
 Laurence Winer '77 (2020)
NY:
 Marcie Cleary '10 (2020)
 Jordana Confino '15 (2021)
 Jaime El Koury '78 (2020)
 Yuan Ji '11 (2020)
 Harrison Marks '15 (2021)
 Helen O'Reilly '11 (2022)
 Daniel Reich '02 (2021)
 Justin Zaremby '10 (2021)
No. CA:
 Benjamin Au '03 (2021, dual region)
 Lee Hsu '95 (2020)
 Richard Keenan '77 (2021)
OK: Katheleen Guzman '92 LLM (2020)
PA: Michael Reed '72 (2021)
So. CA:
 Benjamin Au '03 (2021, dual region)
 Asli Bali '99 (2020)
 Katherine Eskovitz '95 (2021)
 Holly Thomas '04 (2020)
TX:
 Christian Garza '01 (2021)
 James McCarthy '82 (2020)
 Janice Ta '10 (2020)
WA: David Perez '10 (2020)

Total Membership: 199

* Terms extended through Dec. 31, 2020

ALUMNI NEWS

Dear Friends,

Our alumni community welcomed 2020 in our tradition of togetherness and celebration. In January, we enjoyed connecting in Los Angeles and San Francisco at events hosted by Dean Heather Gerken as we announced the launch of our new online community, The Courtyard.



Later that month, Professor **Daniel Markovits** '00 shared his thoughts at a New York City alumni event highlighting his book *The Meritocracy Trap*. February and early March brought gatherings of our newly revived Chicago and Miami Regional Steering Committees and an event featuring Professor **John Witt** '99 in Miami.

Sadly, the momentum of this new decade came to a halt in March as we all faced the challenges created

by the spread of COVID-19. The cancelation and postponement of our anticipated events has been a great disappointment to us all. Together we have quickly shifted to a digital environment, and I hope that you have participated in some of the virtual offerings from the Law School. Many of you joined us for a virtual State of the School Address by Dean Gerken. (If you missed it, you can find the recording on The Courtyard.) I also encourage you to take advantage of our new community platform and connect with each other and current Yale Law School students through The Courtyard.

While we are not able to be together in person in October for Alumni Weekend 2020, we will convene for a virtual celebration including a lineup of collective and class-specific events. Our Virtual Alumni Weekend will be held October 16–18, 2020. You can find details and answers to questions about the event at law.yale.edu/AW.

It has been a great joy to witness the solidarity of this community throughout this unexpected season of separation. Thank you for the kindness and support that you have shared with our students, faculty, staff, administrators, and your fellow alumni. We look forward to the moment we are able to be together again soon. Until then, be safe and well.

Warmly,



Eleiah Catherine Sexton
Director of Alumni Engagement

NEW YORK



Amanda Weingarten '16 and
Daniel Markovits '00



Reception and Talk with Daniel Markovits

On January 22, alumni congregated at an event hosted by **Jackie Carter Klaber** '12 and **Robert Gray** '12. Professor **Daniel Markovits** '00 discussed his new book, *The Meritocracy Trap*.

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

LOS ANGELES

Dean's Reception for the YLSA of Southern California

On January 6, more than 100 alumni and their guests attended a reception at Latham & Watkins. In addition to the promotion of The Courtyard, the School's online community and directory, guests heard opening remarks by **Manuel Abascal '92**, Partner, Latham & Watkins, and an update on the Law School from Dean Heather K. Gerken.



Heather Gerken addresses attendees; (right) Associate Dean Mike Thompson, Carel Ale '11, John Langford '14, and Jennifer Jones '11



BAY AREA

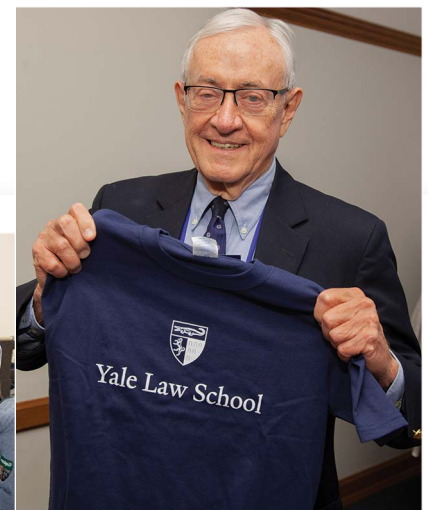


(clockwise, from above left) V O Prentice '15, Valerie Comenencia Ortiz '18, Felicia Medina '06, and Kevin Love Hubbard '12; Damali Taylor '02 and Heather Gerken; Stephanie Safdi '13, Rose Carmen Goldberg '15, Julie Wilensky '07, and Julia Spiegel '13



Dean's Reception for the YLSA of the Bay Area

On January 8, about 100 alumni and their guests gathered for a reception at O'Melveny & Myers. The evening included introductory remarks by **Damali A. Taylor '02**, Partner, O'Melveny & Myers LLP, and an overview by Dean Gerken on The Courtyard, as well as the latest news from the Law School.



Yale Law School Apparel and Accessories

Looking to purchase Yale Law School-branded items? Visit the Campus Customs site to shop: law.yale.edu/shop

MIAMI

Dinner and Talk with John F. Witt

On March 6, the YLSA of Miami hosted a talk titled "The Radicals' Fund: Experimenting with Philanthropy and Democracy in America's First Age of Fake News" by Professor **John Fabian Witt '99** at White & Case LLP with reception and dinner. Witt discussed his research-in-progress on the unusual 1920s philanthropic foundation that financed the litigation that ultimately became *Brown v. Board of Education*.





Yale Law School's Goldman Courtyard

Come to The Courtyard

Did you know you can participate in **regional and class year groups** in The Courtyard, Yale Law School's online community? This virtual meeting space rekindles the relationships that began at 127 Wall Street by offering alumni a way to post **memories and discussion topics**, attend **online events**, and reconnect with **classmates and colleagues**. Join us in The Courtyard today at thecourtyard.law.yale.edu!

Yale Law Report

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