FALL 2026



Harvard Law *bulletin*

Rebuilding Trust

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How changing election laws could help restore faith in our government

America Unfinished

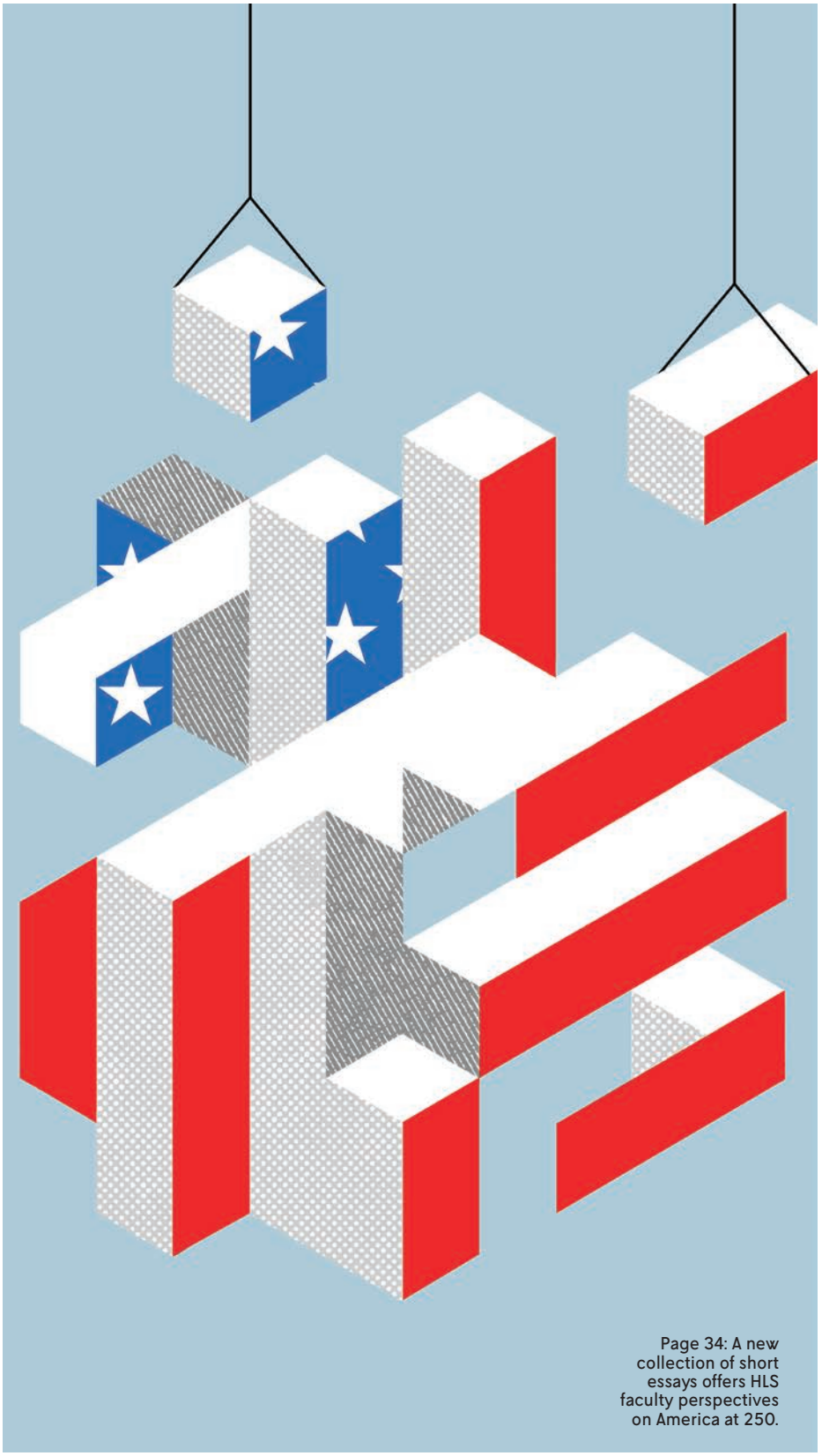
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Faculty reflect on the legal challenges and opportunities facing the U.S. as it marks its semiquincentennial

Tiny Influencers

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When family content becomes profitable, who protects the children?



Page 34: A new collection of short essays offers HLS faculty perspectives on America at 250.

Disclaimer: The articles and stories that appear in the Harvard Law Bulletin often highlight the expertise, scholarship, and perspectives of Harvard Law School faculty, staff, students, and alumni. The views expressed are those of the authors or speakers to whom they are attributed.

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Page 74: A look at HLS athletics then and now



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Volume 78 | Number 1

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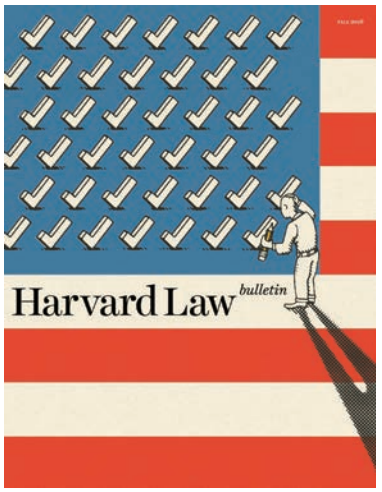
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Cover illustration by Mike Haddad

FROM THE EDITOR



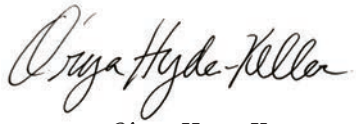
I'M DELIGHTED TO introduce myself as the new editor of the Harvard Law Bulletin — and to present the first issue I 've had the privilege of leading. Building on nearly eight decades of the magazine's legacy, I hope to continue making the Bulletin an informative and engaging point of connection for the HLS community. Within these pages, our goal is to examine the legal landscape using the tools of good storytelling: reporting, narrative, and a commitment to bringing the ideas and people of the law school to life.

At a time when so much information arrives through our screens, I'm heartened to know that our alumni still value receiving a printed magazine. There is something meaningful about holding a publication in your hands and settling in with a compelling story — especially one that connects you to a community and experience that remain important long after graduation.

And yet, space in a print magazine is limited, so we're also looking to thoughtfully expand the Bulletin's digital offerings. To start, in this issue, QR codes in some stories will lead you to related online content. You won't want to miss the video of Professors Nikolas Bowie and Daphna Renan discussing their latest book about the Supreme Court, or our full coverage of America's semiquincentennial, including an excellent piece on how Harvard lawyers helped save a national symbol: the bald eagle.

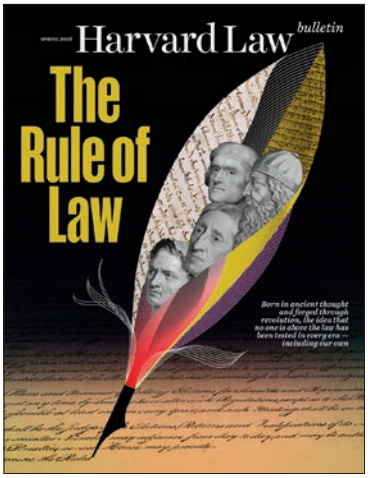
In future issues, we hope to explore not only major legal and public policy questions, but also the realities of lawyers' daily lives: the challenges you face, the work you're doing, and the questions that occupy you. Do you know an alum doing remarkable work? Is there a legal topic you'd like our faculty to explore? Is there an HLS story — current or past — that has not yet been told? Please send me your ideas and feedback. I can't wait to hear from you.

Warmly,



O'RYA HYDE-KELLER
Editor, Harvard Law Bulletin
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LETTERS



KUDOS!

For years, I have been receiving the Harvard Law Bulletin at whatever address I was living at. I've always just glanced through it to see if there was somebody I knew in there, but for the first time I actually sat down and read most of the Spring 2026 Bulletin. Wow, I've been missing out. Great job. I really enjoyed it.

CAREY WORRELL '03

SETTING PRECEDENT

The article pointing out that Shakespeare's Richard II was deposed by an Act of Parliament forgot to mention that once Bolingbroke, now Henry IV, took over the throne, he had Richard II murdered.

Another fact of interest: When the play was performed during Elizabeth I's reign, in an act of censorship, she had the scene giving Parliament authority to depose the king removed. She thought it a bad precedent and one that could be used against her.

GEOFFREY M. CONNOR '73

MAINTAINING BALANCE

Being on the conservative side of the political spectrum, I have suffered (and sometimes criticized) the Bulletin's (and the school's) painfully endless liberal bias over the past decade. But today I am happy to acknowledge that your most recent issue [Spring 2026] has taken a major step away from liberal bias and toward (gasp!) balanced reporting.

The new issue includes no fewer than three articles featuring students or speakers with conservative (or likely conservative) political views. Your feature on 2009 graduate Jennie Bradley Lichter emphasizes her commitment to the pro-life movement, with neither criticism nor disdain. Your "Inside HLS" feature on a debate between conservative law professor Jonathan H. Adler and presumably not-conservative scholar Kate Shaw displayed no favoritism. Finally, your "Student Snapshot" on former Air Force and Space Force intelligence officer Kent Romney '28 emphasized his love of country and devotion to the U.S. Constitution — values that are not expressly political but are rarely announced publicly in and around the Harvard campus.

Good work, Harvard Law Bulletin! But don't get cocky: I guarantee that many of your alumni will be looking closely to assure your continued emphasis on balanced reporting.

MARK RUTZICK '73

(*continued on page 61*)



WE WANT TO HEAR FROM YOU.
Write to the Harvard Law Bulletin: *bulletin@law.harvard.edu; Harvard Law Bulletin, 1563 Mass. Ave., Cambridge, MA 02138. Letters may be edited for length and clarity.*

(TOP LEFT) DIANA LEVINE; (LEFT) HARVARD LAW SCHOOL YEARBOOK, 1983



COURTESY OF APPLE TV

An Unexpected Turn

As his most recent film, "Mayday," premieres on Apple TV, writer–director Jonathan Goldstein '95 reflects on his path from Harvard to Hollywood (PAGE 16). Plus, the latest faculty books (PAGE 10), "Wordle Girl" (PAGE 6), HLS digital tools (PAGE 9), an upcoming podcast on the "AI Triad" (PAGE 18), and more.

The Future of Debtor–Creditor Education

A course by Jared Ellias focuses on the new frontier of business restructuring / By Rachel Reed

It looked like the credits might roll on AMC Entertainment. At the beginning of 2020, the nearly century-old movie theater chain was already saddled with debt and hemorrhaging audiences to the streaming revolution — and then the pandemic hit. With it came shutdowns, skittish patrons, and a public feud with Universal Pictures. By October, a collapse seemed imminent as the beleaguered company announced that it could soon run out of cash.

But then something unexpected happened: Instead of filing for bankruptcy, AMC and its lawyers orchestrated a sweeping financial overhaul outside of the courtroom. Just three years later, signs of recovery were hard to miss, as the chain posted its highest-ever weekly revenue during the "Barbenheimer" (Barbie-Oppenheimer) movie craze.

Call it a Hollywood ending — one that might have turned out differently in a previous era, when Chapter 11 was still the go-to option for distressed companies, says Jared Ellias, the Scott C. Collins Professor of Law at Harvard.

But today, he says, "bankruptcy law has become less central to the life of a bankruptcy lawyer."

That's why Ellias created Corporate Restructuring, a course at Harvard Law School that serves as a companion to traditional courses in bankruptcy. His aim, he says, was to spotlight a rapidly growing area of corporate law in which formal bankruptcy is giving way to debt renegotiation and swaps, equity infusions, and other creative legal maneuvers designed to give troubled companies "more runway to succeed."

"Bankruptcy law has become less central to the life of a bankruptcy lawyer." — Jared Ellias

"I think this is the future of debtor-creditor education," he says.

Ellias began his legal career as a bankruptcy lawyer during the Great Recession and says he started noticing changes in the work that restructuring attorneys — lawyers who help businesses or creditors navigate financial distress — were doing not long after he left private practice for academia in 2011. Yet, this transformation wasn't always reflected in how bankruptcy law was being taught, he says.

"It was clear to me that something important had changed in the way that the law was practiced, and I felt like it was too big for just one or two class periods within the usual bankruptcy course," he says.

Before creating his Harvard Law class, Ellias surveyed 500 high-level bankruptcy lawyers from across the United States. The results confirmed his own intuition: that these lawyers were increasingly focused on pre-bankruptcy scenarios. Their work, he learned, centered on issues in contract law, fiduciary duty law, receiverships, and a state-level process called "assignment for the benefit of creditors" — rather than bankruptcy.

"That data ensured that this class would be very well aligned with the type of work that young restructuring lawyers are doing at the highest level," he says.

Ellias says there are a few reasons companies are ever more eager to avoid bankruptcy. For one, it is time-consuming and expensive. More importantly, he says, private equity sponsors — now more common and often influential in the businesses they back — sit at the bottom of the capital structure and stand to lose the most in a formal bankruptcy process.

As a result, corporate lawyers have become more sophisticated — and aggressive — with financial restructuring efforts, Ellias says.

"Until the mid-2010s, a company needed bankruptcy law to borrow new money that would be senior to existing debt," he says. "But in the last decade or so, lawyers have figured out how to do that by using flexibility under existing loan contracts."

Ellias considers Harvard Law an ideal setting for his course and says he tailors his teaching to be accessible even to students who have no background in corporate financial distress.

"We have many students who are interested in becoming debtor, creditor, or bankruptcy lawyers, or who want to represent lenders. We also have students going to work at hedge funds or as investment bank-





Before creating his course, Ellias surveyed 500 high-level bankruptcy lawyers from across the United States.

ers," Ellias says. "All of those roles are ones in which you'd benefit from taking this class."

As a former investment banking analyst, Annabelle Hutchinson '26 used to work on deals that involved large amounts of debt. She was interested in Ellias' course, she says, because it "sits at the center of an untidy collection of legal doctrines which clash in dramatic ways when businesses start to degenerate, and it is one of the most exciting areas of the law to explore for students interested in corporate matters."

Hutchinson says the class ended up being her favorite at Harvard Law — and her favorite course in business, period — thanks to Ellias' "phenomenal teaching" and approach, which mixes case law with practice-oriented exercises, like reading and discussing real credit agreements.

The course is also au courant, Hutchinson adds. "Open up The Wall Street Journal or play your favorite business podcast, and there's a solid chance you'll find something about liability management or the cases that we covered," she says. "It is one of those things that you don't notice until you are introduced to the field but then crops up everywhere you look."

That timeliness is evident in the custom casebook that Ellias created for the class, which "reflects the volume of good judicial opinions from great judges tackling interesting recent debt transactions," he says.

But while most of the cases his students read are contemporary, Ellias says that the legal conflicts at the heart of these disputes are often much older.

"These same questions recur time and time again," he says, adding that he included at least one decision from the late 19th century. "What should courts do to help minority creditors who are taken advantage of by shareholders or by majority creditors? What should the law do to help creditors when things go wrong? These are things we're still debating."

Beyond harm to individual creditors who may lose out, Ellias says these newly popular restructuring tactics can have other, broader downsides. His students also learn how restructuring runs the risk of enabling moribund companies to "limp along forever," neither thriving nor completely failing.

"One of the main worries is that companies aren't restructuring quickly and deeply enough — that they are just forestalling bankruptcy," Ellias says, adding that it's also not entirely clear what impact hundreds of these "zombie" companies could have on the economy in a downturn.

What is certain, however, is that troubled businesses increasingly prefer non-bankruptcy financial restructuring options, he says.

That makes courses like his especially critical, he argues, for law schools like Harvard "that are serious about training students to represent lenders and debt investors, and to represent distressed companies, in the future."

Law students need to be prepared to explore all options for their clients, Ellias says, because ultimately, the goal is the same: "We want these companies to be in a position to succeed in their business, to be an attractive employer, and to be competitive again."

LORIN GRANGER



Hints and Answers

Becoming TikTok's "Wordle Girl" showed Savannah DeLullo why she wanted to be a lawyer / By Kim Ashton

PHOTOGRAPH BY DIANA LEVINE

After spending the day on a beach in Greece in July 2024, Savannah DeLullo '28 returned to her hostel and reflected on the life she was living. It was, she felt, amazing. At 24, she was on a monthslong European trip — skydiving over the Swiss Alps, making pesto in Italy, going to Taylor Swift concerts across the continent — and had built a career as a TikTok star, "Wordle Girl," playing the viral word-guessing game for 1.6 million followers. But she also felt she needed new challenges. She got out her phone and made a note: "I will get into Harvard Law School." A few days later she flew home to Florida and started studying for the LSAT.

Attending Harvard was a dream she'd had since childhood. She loved reading, writing, and problem-solving, and teachers told her she'd make a good lawyer. "So I just had in my mind, I'll eventually go to law school," she says. Why Harvard Law? When she was a kid, it seemed simple. Going to Harvard would be making it to the top.

Life, however, at first took her in other directions. After high school, she attended George Washington University, where she studied economics. She graduated a year early and decided to take a job as an economic research associate at a real estate trade association while she prepared to apply to law school.

"Being on the other side of the platform opened my eyes to many real issues that the law should address."

All was going according to plan, and DeLullo liked her work, but she struggled to adapt to the rhythm of it. Her evenings, once full of student clubs and activities in college, were suddenly empty. "So I kind of started just collecting hobbies," she says. One of those was Wordle.

It was January 2022, and DeLullo had been following someone on TikTok who posted videos of himself playing the New York Times Mini Crossword. "I thought, Oh, I can do what that guy with the mini crossword did, but for Wordle," she says. Maybe she'd do it for a couple of weeks, to have something to look forward to after work, she recalls thinking. "But then, Wordle just got way more popular."

DeLullo was one of the first people making social media content about Wordle, and she rapidly gained a following. She attributes her success to being in the right place at the right time, but this explanation downplays the ingenious ways she set her content apart.

Though her first Wordle Girl posts mimicked the subdued manner of the crossword player, she soon found her own spontaneous, high-energy style. She was strategic in how she built her channel, securing brand deals, collaborating with other influencers, and featuring cameos from stars like Ed Sheeran and Joe Jonas. In addition to the deals, DeLullo made money from TikTok, which pays creators a portion of its ad-generated revenue. It also came with an education she hadn't expected: a front-row seat to the business side of social media.

A year and a half after becoming Wordle Girl, DeLullo was making enough money that she started thinking about leaving her nine-to-five job. She wanted time to study for the LSAT and to travel, but she also was terrified of letting go of a steady paycheck and feared others would regard her as an unserious person if she left.

"I was a person who did not take any risks," she says. She decided to frame her departure — both to herself and to everyone else — as a temporary pause before law school.

During that pause, as she toured Europe, Asia, and the U.S. and grew her platform, she learned to run her own business, to manage the unknown as a solo traveler — and to maintain perspective about her job as a content creator. She remembers riding a motorcycle through remote villages in northern Vietnam and being reminded of the important things in life: "It really doesn't matter what someone commented on my TikTok today. The world is so much bigger than that," she says.

Once during her travels, a waiter told her that he'd been watching her content for years, and it had inspired him to post his own Wordle videos. That, plus the many times she's met girls who told her they watch

her videos and look up to her, highlighted to DeLullo "how my actions matter, and that I want to go beyond just making videos to hopefully have a positive impact on people in other ways through a career in the law," she says.

DeLullo also saw and experienced the perils of being a woman online. "Basically every female creator I know has dealt with people making and posting AI-generated fake content of them," she says. It troubled her that teenage girls were being targeted, too. Moreover, she has taken note of the volume of content telling girls "they're not good enough, or 'you need to buy this product.'" She realized that she had the opportunity to offer them an online experience "that is very much separated from all of that."

She'd always known she wanted to go to law school; now she knew why. "Through my social media career," she says, "I realized that I am really interested in exploring internet and technology law. Being on the other side of the platform opened my eyes to many real issues that the law should address."

"People at Harvard were the most excited about learning and about sharing ideas and doing good work."

For example, she saw how platforms reward controversy and outrage with attention and money: "The same mechanism that rewards me for a dramatic Wordle loss is rewarding someone else for spreading a conspiracy theory. And most people watching don't see that the person they follow is often getting paid by outside organizations or the platform itself for what they post."

Almost exactly a year after DeLullo resolved to get into Harvard Law, she was once again traveling in Greece when her phone rang. The caller ID read "Cambridge, MA." Receiving the offer of admission was a poignant moment, she says. Without the confidence she'd gained from solo travel and being an entrepreneur, she wonders if she'd have applied. "I think there was so much of me that was like, I don't want to aim super high because I'll be disappointed if I don't reach it," DeLullo says.

Her interest in Harvard, too, had matured. Beyond its stature, the law school stood out to her for its programs and clinics. She watched every lecture on the school's YouTube channel. "It just always seemed like people at Harvard were the most excited about learning and about sharing ideas and doing good work," she says.

Now a 2L, DeLullo says that vibe of intellectual curiosity is exactly what she has found on campus. Despite arriving with fears she'd be perceived as someone who had pursued frivolity while her classmates worked in law firms and investment banks, she instead discovered a diverse community filled with people who, like her, simply loved learning.

And her TikTok years? They turned out to be preparation, not a detour. "When I was very fresh starting out, I would get these contracts from brands … and I had no idea what I was looking at," she says. Concerned that she'd unwittingly hand over rights and end up "ruining my entire life," she dove in and learned more about that part of the job and found that she had fun doing it.

Being at the law school has deepened this interest in working at the intersection of law, technology, and art. When Taylor Swift's lawyer spoke on campus last year, they talked about working with creatives and the importance of honoring a client's artistic goals while protecting business interests that might conflict with those goals. It's a balance, DeLullo says, that she wants to explore more. Last year, she joined the law school's Recording Artists Project, a student practice group providing pro bono legal help for the Boston music community.

She's also drawing on her TikTok experience to examine issues surrounding internet safety. In her first year, she wrote a paper arguing for disclosure requirements when influencers are paid by record labels and in it explained why she believes such disclosures need to apply to other online content, too. This fall, she's taking Online Speech Governance to dive deeper.

As part of the reading group Youth, Privacy, and Digital Citizenship, she's looking forward to grappling with questions relating to children and the internet, and she's taking the Cyberlaw Clinic to prepare for work in the areas of internet and privacy law and policy. She also serves as outreach editor for the Journal of Law and Technology and a teaching assistant for Civil Procedure — and is involved in the Women's Law Association, the Journal of Sports and Entertainment Law, and, for a second year, the "Parody" musical. This summer, she worked as a summer associate at Gould Cooksey Fennell in Florida.

Though her empty evenings are clearly long past her, DeLullo plans to keep making Wordle videos as long as she has an audience. But ultimately, she sees herself working for a law firm after graduation and then, ideally, working for an entertainment company as their in-house counsel, or working directly with creatives. "That would be the dream," she says. "Maybe I can be Taylor Swift's lawyer one day."

Tools You Can Use

From an app that makes court opinions easier to read to online platforms that track environmental regulations and food waste policies, research and innovation by Harvard Law School faculty and staff have led to a range of practical, user-friendly digital tools. Here are eight to explore.



ILLUSTRATION BY JAM DONG

RESEARCH

Case Viewer

Created by Professor Benjamin Eidelson for macOS and iOS, this app retrieves and displays judicial opinions and federal statutes in a clean, unfussy format. The app, which is free but includes premium features for a small fee, pulls from several publicly available sources.

caseviewer.app

ENVIRONMENT

Environmental Justice Tracker

Created by the Environmental & Energy Law Program, this website monitors federal agency regulations, policies, and executive actions that affect communities' exposure to environmental pollution.

eelp.law.harvard.edu/tracker-type/environmental-justice-tracker

FOOD POLICY

U.S. Food Waste Policy Finder

A collaboration between the nonprofit ReFED and the Food Law and Policy Clinic, this tool maps the current federal and state policies related to food waste and highlights best-practice legislation and policy recommendations.

policyfinder.refed.org

CITATIONS

Perma.cc

In a sample of several legal journals, approximately 70% of all links in citations published between 1999 and 2011 no longer point to the same material as they did then. This tool, created by the Library Innovation Lab, solves that problem. When a user creates a Perma.cc link, the tool archives the referenced content and generates a link to an archived record of the page that will always be available.

perma.cc

REDISTRICTING

PlanScore

Developed in partnership with the Election Law Clinic, this website is a resource for policymakers and advocates to examine new district maps and assess gerrymandering. It also provides a comprehensive historical gerrymandering dataset.

planscore.org

PUBLIC OPINION

TrueViews

A collaboration between scholars and organizations at George Washington University and Harvard, this data tool provides users with an immediate snapshot of how residents in any particular state, county, district, city/town, or ZIP code feel about 32 different policy issues, ranging from marijuana decriminalization to universal health care to fossil fuel emission limits. Committed to presenting public opinion estimates neutrally and transparently, TrueViews derives its estimates from national surveys.

trueviews.org

RELIGION

SHARIAsource

This project of the Program in Islamic Law aims to provide comprehensive content and context on Islamic law in a way that is accessible and useful — and serves as a portal into the digital world of Islamic legal studies.

portal.shariasource.com

DATA PRIVACY

Transparency Hub

This open-access resource from the Applied Social Media Lab at the Berkman Klein Center for Internet & Society provides access to more than 20,000 policy documents from 300 social media platforms. It was designed to help people search, compare, and better understand the data practices of consumer-facing social and technology applications.

hub.transparency.berkmancenter.org

Faculty Pages

Four new books by Harvard Law School faculty examine the Supreme Court, Thomas Jefferson, AI, and the separation of powers / By Lewis Rice

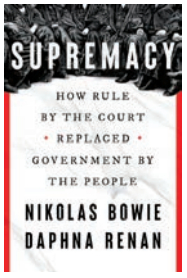


ILLUSTRATION BY ANDREA D'AQUINO

The constitutional authority of the Supreme Court. The separation of powers as a safeguard against executive overreach. The perils of an artificial intelligence-driven future. The conflicted writings and actions of one of our nation's most enigmatic founders. These are among the subjects explored in four new books by Harvard Law School faculty. In "Supremacy," Nikolas Bowie '14 and Daphna Renan challenge the idea that the Supreme Court should have the final word on the Constitution and propose ways to restore a larger role for democratic politics. Turning from the courts to the executive branch, Cass Sunstein '78 offers a vigorous defense of the separation of powers, warning that an unchecked president can threaten liberty. Jill Lepore examines the impact of what she calls "the Artificial State," tracing the history of automation and considering the troubling ways that artificial intelligence is transforming politics, public life, and the environment. Looking back to the nation's founding, Annette Gordon-Reed '84 presents Thomas Jefferson's writing on race alongside her analysis of his conflicting views and actions. Together the books reflect a rich and thought-provoking range of scholarship on contemporary law, governance, and public life — and the history that continues to inform it.

"It is up to all of us to build the constitutional order we desire."
—Nikolas Bowie and Daphna Renan

"Supremacy: How Rule by the Court Replaced Government by the People," by Nikolas Bowie and Daphna Renan (Norton)







JESSICA SCRANTON (2)

People may disagree with individual Supreme Court decisions, but most accept — in fact, they probably take for granted — that the Court is the ultimate arbiter of the Constitution's meaning.

That perception is misguided, and the results of ceding interpretation of the Constitution to nine justices have been disastrous, leading to a Supreme Court that "has played a starring role in the unraveling of our democracy," argue Harvard Law School Professors Nikolas Bowie and Daphna Renan. In their book, they trace the history of a Court that has come to be associated with what they call "judicial supremacy" and promote an alternative course that they assert would better reflect the founders' vision of a country governed in the name of "We the People."

Over the first decades of the republic, the authors explain, the Court focused on "vertical review," a practice established in the Constitution that empowers judges to enforce federal statutes against contrary state laws. By contrast, the first case in which the Court overrode Congress' constitutional judgment (known as "horizontal review") was the infamous *Dred Scott* decision in 1857, which invalidated a federal law intended to limit the spread of slavery. (The authors acknowledge that the Court's 1803 *Marbury v. Madison* decision is now seen as establishing the Court's power to review acts of Congress; however, they argue that it was not understood at the time to have this significance.) After *Dred Scott*, the "curiosity" of judicial supremacy would evolve into one of the central issues of American politics, they write, with James Buchanan claiming that slavery was a judicial question while Republicans "emphasized the danger of thinking a judicial commission made one an expert in interpreting the Constitution."

The authors catalog efforts by abolitionists, notably Frederick Douglass, to mobilize public opinion against "the emergence of a Supreme Court untethered from principles of democratic constitutionalism, a Court that had seized for itself power over the most important decisions a nation could make." In the aftermath of the Civil War, Congress passed the Reconstruction Acts, which represented "the nation's first steps toward multiracial democracy" and were an example of "constitutionalism grounded in politics."

Those potential advances were upended by judicial supremacy, according to the authors, who emphasize throughout the book how the Court has wielded its claimed interpretive authority to undermine civil rights legislation. Bowie and Renan recount a shift in the Republican Party against newfound Black political power in the South and the labor movement in the North, leading to decreased support for reforms that would check the Court's power. In response, the Court undid most of the Reconstruction laws passed by Congress. "A Republican Party born in op-

SCAN THE QR CODE
To watch an interview with professors Bowie and Renan about "Supremacy."

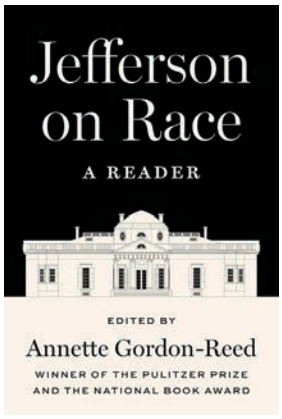
position to slavery and *Dred Scott* now embraced a reconciliation with the South fueled by judicial supremacy," they write. Political violence against Black voters would go unpunished, as Douglass lamented that the Court had become autocratic.

Judicial supremacy continued into the 20th century, with the Court, for example, declaring the Child Labor Act unconstitutional in 1918. While critics denounced the judicial veto of federal laws as a usurpation of power from Congress, supporters claimed that it was needed to protect minorities from rash majorities. Yet, Bowie and Renan note, "arguments that horizontal review had ever protected minority groups beyond the wealthy were difficult to empirically defend."

The *Brown v. Board of Education* case offered a new twist on judicial supremacy. Advocates for school desegregation said that it should be enforced under the Ku Klux Klan Act, a Reconstruction-era law enacted in 1871 to enforce the 14th Amendment — an argument for vertical review. Though the justices ultimately ruled in favor of desegregation, they ignored that argument, instead framing the decision as their own constitutional judgment, giving the impression of "a judicial angel hovering over and somehow apart from American politics." The authors write that the outcome suggested for the first time that progressives could secure the rights they valued without legislation. But it would also leave them vulnerable to conservatives in the federal judiciary who later would undo civil rights provisions, such as in the *Shelby County v. Holder* decision, which invalidated a key provision of the Voting Rights Act. While many civil rights advocates in Congress condemned that decision, few if any questioned the power of the justices to make it.

As that and other cases show, both the right and the left would come to accept the judicial role first asserted in *Dred Scott*, the authors write. But, they argue, giving a small group of justices "an absolute judicial veto over federal legislation is inconsistent with the political equality and freedom from domination that together define democracy." They offer several proposals to check the power of the Court, including for Congress to enact a statute that would prevent courts from overruling a federal law on constitutional grounds or one that would limit the conditions under which the judiciary could invalidate acts of Congress. Another option they consider would be to make the Constitution easier to change. The authors acknowledge that changing public opinion on this issue may not be easy, but one way to start is to emphasize that the interpretive power of the current Court is not supported in the country's founding document. We need courts to enforce federal law, they write, but "it is up to all of us to build the constitutional order we desire."

"Jefferson on Race: A Reader," edited by Annette Gordon-Reed (Princeton University Press)





No founder engaged more directly with the subject of race than Thomas Jefferson, writes Annette Gordon-Reed, Carl M. Loeb University Professor. How he engaged with that subject is presented in his own words in her latest edited book, in which she selects among his voluminous writings and reflects on a man who held complicated and contradictory views on slavery.

Gordon-Reed, who has written extensively on Jefferson and race in America, including in her Pulitzer Prize and National Book Award winner "The Hemingses of Monticello," organizes the collection into three sections, each of which begins with her commentary: Self-Image (how Jefferson viewed himself on questions of race); Theories (how he wrote on the topic for private and public consumption); and Actions and Interactions (what he did regarding slavery and race as well as in his relationships with Black people). Writings range from letters addressing issues around slavery, such as its economics and the education of enslaved children, to personal matters

TONY RINALDO

related to running his Monticello estate.

Of utmost importance to Jefferson was being seen as a progressive and "an enlightened individual," writes Gordon-Reed, as demonstrated by his letters to John Adams in which he cited his "dreams of the future" and his wish that the United States would stand against the "return of bigotry and barbarism." Although Jefferson wanted to be associated with antislavery efforts, he also accommodated the prevailing hostility of white people toward Black people, making his views on race a "frustrating matter," she writes. Jefferson risked his life to fight for independence for white colonists, but a "sense of urgency about ending a form of oppression practiced exclusively against Black people was simply not in Jefferson." In one letter, for example, he declined membership in an abolitionist group, saying it would be inappropriate as a representative of the U.S. government.

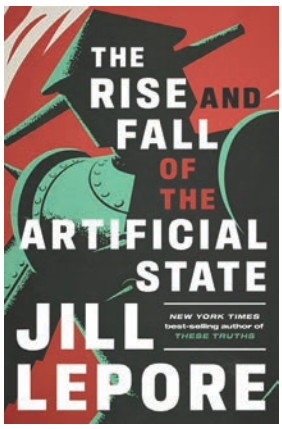
Jefferson's thinking on race was influenced by his daily interactions with Black people as a slaveholder of hundreds, writes Gordon-Reed. His documents reveal his close connection to the enslaved Hemings family, including Sally, with whom he fathered children. He gave the Hemings family more privileges than other enslaved people, and because of that, she writes, "Jefferson could think of himself as that archetype we moderns reject: a benevolent enslaver."

While not excusing Jefferson, whose writings also indicated he shared the widespread belief among white people then that African Americans were intellectually inferior to them, Gordon-Reed places his views and actions in the context of his times, writing: "We have such high expectations of members of the founding generation that it is sometimes easy to forget that they were human beings working in a particular context." She questions whether he could have done anything to persuade his fellow Virginians to reject slavery and whether he would have achieved his political success if he had tried. In his last letter addressing slavery before his death in 1826, Jefferson declined an entreaty from a correspondent to make a final statement on the abolition of slavery, saying that a "revolution in public opinion" on the matter would require time and patience.

"Don't tether yourself to a computer. Unplug."
—Jill Lepore

JESSICA SCRANTON

"The Rise and Fall of the Artificial State," by Jill Lepore (Liveright Publishing Corp.)





In 1958, shortly after the Soviet Union launched the first man-made satellite called Sputnik 1, Hannah Arendt's book "The Human Condition" warned about the effects the rise of automation could have on humanity. She considered whether one day humans would "need artificial machines to do our thinking and speaking."

That day has arrived, writes Jill Lepore, who in her book sounds an alarm about a "new, fantastical form of tyranny" she dubs the "Artificial State," in which automation controls politics, public life, and discourse, causing "the severing of humans from one another." The noted historian, who is both a professor of American history at Harvard University's Faculty of Arts and Sciences and a professor at the law school, surveys a long history of writers, philosophers, and scientists who also contemplated the consequences of automation and pleads for us to reconsider a path that she says could lead us to the end of humanity as we have known it.

Long before the advent of human voices and images produced by artificial intelligence, inventors sought to create mechanical objects that would simulate human behavior, including a chess-playing automaton built in 1769 known as the "Mechanical Turk" (it was a charade; a small, chess-playing real person was hidden inside it). Industrialization in the 19th century

sparked fears about the role of machines, with British writer Samuel Butler warning that "we are becoming more subservient to them; more men are daily bound down as slaves to tend them, more men are daily devoting the energies of their whole lives to the development of mechanical life."

What some saw as a threat, others saw as salvation. Lepore chronicles proponents of an early version of the Artificial State: supporters of the Technocracy Movement nearly 100 years ago. With at one time hundreds of thousands of adherents (one was Joshua Haldeman, grandfather of Elon Musk), Technocracy disdained the democratic ideal, she writes, seeking to replace government with the rule of scientists and engineers.

Though the Technocracy Movement crumbled, in part owing to the success of government New Deal programs, the age of data — the "infrastructure of the Artificial State" — would arise starting in the mid-20th century, including through the emergence of artificial intelligence. Among the developments were a machine that researchers claimed could predict and influence voting behavior and databases that facilitated personalized messaging. As the digital revolution took hold, some predicted a "computopia" that would usher in an era of transparency and tolerance. Not so, argues Lepore, pointing to social media platforms like X as "radicalization" machines and large language models that distort the truth.

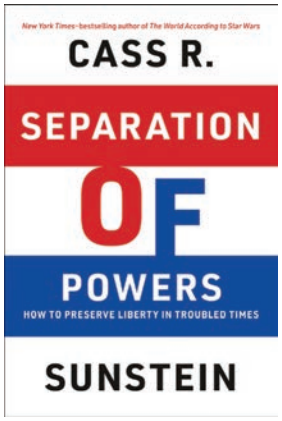
Throughout the book, Lepore details the importance of science fiction in shaping the Artificial State. A common theme of the genre centered on robots seeking to rule and destroy mankind, shown in works ranging from those of the popular author Isaac Asimov to the "Terminator" movies. Yet, instead of seeing the sci-fi stories as cautionary tales, Silicon Valley leaders treated them "as a form of technical writing, a set of assembly instructions," she writes. To capture the absurdity of that conclusion, she cites a viral post from the satirical publication The Onion: "TECH COMPANY: At long last, we have created the Torment Nexus from classic sci-fi novel 'Don't Create the Torment Nexus.'"

That tech titans like Musk, Jeff Bezos, and Mark Zuckerberg so badly misinterpreted the dystopian message can be attributed to their "dismiss[ing] philosophy, history, literature, and every humanistic way of learning, thinking, and knowing," Lepore posits. She excoriates these "architects of the Artificial State," contending that from the beginning they were "intent on amassing a kind of planetary power that required dismantling democracy, constitutionalism, and the nation-state" and "undermining the free will of the mass of humanity." Their zeal for space travel and inhabiting other planets reflects their abandonment of any commitment to a habitable Earth, she argues.

The book highlights the damage the Artificial State is doing not only to humanity but also to nature. With the rapid expansion of data centers to power AI, tech companies are extracting massive amounts of land, minerals, water, and energy. The Trump administration has enabled the effort, she notes, by eliminating environmental review from AI infrastructure projects and removing all references to climate change from government documents meant to catalog AI risks. Meanwhile, corporations have created millions of industrial robots while animal life is being decimated, she writes.

Lepore maintains that the rise of the Artificial State was not inevitable, and it can still be dismantled through government by the consent of the people, not by automation. Her advice: "Don't tether yourself to a computer. Unplug. If you cut down all the trees and kill all the animals, you will die. Using robots to wage war will always backfire: one day, they will wage war on you."

"Separation of Powers: How to Preserve Liberty in Troubled Times," by Cass R. Sunstein (MIT Press)





PHIL FARNSWORTH

Cass Sunstein begins his book with a stark lesson in what can happen when a government does not believe in separation of powers. He quotes a legal theorist who claimed that an action of the leader of the nation "is not subject to law but is in itself the highest justice." The theorist was Carl Schmitt, the nation was Germany in the 1930s, and the leader was, of course, Adolf Hitler. And while Sunstein acknowledges that citing the Nazi regime to make a point can seem inflammatory, he writes that "what was being said in the 1930s can be found, in various forms, today."

In his latest book, Sunstein, the Robert Walmsley University Professor at Harvard, mounts a passionate defense of the system of separation of powers ingrained in the Constitution, the aim of which was to create a "deliberative democracy" designed so that "decisions would be based not on the will of one person, but on the force of the better argument." Sunstein draws on his expertise in constitutional law as well as his experience serving in presidential administrations (most recently as senior counselor to the secretary of Homeland Security during the Biden administration) to outline the role and limitations of each branch of government and the dangers that can arise from a government that is unconstrained.

"What was being said in the 1930s can be found, in various forms, today."
—Cass Sunstein

As important as what each branch can do is what it can't, namely exercise the powers of the other two branches, Sunstein says, and he provides reasons why these prohibitions support the protection of liberty. In principle, the legislature enacts laws to establish criminal penalties, while the executive branch determines who is prosecuted, thereby providing citizens with protection based on the need for concurrence from two layers of government. The unelected federal judiciary is not empowered to legislate because it lacks the accountability and information that the legislature has.

Sunstein allows for some leeway for separation-of-powers principles, for example, citing the executive's ability to create binding rules (without producing actual legislation). But he largely agrees with President James Madison's view that the accumulation of powers in the same hands "may justly be pronounced the very definition of tyranny."

He calls the executive "the most dangerous branch" because of its ability to acquire information through a large number of specialists on myriad subjects and its "massive powers of initiative." In addition, as he observed in his time in the federal government, administration officials may be prone to rosy projections to please the president and fall victim to "group polarization," causing people to produce more unified and extreme opinions. "If a president wants to uproot the current system, he can do that," writes Sunstein. "If a president wants to uproot the system of separation of powers, he might be able to do that, too."

Helping to contribute to that uprooting, in Sunstein's view, was the recent Supreme Court decision granting the president broad immunity in *Trump v. United States*, which he analyzes and critiques. He contends that the Court majority justified the decision based on previous cases that had nothing to do with presidential immunity and thus "engaged in a form of constitutional alchemy," resulting in "a distortion, not a rendering, of the idea of separation of powers." According to Sunstein, the decision creates an extremely powerful president who, for the first time, cannot be held to account under criminal law, which leaves the most dangerous branch even more dangerous.

Another factor compromising the system of separation of powers is what he calls "partyism," a term he coins in the book to signify prejudice and hostility based not on race or sex but on identification with a political party. Partyism is on the rise, he contends, pointing to studies that show people in the past would often affiliate on the basis of race whereas now they do so by political party. The political consequences include fewer checks, leaving the executive less likely to be constrained by a legislature that's in thrall to a president of the same party; polarization leading to officials unwilling to accept views outside of their party; and gridlock that prevents the building of broad consensus.

Enthusiasm for separation of powers may have waned over the years, Sunstein writes. In some ways, that's understandable. The possibility of an unencumbered leader who has the authority to solve all the problems we face is alluring. However, he implores us to focus on the threats that can arise without the constraints that separation of powers brings, including arbitrary and overreaching government actions, or even tyranny.

From Harvard Law to Hollywood

Writer–director Jonathan Goldstein defies expectations — in his films and in his life

Interview by Rachel Reed



If you're watching a film by writer-director Jonathan Goldstein '95, expect the unexpected. It's fitting, then, that Goldstein's own life has been anything but predictable: After earning a degree in German literature, attending Harvard Law School, and practicing corporate law, he found success in Hollywood.

Known for blending humor with established conventions, Goldstein has earned praise for films including "Game Night" (2018), "Spider-Man: Homecoming" (2017), and "Dungeons & Dragons: Honor Among Thieves" (2023).

His latest film, "Mayday," starring Ryan Reynolds and Kenneth Branagh and now streaming on Apple TV, continues that genre-bending tradition. It takes the familiar formula of the classic Cold War action movie, injects it with humor — and turns it on its head. Goldstein spoke to the Bulletin about his path from law school to LA, the making of "Mayday," and the legal skills he still draws on as a filmmaker.

HARVARD LAW BULLETIN: What was your experience at HLS like?

JONATHAN GOLDSTEIN: I had brilliant teachers, and the people in my class were brilliant. But the classes I liked the most were the least legal in nature. For example, Larry Tribe taught an amazing class on biomedical technology and the constitutional issues it raised, which I found fascinating and philosophical. One day, Barbra Streisand came to our class. It was a happy day because I happened to be presenting on something, and I made Barbra laugh. I'll always remember that.

I also had a friend and classmate on The Harvard Law Record, and we wrote a very tongue-in-cheek restaurant review column. He was writing a sample TV script with a partner in Los Angeles, and that was my introduction to how you get an agent. I had to go to law school to go to Hollywood.

After practicing corporate law for two years, you decided to head out to LA to try to make it as a screenwriter. What were those early days like?

They were terrifying. I knew I was taking a chance and that there was no certainty that I would succeed. But I approached it in a lawyerly way: Each day I tried to do at least one thing that would advance my goal of getting hired on a show. I was living in a very tiny, roach-filled apartment in West Hollywood, and reading scripts for an agency, which was a great introduction to the business. I read Variety and The Hollywood Reporter every day. I was around agents every day. I used the machines in the office to copy my spec script. Within six months I got a



APPLE TV

Jonathan Goldstein (far right) on the set of "Mayday" with actors Kenneth Branagh and Ryan Reynolds (seated) and his longtime filmmaking partner, John Francis Daley

manager, an agent, and I was hired on a show. It was a quick but still scary transition.

Where did you come up with the idea for your most recent film, "Mayday"?

The basic plot is that an American pilot [Reynolds] is downed in the woods of Soviet Russia and is taken care of by a former KGB agent [Branagh], who agrees to help him get to Moscow. My filmmaking partner, John Francis Daley, and I wanted to do an action-oriented "two-hander" [a film with two main leads] in the style of "Midnight Run" or "Lethal Weapon" — those movies from the '80s and '90s that we love. We also wanted to say something about the state of affairs in America and its relationship with the rest of the world today, and a Cold War story felt like a good way to do that without being too on the nose or polemical.

Is there a common thread in the kinds of stories you are drawn to tell?

I like to find ways to do something that hasn't been done before. Hitchcock has this great quote — that film should play the audience like a piano — and I love the idea of manipulating the audience into thinking they know where the film is going, and then turning that on its head. I also like mashing up genres in an unexpected way. With "Game Night," my filmmaking partner and I blended a thriller with a studio comedy. With "Dungeons & Dragons," we combined high fantasy with comedy. And in "Spider-Man: Homecoming," we did John Hughes by way of a superhero movie.

How do you connect the skills you gained at Harvard to your work in the film industry?

I am one of the few people out here who actually looks at their contracts, much to the annoyance of my fantastic lawyers. Sometimes, I even catch something they didn't notice. I also think in a much more strategic way about deal-making than many creative people do. I can't help it — it was built into my brain in law school. These are skills you carry with you for life.

What advice would you give a law school student or alum who is considering a major career change like the one you made?

You have to be honest with yourself and ask: What is my passion? What do I want to spend my life doing? For many people, there's great work to be done in the law. But for people like me, it wasn't right, and the sooner you can get to that place, the better chance you have of making a big switch. I knew that if I didn't try, I would look back and regret it, and I never wanted to be in that position.

Are We Too Worried about AI — or Not Enough?

In a new podcast, Jonathan Zittrain asks why leading thinkers looking at the same technology envision profoundly different futures / By Rachel Reed



ILLUSTRATION BY ERIC PALMA

In September, Evan Hubinger, a top researcher at Anthropic — the leading AI company behind the chatbot Claude — caused a stir with a post on X, formerly Twitter, warning that he believes there is more than a one-in-10 chance that AI could result in human extinction within the next decade.

"We really do earnestly believe AI could kill all humans," the post read.

But while technologists like Hubinger worry that AI is progressing so quickly that it could disrupt life as we know it in painful — even existential — ways, others believe that it could create material abundance and revolutionize our everyday lives. Still others wonder if dramatic debates about the future of AI are getting in the way of addressing problems the technology is already creating.

A new podcast hosted by Harvard Law School Professor Jonathan Zittrain '95, "Artificial Certainty," will explore the wide range of views on the impact AI will have on our lives, nation, and world — and what we can and should do about it.

Available on major platforms in January 2027 — including Apple Podcasts, Spotify, Amazon Music, and YouTube — the podcast will feature Zittrain in conversation with prominent tech industry and legal experts, whose assessments on the prospects of AI range from idealistic to skeptical to alarmist, three schools of thought on AI that Zittrain calls the "AI Triad."

"I want to understand why brilliant, well-intentioned people can look at the same technology and see such radically different things as salvation, extinction, or distraction," says Zittrain, the George Bemis Professor of International Law and co-founder of Harvard's Berkman Klein Center for Internet & Society.

The podcast will give listeners an opportunity to engage in many of the ideas and debates that Zittrain will tackle with law school students in a course he is co-teaching this spring focused on the AI Triad. He says the technology is poised to dramatically alter the way we work, live, and socialize in the coming years, raising issues that law will be called upon to address. It's not just a thought exercise, he insists. "This could be one of the most consequential debates of our time," he says. "We're at an inflection point in AI development where these questions about acceleration, safety, and societal impact are going to shape governance frameworks, corporate practices, and the lives of our children for decades."

Zittrain says his goal with both the podcast and the class is to dig deeper beneath disagreements to understand the incentives and values underlying AI companies and the tools they are developing. What he's discovered so far is somewhat surprising, he says.

"These are experts at the highest level, many of whom are creating this tech. They're reading the same papers and writing their own. Some of them work in the same buildings. You might think they're on the same page," he says. "They're not."



"Artificial Certainty" will be available on major streaming platforms in January.

Split into six installments, "Artificial Certainty" will feature leaders who believe that AI technology will solve many of the problems that have plagued humanity for millennia, such as hunger, disease, and material scarcity, as well as experts who fear the tech could escape containment and wreak havoc on our lives and institutions in ways that can't be taken back. Other installments will highlight thinkers who contend that AI will have a profound impact on our ways of life, but also that a misplaced focus on imagined futures — dystopian or otherwise — prevents us from confronting real, immediate problems the technology is causing.

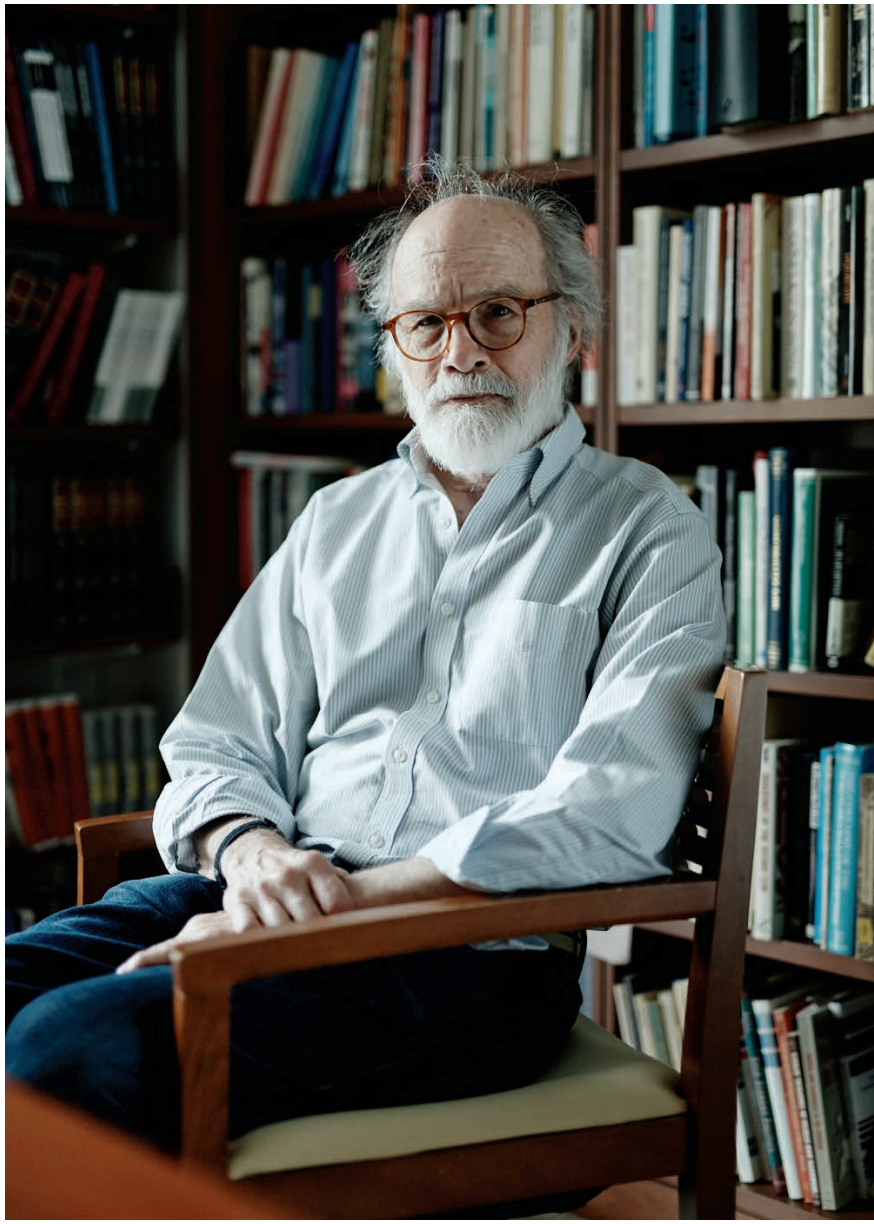
"We will also spend a fair amount of time in the places where lines blur, which, it turns out, is most places," Zittrain says.

At its core, he says, "Artificial Certainty" is about how our systems and institutions can and should respond to a technology that in some ways resembles what has come before — promising change and threatening disruption — but that may operate on an unprecedented scale and time frame.

"It's a show about human flourishing, how we think about risk, and our fundamentally different understandings of what artificial intelligence is and can be," Zittrain says.

The Market-Minded Scholar

Following the recent retirement of Mark Ramseyer, a fellow alumnus reflects on his decades-long study of Japanese law / By Stephen Givens



Mark Ramseyer, the Mitsubishi Professor of Japanese Legal Studies Emeritus, began his career at HLS in 1998.

It was a sign of Japan's emerging importance in the world that, in 1981, my 3L year at HLS, the course offerings included a seminar on Japanese legal documents in which students were expected to read court decisions in the original Japanese. Impressively, a half dozen HLS students capable of reading Japanese at various levels of competence signed up. It quickly became evident that Mark Ramseyer ['82], a fellow 3L who had grown up attending Japanese primary school on Kyushu as the son of Mennonite missionary parents, was the seminar's ace.

Mark and I both grew up in Japan in the late 1950s and 1960s. Over the course of our childhoods, postwar Japan became the world's leading exporter of TVs and cars. In 1979, the year Mark and I entered HLS, Ezra Vogel of Harvard's Sociology Department published the bestseller "Japan as No. 1," predicting, as many then expected, that Japan would soon overtake the U.S. as the world's largest economy.

Japan's rising economic status made America's law schools pay attention, for the first time, to Japan's legal system. The leader of our Japanese legal documents seminar, Frank Upham '74, was one of the pioneers teaching Japanese law in an American law school.

Mark, like many others of our generation, was a "diverted" academic. Before HLS he had spent two years getting a master's degree in Japanese Studies at the University of Michigan. A "diversion" to HLS offered the prospect of a teaching career in law school if one did well, with a law firm career as Plan B. As it turned out, Mark did very well indeed, earning a place as an editor of the Law Review and, after graduation, clerking for Justice Stephen Breyer '64 (then on the First Circuit).

In a 1985 article for The Yale Law Journal written shortly before he took his first academic job at UCLA School of Law, Mark displayed his instinctive resistance to received wisdom that we have grown to expect and love. Addressing the mystery of why the Japanese are less litigious than Westerners, Mark first took on Japan's leading sociologist of law, Tokyo University's Takeyoshi Kawashima. Mark deftly deconstructed Kawashima's "cultural" thesis — that Japan abhors litigation because it is un-Japanese, and contrary to traditional social harmony.

In the same article he also politely but firmly attacked John Haley's then-influential view that Japanese reluctance to litigate was based purely on economics. Given that Haley was among the foremost American scholars of Japanese law at the time, this was probably a rash and unnecessary fight to pick for a young law school graduate who had yet to secure his first teaching job. Not to worry. Haley loved the article and became a fan — he often recounted in later life his excitement at discovering a brilliant mind backed with native language skills.

Mark's article on Japanese litigation aversion began

PHOTOGRAPH BY TONY LUONG

a lifelong exploration of a vast range of Japanese customs, rules, and institutions, typically seen through the lens of markets. He studied markets for child apprentices, marriage partners, prostitutes, indentured servants, Buddhist funeral services, professional baseball players, and high-grade rice for sake brewing. He found that the evidence usually affirmed the proposition that, on the whole, human beings prefer rational and efficient outcomes.

"Writing at a time when other scholars often described Japanese private law in broad, exceptionalist, or impressionistic terms, he fundamentally reshaped the field," remarks Alex Evans, a protégé of Mark's and now an assistant professor at the University of Florida Levin College of Law. "At the same time, he found the time to mentor a generation of scholars in a way that few others could."

Exchanges with Richard Epstein and other colleagues at the University of Chicago Law School, where Mark taught for six years, helped to advance his thinking about the intersections between law and economics. In parallel he spent semesters teaching and collaborating professionally with colleagues in the University of Tokyo Faculty of Law as well as writing books in Japanese for a Japanese audience.

"The Fable of the Keiretsu," co-authored with University of Tokyo Professor Yoshiro Miwa in 2006, showed that phenomena such as *keiretsu* (industrial groups), main bank relationships, and ministerial "administrative guidance" — long assumed to be basic building blocks of Japan's "unique" economy — were in fact "urban legends" that vanished in the hard light of the evidence. The provocative thesis has been a signature of Mark's scholarship.

"Contracting for Sex in the Pacific War," a short article published in 2021, analyzing contracts between sex workers and their employers in Japan and Korea in the 1930s and 1940s, collided with the Great Awokening that followed George Floyd's death in 2020. The article had a narrow thesis: that Japanese and Korean sex workers were able to negotiate better conditions, combat pay in effect, for working in battle zones compared to peacetime.

"Mark has the sharpest pen, but he is the kindest man in personal interactions."
—Holger Spamann

What followed was organized action by "concerned" fellow academics, including some of Mark's own Harvard colleagues, seeking formal sanctions for alleged "comfort women denialism" and "academic misconduct." Mark recounts the ordeal and dissects the accusations against him in "The Comfort Women Hoax," which his colleague Holger Spamann LL.M. '01 S.J.D. '09 describes as "an unorthodox combination in one book of the conditions in which history is produced, the struggles of the individual historian, and the history itself, making for a fascinating, incredibly rich work of history and historiography." None of the academics who demanded sanctions against Mark has so far offered any rebuttal.

His most recent substantial works, "Second-Best Justice: The Virtues of Japanese Private Law" (2015) and "Contracting in Japan: The Bargains People Make When Information is Costly, Commitment is Hard, Friendships are Unstable, and Suing is Not Worth It" (2023), extend his recurrent themes in handsome prose that somehow reminds me of the plain but elegant styles of Ronald Coase and Frank Easterbrook.

Mark apparently thought our Japanese legal documents seminar was worthwhile. He has continuously led the same seminar since 1986 at UCLA, Chicago, and, since 1998, HLS. He says he would gladly teach it for free. His decision to move to HLS was largely driven by Harvard's unparalleled resources and tradition in Japan-related studies. His research has critically relied on the extensive Japanese language materials in the Harvard libraries and research assistance from HLS's Japanese law librarian, Mariko Honshuku.

But Mark's intellectual interests and accomplishments extend far beyond Japan. He is a founding editor of the Journal of Legal Analysis, which calls itself "the only peer-reviewed journal on all aspects of law." His credits include an imposing range of treatises, casebooks, and articles on corporations and other subjects that have no immediate connection to Japan. Former students of his Corporations course, which he has taught throughout his tenure at HLS, are today practitioners in leading corporate law firms.

His HLS colleague Louis Kaplow '81 remarks on Mark's "broad and distinctive intellectual interests, independence of mind, and willingness to speak his mind when many would not. Even his strongest disagreement is expressed with cheer." Spamann agrees: "Mark has the sharpest pen, but he is the kindest man in personal interactions."

Mark sums up his career with characteristic modesty: "I worked as a college teacher. I didn't get fired. I retired as a college teacher. Now I'm going back to playing with Mr. Milo Davis-Ramseyer." Milo is Mark and his wife Norma's first grandson, born earlier this year to his daughter Jenny. One strongly suspects that there will be time in between changing Milo's diapers for Mark to continue to write provocatively about markets, Japan, human nature, and much else.

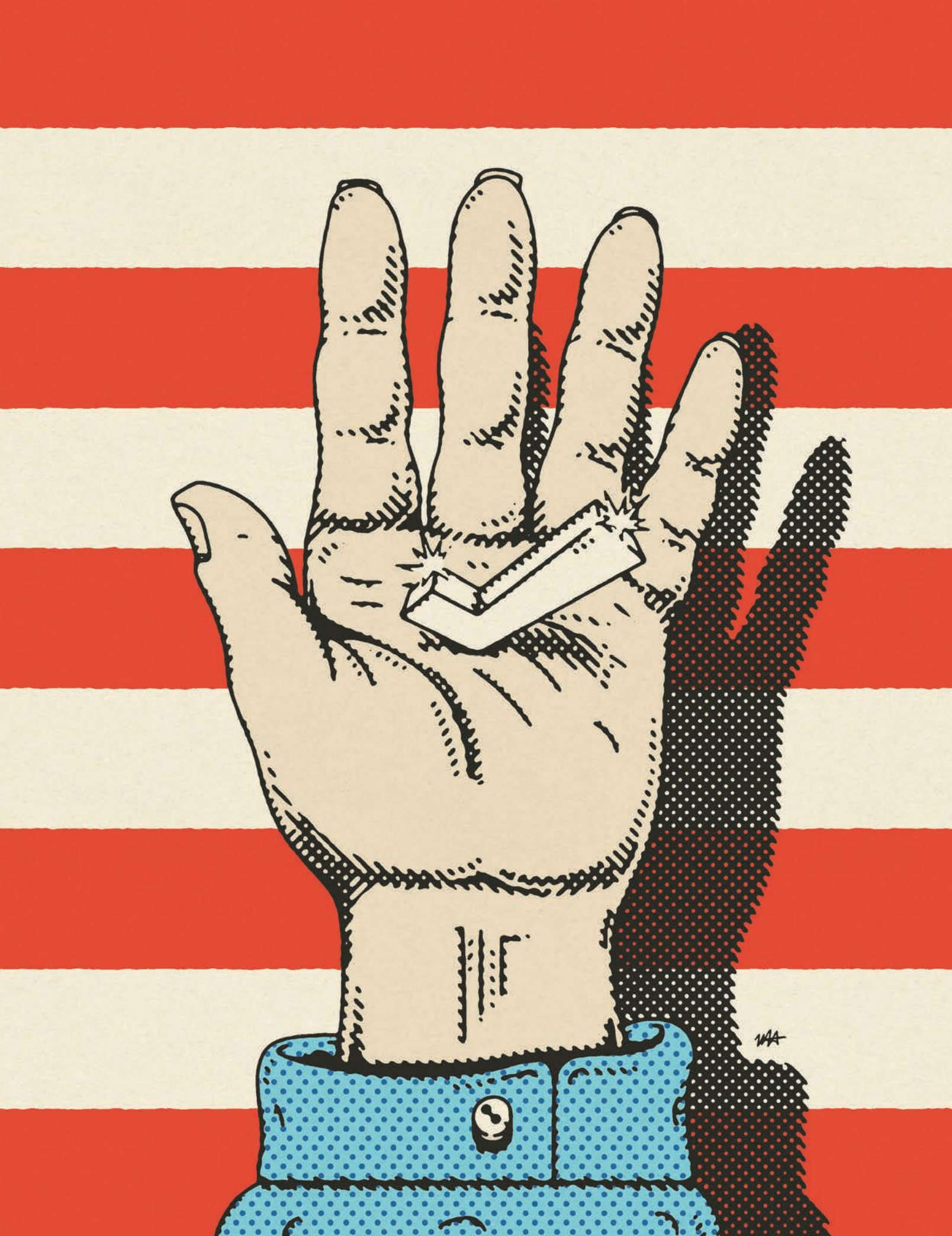
Stephen Givens '82 is a corporate transactions lawyer based in Tokyo.

CAN ELECTION LAW RESTORE TRUST IN AMERICAN DEMOCRACY?

By Rachel Reed

Illustrations by Mike Haddad

Harvard Law faculty and alumni examine how the laws governing voting, campaign finance, representation, and political power shape Americans' faith in government — and whether changing those rules could help rebuild it.



THESE DAYS, AMERICANS SEEM NOT TO AGREE ON MUCH.

But across demographic and political lines, many people share a deep distrust of government and elected officials. In 1964, more than three out of four people in the United States said they trusted the government to do the right thing all or most of the time. Today, just one in six do. More than 80% of Americans told the Pew Research Center in 2023 that elected officials don't care what "people like them'" think.

That distrust has deepened amid rapid technological, economic, demographic, and cultural change. Elections have become a source of anxiety and turmoil, with accusations of foreign interference, battles over how ballots are cast and gerrymandering, and allegations of rigged elections. Meanwhile, over the past few decades, changes in the law have reshaped nearly every aspect of the democratic process — from how districts are drawn and campaigns are financed to who can vote and how elections are administered.

In short, voters are "feeling a sense of spiritual alienation," argues Guy-Uriel Charles, the Charles Ogletree, Jr. Professor of Law at Harvard.

Could some of the disaffection Americans feel about their government stem from the ways in which elections are organized and conducted? Some legal experts argue that better election laws could help build more trustworthy institutions. Others worry that continually tinkering with electoral rules could deepen the nation's partisan malaise.

As the U.S. reckons with this month's midterm elections, Harvard Law School faculty and alumni examine how election laws shape political power, and whether revisions to these laws could help restore Americans' faith in democracy.

AN EVOLVING AREA OF THE LAW

Election law wasn't always seen as a distinct area of study, says Nicholas Stephanopoulos, the Kirkland & Ellis Professor of Law at Harvard and co-author of a leading casebook in the field.

Instead, it was treated as a subset of constitutional law, grounded in disputes about the division of power between states and the federal government, and "heavily focused on individual rights, burdens on those rights, and whether there are sufficient state interests to justify those burdens," he says.

But election law has evolved into a distinct area of scholarship and practice, Stephanopoulos adds, one concerned with all aspects of our democracy, including how campaigns are financed; how electoral districts are drawn; who can access the ballot and when; how votes are counted; and ultimately, how power is translated into policy.

Charles, an expert in constitutional law, election law, campaign finance, redistricting, and politics and race, argues that the law provides the structure within which democratic politics operate and determines how well people's preferences are translated into public policy.

Spencer Overton '93, an election law scholar who worked on voting rights and democracy policy at the Department of Justice during the Obama administration, agrees.

"We usually experience democracy as Election Day: Candidates appear on a ballot, we make a choice, votes are counted, somebody wins," he says. "But underneath that visible system is an architecture of rules determining who participates, and whose votes translate into political power."

Overton, currently a professor at George Washington University Law School, believes that the broader discontent many Americans feel about the economy, technology, corporate power, and the government can be traced in part to these institutional arrangements. "People feel that decisions affecting their lives are being made somewhere beyond their control," he says.

Yet not everyone believes the law should be responsible for addressing our political morass. Bradley A. Smith '90 instead blames our polarized culture. Smith, chairman and founder of the Institute for Free Speech (formerly the Center for Competitive

“THERE’S MUCH GREATER SUPPORT FOR PROPORTIONAL REPRESENTATION TODAY THAN THERE HAS BEEN AT ANY TIME IN U.S. HISTORY.” —GUY-URIEL CHARLES



LORIN GRANGER

Professor Guy-Uriel Charles (above) argues that American voters are currently “feeling a sense of spiritual alienation” from the election process.

Politics), helped litigate *SpeechNow.org v. FEC* — the landmark 2010 D.C. Circuit Court of Appeals case that led to the creation of super PACs, or political action committees.

“One of the great problems facing U.S. elections right now is simply the lack of confidence in election results and the willingness to live by election results,” says Smith, who served as a commissioner on the Federal Election Commission from 2000 to 2005, including as chairman in 2004. “That not only includes not going off into fraud theories but also accepting the legitimacy of the government in power.”

THE ROAD TO ELECTION DAY

Many legal experts, however, believe that legal changes are necessary to protect the democratic process and restore confidence in the American electoral system.

“The idea of the framers was to give us a republic, but what they meant by a republic was a representative democracy. So, do our institutions do that? It seems pretty clear that they don’t,” says Lawrence Lessig, the Roy L. Furman Professor of Law and Leadership at Harvard, an expert in election integrity and campaign finance reform.

Partisan gerrymandering, or the drawing of legislative districts to give one party an advantage, is particularly troubling to Lessig — and to the roughly 71% of Americans who oppose it, according to a 2026 YouGov poll.

“If a democracy is not actually representative, there’s no reason to trust that it’s actually doing what is in the interest of the majority of the people,” says Lessig, who co-wrote “How to Steal a Presidential Election” (2024).

Several Supreme Court decisions over the past decade have altered the landscape of redistricting. In 2019, a majority of the justices held in *Rucho v. Common Cause* that so-called partisan gerrymandering claims present political questions beyond the reach

“THE DEMOCRATS AND REPUBLICANS ARE QUITE HAPPY TO MAINTAIN POWER BETWEEN THEMSELVES AND DO EVERYTHING THEY CAN TO CUT OUT THE ABILITY OF VOTERS TO HAVE ANY SAY.” —RUTH GREENWOOD

of federal courts, effectively closing the federal courthouse door to constitutional challenges alleging that districts have been drawn unfairly in favor of the political party in power. (However, claims of this sort may still be viable under some states’ laws.) And while the 2023 case *Allen v. Milligan* held that Alabama’s congressional map unlawfully diluted Black voting strength, the Court struck down Louisiana’s second majority-Black district as an unconstitutional racial gerrymander in 2026’s *Louisiana v. Callais*.

Considering those cases together, Overton argues that the Court has given state lawmakers wide latitude to draw districts for partisan gain while limiting efforts to protect minority voting power.

“In most districts, the decisive political choices occur during redistricting rather than on Election Day,” argues Overton. “If district lines reliably determine which party will win, voters understandably begin to conclude that their votes don’t matter.”

Both parties have used redistricting to their advantage, says Ruth Greenwood, citing recent efforts by Maryland Democrats and Missouri Republicans, as well as the 2025 battles in Texas and California that produced maps favoring Republicans and Democrats, respectively.

“The Democrats and Republicans are quite happy to maintain power between themselves and do everything they can to cut out the ability of voters to have any say,” says Greenwood, director of Harvard’s Election Law Clinic, who represented the plaintiffs in the *Rucho* case from the trial level to the Supreme Court.

Among Greenwood’s proposed solutions are laws that would create independent redistricting commissions — nonpartisan or bipartisan groups tasked with drawing districts in a politically neutral manner. Her clinic has advised dozens of state advocates interested in creating independent commissions.

Greenwood, Stephanopoulos, and other public policy, political science, and mapping experts also created PlanScore, a tool that helps commissions and legislative staff draw more politically neutral districts. It enables citizens to evaluate partisan bias in proposed and enacted maps, Greenwood says, giving them data and visualizations they can use in public advocacy — or in court.



In his book “Aligning Election Law,” Professor Nicholas Stephanopoulos (below) makes a case for a closer relationship between what the government does and what citizens actually want it to do.

JESSICA SCRANTON

THE MULTIBILLION-DOLLAR QUESTION

Some experts also believe big money plays a big role in distorting elections — and impacts how people feel about election results. During the 2024 federal election cycle, politicians, interest groups, and others spent an estimated $15.9 billion to bolster their favorite candidates and causes. Elon Musk alone reportedly doled out $290 million. But if money talks, is it simply free speech — and do we have to listen?

Over the past several decades, Supreme Court decisions have curtailed the government’s ability to limit political spending and campaign contributions. In 2010’s *Citizens United v. FEC*, the Court struck down a federal prohibition on independent political spending from corporations’ and unions’ general treasuries. *Citizens United*, coupled with the subsequent decision by the D.C. Circuit Court of Appeals in *SpeechNow.org v. FEC*, enabled the creation of super PACs, which can legally raise and spend unlimited sums of money so long as they do not coordinate directly with candidates or campaigns. This year, in

National Republican Senatorial Committee v. FEC, the Court also overturned limits on what political parties may spend in coordination with federal candidates.

To Stephanopoulos, the connection between eye-popping election spending and nonrepresentative influence is clear: "Unregulated campaign finance can induce politicians to adopt the views of donors and funders, which are quite different from the views of regular people," he says.

He argues that donor spending also drives politicians to extremes — on both sides of the aisle.

"The more politically active you are, the more ideologically extreme your ideas tend to be," he says. "Voters are more extreme than nonvoters. Similarly, because donating is an intense, costly form of participation, donors tend to be more ideologically extreme than almost any other group in American politics."

That's a view shared by Lessig, who delved into this issue in his 2011 book, "Republic, Lost: How Money Corrupts Congress — and a Plan to Stop It."

"Our politicians basically bend over backwards to make the very wealthy happy, so that they can get the funds they need to be able to run," Lessig argues. "I think what we've produced is a system where people believe — and they are right to believe — that they are just not really what matters."

In 2014, Lessig launched Mayday PAC, a crowdfunded effort to demonstrate the impact of money on politics, which he called "the super PAC to end all super PACs." That year, the initiative raised more than $11 million, with more than $7 million coming mostly from small donors, and boosted a national, bipartisan slate of candidates dedicated to campaign finance reform.

Lessig's strategy is multipronged. In 2024, he and a nonprofit he founded, Equal Citizens, were instrumental in supporting a ballot measure in Maine to limit contributions to PACs that make independent expenditures. The initiative, which passed overwhelmingly with close to 75% of the vote, effectively ended unlimited contributions to super PACs in the state.

"Maine's a very purple state, but people on all sides think that this is corruption," he says. "Whether you're strong MAGA or a strong Berniecrat."

The law is currently on pause while it is challenged in the courts; in July, Lessig's colleague Neal Katyal argued the case in the First Circuit Court of Appeals. But Lessig isn't overly worried; he sees a strong originalist argument that states can limit contributions to super PACs while also preserving the right to make independent expenditures under *Citizens United*.

Getting money out of politics is, for Lessig, a necessary condition for other electoral changes. "I think that there's an order to reform," he says. "I think money is the first step, and once we solve the money problem, then there will be a lot of people eager to solve all the other problems too."

MARTHA STEWART



Lawrence Lessig

TALKING FRANKLY

Professor Lawrence Lessig believes that America's muscle for deliberation has atrophied. A new online platform for discussion is one of his solutions.

Last July, Nevadans from across the state sat down for a heart-to-heart about the rising cost of living, housing affordability, and how to build better schools for their children. But instead of convening in person for a town hall meeting, these residents discussed their concerns — and possible solutions — using an online platform called "Frankly."

Created by Harvard Law Professor Lawrence Lessig and his colleagues at the Applied Social Media Lab at the Berkman Klein Center for Internet & Society, Frankly is an open-source video platform designed to facilitate small-group discussions and decision-making. It's like Zoom — but with more tools to foster productive, open conversations among friends and strangers alike, such as a time-bound agenda; the ability to create breakout rooms based on age, political affiliation, or other characteristics; and mechanisms designed to ensure that everyone in the room has a chance to speak.

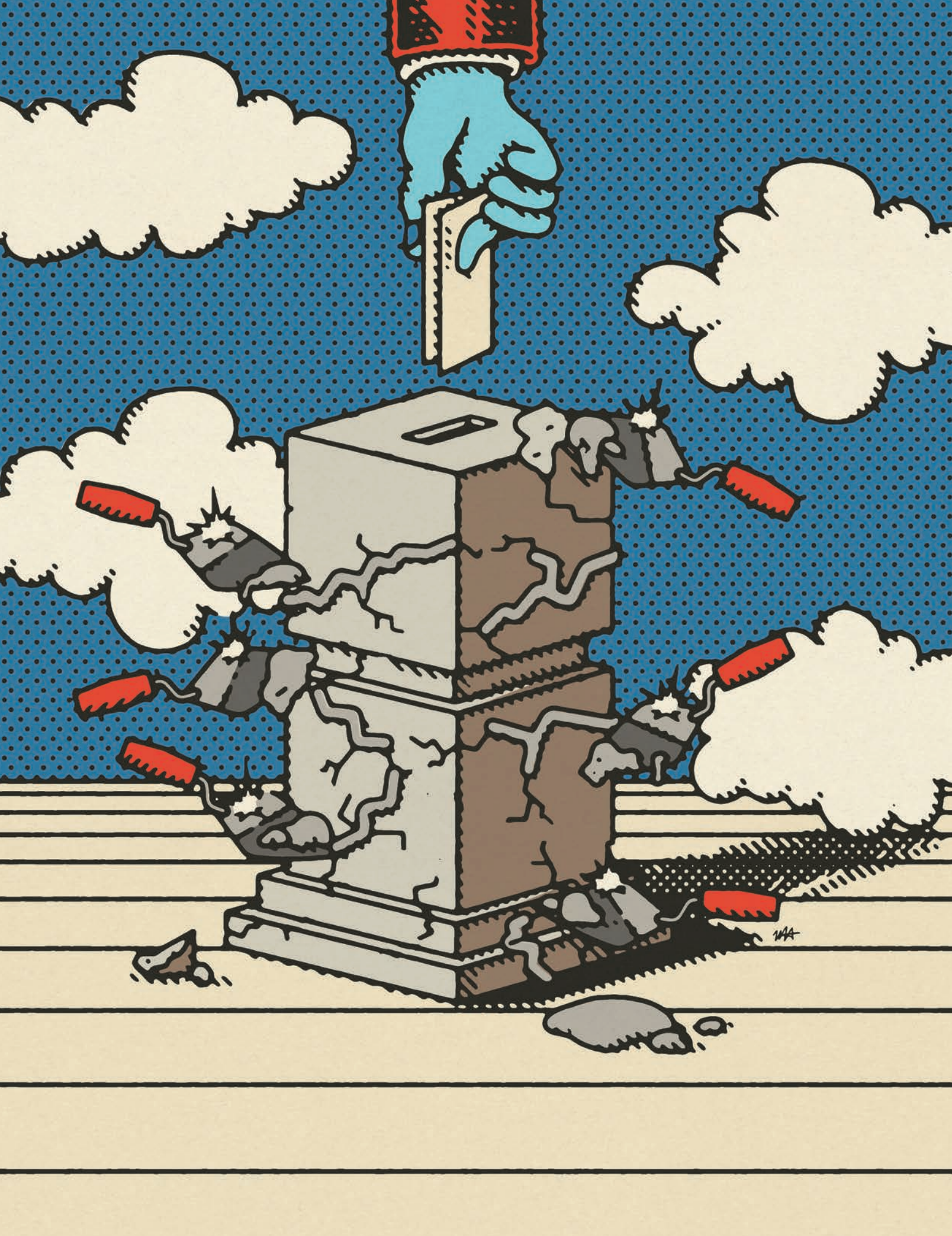
In other words, the developers say, Frankly enables community members to have old-fashioned face-to-face conversations about issues they care about — in a distinctly modern way.

Already, the platform has been used by nonpartisan committees in Nevada and New Hampshire to engage residents and find solutions to local issues. The creators of Frankly also envision using the platform in other settings where discussion across difference can be challenging, such as educational institutions, government agencies, corporations, and civic organizations.

"Social media has given us the tools to scream at each other. What we need now is better tools to talk to each other, constructively and with patience. Frankly is our contribution to that social need," Lessig says. "Here is a platform you can trust will be there for you, because it is licensed freely and forever."

For more information, visit Frankly.org.

— Rachel Reed



"MINORITY GROUPS NEED THAT CHAMPION"

Smith, whom legal historian Ann Southworth has credited as an intellectual influence behind the Roberts Court's approach to campaign finance regulation, sees the role of money in politics differently. He argues that disparities in political influence are inevitable: People participate in part because they wish to have more sway. He believes that campaign finance limits actually benefit those already in power.

Incumbents can rely on established networks and constituents to raise money, while new and emerging candidates often require deep-pocketed supporters to help them compete with established politicians, Smith says.

"One thing that these efforts to limit money tend to do is lock in the people who already have political power and influence — and make it harder to push new ideas to the fore," he says. "Very often, the people we need to hear from are people in the minority, but those minority groups need that champion to go out there and spend the big dollars."

For Smith, the law's role is largely to get out of the way and allow people to speak for themselves. Although he acknowledges legitimate concerns about money in politics, he believes many campaign finance regulations infringe on the right to free speech.

He's also not convinced that such rules are — or can be — implemented in politically neutral ways. "Enforcement has to be done by somebody, and those somebodies will have ideas of what speech is good, what speech is bad, who's spoken too much," Smith says. "I think our First Amendment was designed in part to keep the government out of making those decisions."

In Smith's view, regulation could ultimately reinforce the partisan cynicism it is intended to alleviate. "I think efforts to regulate money in politics breed distrust" and risk "entrenching incumbents, and entrenching the party in power," he says.

AT THE BALLOT BOX

Of course, representation matters only if people can participate. Questions about who has access to the ballot box — and when, and how — have long been central to American democracy. From property requirements before the Civil War to the historic disenfranchisement of Black Americans, women, Native Americans, and others, access to the ballot has expanded only through sustained political and legal struggle.

Today, some experts worry that part of that hard-won progress is unraveling, particularly with respect to the Voting Rights Act of 1965. In 2013, in *Shelby County v. Holder*, the Supreme Court effectively disabled the landmark law's preclearance provision, which had restrained jurisdictions with a history of racial discrimination from altering their election laws without federal approval. In 2021, in *Brnovich v. Democratic National Committee*, the Court made it more difficult to challenge voting restrictions that have a racially disparate impact. And in this year's *Louisiana v. Callais* decision, the Court raised the bar for racial vote dilution claims during redistricting.

> "EFFORTS TO REGULATE MONEY IN POLITICS BREED DISTRUST [AND RISK] ENTRENCHING INCUMBENTS AND THE PARTY IN POWER." —BRADLEY A. SMITH



Bradley A. Smith (above), chairman and founder of the Institute for Free Speech and former commissioner on the Federal Election Commission, argues that disparities in political influence are inevitable and believes that campaign finance limits actually benefit those already in power.

The Court has also generally given states wide latitude to determine how ballots are cast and counted, upholding Indiana's photo-ID requirement and Arizona's restrictions on third-party ballot collection, for example. Recently, President Donald Trump and Republicans have pushed for Congress to pass legislation its proponents have dubbed the SAVE America Act, a set of national voting rules that would establish uniform proof-of-citizenship and identification requirements for federal elections. And at the end of September, the Supreme Court allowed President Trump to roll out an online system that uses Social Security numbers and other citizenship data, which his administration argues will help states screen for ineligible voters.

Supporters argue that such laws ensure that elections are safe, secure, and trustworthy. Overton, author of "Stealing Democracy: The New Politics of Voter Suppression" (2007), worries that, despite their facially neutral construction, some of these time, place, and manner voting regulations put unequal

INSTITUTE FOR FREE SPEECH



The Election Law Clinic team inside the New York Court of Appeals

PRACTICE MAKES PERFECT

Election Law Clinic students test arguments and anticipate tough questions as they prepare cases for court.

In Harvard Law School's Election Law Clinic, election law is not an abstract subject. Students investigate real cases, work with clients, and prepare legal arguments in court.

Levi Moneyhun '26 and Andy Hatem '27 experienced this firsthand when they traveled to Albany, New York, last year for oral argument before the New York Court of Appeals in *Clarke v. Town of Newburgh*. The case challenged the town's at-large voting system under the New York Voting Rights Act (NYVRA). The town responded by arguing that the law itself was unconstitutional.

The students' assignment? Prepare Professor Nicholas Stephanopoulos, the clinic's director of strategy, for his argument before the court.

Working with Stephanopoulos, clinic faculty, and partner attorneys, Moneyhun and Hatem tested the case from every angle. They anticipated questions from the judges and developed answers that could withstand skeptical questioning. Four moot courts gave them four perspectives.

"We really worked through those answers, so we would have every answer prepared and thought through, and not developed on the fly," Hatem says.

On the day of the argument, the students watched as Stephanopoulos presented their position. Moneyhun was struck by how closely the judges' questions echoed the issues the team had explored in preparation.

"The thing about actual litigation is that it invariably raises dozens to hundreds of legal issues," says Moneyhun. "And if you want to win, you need to actually understand every single one of those issues, and you need to explore every possible way you could lose to make sure that you don't."

In November, the court ruled unanimously that Newburgh lacked the legal capacity to challenge the NYVRA, affirming a victory for the clinic's clients.

For Hatem, his work with the Election Law Clinic has given him valuable insight into how what he has learned at HLS plays out in the real world. "All these doctrines you learn at a very abstract level in the classroom suddenly become very real when you have a couple of parties at the Court of Appeals trying to resolve a matter years in the making," he says.

—Olivia Klein

burdens on certain groups.

"Democracy can be distorted through rules that look ordinary when examined in isolation but systematically redistribute political power when viewed together," he says.

According to Charles, the debate over the conditions surrounding access to the ballot box endures because the U.S. Constitution does not contain a single, affirmative guarantee of the right to vote. Although it prohibits denying or abridging voting rights on several grounds, including race and sex, the Supreme Court has interpreted the Constitution to give states wide latitude to determine voter qualifications and to regulate elections.

Charles advocates for a more inclusive theory of political participation, arguing that the race-based model that underlies the Voting Rights Act has run its course and that the best way to protect against racial discrimination in voting is through a universal, positive rights model of political participation. Such a model, he says, "treats voting like a protected right, such as the right to free speech." This approach — which might include, for example, automatic voter registration or no-excuse absentee voting — "places the burden of participation on the government and not on the voter," he says.

Like Charles, Overton favors expanding political participation, but he emphasizes that universal reforms should supplement other protections — ones responsive to historical and contemporary forms of discrimination.

"The Voting Rights Act itself was an institutional response to problems of its era," he says. "Protecting democracy today requires the same willingness to identify how exclusion operates today and to design remedies accordingly."

On the other hand, Smith cautions that efforts aimed solely at increasing the total number of people who cast a ballot — particularly absent efforts to bolster confidence in the overall system — could make people more skeptical of the results, not less.

"Every change to the system will have some parti-

VENTECE MILLER

san effect," he argues. "It's not surprising that partisans of both parties seem to favor reforms that most people think will benefit their particular party, and all of this creates a lack of confidence and a lack of a willingness to accept the election results."

Greenwood, for her part, has also concluded that much of the Voting Rights Act is "a dead letter," noting that while parts of the law remain in effect, it has been significantly weakened in recent years. In Harvard's Election Law Clinic, Greenwood is pursuing alternative legal pathways to ensure fair access to the vote, particularly at the state and local levels. It is in our local communities, she says, that there is great potential for experimentation — and a huge appetite for change.

"At the local level, everyone is like the founder of their own little constitution," she says. "I really value going to community meetings and organizing and seeing the different ideas that people have for how they might arrange decision-making."

For the past several years, Greenwood's Election Law Clinic students have worked with community leaders and advocates to support state voting rights acts, which can offer protections beyond those of federal law — including in New York, where a 2022 law lowered the bar for vote-dilution lawsuits. The clinic filed one of the first suits under the law, alleging that the town of Newburgh's at-large voting system — in which representatives are elected jurisdiction-wide rather than by district — diluted the power of Black and Hispanic voters. The town settled in 2025 and agreed to adopt a proportional, ranked-choice voting system (see sidebar, page 30).

The victory is an example of Greenwood's strategic and comprehensive approach to building change at the local level and then scaling up — and experimenting to find replicable models for other places.

"Letting different communities decide different things that suit them, and then seeing how they work, and then sharing what worked with other communities, and working our way up — that's what we do," she says.

KEEPING IT PROPORTIONAL

For Greenwood, however, democracy requires more than just access to the ballot box.

"Elections should be a way that more than just 50% plus one of the people can express their views," she says. "I think about the role of elections in our democracy as trying to bring a pluralist society into a functional governing space."

In the American system, voters are divvied up into districts represented by a single individual — resulting in a winner-takes-all system in which whoever receives the most votes can wield all the power, Charles argues.

The late Lani Guinier — an influential thinker on equality and justice under the law, and a Harvard Law professor and mentor to Overton — was an early proponent of proportional representation, in which parties or groups receive legislative seats roughly in proportion to their share of the vote. Such systems are used in many democracies around the world.

Guinier's ideas on sharing power have become increasingly relevant, Charles says, adding, "There's much greater support for proportional representation today than there has been at any time in U.S. history."

Adopting such a system nationally would not be easy. The Constitution guarantees every state two senators, but Charles says Congress could create multimember House districts without a constitutional amendment.

In a proportional system, differing factions would need to work together — even compromise — to accomplish their goals, Charles explains. "Usually what you end up with is some type of coalition, because you probably don't often get a single dominant party that controls the government," he says.

Like Charles, Overton believes that political minorities of all kinds would have more of a voice in a proportional system.

"Studies show also that single-member



LORIN GRANGER

Spencer Overton '93 (below), an election scholar who worked on voting rights and democracy policy at the Department of Justice during the Obama administration, says that underneath the visible system of Election Day, there is "an architecture of rules determining who participates, and whose votes translate into political power."

“WE HAVE TO RESTORE SOMETHING THAT I THINK IS INDISPENSABLE: THE SENSE THAT CITIZENS HAVE GENUINE AGENCY OVER THE INSTITUTIONS GOVERNING THEM.” —SPENCER OVERTON

districts systematically disadvantage numerical minorities,” Overton says. “Whether that’s environmentalists in Alaska, or Republicans in Massachusetts, or racial minorities, single-member districts tend to underrepresent numerical minorities and overrepresent numerical majorities.”

Not everyone believes proportional representation will solve these problems. Some critics argue that proportional representation can lead to fragmented governments, legislative gridlock, or disproportionate influence for extremist parties.

In a 2025 paper for the Wisconsin Law Review, Stephanopoulos cautioned that some forms of proportional representation can be cognitively challenging for voters; others can underrepresent minority voters or produce what he calls “vote leakage,” in which a voter ultimately helps elect a candidate from a different party from their first choice.

To address these issues, Stephanopoulos proposes a new form of proportional representation in which voters would first choose their preferred party and then rank only that party’s candidates.

FALLING INTO ALIGNMENT

For Stephanopoulos, any idea for reform ultimately raises a broader, thornier question: How much should government action reflect what voters want? Stephanopoulos’ 2024 book, “Aligning Election Law,” presents a new theoretical perspective on election law and makes the case for a closer relationship between what the government does and what citizens actually want the government to do.

“By alignment, I mean that the work of the government is basically consistent with the will of the people,” he says.

Alignment could be reflected at different levels of specificity, Stephanopoulos explains. It might simply mean alignment between voters and parties. It could mean that elected leaders take positions and vote in ways that reflect the policy preferences of their constituents. Or it could mean that policies as adopted and implemented are congruent with what voters want, which is what Stephanopoulos prefers.

In any case, ensuring alignment requires empirical evidence of how people vote, what people think about a variety of issues, and what they hope to ultimately achieve. “These things can’t be analyzed in the abstract, based on theorizing,” he says.

That’s why Stephanopoulos and Greenwood, along with colleagues at Harvard and Georgetown University, created TrueViews, a tool that uses large-scale public surveys to estimate public opinion at the district and local levels. They hope politicians and leaders will use it to better understand and serve their constituents.

“These are the things that shape people’s everyday lives,” Stephanopoulos says.

He acknowledges that alignment on every single issue probably isn’t doable, or perhaps even desirable. Politicians should still exercise their judgment to ensure that policies are lawful and constitutional, he says. What’s most important, in his view, is that overall governmental outcomes are roughly consistent with what people want, and that inconsistencies are not always to the same party’s benefit.

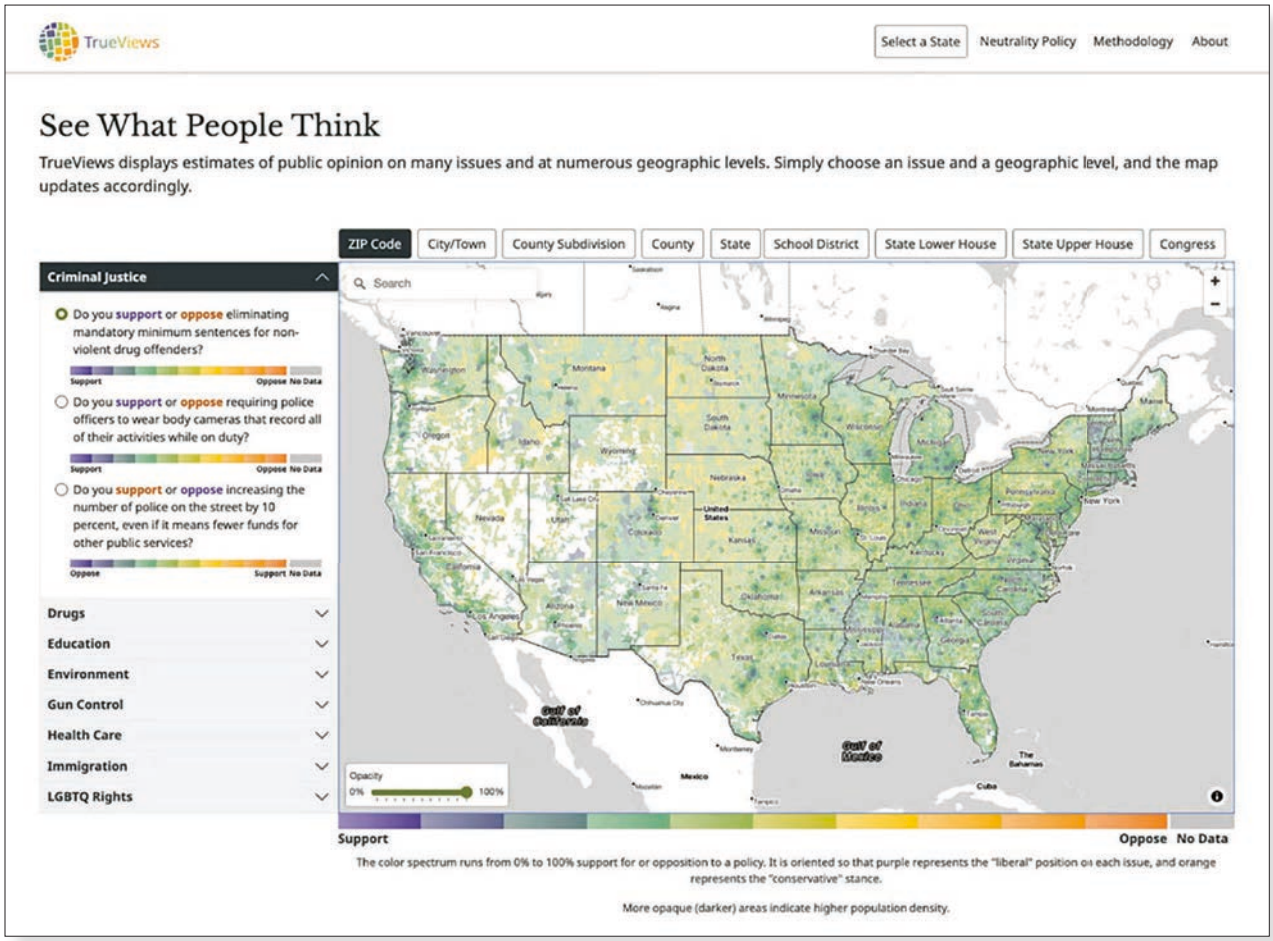
Some of the work of alignment undoubtedly rests in the hands of political leaders and in a culture willing to hold politicians to account. But Stephanopoulos also envisions alignment as a legal tool, one that might function in court as both a “sword” — a way to invalidate electoral arrangements that produce misalignment, like partisan gerrymandering — and a “shield” that can defend measures that have an aligning effect, such as campaign contribution limits.

He isn’t optimistic that the current Court



Ruth Greenwood (below), director of Harvard’s Election Law Clinic, works with community leaders and advocates to support state voting rights acts, which can offer protections beyond those of federal law.

LORIN GRANGER



A map (above) from TrueViews, an online platform that lets users explore public opinion on a wide range of issues at the state, district, and local levels

would accept either line of reasoning. But he believes that other legal and institutional reforms — such as nonpartisan redistricting, proportional representation, and campaign finance regulations — would also have important aligning effects.

"Widespread misalignment has various downstream consequences," he says. "I think it's bad in and of itself, but it's also bad because it undermines voters' faith in government."

BEYOND THE LAW

Of course, the law isn't the only influence on our political culture. Greenwood worries about the deterioration of civic norms, including accusations of election-rigging. In a similar vein, Smith is troubled by a tit-for-tat politics in which warring parties refuse to work together for the good of the nation.

Lessig, for his part, frets about an insular, siloed population uninterested in good-faith debate. "Engagement-based media turns us into ignorant people who hate each other," he says. Without addressing this, "We're still going to have an incoherent democracy."

One of Lessig's solutions is "Frankly" (see sidebar, page 27), an online platform developed with Harvard's Berkman Klein Center that enables large groups to have structured virtual conversations. He sees it as a way to revive the public forum and rebuild the "muscle of deliberation."

"For 40,000 years humanity has had to learn how to sit down and work stuff out with each other," Lessig says. "The real problem is the muscle of deliberation has atrophied, and we have to revive it."

Smith, too, believes compromise will be necessary to address what ails our system. "Politics is not a winner-take-all game, especially in our system, and it's not designed to be," he says. "Elections are about good government. They're about civic responsibility. They are not just about trying to compile one more vote than the other side gets, so you can enact your entire agenda without any restraints, without constitutional limits, or without considerations for minorities."

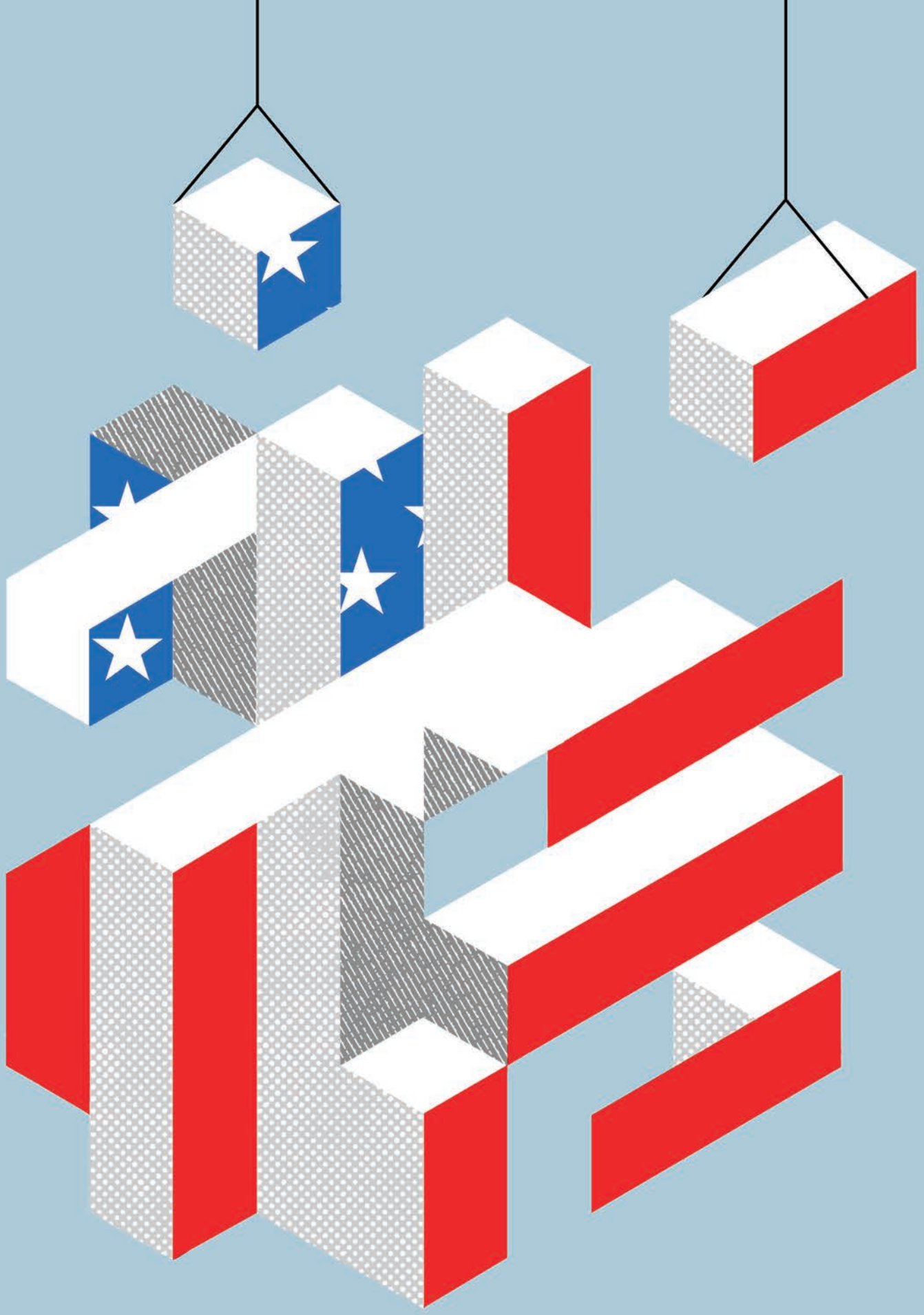
Perhaps to combat mistrust, then, we will have to rediscover our common purpose — and our shared responsibility.

"Americans have repeatedly recognized structural failures and organized to change them," Overton says. "That history does not guarantee success. It demonstrates that democratic institutions are human creations and therefore can be built and rebuilt. We have to restore something that I think is indispensable: the sense that citizens have genuine agency over the institutions governing them."

SCAN THE QR CODE

To watch an interview on election law with Professor Larry Lessig.

TRUEVIEWS.ORG



America Unfinished

A new collection of essays by Harvard Law School faculty reflects on the legal challenges and opportunities facing the United States as it marks its semiquincentennial

Illustrations by Joe Magee



When Abraham Lincoln delivered the Gettysburg Address in 1863, he closed by calling on future Americans to continue the "unfinished work" of building a nation rooted in liberty and equality. That phrase now lends its name to a new collection of 62 essays, "America Unfinished: 250 Years of Law and Governance," edited by Harvard Law School Professors Alexandra Natapoff and Guy-Uriel E. Charles.

Published by MIT Press in early July, the collection covers topics including the Supreme Court, the presidency, voting rights, criminal law, environmental regulation, race and identity, corporate law, and technology. Contributors include former Supreme Court Justice Stephen Breyer '64, Pulitzer Prize winner Jill Lepore, and National Book Award winner Annette Gordon-Reed '84. Concise and almost footnote-free, the essays are written to be accessible to readers without a legal background. The complete collection will be available online for no charge in December, and interim sales profits will benefit the Cambridge Public Library.

Natapoff says the idea came to her last year, as she considered Harvard Law School's role at a period of time defined as much by the nation's 250th birthday as by today's challenges to law and governance. She pitched it to Charles, who quickly agreed to participate. They figured that each faculty member would already be considering the significance of the anniversary to their own areas of expertise, but they hoped to find a way to bring their voices together for a more comprehensive analysis.

"This moment really does require a broader conversation and collective engagement that we as a faculty should be doing together," Charles says.

The project has already reached students: In the spring, 10 professors discussed their essays during two panel events attended by faculty, students, and staff. More events are planned for this academic year.

"Our colleagues are not famous for working in groups of 60 or more," Charles jokes. "But when we pitched this idea to them, we said, 'We have a privilege. We have a responsibility, we have an opportunity, and we would like to work together to make this happen.' And we didn't have to twist arms. The swell of enthusiasm to create this project was wonderful."

Natapoff says the format's constraints pushed faculty to be "both expert and creative," and encouraged a range of viewpoints. She embraces the resulting disagreements among contributors.

"Our faculty disagree about a lot of things. And honestly, I was thrilled by our disagreement. I'm glad this is not a unified collection," she says.

Charles frames that disagreement as a strength, calling the book an exemplar of academic freedom and free speech — "Maybe even of democracy itself."

"We see this book as the quintessential expression of our academic freedom at this moment," Natapoff says. "We felt that this was the best way to express our collective appreciation for the fact that we can speak out — and frankly, that we're supposed to."

Below, 15 excerpts — one from an essay in each section of the book — highlight that spirit of civil, constructive dialogue and outspoken conviction.

FREE SPEECH AND DISSENT

Reinvigorating the Right to Petition

SHARON BLOCK



The First Amendment declares that "Congress shall make no law … abridging … the right of the people … to petition the Government for a redress of grievances." Read literally, this promise means only that the government cannot retaliate against members of the public for speaking up. But for democracy to function as it should, the right to petition must be more robust and more dynamic. It cannot merely be the right to complain into the void. It should be an open, two-way bridge between ordinary people and official power. Absent a meaningful right to petition, the bridge between the governed and the governing opens too infrequently — only on Election Day. …

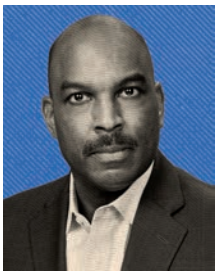
How could we create a meaningful right to petition for everyone? First, we have to reform the failed campaign finance system. As long as elected officials are dependent on donors to fuel their campaigns, petitions from the general public and from big fundraisers are never going to receive equal consideration. Second, we need a system that does not just passively accept input. Instead, lawmakers and agencies should be required to reach out to solicit input from a broad range of stakeholders. One way to maximize outreach is for lawmakers and agencies to work through the kinds of organizations that most of the public engages with already on a regular basis — unions, local governments, schools, and other kinds of community-based organizations. Finally, we need a system with greater transparency so that members of the public know what happened to their grievances. There should be an obligation for lawmakers and agencies to provide feedback in a timely manner so that members of the public can hold them accountable for how they respond.

It is naïve to think that a public that engages with its government only once a year or every other year at the ballot box will feel a strong attachment to democratic institutions. But a meaningful right to petition could be the antidote to our nation's democratic malaise. Until we reshape our political institutions to honor the value of everyone's petitions, the public's crisis of confidence in democracy will remain understandable and justified.

AMERICAN IDENTITY, CITIZENSHIP, AND RACE

What Is America?: The Presumptions That Law Makes

KENNETH W. MACK '91



Thurgood Marshall — the first Black Supreme Court justice and an architect of the *Brown v. Board of Education* litigation — marked the American Constitution's bicentennial by dissenting from that year's celebrations. In a speech for the occasion, Marshall underscored the document's original defects and noted that it took two centuries of struggle after the founding to more fully enshrine liberty and equality in our basic law. Marshall worried about the constitutional compromise over slavery, but he might also have pointed to the deeply ambivalent answers that the founding moment gave to the question of what, exactly, was America.

Since the nation's founding, the United States has grappled with the definitional question of who can lay claim to being American. … Americans have repeatedly confronted two competing ways of reading the nation's core principles — and two competing ways of interpreting the federal government's power to repress disfavored groups with ties to foreign nations: one that treats such repression as presumptively valid, and another that treats it as presumptively invalid. Those presumptions have mattered, sometimes enormously, because they are answers — implicit or explicit — to the question of what kind of nation America is. It was through those presumptions that the most fundamental questions of membership were contested and, over time, partially answered.

(LEFT) JESSICA SCRANTON; (RIGHT) MARTHA STEWART

DEMOCRACY

Democracy Is a Negotiation

SHEILA HEEN '93



Negotiation is an antidote to tyranny. Those who seek unchecked power must thwart negotiation — by dividing Americans, obscuring our shared interests, and preventing our collective response. Negotiation is messy and imperfect, but also fragile: vulnerable to misinformation, mistrust, and silence. … If our democracy is to survive, we must find our way back to negotiating with one another. America's problems can never be solved through force. Democracy must include each side's interests with full participation in joint problem-solving. Understanding, hearing, and caring about each other is the only path to a stable and viable democracy.

CRIME, PUNISHMENT, AND STATE POWER

The Future of Capital Punishment

CAROL S. STEIKER '86



Given its federal structure, the U.S. itself is unlikely to achieve nationwide abolition through legislative repeal of the death penalty in all 50 state legislatures and Congress. The only realistic hope for the complete abolition of the American death penalty lies in the U.S. Supreme Court declaring it an unconstitutional practice. The prospects for such a ruling looked promising a decade ago, but the current conservative supermajority on the Supreme Court makes it highly unlikely for at least a generation. But the future of contested practices is difficult to predict.

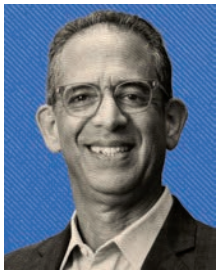
… [M]any people — slavery abolitionists among them — believed that abolition in the U.S. was an impossible pipe dream in the decades leading up to the Civil War. Or consider marriage equality for same-sex couples. In the 1980s, when the Supreme Court upheld the criminalization of consensual gay sex, the prospects for national recognition of such a right seemed dim. Sometimes big changes happen faster than anyone might foresee.

Even if, as I predict, worldwide abolition of capital punishment does not occur in the near term, in the sense of the next generation or two, its trajectory of decline seems to portend its eventual abolition in the long term. If the practice continues to become more isolated and contested, and a global consensus about its fundamental immorality ultimately coheres — even if these things happen slowly and bumpily — the death penalty will eventually die. Christians who were put to death in the Roman Colosseum 2,000 years ago could not possibly have imagined Rome's current practice of lighting the Colosseum to celebrate when new jurisdictions abolish the death penalty. The transformation of the meaning of that historic site over the long sweep of history is a reminder of the inevitability of massive change over time and the hopeful possibility that such change will entail the abandonment of cruel and brutal practices.

LEGAL REASONING IN A DEMOCRACY

Tom, Meet Max

JOHN GOLDBERG



It is not hard to detect Thomas Jefferson's legal training in the Declaration of Independence. As Garry Wills once noted, Jefferson would later refer to it as an "appeal" — what lawyers today would call a complaint. Hence, its somewhat hyperbolic allegations of unlawful conduct and injury, as well as its demand for a form of legal relief — namely, the bestowal by other countries of the recognition that, under international law, would confer nationhood on the colonists.

Commonplace in everyday life, complaints warrant ambivalence. My mother was fond of mailing handwritten grievances to companies whose products fell short of her expectations. (This usually earned her a prefabricated apology and sometimes a coupon.)

(FROM TOP LEFT: CLOCKWISE) JESSICA SCRANTON; VEASEY CONWAY/HARVARD STAFF PHOTOGRAPHER; MARTHA STEWART

"Admirable," I thought at the time. It's good to stand up for oneself. But a little cringey, too. It's possible some mountains were being made of molehills.

Within the genus of complaints, legal complaints are a distinctive species. They are part of a system that enables individuals and entities to vindicate important rights and interests. As such, they promise to hold us accountable to each other, and government officials accountable to the persons they purport to serve. Like non-legal complaints, however, they are sometimes unfounded or better left unpursued. Also, to a much greater extent than grumpy missives, they can make life difficult for their recipients (not to mention the complainants themselves). This is why we have rules that specify appropriate grounds for complaints, and that govern how they are made and resolved.

Jefferson's "complaint" itself garnered an ambivalent reception. It was celebrated — and still is — as a bold assertion of the rights of the individual against government. It was also dismissed by some as frivolous litigation (so to speak). And it was called out for its morally mistaken assumptions about who among us are endowed with unalienable rights.

Two hundred and fifty years later, legal complaints carry a potential significance they could not have in the Revolutionary era. For we are now well on the other side of the crucible that Max Weber sought to capture under the heading *rationalisierung* — "rationalization." My basic contention is that, in our rationalized world, complaints offer a distinctively valuable mode of asserting individual voice and value.

THE SUPREME COURT

A Court of Two Crises

RICHARD RE



Two and a half centuries ago, the Declaration of Independence called for both expanded democracy and greater judicial power. History has followed that twin decree. Today, however, these trends are coming into conflict. Whether the Supreme Court can continue to check majoritarianism, including authoritarian populism, remains to be seen. But every time that it succeeds, the odds increase that powerful courts, and the constitutional order, will ultimately endure. As H.L.A. Hart wrote in a related context, "Here all that succeeds is success."

THE FEDERAL GOVERNMENT

"Merciless Indian Savages" or "Distinct, Independent Political Communities"?

JOSEPH WILLIAM SINGER '81



Indian nations occupy two distinct places in American history and law. American Indians are mentioned only once in the Declaration of Independence. They are in a phrase complaining about King George III's alliances with Indian nations to oppose American invasion of Indian country, and they are described, not as nations, but as "merciless Indian Savages." Nor was this a slip of the tongue or a brief emotional outburst. The lawyer for the plaintiffs in the 1823 Supreme Court case of *Johnson v. M'Intosh* similarly referred to Native peoples as "savage tribes," and even Chief Justice John Marshall described them as "fierce savages." On the other hand, both the lawyer for the defendants and the Supreme Court itself referred to them as "tribes or nations" or "Indian nations." And the 1832 case of *Worcester v. Georgia* referred to "Indian nations" as "distinct, independent political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guarantied by the United States."

The contrast between "savages" and "nations" reflects a deep ambivalence about the relationship between the United States and the Indian nations. Over the course of U.S. history, the "savages" formulation sometimes prevailed, either to justify removal of Indians from lands east of the Mississippi River from the 1830s to the 1860s or as a reason to "civilize" the Indians by outlawing tribal religion, promoting conversion to Christianity, privatizing tribal lands, and kidnapping tribal children to be educated at harsh

(LEFT) JESSICA SCRANTON; (RIGHT) PHIL FARNSWORTH

boarding schools. But, in other eras of U.S. history, the United States treated Indian nations as distinct political communities with inherent sovereignty and the power to enforce their own laws within their own territory.

THE FUTURE OF ECONOMIC GOVERNANCE

Corporate Governance and Private Power

MARIANA PARGENDLER



Two and a half centuries after the Declaration of Independence, U.S. law faces a paradox the founders could scarcely have imagined: The nation built to resist concentrated power has created private institutions whose reach can rival the state itself. Corporate law is thus a constitutional problem in miniature, allocating power and structuring accountability. The checks and balances that have been a hallmark of the system's capital markets success, and of social ordering more generally, today are under enormous strain. U.S. law is now moving toward developing-world cronyism, where controlling shareholders face few constraints and shape laws in their favor. Paradoxically, these same powerful institutions, capable of shaping their own legal environment, have largely accommodated rather than resisted new concentrations of executive power, suggesting that private and public power may be mutually reinforcing rather than countervailing. ...

The 250th anniversary of American law arrives as U.S. corporate and capital markets law, often celebrated as the envy of the world, faces these daunting new challenges. Legal scholars have overwhelmingly favored a narrow, "modular" view of corporate law focused on investor protection alone, with other social concerns outsourced to other areas of law. This view is untenable:It has long had its share of critics and is incomplete in its own terms. Even standard corporate rules aimed at protecting shareholders from managers have broader social consequences. Expropriation by controlling shareholders is economically regressive and further concentrates wealth and power. Derivative suits for failure of oversight serve to strengthen the bite of sanctions imposed by other areas of law. Transparency aimed at investors produces broader positive externalities in terms of social control. Social concerns are not fully separable, and distortions created by corporate law — the field governing residual discretion — are not easily addressed elsewhere. The narrowing of the field's scope by the law-and-economics tradition has reduced our ability to resist the ongoing backlash.

The task ahead is to preserve corporations' vitality and capacity for innovation for the social good in the face of these societal challenges. Much remains to be done in perfecting democratic controls and legitimacy of corporations, which have long been unsatisfying. Law, including corporate law, has an important role to play. The first step is resisting the erosion of basic principles that have distinguished U.S. corporate governance and inspired jurisdictions worldwide.

THE LEGAL PROFESSION, LEGAL EDUCATION, AND RULE OF LAW

On Cats, Codices, and the Common Law Curriculum

ELIZABETH PAPP KAMALI '07



My hope for the next generation of Harvard lawyers is that perhaps in response to the latest technological advances, law students will opt, where they can, for the low-tech. Faced with novel challenges to the rule of law, they might foment a new revolution of sorts, one bent upon deinstrumentalizing legal history, otherwise known as engaging in history for history's sake. As is already true for many of my students, they might, for example, take a class on English legal history not because it might make them a better originalist or a more effective anti-originalist, but because it might provide space for pondering questions like: Was the ordeal, the *iudicium dei*, literally understood to be the judgment of God? Why did King Edward III need a secret password to correspond with Pope John XXII in the 1330s? Why did the medieval English coroner, in compiling a Latin record, slip into the vernacular to name the types of

JESSICA SCRANTON (2)

weapons used in a homicide, and what kind of knife was a thwytel anyway? Why were medieval registers of writs and statute collections (like those found in the Harvard Law Library) bespoke codices, and who was using them for what?

Looking beyond England, modern lawyers might learn a great deal about negotiation from the story of Skarphéðinn in Njáls Saga and about the interplay between law and society from the treatment of cats in medieval Welsh law. They might begin to wonder: Why are most major religious systems undergirded by law? Why was St. Paul so conflicted about law's value? What "laws" govern other aspects of our lives? (My own household lives by what we call the *lex cati*, according to which a person upon whom a cat has fallen asleep may demand of the nearest catfree person a cup of tea or retrieval of a book or the like to avoid getting up and disturbing a feline's forty winks.) Law is, or ought to be, a profession of profound curiosity. Lawyers need, above all else, a moral and ethical compass, and committing to memory the rules that will get one past the bar and professional responsibility exam are no substitute for a lifelong commitment to humanistic learning and formation of conscience. To what extent is law fundamental to human flourishing? I suspect Jefferson had a book on his shelf and Quincy a marginal note in his commonplace book that beckon toward an answer. What's on your shelf?

ELECTIONS

Rebuilding the Architecture of Presidential Elections

LARRY SCHWARTZTOL



From the beginning of our democracy, the constitutional machinery for electing presidents has been combustible. Mostly it chugs along, adapting over time to evolving norms of presidential politics. But since the earliest days of the Republic, it has occasionally failed, sometimes spectacularly. At the center of many of these failures sits the Electoral College. Reformers have long sought (and repeatedly failed) to abolish the Electoral College. One central criticism of the Electoral College is that it sometimes results in the candidate with the most national votes losing, an outcome in tension with the democratic principle of one-person-one-vote. Yet there is another, equally pressing concern that today has become especially acute: The Electoral College is a source of profound instability in our political system. In a time of disorienting political, social, technological, and economic change, abolishing the Electoral College would fortify the structural stability of American democracy.

THE ENVIRONMENT

Founding Ideals and the Future of American Food Policy

EMILY M. BROAD LEIB '08



[Thomas] Jefferson mythologized agriculture and farmers, believing that "agriculture is the most healthful, most useful and most noble employment of man." And though the words "food" and "farm" do not appear in the Declaration of Independence, themes of food and agriculture abound, such as concerns over blockage of trade, taxing of food products like sugar and tea, and the unwanted quartering — including housing and feeding — of British soldiers. ...

Jefferson would not recognize today's food and agriculture system. ... Food is regulated by more than 15 federal agencies — many of which have conflicting authorities and missions. ... This is problematic because the food system is multifaceted, and many elements interact with one another, sometimes in counterproductive ways. For example, the U.S. farm bill provides direct payments and subsidized crop insurance that primarily support, not healthy foods, but commodity crops such as soybeans, corn, and cotton. By contrast, the Dietary Guidelines for Americans have long recommended that at least half the diet be made up of fruits and vegetables, which are known as "specialty crops" and left out of most farm bill programs. Similarly, U.S. laws set standards for state and local drinking water under the Safe Drinking

(LEFT) JESSICA SCRANTON; (RIGHT) AUSTIN LEWIS

Water Act, yet runoff from agricultural production that contaminates drinking water is exempt from the Clean Water Act's permitting requirements. ...

Thomas Jefferson was right. Food is central to the environment, to the economy, to health, and to equality. On the 250th anniversary of our nation, it is long past time to get beyond partisan gamesmanship and short-sighted policies and recognize the "healthful, useful and noble" value of a robust, comprehensive, and aspirational national food policy.

WAR

A Declaration for Those in Uniform

DANIEL L. NAGIN



War, war fighting, and war fighters are central to the Declaration of Independence. By July 4, 1776, the armed conflict between the soldiers of the Continental Army and royal troops had already been ongoing for more than a year. The Declaration of Independence set forth justifications for both the armed rebellion already well underway and, implicitly, armed rebellion in other places and times. Meanwhile, as a bill of particulars, the document contained no fewer than six references to abuses of power related to the king's armies, soldiers, and mercenaries. And, as a formal declaration, the very first power of "Free and Independent States" cited by the document was the "full Power to Levy War." For these and other reasons, the Declaration of Independence can be understood as a document particularly concerned with the martial.

Against this backdrop, the Declaration of Independence has a distinctive salience for our modern era of endless war. (As I write this, the country is not yet 48 hours into what is being labeled as "major combat operations" against Iran.) Yet the salience I want to draw out here most pertains to a modern battle of a different sort.

That modern battle is the battle that too many military veterans must fight with their own government. I am thinking most especially about the growing number of veterans who leave service with an unjustly imposed less than honorable discharge — whether because of the effects of combat trauma or military sexual trauma or other stressors, traumatic brain injuries, *de jure* or *de facto* discrimination on the basis of race and ethnicity, sex, religion, and LGBTQ+ identities, or capricious decisionmaking at the command level.

Tragically, these discharges can relegate veterans to lives on the margins, marked by higher rates of poverty, homelessness, incarceration, and mental illness and suicide. Shamed, cast aside, and deprived of supports, veterans are denied a meaningful chance to live lives of stability and dignity. In theory, an avenue exists to obtain redress. But, in a cruel twist, the tribunals responsible for providing relief from the stigma and harm of unjust discharges suffer from some of the same defects of arbitrary government action that were cataloged in the Declaration of Independence's bill of particulars. ...

The Declaration of Independence inveighed against a sovereign that would install "an Arbitrary Government." At alarming rates, the military review boards deny relief using boilerplate language and with little if any evidence that the facts of the case and the arguments of the veteran informed the outcome.

COMMUNITY AND CIVIC VIRTUE

A Nation of Documents

STEPHEN BREYER '64



If we want practical instruction, we can still read the words of Alexis de Tocqueville, that great French scholar of the United States. He wrote in the 1830s that when he approached the United States, he heard "noise" and endless arguing. But he knew that was a virtue, not a vice. He feared a silent "aristocracy" producing inequality and suppressing liberty. That "noise," he believed, was the noise of associations, many different associations, ranging from book groups, to civil liberties unions, to town halls. When faced with problems, their members would debate, discuss, argue, and suggest experiments. And those problems included all sorts of civic problems, from livestock grazing to elections. Perhaps today they would include how we should deal with the internet or artificial intelligence. De Tocqueville would prob-

(LEFT) JAMES RASAIAH; (RIGHT) TONY LUONG

ably stress the need for broad and inclusive association that does not turn our nation of documents into groups of individually exclusive, indeed tribal, cultures. But he would not fear experiment. After all, he said that the "greatness of America lies not in being more enlightened than any other nation, but rather in her ability to repair her faults."

Let me end with a remark about one of our special documentary virtues, a virtue that helps to support the others. I speak, perhaps because I am a judge, of the rule of law, and its capacity to protect us against our worst impulses. In this spirit, I always suggest to my students that they read Camus' book "The Plague." It is ostensibly about a lethal plague that hit the city of Oran in Algeria. But, more likely, it is about France when occupied by the Nazis. When the plague left the city, there was great joy. But Camus wrote that "such joy is always imperiled. ... [T]he plague bacillus never dies or disappears for good." It goes into remission. It can lurk for years in "furniture and linen-chests," "in bedrooms, cellars, trunks and bookshelves." He warned that perhaps the day would come, to the misfortune or education of mankind, when it would reawaken its rats and "sen[d] them forth to die in a [once-]happy city." The rule of law, I believe, is a weapon that not only helps to support our constitutional values but militates against the reawakening of that "plague germ" of unchecked power.

THE INTERNATIONAL LEGAL ORDER

Foreign Relations and the Failures of Foresight

KRISTEN E. EICHENSEHR



Perspectives on government and its problems inevitably rest, at least in part, on one's lived experience. The framers of the Constitution drew on their own experiences to address concerns about both domestic governmental overreach and international vulnerability. But two failures of foresight at the founding have led to a present with distinctly different concerns from those against which the founders tried to guard. The unchecked expansion of executive power domestically has led to presidential actions that risk destabilizing an international order that the framers would have envied.

The first failure of foresight was domestic. ... The executive's powers were stronger than the framers realized, and Congress' incentives to counteract them were much weaker.

The second failure of foresight was international. ... The framers could not foresee the world of the twentieth century in which the United States became a hegemon and the architect of an international legal order that sought to restrain states' resort to force. That legal order has been a boon: the United States has benefited tremendously from the relative stability and order that this system has engendered.

But the framers' first failure of foresight about the power of the executive is now undoing the benefits of the second. Congress' structural and political weaknesses have left the executive with nearly unchecked power to use force abroad, undermining both the constitutional separation of powers and the international order that the United States previously championed.

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NEW TECHNOLOGIES AND THE FUTURE OF KNOWLEDGE AND DEMOCRACY

Reproductive Technologies and the Federal Constitutional Vacuum

I. GLENN COHEN '03



We are on the cusp of some revolutionary new reproductive technologies, and yet the Supreme Court has been silent on how to think about what the federal Constitution might have to say about the last wave of technologies dating back to the early 1980s. Questions about the propriety of destroying embryos, whether women can lawfully agree to sell their reproductive labor as surrogates, gene editing, and radically new forms of family formation, as well as questions of dignity, access, and equality, cut to the quick of what kind of country we are. To the extent that we view the federal Constitution as the ultimate repository of those values, the current silence on what the Constitution means feels deafening. So, why the silence? Is it good or bad? What would a bold constitutionalizing project look like for this space?

(LEFT) JESSICA SCRANTON; (RIGHT) ASIA KEPKA



INTERVIEW BY LACEY J. ROSE

ILLUSTRATION BY HANA TINTOR



A mother posts her toddler's first steps on Instagram.



Children gather around the kitchen counter to help their father make sourdough bread in a YouTube video. On TikTok, a young gymnast performs a backflip atop a balance beam. These intimate snapshots of family life may look spontaneous and wholesome, but they are also often the raw material of a $30 billion (or more) influencer industry — one in which children's lives are packaged, promoted, and monetized, often by their own parents.

When does sharing family life online become child labor — and what protections do children have when it does? Through their work and scholarship, Leah Plunkett '06 and Hilary Robinson '06 have approached those questions from intersecting fields. They graduated from Harvard Law the year Facebook opened its doors to anyone age 13 or older and have spent much of the two decades since studying the legal and social consequences of life and work in the platform economy.

Plunkett, the Meyer Research Lecturer on Law and a faculty associate at Harvard's Berkman Klein Center, is a national leader in online legal education. Her scholarship examines digital privacy and the digital lives of children, families, and communities. She is the author of the book "Sharenthood" — which warns of the risks parents create when they share their children's lives online — and currently serves as the reporter for the Uniform Law Commission's Child Digital Entertainers Act drafting committee.

Robinson, an associate professor of law and sociology at Northeastern University School of Law, served as the principal investigator on a National Science Foundation research project on the digital platform economy. Her doctoral research at MIT examined the "algorithmic labor market" through semi-randomly sampled ride-alongs with Uber drivers in Boston. At Northeastern, her research and teaching focus on the ways technology, labor, and law shape one another.

In a recent conversation with the Harvard Law Bulletin, Plunkett and Robinson discussed the legal protections — and significant gaps — that exist for child influencers today. They explored whether a child being paid to play with a toy on camera should be regulated like manual labor in a factory, the alarming parallels between influencer culture and the adult entertainment industry, the real-world harms that can result when images and video of children are posted online — either by themselves or by adults — and what policymakers can do today to better protect kids.

Their conversation also surfaced a question that Plunkett and Robinson now hope to explore together: Does the platform economy upend one of contract law's most basic assumptions? Traditionally, mutual assent precedes production. Online, however, people may create the product, generate its value, and expose themselves to its risks long before any contract — or meaningful consent — exists.

What are the real-world harms to kids who are monetized in content, whether they're the star or just featured by a parent?

PLUNKETT: I'd point people to Alyson Stoner's memoir, which describes what they call the "toddler-to-trainwreck pipeline" — their own experience as a former Hollywood child star, and how the influencer industry is putting more kids in that pipeline.

Developmentally, a child or teen has real limits on understanding, let alone meaningfully consenting to, being put on a global stage in perpetuity in their own most intimate spaces — their home and daily life. That has a lot of harms and risks, including: an erosion of sense of self and autonomy and agency; real boundary violations from viewers who feel they know the child personally and will try to engage with them directly; and outright financial exploitation or abuse where a parent is making a lot of money off of them. They can come of age and realize they were put to work without their consent and perhaps even their knowledge, and have literally nothing to show for it, which then carries its own psychological, emotional, and relational harm. There are also practical limitations for kids who arrive at adulthood and realize they spent their childhood working online and now don't have the peer networks, interests, or preparation for college or a first job that their peers have. That's all to say nothing of the harms and risks they

PHOTOGRAPH BY MATT KALINOWSKI



leah_plunkett If I had a magic wand, I'd have every state pass a labor law protecting the financial, privacy, and work-place-condition rights of kids and teens working in the digital entertainment and influencer industry.



"The new laws rely on the very people creating the harm — the parents — to track and report themselves, and then rely on the child to sue after the fact."

may experience while making the content.

I want to be clear — I don't think every instance of a child appearing in family content should be banned. Even if an outright ban were constitutional, enactable, and feasible, I would not support it, but the harms and risks are very real.

ROBINSON: We decided in the 20th century that children shouldn't work, even when a child's labor could bring real value back to a family. Childhood and school should sit outside the market economy.

The deeper issue is that children don't have full autonomy — they are dependent on the adults around them. The problem of children in workplaces is similar to the problem of enslaved people. The exchange can never be fair because your body is manipulable by someone who is in a position of power over you, and that gets translated into a labor system. In a system that's trying to produce value, we just can't trust that the effort made by individuals with vulnerabilities wouldn't be extracted as a form of deeply alienating and damaging power.

And platforms have no built-in reason to care what's driving engagement or what harm results from it. They don't care about negative effects because they profit from the engagement. The highest-earning creator on YouTube for years was a child who unboxed toys — meaning YouTube made the most money in its history off a child's labor. Until the law specifically carves out certain kinds of engagement, there's no incentive for the platform. The incentive is the opposite.

Related to that, the same legal dynamics that make it hard to regulate family influencer content also explain a much darker pattern — remote, decentralized control over people who can't leave a physical location and are compelled to produce content for profit, as in the recent allegations of human trafficking against Andrew and Tristan Tate. It's the same underlying structure: bodies contained in private space, linked to a profitable distribution system by pocket computing, with the platform again removed from responsibility. It shows how easily this kind of remote, aggregated production model outpaces existing law, because no single actor wants to admit they're running a productive system that needs oversight.

What legal protections exist today for minors in the influencer and family content space, and where are the biggest gaps?

ROBINSON: Regulating the platform economy continues to be one of the most challenging parts of law today, and children who are functionally working online are the clearest example of why. It's the digital-era version of child labor in early industrial capitalism. It's obviously wrong intuitively, but extremely challenging to regulate, because, unlike a mine or a factory floor, the "workplace" is hidden inside something we think of as private: the home. The digital economy has collapsed the boundary between private life and public production in a way that doesn't match how we've thought about work for the last century. It looks a lot more like the pre-industrial period, when labor and leisure were tangled together in the same household.

Today's moment layers the private home and leisurely activities, like pictures of your children enjoying vacation, over something that is much more like the production of entertainment. That challenges the legal regulatory categories that grew over the last century — the century in which we regulated work.

Our regulatory categories were built for a very different economy — one where work was tied to identifiable corporate entities and physical spaces that agencies like OSHA [the Occupational Safety and Health Administration] could actually walk into. The platform economy resists that kind of sorting. We don't even have stable vocabulary for it. "Influencer," "kidfluencer," "content" — these are all new terms invented to paper over the fact that we can't cleanly separate production from consumption, or even creator from consumer.

You can see legislatures straining against that problem in a law like Illinois Senate Bill 1782, one of the more comprehensive attempts to protect the financial earnings of child influencers and vloggers. It applies when at least 30% of an account's compensated content in a 30-day period features a minor, and when that content clears a platform's monetization threshold, or earns at least 10 cents per view. Once these thresholds are triggered, the adult posting the content has to track how much time the minor appears on camera and deposit a proportional share of the earnings into a trust. If they don't, the minor gets a civil right of action once they're an adult.

It's essentially a rehash of California's Coogan Law [a piece of legislation, enacted in 1939, that requires employers to set aside 15% of a minor's gross earnings from the entertainment industry into a blocked trust account], but it's unlikely to produce the result the legislators want, which is fewer children working online. The Coogan Law worked because Hollywood production was visible and public — a studio, a set, a payroll, and a broadly consumed product. The new laws rely on the very people creating the harm — the parents — to track and report themselves, and then rely on the child to sue after the fact. They target the effects of the system, not the production apparatus that's causing them.

PLUNKETT: I agree it's an extraordinarily hard thing to regulate well — constitutionally, ethically, and practically. I've spent the last year and a half as reporter for the Uniform Law Commission's Child Digital Entertainers Act drafting committee, so I've lived inside these exact questions: the financial rights of child digital entertainers, intellectual property rights, privacy rights, workplace health and safety rights, and some that Hilary identified, such as what do we call this industry, what falls inside its boundaries, and how do we separate "family life" from "work" as a matter of statute and enforcement?

Think about the difference from a film set. If we'd gone to a movie theater in the 1990s — great decade, I might add — to watch "Home Alone," the production had a clear beginning and end. Figuring out what a child was contracted to do, and for how long, was straightforward. None of that is true with content featuring children online. What's actually captured and circulated by a parent, and under what terms, and the boundaries of what is fair, reasonable, and defensible, are all genuinely hard to define.

While federal reform on kids' online privacy and safety has proved almost impossible and the work is far from finished, there have still been some legislative success stories. States have moved faster, and a lot of that momentum traces back to youth activists — like Chris McCarty in Washington state and Shreya Nallamothu in Illinois, both of whom started this work as teenagers doing Girl Scout projects. They noticed peers making money online and asked their state legislators a simple question: Is any of that money reaching the kids? Their advocacy did more to move state legislatures than that of any other group of stakeholders and really got the ball rolling, so I'm optimistic.

Does any of the state legislation distinguish between types of child content — a toy review versus a dance video versus content that displaces school and childhood?

PLUNKETT: Not at that level of precision, no. Some states focus specifically on video, which leaves open whether other formats — photos, text posts, podcasts — are covered at all. I don't think we'll see laws that pay people differently based on the topic of the content itself; that runs into First Amendment problems fast. If a state said you get paid more for dancing than for cooking, it would be regulating speech based on subject matter, which raises real constitutional issues for both the person on camera and the platform.

But the format question — video only, versus every venue a child might appear on: photos, audio, text, and increasingly AI-generated content trained on a child's likeness — is genuinely unsettled. Roughly 10% of states have passed laws, and another quarter or so have seriously taken up a bill, and this is still an open question across most of them. I think covering every format is both the more ethical approach and the one more likely to survive an equal-protection challenge down the road — you don't want a kid who only appeared in still photos arguing the law protected video kids but not them.

ROBINSON: That loops back to something I think about as a contracts professor. In classic contract law, mutual assent precedes production — you agree to terms, then the work happens. The platform economy flips that: You consent to a sprawling terms-of-service agreement up front, and then all sorts of unrelated production and consumption happen under its umbrella. Parents can consent to that; children obviously can't. So, we're left trying to measure compensation based on the product after the fact, which is really a form of piecework — paid by the item, the way pre-industrial home labor systems worked, where a middleman farmed out sewing to individual households. There's no upfront contract negotiation, no wage, no salary, no vertically integrated employer as there would be in any other entertainment context.

But we see triangulation throughout the whole thing. The platform sits in the middle, profiting off user engagement with content it didn't produce and isn't paying for directly, while also brokering separate deals with advertisers. The platforms are capturing value from what kids are producing.

PLUNKETT: Right. Most of the laws I have seen don't attempt to have the platforms engage directly in



hilary_robinson Regulating the platform economy continues to be one of the most challenging parts of law today, and children who are functionally working online are the clearest example of why.

compensation, which is different from the setup that the Coogan Law contemplates.

In the analogy to the Coogan Law, an online platform is like a production studio and the minors appearing online are like actors. How does the Coogan Law comparison hold up, and where does it break down?

PLUNKETT: The Coogan Law was written for Hollywood as a sector, not for a family business. It assumed a structure where the parent managing a child's career wasn't also the studio making the content and collecting the money. In the platform economy, that's almost always the same person. Most of today's state laws treat compensation as a matter between the adult content creator (usually the parent) and the minor. They don't require platforms, which are providing compensation in terms of monetized views, to pay any of it directly to the child or set it aside for them.

ROBINSON: Right, and the party best positioned to track this — who's appearing, how often, how much money is attached to it — is the platform, because it predominantly controls the means of production, to use old language. But platforms have been very effective at legally distancing themselves from that role.

Uber has argued in case after case that it's not a transportation company, just a two-sided market for information exchange to match riders and drivers — which lets it skirt the obligations that would come with admitting it runs a productive system. Platforms can make a similar claim: They're just hosting content, even though they already do things like identify and remove child sexual abuse material, which shows they're fully capable of identifying child-featured content when it serves their interests.

If you could pass one piece of legal reform right now, what would it be — and why would it move the needle more than what's currently on the books?

ROBINSON: I'd require platforms to identify child-featured accounts and report basic metrics — hours of a minor's appearance, revenue attached to that content — to a state regulator on an audit basis. It isn't a technical stretch: Uber can already calculate and pay out drivers by the trip. Platforms resist this because it exposes the algorithmic mechanics of their business to outside scrutiny. When Massachusetts wrote its first ride-share legislation, the original bill gave a state auditor direct access to driver profiles. After lobbying from Uber and Lyft, that became a self-issued certificate subject only to occasional audit. I expect the same resistance here. But we'd never accept the argument that factory conditions are too proprietary for OSHA to inspect, and platforms shouldn't get that pass either. You can't structure a business to be simultaneously everywhere and nowhere and then claim it's unregulable.



"When a parent has reason to know the audience skews toward exploitation, we're well past questions of contract or financial risk and into a real safety crisis."

PLUNKETT: If I had a magic wand, I'd have every state — not the federal government — pass a constitutional, ethical, and practical labor law protecting the financial, privacy, and workplace-condition rights of kids and teens working in the digital entertainment and influencer industry. I'd keep it at the state level deliberately, so the lawmakers, regulators, and enforcement mechanisms closest to the actual families involved are the ones building and running it.

Is there anything that we haven't touched on?

PLUNKETT: I'd add one more piece that's uncomfortable but important: There's real overlap between parts of the child digital entertainment/influencer sector and adult entertainment or close-to-pornography sector. I don't want to be the morality police, but consider, for instance, a parent posting gymnastics or dance content of a child in limited clothing, knowing or having reason to know a meaningful share of the viewership isn't coaches or peers but adults with predatory intent. I'm not suggesting kids shouldn't appear in ordinary athletic content in public settings — that would be absurd. But when a parent has reason to know the audience skews toward exploitation, we're well past questions of contract or financial risk and into a real safety crisis.

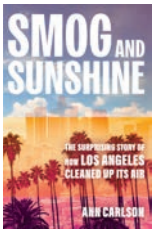
It's worth remembering that child abuse and neglect statutes still apply regardless of whether the harm happens online or in person; posting content doesn't create legal cover.

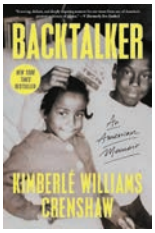
ROBINSON: Just that this dynamic — remote control over people whose labor happens somewhere a platform can plausibly deny responsibility for — isn't limited to family content. It's the same structural gap that makes a wide range of platform-enabled harms hard to reach with existing law. Kids who work as influencers are the clearest case, but they're not the only ones exposed by it.

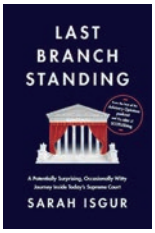
PHOTOGRAPH BY MATT KALINOWSKI

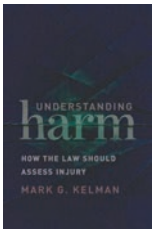
A Selection of Recent Alumni Books











▸ **NONFICTION**

"Smog and Sunshine: The Surprising Story of How Los Angeles Cleaned Up Its Air," *by Ann Carlson '89 (University of California Press)*

Growing up in Orange County in the 1960s and '70s, Ann Carlson experienced the smog the Los Angeles area was then known for. But now she says the city should be known for something else: its success in cleaning its air. A professor of environmental law at the UCLA School of Law who served as the acting administrator and chief counsel of the National Highway Traffic Safety Administration, Carlson details government efforts like the Clean Air Act, which facilitated the cleanup. She also highlights "corporate malfeasance and the massive harm it can do to public health and the environment," in particular pointing to automakers that fought efforts to regulate emissions. While challenges remain to keep the air clean, Los Angeles provides an important model for how to address threats to the environment from climate change, she writes.

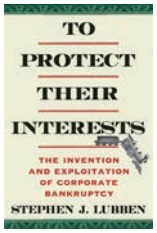
"Backtalker: An American Memoir," *by Kimberlé Williams Crenshaw '84 (Simon & Schuster)*

Kimberlé Williams Crenshaw, who introduced the concepts of critical race theory and intersectionality to examine and ameliorate the dual forces of racism and sexism, shares the life experiences and people that inspired her to speak out against social wrongs. The first half of the book chronicles her upbringing in Ohio as she fought against frequent instances of injustice, the powerful influence of her mother, and the tragedies that befell her family. A professor of law at the University of California, Los Angeles, she also details her Harvard Law experience, which exposed her to the critical legal studies movement. The book also considers the gender and racial dynamics of Clarence Thomas' Supreme Court confirmation hearings, which she attended to support Anita Hill, and the O.J. Simpson trial. With her theories facing sustained pushback by conservatives and an "assault on history" underway, Crenshaw vows not to back down and to continue to talk back.

"Last Branch Standing: A Potentially Surprising, Occasionally Witty Journey Inside Today's Supreme Court," *by Sarah Isgur '08 (Crown)*

With the majority of the American public now holding an unfavorable view of the Supreme Court, Sarah Isgur seeks to dispel the widespread belief that the justices are akin to politicians in robes. Isgur — who co-hosts the popular legal podcast "Advisory Opinions" with fellow alum David French '94 — contends that the justices' decisions are motivated not merely based on conservative or liberal viewpoints but by differing approaches on favoring precedent. She recounts the political history of the Court, including the proper role of judges and how they are supposed to interpret the Constitution. She also offers her personal views of the nine current justices, all of whom she admires. Since the U.S. now has a Congress that barely functions and a too-powerful executive branch, the Supreme Court

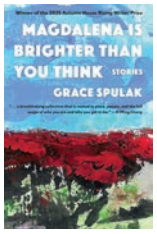
ILLUSTRATION BY MARCELLO VELHO



has become the last branch standing by maintaining its integrity, Isgur argues.

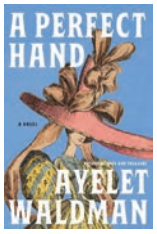
"Understanding Harm: How the Law Should Assess Injury," *by Mark G. Kelman '76 (New York University Press)*

On the surface, it may seem easy to understand harm: Something happens that makes you worse off than you were before. Yet it is not so simple, particularly when it comes to the law, as outlined by Mark Kelman in his new book. The Stanford Law School professor evaluates harm in situations involving disability, poverty, discrimination, and sexual harassment. He determines, for example, that people overestimate how bad it would be to become disabled and that injuries associated with poverty like vulnerability to violence are devalued. "Our ethical and legal obligations can never be responsive simply to subjective reactions," he writes. He also notes that "we must be extremely wary of believing that people are hurt because they lack something we think matters to them, whether it genuinely matters or not."



"To Protect Their Interests: The Invention and Exploitation of Corporate Bankruptcy," *by Stephen J. Lubben LL.M. '00 (Columbia University Press)*

Stephen Lubben, a professor at Seton Hall University School of Law, traces the history of corporate restructuring and recommends reforms to improve a system that "has always been about buying consent from those who could stop you, and imposing your will on those who could not." He begins with early efforts at corporate restructuring, examining the 1885 receivership of the Texas and Pacific Railway Co. as an early example of a successful reorganization. The current Bankruptcy Code, enacted in 1978 to replace the New Deal corporate bankruptcy system, was designed to rely more heavily on markets than government and went too far in the deregulatory direction, the author argues. Featuring a review of landmark cases, the book highlights the importance of corporate bankruptcy in the American economy.



▸ FICTION

"Magdalena Is Brighter Than You Think," *by Grace Spulak '08 (Autumn House Press)*

After growing up in a poor, single-parent household in New Mexico and then attending law school, Grace Spulak returned to her home state to work in family law and direct a nonprofit advocating for children in foster care and the juvenile justice system. With her first book of short stories, Spulak draws on these legal and personal experiences to illuminate the hard lives and fraught relationships of people on the margins of society. Characters are shaped by violence and trauma, like a child whose father killed her mother and brother, a widowed mother whose daughter has an eating disorder, and a new social worker investigating child endangerment. About her work, she writes, "I want to create empathy that is complicated, that does not belittle or excuse my characters."



"A Perfect Hand," *by Ayelet Waldman '91 (Alfred A. Knopf)*

Bestselling author Ayelet Waldman channels Jane Austen with a love story set against a backdrop of societal and personal change. As the novel begins in the year 1879, its heroine, Alice Lockey, a maid to the imperious and malodorous Lady Jemima Alderwick, appears to have achieved the most a woman of her station in Victorian England could expect. Yet, Alice schemes to improve her lot by manipulating Lady Jemima into marrying the baronet who employs her love, his valet Charlie, so she can live in the same house with him. The story turns from affairs of the heart to affairs of state when Alice reads a pamphlet promoting women's rights. It sparks a desire to better not only herself but all women as she embraces the suffragette cause, leading to "a most unusual and unexpected life."

▸ CHILDREN/YOUNG ADULT

"You Are My Favorite Story," *by Shani King '99 and N. Jeremi Duru '99 (Fair Share Publishing)*

When Shani King and N. Jeremi Duru were classmates and friends at Harvard Law School, they often talked about collaborating on a project someday. They probably wouldn't have guessed it would be a children's book. Today, the longtime friends and legal scholars are the authors of "You Are My Favorite Story," written from the perspective of a father to his children. The book, illustrated by John Jay Cabuay, spotlights the pride, love, and hope of fatherhood — and the deep bonds between dads and their kids. The pair say their goal when writing the book was, first and foremost, to express their love and admiration for their families. But equally important to King and Duru was the chance to help people — and fathers, in particular — learn how to share their own feelings with their children.



"Fight Song," *by Kirk Van Brunt '85 (Swift Water Books)*

An author of several young adult novels, Kirk Van Brunt grew up on the Colville Reservation in Washington. His latest book centers on an Indigenous teenage girl, Nokes Lasley, who seeks to overcome her life circumstances to become an Olympic ice hockey player. She has a lot to overcome: her mother's death when she was 5, her father's imprisonment after a bar fight turns deadly, and the prejudice she faces because of her heritage. She flees abusive foster homes in her native Ontario, Canada, for Minnesota, hoping her father's old friend, a hockey coach, will help her achieve her dream. She finds, however, that she cannot leave her old life completely behind.

A memorable summer job and influential mentors at home and at Harvard shaped the path of Dan Kelly, newly appointed dean of George Mason's Antonin Scalia Law School

Academic Architect

BY COLLEEN WALSH

Who knew a Chicago Cubs game involving flying candy bars would become a pivotal moment in the life of **Dan Kelly '05**?

It was 1999, and a teenage Kelly was working a shift at his summer job, part of a crowd control team charged with monitoring fans in the bleachers of Wrigley Field. That day his supervisors had ordered him to stop anyone from throwing Oh Henry! candy bars onto the field following home runs by then-Cubs outfielder Henry Rodriguez. The fun fad had become verboten because of an incident earlier that summer, when Cubs fans, angry at what they considered a bad call, had littered the field with trash, delaying the game.

So, when Kelly spotted a fan hurling the humble chocolate confection, he escorted him to his supervisor. The man was arrested and charged with disorderly conduct, along with four others who would come to be known as the "Oh Henry! Five." Kelly was spared testifying when the judge issued a continuance, and the ball club, sensing a PR headache, eventually dropped the case.

But the experience struck a chord with Kelly, who wrote about it for his law school application. In his essay he questioned whether the fans had been given enough notice about the new rule, and the seemingly arbitrary nature of detaining and pressing charges against a handful of fans when hundreds had taken part in what seemed like harmless fun. He also examined the incentives of the parties, given the goal of public safety.

"I turned the incident into a full-blown legal analysis," he says.

The experience, along with a range of mentors, including several at Harvard Law, has helped shape his thinking and legal career, which now includes his recent appointment as the Allison and Dorothy Rouse Dean of the Antonin Scalia Law School at George Mason University, where he has pledged to promote and support robust and civil discourse among its faculty and lawyers-in-training.

It's not hard to trace Kelly's commitment to open debate to both his home life and his Harvard years. His parents were both children of the civil rights era who attended the 1963 March on Washington for Jobs and Freedom and heard Martin Luther King Jr. deliver his renowned "I Have a Dream" speech.



Dan Kelly began his legal career at a law firm before finding his true calling in academia.

MARK BROWN/UNIVERSITY OF ST. THOMAS

They inspired in their son a love of learning and dialogue, and an appreciation for decency and justice.

"I learned from an early age," says Kelly, "about the human dignity and equality of every individual."

Kelly majored in economics and history at Notre Dame. He also took philosophy, theology, and government courses, including a class on American constitutional law, and read Antonin Scalia's "A Matter of Interpretation: Federal Courts and the Law" — the seminal work outlining the Supreme Court justice's philosophy on originalism and textualism.

"I think reading that book," he says, "inspired me to go to law school."

For Kelly, Harvard Law School, his top choice, would become a lifelong source of inspiration and connection. He credits numerous professors with helping him during his time on campus, among them Harvard Provost and Dane Professor of Law John F. Manning '85, whose enthusiasm for the profession was infectious and inspired Kelly to consider a teaching career. A reading group with Mary Ann Glendon, now the Learned Hand Professor of Law Emerita, which focused on Alexis de Tocqueville's "Democracy in America," was another pivotal moment, he recalls.

"Reading a classic book cover to cover with Professor Glendon and with fellow students, and discussing our response papers every week, was a tremendous learning opportunity," he says.

But by far Kelly's most instrumental mentor was Steve Shavell, the founder and director of the school's John M. Olin Center for Law, Economics, and Business, who took Kelly under his wing, helping him hone his interests in law and economics, and teaching him the finer points of scholarly research. Shavell, the Samuel R. Rosenthal Professor of Law and Economics, also advised Kelly on his thesis paper, an economic analysis of eminent domain, which would eventually become Kelly's first academic publication, appearing in the Cornell Law Review.

And long after Kelly's Harvard Law School days, Shavell continues to play an important role in his life.

"When I was an aspiring law professor, when I was a law professor, when I became a dean — even in this move to George Mason, he was a big supporter and fan and reference for me to this day," Kelly says. "So, I can't speak highly enough of what a clear thinker he is, and how devoted he is to his students."

Kelly also highlights the importance of being able to learn from his classmates. Initially unsure how he would fare in such a large class setting, he says he reveled in the opportunities he had to engage with people from such wide-ranging backgrounds.

"There were so many students who had so many different interests and varied perspectives," he says. "He remembers one student in particular who "could write a really good legal brief."

"Now, he's doing that for the United States of America as the solicitor general," he says. "Learning the ins and outs of how to be a lawyer from folks like John Sauer ['04] and others — it was an amazing experience."

"We encourage students to bring their robust, principled views based on what they believe law and policy should be."

Like many recent law school grads, Kelly secured a clerkship and then joined a firm. But the idea of academia had always appealed to him, thanks in part to his parents, who were both teachers, and his older brother, who became a professor after completing a Ph.D. at Harvard.

Kelly taught a class as a lecturer in law at Harvard from 2008 to 2009 while working as a Terence M. Considine Research Fellow in Law and Economics. Then, in 2009 he landed his dream job: a professorship at his undergraduate alma mater, Notre Dame, where he would eventually lead the school's law and economics program. He also served as a visiting professor of law at the University of Chicago in 2016 and a visiting professor at Harvard Law in 2020.

"I knew that I was meant and called to teach," says Kelly.

He never imagined doing anything else until Notre Dame's provost asked him to launch a new university-wide academic center, the Fitzgerald Institute for Real Estate. The work involved collaborating with deans across the institution, hiring faculty, recruiting students, forming an advisory board, fundraising, and more. And it was a turning point.

Though he admits he wasn't "on the dean market" when an email landed in his inbox about a job at the University of St. Thomas School of Law in Minnesota, Kelly pored over the opportunity, impressed by the school's mission and intrigued by the prospect of influencing the lives of students on an even wider scale. It helped that the former dean, who had been named president of the university, was also a Harvard Law School alum. "I have a huge admiration for Rob Vischer ['96]; he did a great job as law dean, especially during some tumultuous times when all law schools were under budget pressure ... now he is a tremendous ambassador for the entire university."

Similarly, Kelly had no intention of leaving St. Thomas only two years into his tenure. But when the Scalia job opened up, he realized it was a match for his background and expertise, and his desire to influence the legal profession and legal policy on a national level.

"I am doubling down," says Kelly, "on law and economics because

of Scalia Law's strong reputation and the excellent work of our Law & Economics Center." The center and its faculty are nationally renowned for their programs in judicial education, he says, as well as workshops for state attorneys general and solicitors general. The programs focus on fundamental principles of law and economics and their application to new and emerging issues, from antitrust and artificial intelligence to federalism and mass tort litigation.

Moving forward, his priorities include figuring out the best ways to approach artificial intelligence. "I think AI and the ethical use of AI, and how it is affecting the legal profession, are huge topics, not only in the law but also for business and innovation, investors and allocators of capital," says Kelly, who wants to integrate AI and other emerging technologies into the curriculum while continuing to cultivate "critical thinking, judgment, intuition, writing skills, and the ability to provide ethical advice for clients."

He is also focused on bolstering the school's programs in administrative law, constitutional law, and national security and on countering the current polarized political climate by continuing to promote civil discourse. He believes that the relationship between Scalia Law's namesake, Justice Antonin Scalia '60, and Justice Ruth Bader Ginsburg '56-'58 can serve as a model for the latter.

"They had different judicial philosophies and often disagreed strongly. Yet they were close friends; they respected each other as colleagues and as human beings," Kelly says. "We encourage students to bring their robust, principled views based on what they believe law and policy should be. But you have to do it in a civil way, where we hear each other's arguments, both in the classroom and in the courtroom."

Arianne de Govia takes over as president of the Harvard Law School Association

Bridge Builder



BY REBECCA BEYER

Several years into her career as an intellectual property and technology law attorney, **Arianne de Govia '01**, an avid reader and writer who had considered journalism before law school, went back to school to earn her master's degree in fiction at Johns Hopkins University.

A creative writing program was the last place she thought she'd run into a fellow HLS graduate, yet one of her most influential professors in the program was Brad Leithauser '80, a poet and novelist whose work has appeared in The Atlantic and The New Yorker.

"He was a wonderful mentor," de Govia says, adding, "you never know where you're going to run into alumni."

In her new role as president of the Harvard Law School Association, de Govia — who continues to practice law at the firm she co-founded more than a decade ago and still dabbles in fiction — hopes to facilitate that same sense of connection and rediscovery for her fellow alumni around the world. Some of her goals over the next two years include hosting and supporting gatherings for a wider range of communities and

PHOTOGRAPH BY LORIN GRANGER

providing timely professional development programming that addresses cutting-edge issues in the profession, such as the use of artificial intelligence.

"I am interested in building bridges," de Govia says. "Our common humanity is always something I am focused on. We may have many differences, and we do, but bringing people together to find unexpected connections — facilitating that has been a joy in my life."

De Govia comes by those qualities naturally. Born and raised in the dual-island nation of Trinidad and Tobago, she grew up around people of all cultures — her own family's roots are a case in point: Her maternal grandfather came to Trinidad from Madeira, Portugal; her maternal grandmother, who was taken out of school at the age of 8 to help support her family, was Cocoa Panyol, a name for people of African, Spanish, and South American descent who owned or worked on cocoa plantations.

"I credit my grandmother with making and keeping me very grounded and focused on what truly matters for a good life — for her, it was always family, love, kindness, hard work, and community," de Govia says. "I took notes."

De Govia remained in Trinidad for a year after completing her A-level exams to work in education before coming to the United States, where she majored in economics and English at Barnard College.

Ultimately, she chose to attend law school to "preserve the greatest optionality" in her career, she says.

At Harvard, de Govia was exposed early to the Berkman Klein Center for Internet & Society. She took classes with center co-founder Jonathan Zittrain '95 and worked with Berkman Klein fellow Diane Cabell on domain name- and trademark-related matters. The internet was new at the time — a cause of both concern and excitement on campus as students, faculty, and practitioners wondered how it would change the profession. She decided on technology law, she says, because "it's not boxed in; it's continuously evolving."

"I'm really excited to be coming into the presidency [of HLSA] at a moment of similar transition," she says, noting the widespread adoption of AI in society and the law. "It's the same set of questions: How will these technological advances change our profession? What do we do with these gaps between what the law is and what is happening in the real world?"

De Govia began her career in the newly established IP practice at Fried Frank in Washington, D.C., and, during her time at the firm, worked closely with Daniel Glazer '98, now a partner at Wilson Sonsini. They worked on large M&A transactions but also on helping emerging companies move from the United Kingdom to the United States.

"I credit him with giving me the startup bug," de Govia explains. In 2014, she and another former colleague started their own firm, Freeman Wade, which focuses on early-stage companies. "I really enjoy meeting founders. Helping guide them in those early years is key and uniquely rewarding."

The pair opened their practice with one Fortune 100 client and a few early-stage companies. They grew the business through referrals from former colleagues and clients.

"At the time, much of Big Law did not have a structure for start-up pricing and compensation," she says.

De Govia first became active in the HLSA in 2016 when she attended an event in the D.C. area and met the local chapter president, Juanita C. Hernández '85. De Govia was already primed to receive and reciprocate the benefits of the alumni community: As a student, she was a social chair for the Harvard Black Law Students Association and participated in the first Celebration of Black Alumni.

"It made me feel very much part of an ongoing community — not just the community of people who fell within the square corners of my time at HLS, but people who had gone before," she says. "That is something I hope our alumni get a chance to experience more of."

De Govia ultimately became president of the HLSA club in D.C., where she helped expand programming beyond traditional alumni gatherings to include events focused on mental health and wellness.

De Govia says she wants other alumni to make the kinds of connections she has made through her involvement with the HLSA. She has met some of her closest friends through her volunteer roles, including alumni who graduated in different decades.

In her two-year term leading the HLSA, de Govia says she plans to build on the legacy of past HLSA presidents, including Salvo Arena LL.M. '00 and Judge Yvonne E. Campos '88, as well as Hernández, who is one of this year's recipients of the HLSA Award. During her time on the HLSA executive committee, de Govia has played a key role in streamlining the process for establishing HLSA clubs and shared interest groups. Recently formed entities include a club in Dallas-Fort Worth, the HLSA Jewish Alumni Network, and the HLSA of India. In May, de Govia attended the HLSA of Europe annual reunion in London, and she served on the honorary committee for September's Celebration of Latino Alumni.

"I'm hoping to gather communities that we haven't traditionally gathered," she says.

In September, Arianne de Govia was one of nearly 200 alumni and friends on campus for the Celebration of Latino Alumni.

"I'm hoping to gather communities that we haven't traditionally gathered."

Earl Martin Phalen has dedicated his career to opening doors so that people don't have to live paycheck-to-paycheck

Opportunity Engineer



While still a student at HLS, Earl Martin Phalen founded an after-school education program.

BY LORY HOUGH

Earl Martin Phalen '93 was less than a year into law school when he told a family friend and mentor he had no interest in interning at a firm that summer. He was surprised when the mentor didn't push back and instead encouraged him to spend his summer doing something that felt meaningful and interesting.

That advice led him to Kingston, Jamaica, and a nonprofit called the Jamaica Council for Human Rights, which focused on death-row cases and documenting police brutality. Phalen loved the work, but he also missed his 21 nieces and nephews and wanted to work with children. That led to volunteering at an orphanage, Maxfield Park, the country's oldest children's home.

"And that is where I found my purpose in life," Phalen says. "I was trying to teach this little 5-year-old how to add, and I couldn't do it without telling her

the answer. One of the older scholars said, 'No, take one pencil, take one crayon, now count.' The little girl said, 'One plus one — one, two.' Her eyes lit up and something went off in my soul. At that moment, I knew that I was called to this earth to be involved in education and help many more children like her understand how smart they are."

Ironically, that moment almost halted his own schooling.

"When I came back to Cambridge, I actually thought about dropping out of law school," he says. "I said, 'I'm going to devote every minute to trying to educate children and strengthen communities.'"

That's when his parents intervened.

"They said, 'You finished the first year of law school, the hardest year, and once you have a Harvard degree, that will carry you to great places in the world,'" Phalen says. "I was like, 'Mom and Dad, it's your fault, because you told me tomorrow's not promised and if you find out what you're here to do, go do it.'"

Their counter argument — that he didn't know anything yet about starting a nonprofit or running a business — was enough to convince Phalen to stay in school. Back at Harvard, he shared his interest in working with kids and communities with Bayley Mason, a senior officer in the Harvard Law development office, and with professors like Robert Peterkin at the Harvard Graduate School of Education and Harvard Law's Charles Ogletree '78. "They said, 'Why don't you use your time here at Harvard to build your plan and your vision?'" Phalen says.

So that's what he did — starting outside on the basketball court, where he shot hoops most afternoons with other civic-minded law students, including classmate Barack Obama '91.

"We had great discussions, great debates on political issues, social issues, and obviously the law, but a lot of us felt very selfish," Phalen says. "Here we were enjoying this great platform, this incredible experience, this incredible intellectual environment, and wonderful friendships, but we weren't really contributing."

From those discussions, Building Educated Leaders for Life, or BELL, an after-school and summer education program, was born. Mason gave him a book on how to fundraise, and a few professors started offering guidance. These included Ogletree — who ran a program Phalen attended called Saturday School, designed to support Black students and examine critical issues in the study of the law — and Derrick Bell, whom he approached after hearing him speak a few times on civil and human rights issues. BELL, named after his mentor, eventually grew from a small project with 10 volunteers serving a few dozen students in Boston and Cambridge to a national nonprofit with more than 800 employees serving 15,000 scholars annually in several U.S. cities.

The instinct to help others runs in Phalen's family. Born into foster care, Phalen, who is Black, was adopted into a large, white, Roman Catholic family. His grandfather had spoken out against the "No Irish need apply" bigotry of turn-of-the-century Boston. His mother had dreamed of riding buses south as a Freedom Rider in the mid-1960s — but with seven children at home, she put that dream aside. What she couldn't act on herself, she passed on: a conviction that her kids owed something to those with less.

"My mom would talk constantly about the Good Samaritan — that it's your obligation, if somebody else is down and out, to help," Phalen says. "And not that you're better than them, but sometimes you're feeling strong, and somebody else is feeling weak, and if you see them in trouble, you help."

"At that moment, I knew that I was called to this earth to be involved in education."

Since those early BELL days, Phalen has molded his career around education and job training. In 2009, he founded Summer Advantage USA, another enrichment program, and in 2012, Phalen Leadership Academies (named for his parents), a national network of 22 high-performing public charter schools. A few years ago, he also became CEO of Great Jobs



KC, which supports low- and modest-income students in the greater Kansas City area through college scholarships and career training in high-demand sectors.

Two years ago, another project he started brought him back to Harvard: Skilled US, an Indiana-based nonprofit with locations in seven other states. An extension of his charter schools, the organization provides job training to under- and unemployed adults, along with mentorship and life skills workshops, including sessions on opening a bank account and dressing for success. More than 90% of participants are still employed a year after landing their first job through Skilled US — and making $24,500 more a year, on average, than they were when they started the program.

In 2024, Skilled US expanded into Massachusetts with a two-year grant from the Harvard & the Legacy of Slavery Initiative, created by Harvard to take accountability for the university's ties to slavery. The initiative's Reparative Grant Program offers seed money to Boston and Greater Cambridge organizations that address systemic inequities affecting local communities. Phalen says the collaboration was a full-circle moment for him.



Phalen (above) working with a student at a school in Cambridge in 1994 and (left) tutoring a young scholar at BELL after-school program in Dorchester.

"Boston is home for me, and Harvard was a critical home for me," he says, noting that his time in law school challenged him academically and offered a strong and diverse Black community where he found important friendships. Law school also gave him lasting skills that he uses every day in his nonprofit work.

"Law school trains you in public speaking, which I've had to use to get people excited about our mission," he says. "It trains you in effective writing and making your case, which I've used to fundraise for my organization. It trains you in taking in an extraordinary amount of information and organizing it, which I do every day as a nonprofit leader trying to advance my organization."

Looking back, Phalen credits this training and his family's helping mindset with allowing him to pursue what he knew early on he was here to do: open doors so that people don't have to live paycheck-to-paycheck.

"We've learned over time how intractable poverty is, and how difficult it is for children to escape. Even the smartest, the kindest, the best kids. Poverty has a very strong gravitational pull," he says. "We're trying to do a comprehensive community uplift through good schools, summer learning, college scholarships and support, and workforce development opportunities for families to get out of poverty. That's how it all ties together. In the end, we're all trying to attack this thing called poverty."

"We're all trying to attack this thing called poverty."

(TOP, LEFT) PAT GREENHOUSE/THE BOSTON GLOBE VIA GETTY IMAGES

(continued from page 2)

INTERNET, NOT WEB

The article "We don't know what the risks are" ["Inside HLS," Spring 2026] opens with a reference to the release of the Morris worm on ARPANET in November 1988 and goes on to remark that it "infected thousands of computers on the fledgling World Wide Web."

To be precise, the World Wide Web did not exist at the time that the Morris worm was released. It was a year later, in 1989, that Tim Berners-Lee first wrote a proposal at CERN to build a protocol (HTML) to represent hypertext documents and another protocol (HTTP) to exchange documents between internet nodes. An implementation of these protocols and ancillary software was made available to the public in August 1991. The web browser created to display and edit these documents was called WorldWideWeb; the name caught on.

TOMAS ARANGO '24

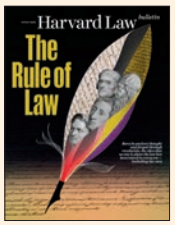
Editor's Note: We did misuse the term World Wide Web and should have instead called it the "fledgling internet." Thanks for the catch!

DOUBLE DISTINCTION

The Bulletin's article "Degree of Distinction" [Spring 2026] was interesting but, I think, mistaken as to President Rutherford B. Hayes' Harvard law degree. He was born a few miles from where I now live and got his LL.B. the way most of us did — by actually attending the law school! Prior to Civil War military service that launched him onto a political career, he was a successful lawyer practicing in Ohio.

ALAN J. DAVIDSON '63

Editor's Note: President Hayes did indeed receive a traditional law degree from Harvard, but he also received an honorary one — a double degree of distinction, one might say.



"I came to view the judge and her staff as my second family, some of whom I have remained in contact with ever since."

10/10 WOULD RECOMMEND

I'm not sure what you've done, or maybe it is just me, but I found this [Spring 2026] edition to be rock solid and impossible to put down. Thanks.

HENRY KLAIMAN '64

A LIFE-CHANGING CLERKSHIP

I read with great interest the article about judicial clerkships ["A Legal Training Ground," Spring 2026]. The article resonated with my own experience as a judicial clerk, and I thought I would share some of the reasons that experience was a life-changing period for me.

In 1983-84, I had the privilege to clerk for Hon. Zita L. Weinshienk (HLS '58), of the U.S. District Court for the District of Colorado, in Denver. Following a lengthy and distinguished tenure as a Colorado state court trial judge, Judge Weinshienk was appointed to the federal bench in 1979 by President Jimmy Carter, becoming the first woman to serve as a U.S. District Court judge in the state's history.

During my 2L year, I applied for a few judicial clerkships. All of the positions were located in western states, because I wanted to live "out west." After I finished with my classes and exams, I drove cross-country to take a summer associate position with a law firm in Los Angeles. I stopped off in Denver so I could interview with the judge, her law clerks, and her courtroom staff. While I genuinely and thoroughly liked the judge and everyone else I met, little did I know that my one-year clerkship with the judge would result in her becoming a lifelong mentor, great friend, adviser, and confidante. In short, the judge became one of the most influential women in my entire life.

Judge Weinshienk took a risk in offering me the clerkship, because I was East Coast-born, -bred, and -educated. I had no direct connection to the state. But she must have sensed something, because by the time my clerkship ended, I had become a Colorado citizen and accepted an offer to join a major Denver law firm.

I came to view the judge and her staff as my second family, some of whom I have remained in contact with ever since. In fact, Judge Weinshienk's law clerks were collectively so fond of the judge and her staff that a clerk-alumni group known as the "Z-Team" was founded. For many years, the Z-Team held annual reunions, usually at the judge's house.

There was another, unfortunate, reason the judge and I became lifelong close friends. I had only been a clerk for a few months when the judge's husband passed away from a cancer that had remained undetected until it was terminal.

Less than one month later, my youngest sister died in a horseback riding accident in the Chicago area. Even though Judge Weinshienk was still grieving herself, she did not hesitate to provide me with the sympathy, comfort, and support I needed while my sister lingered in a coma that lasted three weeks before she passed.

My clerkship caused me to move to Colorado. But Judge Weinshienk caused me to fall in love with the state and its people. To this day I still think of Colorado as my second home state, where I developed and still cherish some of the best friends of my life.

For these and many other reasons, I am eternally grateful to Judge Weinshienk for hiring me as a clerk. She passed away in the fall of 2022, and I will always miss her.

CURT KRECHEVSKY '82

Class Notes



Once a month for years, wrote **Barry White '67**, "a half dozen 1967 classmates met in Boston for lunch." When COVID-19 "knocked [the gathering] on its head," they moved their meeting to Zoom. New York alums soon joined, and today, nearly 25 classmates from across the country meet each week for conversation and HLS remembrances. As one classmate said: "[I]t has been an unexpected gift of the good kind." (See full class note on page 63.)

ILLUSTRATION BY DOMINIC KESTERTON

1956

➔ 70TH REUNION OCT. 23-25, 2026

1958

MICHAEL L. WEISSMAN remains busy in retirement, having recently served as a panel arbitrator for the Financial Industry Regulatory Authority, conducted a four-day Zoom class for ProSight Financial, and delivered numerous lectures at retirement facilities throughout the northern suburbs of Chicago.

1960

CORDELL J. OVERGAARD wrote that he published a nonfiction book titled "Watching Things Change": "The book covers part of my upbringing, my legal and business career, as well as changes that have occurred with the legal profession, newspaper publishing, and radio. It is also critical of the Supreme Court and our political system as well as problems such as income and wealth inequality and inadequate health care. There is a website at Watching Things Change." Overgaard added that he also appears on an Elsa Kurt YouTube podcast.

1961

➔ 65TH REUNION OCT. 23-25, 2026

1966

➔ 60TH REUNION OCT. 23-25, 2026

1967

COLIN MCNAIRN LL.M. has published his ninth book, "Sports Talk: How It Has Penetrated Our Everyday Language" (2d).

BARRY WHITE wrote: "Many years ago, a group of about six to eight 1967 HLS classmates in the Boston area got together for an in-person lunch once a month. The in-person luncheon arrangement was knocked on its head by COVID-19. We then decided to move to a Zoom meeting. Don Leka, who had a Zoom account, volunteered to act as host and set it up. We began weekly Zoom sessions at lunchtime.

Then a classmate from New York contacted Don and asked if he and his New York luncheon group of 1967 classmates could join on Zoom. Of course, Don and the rest of our group welcomed them. Before very long, via word of mouth, our geographical presence included New York, Philadelphia, Delaware, Alabama, Chicago, San Francisco, Maine, and Hawaii.

Since then, we have met every week at noon for at least one hour, now on every Monday. The group averages 20 to 25 participants each week, and new members continue to find us. Don, as the host, sends out a weekly notice and facilitates the order of speakers. Some of the participants knew each other from law school days, but many made new acquaintances on the Zoom sessions. Everyone is encouraged to participate in the conversations or just listen to others. The group itself decides the topics, which have ranged from what is going on in the world, to politics, to economics, to current and past life experiences, to what books and movies we have enjoyed, to sports, to what is going on at HLS, to what interesting things participants are doing, and to remembrances of our days at HLS, etc.

People are at ease during these sessions and very little ego slips in. We enjoy being together, sharing in humor, the vigor of our remarks, and our community of warmth and trust. Everyone's viewpoint is considered and respected, at least most of the time, anyway. Several members of our group have expressed the importance of our meetings in their schedule, and how much it has meant to know and connect with classmates, many of whom they did not know at HLS. Don has expressed what I think may be the view of many in the group: It has provided him with the gift of a late-blooming pride in HLS and his classmates, something that was lacking in his life before we began the Zoom sessions. He noted that it has been an unexpected gift of the good kind."

1969

COLLINS FITZPATRICK wrote: "It has been a good year. At the 44th Annual Law Society Luncheon of Saint Ignatius College Prep, I was awarded the Alumni Award for Excellence in the Field of Law. The Seventh Circuit Bar Association, at their Annual Dinner, gave me an Award for Lifetime Service to the Association. And on my fourth 70-mile bike Pat Mac Ride to raise money for pediatric cancer, I rode with our second son and oldest granddaughter. Next year we will have more Fitzpatricks ride."



"On my fourth 70-mile bike Pat Mac Ride to raise money for pediatric cancer, I rode with our second son and oldest granddaughter."

1971

➔ 55TH REUNION OCT. 23-25, 2026

1973

TIM GREANEY's second novel, "Taking Up Life in Both Hands," was published by Koehler Books in June, and a review appeared in the July 21 Literary Titan. Both this new book and his 2023 novel, "a satire on law teaching" titled "St. Sebastian School of Law," are available on Amazon and Kindle. Greaney is a research professor at UC Law San Francisco (formerly UC Hastings College of Law) and Chester A. Myers Professor Emeritus at Saint Louis University.

In a campus ceremony in February, **SCOTT W. STUCKY** was inducted into the Hall of Fame of the Fairmount College of Liberal Arts and Sciences at Wichita State University. Stucky graduated from Wichita State in 1970 with a B.A. in history, summa cum laude. He is a senior judge of the United States Court of Appeals for the Armed Forces in Washington, D.C.

1976

➔ 50TH REUNION OCT. 23-25, 2026

1977

CORY AMRON was selected by the American Bar Association for a 2026 Margaret Brent Women Lawyers of Achievement Award. Amron is co-founder and president of Women Lawyers On Guard Inc., a national nonprofit organization focused on sexual harassment, gender and workplace equity, and women's health and reproductive rights. She retired from her intellectual property practice



Pardon Our Dust!

Austin Hall gets a historic refresh

Since June, the Harvard Law School Facilities Management Office has been restoring the roof of historic Austin Hall, salvaging up to 25% of its original Monson black slate.

Constructed in 1883, Austin Hall — commissioned by then–Dean Christopher Columbus Langdell LL.M. 1854 and designed by architect Henry Hobson Richardson — was the first building erected on the HLS campus and remains one of the oldest continuously operating buildings in the United States for teaching law.

The project will also restore architectural details documented in early drawings and 19th-century photographs. Sharp-eyed passersby may spot new copper detailing on the roof and sides, along with other features that have been returned to their original color and shine.

LORIN GRANGER

Howard A, Learner was recognized for his successful federal court litigation on behalf of Chicago Southeast Side community organizations to stop the Army Corps of Engineers' proposal for a new toxic waste disposal landfill.

SCAN THE QR CODE

To read more about the history of Austin Hall.

at Vorys, Sater, Seymour and Pease, where she was the first chair of its newly formed technology and intellectual property group and the first woman member of the Partner Compensation Committee.

1979

BARRY GRAYNOR recently published a book titled "April 13" to commemorate the 10-year anniversary of the death of his life partner, Renato, who committed suicide on that day in 2016. The book is about his suicide, what happened, and why. It is also about Barry and Renato's loving and committed 35-year relationship. The book follows an earlier book on Renato's drawings and paintings titled "The Drawings and Paintings of René Martinez Peña," published in 2018.

1980

HOWARD A. LEARNER received the U.S. District Court for the Northern District of Illinois' and Federal Bar Association's 2026 Pro Bono and Public Interest Award from Chief Judge Virginia Kendall at a ceremony in May. CEO and senior attorney of the Environmental Law & Policy Center in Chicago, Learner was recognized for his work as lead counsel in successful federal court litigation on behalf of Chicago Southeast Side community organizations to stop the Army Corps of Engineers' proposal to site a new toxic waste disposal landfill along the Lake Michigan shoreline in the Southeast Side environmental justice community that has long been overburdened by toxics pollution. In November 2025, he and his community group clients joined the Chicago Park District superintendent and other leading public officials to announce plans to remediate and transform the site into a new lakefront park for community residents and all Chicagoans to use and enjoy.

1981

→ 45TH REUNION OCT. 23-25, 2026

ROBERT GEORGE, McCormick Professor of Jurisprudence at Princeton, and

his teaching partner Cornel West have been named Distinguished Scholars of Civil Discourse by the National Humanities Center. The two are co-authors of "Truth Matters: A Dialogue on Fruitful Disagreement in an Age of Division."

1982

In April, **JOSÉPHINE MOERMAN LL.M.** became chief justice of the Constitutional Court of Belgium.

DAVID J. SEIPP, who retired as professor of law emeritus at Boston University in July 2024, is writing a volume of the Oxford History of the Laws of England for the period 1399 to 1483. In June, he delivered the annual lecture to the Selden Society, a society and publisher devoted to English legal history. The lecture was titled "Looking for the Rule of Law in Fifteenth-Century England."

1985

TAMA KIEVES wrote that she left her law practice with a corporate law firm to write, speak, and "coach others to live their most meaningful self-expression in career and life." She has just published her fifth book, "Learning to Trust Yourself: Breaking Through the Blocks That Hold You Back" (St. Martin's Essentials), and it became a #1 Amazon bestseller. She added, "Today I speak internationally and teach classes online helping lawyers and other high-achievers trust their inner genius instead of their limiting assumptions."

JESSICA NEUWIRTH has published an updated book on the Equal Rights Amendment, "Equal Means Equal: The Case for Recognizing the ERA as the 28th Amendment." She wrote, "The book includes a detailed letter from **LARRY TRIBE ['66]** as one of its appendices, supporting the case — as does the ABA, whose resolution on this is also in the appendices." Neuwirth is the Rita E. Hauser Director of the Human Rights Program at Roosevelt House/Hunter College. She is also a co-founder of the ERA Coalition.



"I recently wrote and illustrated a book called 'Injury Blues and the Red Running Shoes,' a story of resilience, perseverance, and the joy of running, as a runner makes his way back from injury."

1986

➔ 40TH REUNION OCT. 23-25, 2026

This year **SANDY GRANNUM**, a business litigation partner at Faegre Drinker Biddle & Reath, became the Florham Park, New Jersey, office leader. Concentrating on securities law and the securities industry, she represents clients including issuers, banks, brokerage firms, and hedge funds.

DAN SCHLESINGER wrote: "I recently wrote and illustrated a book called 'Injury Blues and the Red Running Shoes,' a story of resilience, perseverance, and the joy of running, as a runner makes his way back from injury. It's the perfect pick-me-up for anyone dealing with the 'Injury Blues' or a gift book for a beloved injured friend. All proceeds are going to the charity Freedom from Torture, which gives clinical psychiatric care to survivors of torture. I'd love to hear from my classmates about the book or about themselves. Wishing everyone the best!"

1989

After chairing Paul Hastings' employment practice in New York, **MARC BERNSTEIN** has become the head of employment at Wollmuth Maher & Deutsch.

SALLY HADDEN, a professor of history at Western Michigan University, received the Fulbright-University of Manchester Distinguished Scholar Award (Humanities) for 2026-2027. She will use the award to begin drafting a new book on early American legal history.

1990

LARS NOAH, a professor of law at the University of Florida in Gainesville, wrote: "I was recently named the most impactful food and drug law scholar in the nation based on citation-based rankings compiled by HeinOnline and also ranked #15 on that site's list of health law scholars."

1991

➔ 35TH REUNION OCT. 23-25, 2026

1996

GLEN L. ABRAMSON has joined Blank Rome in Philadelphia as of counsel in the business litigation practice group. His practice focuses on issues at the intersection of technology and law, including privacy, artificial intelligence, biometric data, and digital surveillance.

1997

➔ 30TH REUNION APRIL 9-11, 2027

1998

CHARLES COBLE is a mediator and partner in the litigation and complex business dispute mediation practices at Brooks Pierce in Raleigh, North Carolina. At the firm since 1999, he has litigated complex business disputes at the trial court and appellate levels.

1999

ROBERT W. GIFFORD has joined Phelps in Dallas as a partner. He works with businesses and financial institutions across Texas and the southwestern United States in federal and state courts. Often these are plaintiffs seeking to recoup losses from fraud, professional negligence, and other serious commercial misconduct. He was previously with the former boutique Johnston Clem Gifford.

ROSS E. VISELMAN, a former State Bar of California prosecutor who also served as senior counsel for the Los Angeles Dodgers, has joined BD&J in Los Angeles as chief legal and ethical compliance officer and general counsel.

2000

LOREN KESSLER HIGGINS was named executive partner of Holland & Knight's San Francisco office earlier this year and also co-leads the firm's health care finance team. Her practice focuses on real estate and health care finance.

2001

DAVID BIGGE wrote: "In January 2026, I resigned from the U.S. Department of State's Office of the Legal Adviser to join Wordstone Dispute Resolution as a partner and open its Washington, D.C., office. My 16 years at State was incredibly fulfilling, as chief of investment arbitration, delegate to the U.N. Sixth Committee and UNCITRAL Working Group III, U.S. agent to the Iran-U.S. Claims Tribunal, and deputy agent and counsel for the United States at the International Court of Justice, among other portfolios. I'm thrilled to join Wordstone to continue my work in investment arbitration, commercial arbitration, interstate disputes, and public international law."

2002

➔ 25TH REUNION APRIL 9-11, 2027

Brinkley Morgan partner **JODI FURR COLTON** is now chair of the firm's Family Law Department and leads its family law practice, which serves clients and families throughout South Florida. She focuses exclusively on complex family law matters, including divorce, equitable distribution, parental responsibility (i.e., custody), and prenuptial agreements. She previously practiced at large firms in New York, Philadelphia, and Minneapolis.

SHVETA KAKAR LL.M., a partner in the Taxation and Wealth Planning Department at Fox Rothschild, was honored by Crain's New York Business as an attorney who is "leading the work that keeps systems functioning and rights protected" in New York. She was touted for her efforts advising The City College of New York on the merger of its two longstanding and separate foundations into a single entity, the new Foundation for City College. At Fox Rothschild, she provides counsel on all aspects of a nonprofit's life cycle, from incorporating and obtaining tax-exempt status, to governance, compliance, and transactional matters covering major events in corporate life. She also conducts investigations and litigates on their behalf.

"I'm thrilled to join Wordstone to continue my work in investment arbitration, commercial arbitrations, interstate disputes, and public international law."

LAUREN KELLER KATZENELLENBOGEN has joined IP boutique Friedland Cianfrani in Irvine, California, as a senior litigation partner. She continues to focus her practice on patent, trademark, trade secrets, and copyright litigation. Friedland Cianfrani was co-founded by **MICHAEL FRIEDLAND '91** in 2023.

BRADLEY NASH was elected as a fellow of the American College of Coverage Counsel, an association of insurance coverage attorneys. A partner at Hoguet Newman Regal & Kenney in New York, he represents corporate policyholders in high-stakes insurance coverage disputes and other parties in complex commercial litigation.

Earlier this year **JASON RABBITT-TOMITA** joined Shartsis Friese as a partner in the corporate group. Prior to that, he'd been head of M&A legal for Broadcom Inc. He has led M&A and related transactions across the technology spectrum, including those involving artificial intelligence, cloud-based security services, drones, and video technologies.

2007

➔ 20TH REUNION APRIL 9-11, 2027

Tribal attorney **ETHEL BRANCH** has joined Miller Nash as special counsel. Based in the firm's Seattle office, she advises tribal governments and enterprises on legal, goverance, and business matters, including those involving sovereignty, government operations, economic development, gaming, and taxation. Prior to joining Miller Nash, Branch served as the 11th and 13th attorney general of the Navajo Nation, where she led efforts to protect water and voting rights and



HARVARD LAW SCHOOL HISTORICAL & SPECIAL COLLECTIONS

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Class notes may be edited for length and clarity.

enhance public health and safety, and also as deputy county attorney with the Coconino County (Arizona) Attorney's Office.

2008

MEGAN L. GREER joined the Washington, D.C., office of Bracewell this summer as a senior counsel in its government enforcement and investigations practice. Previously, she'd spent more than five years at the FBI, leading the agency's congressional oversight response and serving in senior litigation roles in the Office of the General Counsel. She also spent a decade as counsel in an international law firm's congressional investigations and litigation practice. In another position in the U.S. Department of Justice's Office of Legislative Affairs, Greer led the department's oversight response following the 2018 midterm elections.

2011

MICHELE "MIKE" MATERNI LL.M. S.J.D. '16 is now a partner at Brithem, a New York-based trial firm founded in September 2025, where he focuses on high-leverage financial litigation and investigations. Before joining Brithem, he practiced at Sullivan & Cromwell in New York.

2012

➜ 15TH REUNION APRIL 9-11, 2027

"I am proud to have completed eight years(!) in service to Georgia's eighth largest school district," wrote **ERICA ELIZABETH (HARRISON) ARNOLD**, "serving more than 41,000 students, expanding across 55 school and program campuses, and operating under a $700M public budget." In this time, Arnold added, she has served as an in-house attorney under three board-appointed superintendents of schools and guided 19 chief officers and deputy superintendents, more than 25 departments, and some 220 administrators through evolving regulatory and political landscapes. She wrote that her primary responsibilities continue to include compliance with equal educational opportunity/

"I am proud to have completed eight years (!) in service to Georgia's eighth–largest school district serving more than 41,000 students."

SCAN THE QR CODE
To watch a video of O'Neill in action.



2026 Olympian Sean O'Neill at practice

LORIN GRANGER

No Limits

A litigator's journey to the Paralympics

Four years after discovering a love — and skill — for curling, SEAN O'NEILL '15 was selected as a member of USA's wheelchair team and traveled to Italy to compete at the 2026 Milano Cortina Paralympics. The team did not medal, but the trip marked an achievement he once hadn't thought possible.

O'Neill says he sees clear parallels between curling and his work as a litigator at Anderson Kreiger in Boston. Like practicing law, curling requires athletes to think strategically, recognize patterns, and attend consistently to details. Success also depends on close collaboration: Every shot is a partnership between the curler and a teammate who helps direct the throw.

Preparing for the Games while practicing law meant moving between hours of training and long stretches spent writing briefs. But O'Neill says the two pursuits reinforced each other.

O'Neill says his time at Harvard Law School was an important milestone in his Paralympic journey. Succeeding at HLS, after a 2007 car accident left him paralyzed from the waist down, gave him the confidence to pursue goals he had not previously considered attainable — and to recognize that "anything that I had wanted to do before, I can still do in a wheelchair," he says.

A Medal-Worthy Case

Thanks to HLS alums, Jordan Chiles may reclaim her Olympic win



Olympian Jordan Chiles with her medal



SCAN THE QR CODE
To read the full story.

RICHARD ALLEMANN LL.M. '22 and **STEFANIE PFISTERER LL.M. '12** recently represented U.S. gymnast Jordan Chiles before the Swiss Federal Supreme Court as she sought to reclaim the bronze medal she won at the 2024 Paris Olympics. Chiles placed third in the women's floor exercise final after her coach successfully challenged an element of her difficulty score, adding one-tenth of a point to her overall score.

Several days later, Romanian gymnasts argued that the coach's challenge had missed the required 60-second window. An arbitration panel agreed, moving Chiles back down to fifth place. However, later footage appeared to show that Chiles' coach had made the inquiry on time. The panel declined to consider this, saying the evidence arrived too late.





Allemann and Pfisterer argued that Chiles had not been properly notified of the proceedings. They also maintained that the recording qualified as outcome-determinative evidence under Swiss arbitration law.

The case will now be reviewed, and if the evidence confirms that the challenge was timely, Chiles — who recently announced she will attempt a return to Team USA for the 2028 Summer Olympics — could regain the fraction of a point needed for bronze.

For Allemann and Pfisterer, though, the case represents more than a medal.

"Athletes are entitled simply to the same basic fairness and due process that anyone else expects when their dream and entire career is on the line, and when they have followed all the rules," Allemann says. "Jordan's persistence and her willingness to continue fighting for this medal and for fairness in the end has truly mattered."

(TOP, LEFT) DAN MULLAN/GETTY IMAGES; (BOTTOM, LEFT) MEDIANEWS GROUP/PASADENA STAR-NEWS VIA GETTY IMAGES

nondiscrimination laws, student privacy protections, public contracting, due process safeguards in disciplinary proceedings, and the interplay of special education rights under IDEA and Section 504 with day-to-day operational practices. She shared her "most notable professional events" as designing and navigating Return to Campus playbooks and operational stabilizations during the COVID-19 pandemic followed by problem-solving in the face of a cyberattack from an international threat actor. Arnold continues to raise a family in Atlanta and says her most fond travels have included Chongqing, China; literary England (Bath); southern South Carolina (Hilton Head); and her new favorite, Curaçao.

2013

MAURENE COMEY has joined Patterson Belknap as a partner in its litigation department. She focuses her practice on high-stakes white-collar defense and investigations and complex civil litigation. Prior to joining Patterson Belknap, Comey spent almost a decade as an assistant U.S. attorney in

the Southern District of New York, where she most recently served as senior trial counsel.

ANKITA RITWIK has been a new partner at Gibson, Dunn & Crutcher in Washington, D.C., this year, focusing on international arbitration and arbitration-adjacent litigation, including enforcement of foreign arbitral awards and judgments.

2014

ELIZA FINLEY has been promoted to partner at Susman Godfrey in Los Angeles. She represents plaintiffs and defendants in complex litigation, clients ranging from large, well-known corporations to small businesses and individuals. Finley joined Susman Godfrey after completing an Equal Justice Works fellowship at the nonprofit law firm Public Counsel, where she provided free legal assistance in the areas of housing rights, benefits, and special education.

JEREMY KREISBERG is now a partner at Munger, Tolles & Olson, where he focuses his practice on appeals and complex litigation. He has represented commercial and government entities in high-profile litigation before trial courts and appeals courts, including the U.S. Supreme Court.

MATTHEW MCCULLOUGH has joined Faegre Drinker's intellectual property group as a partner in the San Francisco office. He represents clients in intellectual property litigation, with a focus on high-tech patent and trade secrets litigation involving technologies such as AI, cloud services and infrastructure, telecom, and network security.

Earlier this year **ABRAHAM RUDY** was promoted to partner at Fried Frank. He represents borrowers and sponsors, as well as lenders and arrangers, in a wide variety of financing transactions, focusing on financings for private investment funds.

2015

DAVID W. CASAZZA is a partner in the appellate and constitutional law practice at Gibson, Dunn & Crutcher in Washington, D.C.

Lawrence David wrote "Stare Decisis, The Charter and the Rule of Law in the Supreme Court of Canada," based on his HLS LL.M. thesis.

J. MAX ROSEN, a partner at Munger, Tolles & Olson, focuses his practice on commercial litigation, including mass tort litigation, strategic advising, insurance, and appeals. He also maintains a significant pro bono practice focused on LGBTQ+ rights.

2016

ODYSSEAS G. REPOUSIS LL.M. joined Sterlington in the spring as a partner in its litigation and arbitration practices. He advises shareholders, institutional investors, governments, and multinational companies on commercial disputes spanning shareholder and special situations matters, complex financial claims, and cross-border litigation and arbitration. He joined Sterlington from Quinn Emanuel, where he was a senior lawyer advising on international disputes.

2017

➜ 10TH REUNION APRIL 9-11, 2027

TRENTON J. VAN OSS has been a partner at Gibson, Dunn & Crutcher in Washington, D.C., since earlier this year. He is an appellate litigator who focuses on subject matters including data privacy, class actions, securities, and telecommunications.

2018

After graduating from HLS, **LAWRENCE DAVID LL.M.** returned to practice law with Canada's federal Department of Justice and, later, the Senate of Canada. David also began teaching law at the University of Ottawa's Faculty of Law, in addition to authoring "Stare Decisis, The Charter and the Rule of Law in the Supreme Court of Canada" (LexisNexis, 2020), based on his LL.M. thesis. He has since entered private practice and also founded the Public Interest Litigation Institute, specializing in appellate public interest litigation. He has appeared as counsel in 10 appeals heard by the Canadian Supreme Court, in addition to various Canadian trial and appellate courts, litigating in both English and French.

CAYMAN C. MITCHELL was elevated to partnership at Jenner & Block in New York on Jan. 1, 2026. They focus on legal issues involving software and other technology, with a core practice of intellectual property disputes, and represent clients in the entertainment and technology industries — including video game developers, software developers, and record labels. Mitchell's pro bono practice includes litigating on LGBTQ+ rights, reproductive rights, and copyright.

2020

TING CHEUNG LL.M. is now senior litigation counsel at Sanford Heisler Sharp McKnight. She works in the Washington, D.C., office and focuses her practice on employment law, whistleblower and *qui tam* matters, and complex civil litigation, including wrongful death and sexual violence claims. Since 2020, she has served as an expert for the World Bank Group's Women, Business and the Law project. She was an East Asian Legal Studies Visiting Scholar at HLS from 2020 to 2022.

2021

RILEY WORRELL is an associate in both the litigation and dispute resolution and the government and special investigations practices at Woods Rogers in Roanoke, Virginia. He provides strategic solutions to businesses and individuals facing complex civil litigation and government investigations. Previously, Worrell was an assistant U.S. attorney in the Western District of Virginia, where he served as lead counsel in civil fraud investigations.

2022

➜ 5TH REUNION APRIL 9-11, 2027

2026

MALORIE KANAAN LL.M. was awarded a Clarendon Scholarship from the University of Oxford to pursue a D.Phil. in law at The Queen's College.

Pioneering tax scholar and beloved teacher

Daniel Halperin: 1937–2026

Daniel Halperin, the Stanley S. Surrey Professor of Law Emeritus at Harvard Law School and one of the country's foremost authorities on federal income taxation, died on May 12, 2026, at the age of 89. A 1961 graduate of Harvard Law School, Halperin spent more than four decades shaping how lawyers, scholars, and policymakers think about the tax system and how it ought to work in the service of ordinary people.

Born and educated in New York City, Halperin was a product of the public schools and graduated from City College of New York before earning his law degree at Harvard. He began his career in private practice in New York, but it was his work at the intersection of tax law, policy, and scholarship that would define his legacy. He served twice in the Office of Tax Policy at the U.S. Treasury Department, from 1967 through 1970 and again from 1977 through 1980, the latter stint including service as deputy assistant secretary for tax policy.

Halperin played a key role in the development of the Tax Reform Act of 1969, as well as in President Lyndon B. Johnson's initial bill for pension security, which would evolve into the historic Employee Retirement Income Security Act of 1974. When he returned to the Treasury in 1977, first as tax legislative counsel and then as deputy assistant secretary, he was instrumental in the formulation of President Jimmy Carter's 1978 tax reform proposals, some of which were



PHOTOGRAPH BY STEVEN RUBIN



Throughout his long career, Halperin was known for two attributes: his analytical sophistication and his generosity.

enacted in the bipartisan Tax Reform Act of 1986.

His academic career was equally distinguished. He taught at the University of Pennsylvania and Georgetown Law School before returning to Harvard in 1996 as the Stanley S. Surrey Professor of Law, a chair that carried particular meaning for him, since Surrey had been his own teacher and mentor. He would hold that position until his retirement from teaching, and he never really stopped working. He published his final article in March 2026, revisiting and updating his seminal 40-year-old analysis "Interest in Disguise: Taxing the Time Value of Money" — a fitting coda for a scholar whose contributions to that subject helped to reshape the field.

Halperin's research fundamentally changed how policymakers and academics understand retirement savings, deferred compensation, and the design of tax expenditures. But his scholarly interests were never merely technical. He believed deeply that the tax and retirement systems had a moral dimension — that people who worked hard deserved to retire with security and dignity, and that a fair and equitable tax system was essential for a just society. That conviction animated everything he did, from his Treasury work to his writing to his many years of service as a board member, and eventually vice chair, of the national Pension Rights Center.

"No matter how difficult the problem, Dan was usually the first to see a solution."

Throughout his long career, Halperin was known for two attributes: his analytical sophistication and his generosity, said Alvin Warren Jr., Harvard Law School Ropes & Gray Professor of Law Emeritus.

"No matter how difficult the problem, Dan was usually the first to see a solution (or why a solution may be impossible)," said Warren. "This sophistication was always coupled with remarkable generosity. When congressional staffers, young law professors, or law students asked for his help in understanding some difficult question, Dan was never too busy to provide the requested assistance."

As impressive as Halperin's scholarly and public service accomplishments were, they do not adequately capture his immense contributions to Harvard Law School, noted Dean John Goldberg, Morgan and Helen Chu Dean and Professor of Law.

"He was a devoted and beloved teacher and mentor who engaged constructively and seriously with his students' ideas," Goldberg said. "Generations of students remember him not only for the rigor of his courses, but for his warmth, humor, and genuine interest in their lives and careers. For his colleagues, he was a model of integrity, public-spiritedness, and intellectual honesty — someone whose judgment was trusted instinctively and whose door was

always open."

As a professor, Halperin was particularly proud of the students who went on to become scholars, teachers, and tax lawyers themselves. He hoped they would carry forward not only the intellectual rigor he modeled but also his commitment to ensuring that the tax and retirement systems served everyone, not just the wealthy and powerful.

Blaine G. Saito '12 recalled when Halperin personally reached out to him to encourage him to attend Harvard Law School after he was accepted. Halperin went on to become Saito's mentor, ultimately steering him toward a career in academia.

"Dan always was patient and a thorough reader. He was sharp and critical but never mean. He wanted to bring out the best in my work, and he encouraged me to think in new ways," said Saito, now a professor at Michael E. Moritz College of Law in Columbus, Ohio. "When one talked to his peers, they not only mentioned him as brilliant, but always as a mensch who revered others. ... We students are his legacy. We revere him. And we will sorely miss him. May his memory be for a blessing."

Editor's Note: The information in this memorial piece draws from multiple sources, including a family obituary and a tribute published in Harvard Law Today to commemorate Halperin's 2015 retirement from Harvard Law School.

1940–1949

SIDNEY M. GEWANTER '49
Dec. 13, 2025

1950–1959

ERWIN I. GRANT '51
May 13, 2026

MORTON J. MARKS '51
March 10, 2026

MARVIN SEARS '51
June 27, 2024

HERBERT L. GALANT '52
March 18, 2026

J. ROSS MCGINNIS '52
Jan. 3, 2026

ROLF SLEN '52
May 30, 2026

COLEMAN VOLGENAU '52
June 5, 2026

ROBERT J. WALDRON '52
March 2, 2025

HELEN M. O'CONNOR ANDONIAN '53
Aug. 29, 2024

JESS B. COHEN '53
May 15, 2026

MILTON J. GOTTLIEB '53
Dec. 31, 2025

PAUL C. LAMBERT '53
Jan. 2, 2026

RICHARD L. OTTINGER '53
Feb. 16, 2026

E. DEANE TURNER '53
March 22, 2026

ROBERT A. BLOOM '54
May 5, 2025

JOHN J. COLLINS '54
May 9, 2026

JOHN M. KAHN '54
May 30, 2026

JOHN C. NORTH II '54
Sept. 19, 2025

EVE S. PLOTKIN '54
May 23, 2025

ROBERT H. COLE '55
March 16, 2026

SEYMOUR EFROS '55
Aug. 29, 2025

WILLIAM D. FITZPATRICK '55
Aug. 8, 2025

BERNARD GOLD '55
Nov. 3, 2024

FELIX SAUL JACOB '55
Jan. 31, 2026

LAWRENCE E. LEVINSON '55
Jan. 1, 2026

FRANK PATTON JR. '55
Dec. 2, 2024

HERBERT M. PAUL '55
Jan. 13, 2023

DAVID O. POTTEIGER '55
May 23, 2025

EDWIN F. SCHAEFFER JR. '55
Feb. 10, 2026

NOEL L. SILVERMAN '55
April 14, 2026

ALAN R. TRUSTMAN '55
Feb. 5, 2026

WILLIAM W. WEALCATCH '55
July 12, 2024

JOHN WOOD '55
Jan. 27, 2026

GEORGE F. BASON JR. '56
Sept. 28, 2025

JOHN F. BOHMAN '56
Dec. 1, 2025

CLIVE J. DAVIS '56
June 22, 2026

CHARLES J. QUEENAN JR. '56
Dec. 3, 2025

PETER B. SCHWARZKOPF '56 LL.M. '67
April 27, 2026

RYA W. ZOBEL '56
July 4, 2026

PETER J. ADOLPH '57
Sept. 28, 2025

JOSEPH E. DONAHUE '57
Oct. 3, 2025

CHARLES B. MILLIKEN '57
March 14, 2026

THOMAS R. MOORE '57
Feb. 17, 2026

JOHN D. ONG '57
June 4, 2026

RALPH G. PAGTER '57
Oct. 1, 2025

ROBERT D. PAPKIN '57
May 1, 2026

N. HILTON ROSEN '57
Aug. 9, 2025

SIDNEY A. STUTZ '57
Jan. 1, 2026

GREGORY B. TAYLOR '57
April 2, 2025

BARTON Z. COWAN '58
Nov. 2, 2025

DON D. ETTER '58
Dec. 21, 2025

RICHARD D. FERBER '58
Feb. 3, 2026

RICHARD E. GOLDSMITH '58
March 3, 2026

WILLIAM A. "ANDY" KERR LL.M. '58
April 6, 2026

JAMES M. MACINTYRE LL.M. '58
May 13, 2026

PAUL D. RHEINGOLD '58
Feb. 28, 2026

JOSEPH S. ROSENTHAL '58
Oct. 10, 2024

JOHN H. ZENTAY '58
April 8, 2026

ROBERT M. BUCHANAN '59
April 19, 2026

WILLIAM R. CARPENTER JR. '59
March 9, 2025

SPENCER ERVIN '59
June 11, 2026

NORMAN H. FRIEDMAN '59
Oct. 16, 2025

FRANK I. GOODMAN '59
Dec. 26, 2025

PETER BARTON HUTT '59
Sept. 2, 2026

DAVID LINETT '59
Jan. 8, 2026

HERBERT M. LOBL '59
Sept. 14, 2025

DAVID W. MAHER '59
March 6, 2026

JOEL P. MELLIS '59
Feb. 18, 2026

JAMES F. RILL '59
Nov. 21, 2025

WILLIAM A. ROGERS JR. '59
Dec. 23, 2025

ROBERT I. SHAPIRO '59
April 20, 2026

MICHAEL A. WILLIAMS '59
Dec. 17, 2025

1960–1969

JEREMIAH J. BRESNAHAN '60
Jan. 18, 2026

RONALD GREENBERG '60
Jan. 9, 2026

STEPHEN T. SUSMAN '60
March 7, 2026

CHARLES M. TIGHE '60
March 17, 2026

RICHARD J. WERTHEIMER '60
July 2, 2026

DAVID L. WHITE '60
2026

BARRY L. BUNSHOFT '61
Dec. 31, 2025

JOHN G. "FRITZ" FRITZINGER JR. '61
Nov. 18, 2025

DANIEL I. HALPERIN '61
May 12, 2026

R. TIMOTHY HANLON '61
March 15, 2026

SANFORD I. HANSELL '61
Jan. 13, 2026

JEREMIAH LUXEMBURGER '61
March 6, 2026

RUSSELL W. MEYER JR. '61
March 4, 2026

ALVIN S. MILDER '61
April 6, 2026

ELIZABETH A. PORADA LL.M. '61
May 18, 2026

ELEANOR ROSENTHAL '61-'62
March 27, 2026

DAVID S. SCHAIMAN '61
July 23, 2025

ALEXANDER SIMON '61
Nov. 12, 2025

LEONARD A. SPALDING III '61
May 6, 2026

MARTIN S. WEINGARTEN '61
May 5, 2026

LOREN A. WITTNER '61
Jan. 25, 2026

HANS C. F. WRIEDT '61
Dec. 31, 2025

WILLIAM D. ZABEL '61
July 7, 2026

HARVEY M. APPLEBAUM '62
Jan. 21, 2026

RUSSELL S. BERMAN '62
Feb. 21, 2026

J. SPEED CARROLL '62
March 8, 2024

THEODORE J. COLLINS '62
Aug. 3, 2025

PETER HAFTER LL.M. '62
June 21, 2025

LAWRENCE W. HANTMAN '62
July 11, 2025

JUSTIN W. HEATTER '62
Feb. 27, 2025

EDWARD O. HENNEMAN '62
March 16, 2026

HERBERT G. ISAACSON '62
May 25, 2026

JOHN H. MORRISON '62
March 12, 2026

YASUHARU NAGASHIMA LL.M. '62
Nov. 18, 2024

MARK D. PASTOR '62
March 10, 2026

LEO S. TONKIN '62
March 16, 2026

FREDERICK K. WALLACH '62
Feb. 12, 2026

HELMUT WALLENFELS '62
Aug. 9, 2025

ALFRED D. YOUNGWOOD '62
Sept. 19, 2025

JOHN R. AXE '63
Feb. 1, 2026

ROBERT E. CARLSON LL.M. '63
November 2025

SAMUEL W. LAMBERT III '63
Jan. 16, 2026

DAVID B. LOPEZ '63
July 3, 2026

LEE A. PICKARD '63
April 4, 2026

RICHARD W. SCARRITT '63
May 10, 2026

ROY G. STOHLMAN '63
March 14, 2026

ROBERT A. BEER LL.M. '64
Jan. 29, 2026

ALEXANDER A. BERNHARD '64
June 15, 2026

STEWART D. CHEIFET '64
Dec. 28, 2025

R. MICHAEL CHILDS '64
Oct. 12, 2025

EDWARD A. MORGAN '64
Jan. 19, 2026

ROBERT H. REYNOLDS '64
Jan. 12, 2026

RUSSELL E. VAN HOOSER '64
June 9, 2025

DONALD S. YOUNG '64
Nov. 23, 2025

GEORGE D. BROWN '65
March 13, 2026

RICHARD P. CAMPBELL '65
Dec. 5, 2025

JAMES R. GILLEN '65
March 8, 2026

DAVID C. HART '65
May 14, 2026

HANES A. HELLER '65
Jan. 7, 2026

DAVID M. IRWIN '65
Aug. 27, 2025

J. ROGER WILLIAMS JR. '65
May 7, 2026

LAURENCE R. BUXBAUM '66
April 3, 2025

ROBERT F. FINKE '66
Sept. 19, 2025

ROBERT S. FRANKLIN '66
April 15, 2026

HARVEY I. GOLDSTEIN '66
Jan. 8, 2025

DALE HERSHEY '66
Feb. 26, 2026

HAROLD C. MACDONALD '66
Feb. 13, 2026

LESLIE W. MICHAEL '66
Aug. 7, 2025

RUDOLPH F. H. NUISSL '66
May 5, 2025

JULIAN P. RACKOW '66
Dec. 19, 2025

STANLEY W. STILLMAN '66
Jan. 1, 2026

LUIS M. VILLARONGA '66
July 2026

THOMAS E. VOLLMER '66
Jan. 15, 2026

JOHN M. BERNARD '67
June 20, 2024

STEPHEN C. BRUNER '67
June 8, 2026

STANLEY D. CROW '67
Feb. 19, 2026

ALFRED C. DOSSA '67
Feb. 26, 2026

RICHARD R. HOWE '67
March 29, 2026

HERSCHEL M. BLOOM '68
Jan. 18, 2026

RICHARD M. BROWN '68
Dec. 13, 2025

THOMAS C. CHASE '68
April 29, 2026

SUSAN HORN-MOO '68
Aug. 19, 2025

ALLEN H. HORSTMAN '68
Jan. 28, 2026

JAMES M. OWEN '68
Dec. 16, 2025

BURTON D. HUNTER '69
July 9, 2025

ANDREW J. KLEINFELD '69
Nov. 7, 2025

JAMES M. MCNAMARA JR. '69
Feb. 20, 2025

KENT J. NEUMEISTER '69 LL.M. '72
Feb. 5, 2026

EUGENE C. "GENO" STRUCKHOFF III '69
Sept. 21, 2025

1970–1979

ROBERT R. BRUCE '70
April 10, 2026

BRUCE C. DAVIDSON '70
Jan. 16, 2026

MICHAEL K. HEANEY '70
Dec. 14, 2025

JAMES A. NADEAU '70
May 28, 2025

MICHAEL J. O'KEEFE '70
June 20, 2026

MICHAEL G. SMOOKE '70
April 27, 2026

CHARLES W. SULLIVAN LL.M. '70
Feb. 2, 2026

GERALDINE REED BROWN '71
Feb. 23, 2026

WAYNER P. CROWDER '71
Aug. 24, 2025

MICHAEL A. MCCARTHY '71
Feb. 18, 2025

ROBERT E. PATTERSON '71
Feb. 17, 2026

THOMAS E. TAYLOR '71
Dec. 28, 2025

DAVE WILLIAMS '71
Dec. 17, 2025

JOHN P. AXELROD '72
Jan. 3, 2026

J. KENNETH CRONEY '72
Feb. 14, 2026

GREGORY S.C. HUFFMAN '72
Dec. 28, 2025

MERLE S. MCCLUNG '72
March 5, 2026

DENNIS T. "TED" O'TOOLE '72
July 23, 2025

PAUL R. RENTENBACH '72
Jan. 11, 2026

HENRY C. WILLENER '72
Oct. 1, 2025

THOMAS W. BETTLES '73
Dec. 17, 2025

KAREN S. METZGER KEITHLEY LL.M. '73
Oct. 9, 2025

DANIEL SEGAL '73
Jan. 8, 2026

ROBERT G. STEWART '73
Jan. 1, 2026

DANIEL J. THOMPSON JR. '73
June 6, 2025

JOHN W. THOMSON '73
May 24, 2026

DOCTOR ROBERT CRANTS '74
Feb. 22, 2026

S. GARRETT GRAY '74
Dec. 12, 2025

CHARLES E. POU JR. '74
July 7, 2026

NEIL V. WAKE '74
May 26, 2026

CATHERINE C. BLAKE '75
March 4, 2026

JOHN P. CASALY '75
Dec. 29, 2025

MICHAEL H. BIERMAN '76
June 21, 2026

BOB WEBER JR. '76
July 21, 2026

BARNEY FRANK '77
May 19, 2026

GARY HOPPE '77
July 11, 2026

TURNER C. GRAYBILL '78
March 21, 2026

TIMOTHY F. HODGDON '78
Aug. 3, 2026

STEPHEN A. GREELEY '79
March 24, 2026

BARBARA A. LENK '79
May 19, 2026

ROSEMARIE MORSE '79
Oct. 2, 2025

JACK E. OWEN JR. '79
Feb. 6, 2026

ROBERT B. RADIN '79
July 14, 2025

STEVEN S. THEL '79
March 14, 2026

1980–1989

BRUCE J. HEIMAN '80
March 29, 2026

TODD M. JOHNSON '80
May 22, 2025

MICHAEL A. SMITH '80
Feb. 15, 2026

RICHARD "RICK" CABRERA '81
Dec. 14, 2025

EDWIN G. SCHALLERT '81
Dec. 7, 2021

HOWARD L. CHABNER '82
Dec. 18, 2025

MARK J. CLARK '82
June 20, 2026

JOHN F. FULGONEY '82
Sept. 3, 2025

WILLIAM B. GANNETT '83
Dec. 26, 2025

EMILIO MARGAIN-BARRAZA LL.M. '83
Nov. 30, 2025

CHARLES F. THENSTED LL.M. '83
Aug. 13, 2025

HEIDI A. GARLAND '84
June 4, 2026

SAMUEL F. BROOKS '87
Nov. 21, 2025

DAVID W. FELL '88
Jan. 17, 2026

PATRICK J. "RICK" ROHAN '88
Oct. 31, 2025

DONALD LORING BROWN '89
Jan. 16, 2026

JACK P. DROGIN '89
Nov. 6, 2025

HARRY A. OLIVAR JR. '89
May 15, 2026

1990–1999

EDWARD A. PURNELL '90
June 27, 2025

ERIK T. HUITFELDT LL.M. '91
Nov. 14, 2023

JODI MISHER PEIKIN '91
April 17, 2026

DAVID C. CODELL '95
May 7, 2026

VICKI D.C. COLCA '95
March 20, 2026

JEFFREY W. KOBRICK '95
June 22, 2026

HARRY A. CHERNOFF '96
Feb. 22, 2026

RODNEY A. TEASLEY '98
Jan. 9, 2026

2000–2009

PETER SINCLAIR '01
Aug. 23, 2025

NAJEEB N. KHOURY '02
Aug. 8, 2025

MICHELLE L. BACON '04
Feb. 3, 2026

MATAN A. KOCH '05
April 24, 2026

ERIN LYNN CARROLL LI '09
Jan. 18, 2023

ONLINE

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For more than a century, HLS students have pursued their sporting passions beyond the varsity field

Still in the Game

BY O'RYA HYDE-KELLER





(Above) Law students playing volleyball in front of Littauer Center sometime in the early '70s. Why the ties and heels? It's a mystery lost to time. More recently (right, 2016) students donned more traditional athletic wear to play a summer pickup game on Belinda Sutton Quadrangle — formerly Jarvis Field. Incidentally, this is where rugby-style rules were introduced to American universities during a McGill-Harvard "foot-ball" game in 1874, which helped shape the creation of modern North American football.

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—PETER GOECKNER '25

College football may have been born on the Harvard Law School campus, but law students have been barred from playing on the college's varsity teams since 1903. That year, the law faculty decided that varsity athletics distracted students from their primary responsibility: studying.

That hasn't stopped generations of law students from continuing to embrace athletics. Over the years, they've taken part in everything from the launch of the Harvard Law rowing team in 1879 to coed pickup volleyball games played in ties and heels in the '70s. Today, HLS students continue to find many sporty ways to nurture their friendly-but-competitive spirits — undoubtedly a much-needed distraction from the classroom, and an important way to build community amongst their peers.

Or as Peter Goeckner '25 put it when he headed to the 2025 UVA Law Softball Invitational in Charlottesville, Virginia, as a member of the school's club team: "It certainly made me realize how important it is to not take every single thing about law school so seriously — we're allowed to have fun!"

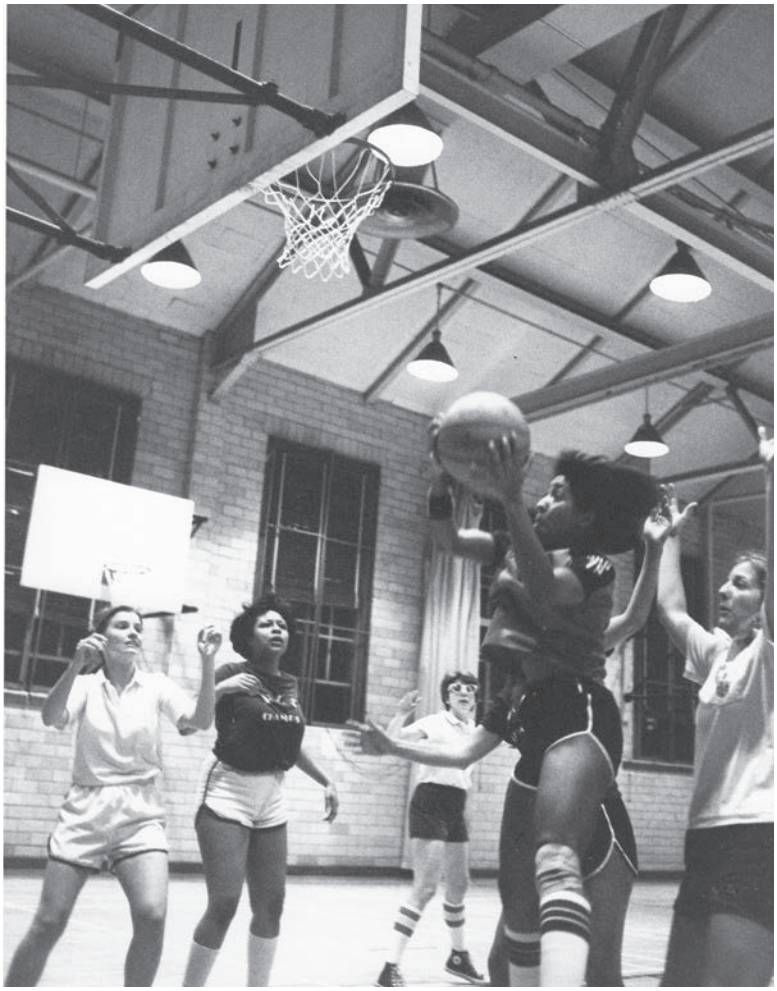
These then-and-now(ish) photos offer a glimpse into the wide world of sports at Harvard Law School over the years.





Many Harvard Law School students have competed in the Boston Marathon throughout the years, including Dan Schlesinger '86 in 1983, who finished in 8th place with a time of 2:11:37 (above, no. 5). These days, the Harvard Law Run Club hosts several group runs each week, building camaraderie among marathoners and recreational runners alike (left).

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The (somewhat) annual Courtroom Classic (center, 2025) is a fun-filled, hard-fought basketball game between a team of HLS students and a team of HLS faculty and staff. (Left) In 1980, when this photo was taken, future U.S. Sen. and Virginia Gov. Mark Warner coached Harvard Law School's first intramural women's basketball team while earning his J.D.





Last January's Winter Storm Fern dumped nearly two feet of snow on campus, but it didn't stop HLS students from taking part in the long tradition of Harvard Law School football (right). As did another group of students (above) during sunnier days in 1938.



In 2025, the Harvard Law School Softball Club traveled to the 42nd annual UVA Law Softball Invitational in Charlottesville, Virginia, an event that welcomes dozens of law school teams each year (below, right). The World Stickball Association, founded by students in the 1970s, marked its opening day in 1975 (below, left). The previous season had ended prematurely when part of a player's makeshift bat — a vacuum cleaner handle — went through a Holmes Hall window.





Have a sports-related photo or memory from HLS to share? Send it to bulletin@law.harvard.edu.

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Back to School
First-year students pose for a group photograph on the steps of Langdell Hall with their fellow sectionmates during this year's orientation.
Photograph by Lorin Granger