

Good Reads

Publications by the full-time faculty from January 1, 2008 through December 31, 2008.

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Alston, Philip

Editor. *Human Rights, Intervention and the Use of Force*. New York: Oxford University Press, 2008 (with Euan Macdonald).

Amsterdam, Anthony

Trial Manual for Defense Attorneys in Juvenile Court. 2nd edition. Philadelphia: ALI-ABA, 2008 (with Martin Guggenheim and Randy Hertz).

Making Our Clients' Stories Heard. Washington, D.C.: Administrative Office of the United States Courts, 2008 (with Philip N. Meyer).

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Editor. *Experimental Law and Economics*. Northampton, MA: Edward Elgar, 2008 (with Eric Talley).

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Race, Racism, and American Law. 6th edition. New York: Aspen Publishers, 2008.

Choi, Stephen

Securities Regulation: Cases and Analysis. 2nd edition. New York: Foundation Press, 2008 (with Adam Pritchard).

Securities Regulation: The Essentials. Frederick, MD: Wolters Kluwer Law & Business, 2008 (with Adam Pritchard).

Dorsen, Norman

A History of the Arthur Garfield Hays Civil Liberties Program, 1958-2008. New York: New York University School of Law, 2008 (with Helen Hershkoff, Sylvia Law, Gabrielle Prisco, and Kathryn Sabbeth).

Dworkin, Ronald

The Supreme Court Phalanx: The Court's New Right-Wing Bloc. New York: New York Review of Books, 2008.

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Cases and Materials on Employment Discrimination and Employment Law. 3rd edition. St. Paul: Thomson/West, 2008 (with Michael Harper).

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\$750 Billion Misspent? Getting More from Tax Incentives

BY LILY L. BATCHELDER, AUSTIN NICHOLS, AND ERIC TODER

Urban Institute Press, forthcoming, 2009

“ The U.S. federal government spent about \$750 billion on income tax breaks for certain individual behavior in 2007—more than the cost of all domestic discretionary spending. This means that we vastly misconceive of the size of government when we ignore these tax provisions.

The federal income tax is a powerful vehicle to enact and administer social policy. But only certain kinds of tax incentives make sense. Many existing incentives are inferior to regulation, direct spending, or ‘nudges.’ When tax incentives are a good idea, a refundable credit is almost always the most cost-effective way of promoting social goals. But very few are structured in this way.

This book offers a framework for when and how we should offer tax incentives, and applies it to six major areas: work by low-income parents, higher education, home-ownership, charitable contributions, retirement saving, and health insurance. In doing so, it offers suggestions for how to redesign these tax incentives so that they are more cost-effective—and which ones we should scrap.

In the coming years, we face deficits of unprecedented proportions. We cannot rely solely on new taxes and raising marginal rates. We need to consider whether the government we have is focused in the right places, including both the direct subsidies that we count as government spending, and the tax incentives that we do not.

FEDERAL DIRECT SPENDING V. INDIVIDUAL TAX INCENTIVES, 2007

SELECTED INDIVIDUAL TAX INCENTIVES	\$750 BILLION
NON-DEFENSE DISCRETIONARY SPENDING	\$517 BILLION
SOCIAL SECURITY	\$589 BILLION
MEDICAID AND MEDICARE	\$573 BILLION
DEFENSE	\$570 BILLION

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Foreign Relations and National Security Law: Cases, Materials, and Simulations. 3rd edition. St. Paul: Thomson/West, 2008 (with Michael Glennon and Sean Murphy).

Law and Practice of the United Nations: Documents and Commentary. New York: Oxford University Press, 2008 (with Simon Chesterman and David Malone).

Geistfeld, Mark
Tort Law: The Essentials. New York: Aspen Publishers, 2008.

Gillette, Clayton
Sales Law: Domestic and International. 2nd edition. New York: Foundation Press, 2008 (with Steven Walt).

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Kyra: A Novel. New York: Random House, 2008.

The Deepening Darkness: Loss, Patriarchy, and Democracy's Future. New York: Cambridge University Press, 2008 (with David Richards).

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Ethics and the Environment: An Introduction. New York: Cambridge University Press, 2008.

Lowenfeld, Andreas
International Economic Law. 2nd edition. New York: Oxford University Press, 2008.

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Miller, Geoffrey
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Fighting for the City: A History of the New York City Corporation Counsel. New York: New York Law Journal Press, 2008.

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Legislating the Courts: Judicial Dependence in Early National New Hampshire. DeKalb: Northern Illinois University Press, 2008.

Revesz, Richard
Environmental Law and Policy: Problems, Cases and Readings. New York: Foundation Press, 2008.

Retaking Rationality: How Cost-Benefit Analysis Can Better Protect the Environment and Our Health. New York: Oxford University Press, 2008 (with Michael Livermore).

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The Will of the People

BY BARRY FRIEDMAN
Farrar, Straus & Giroux, 2009

“The Court will get ahead of the American people on some issues, like the death penalty, or perhaps school desegregation itself. On others, such as gay rights, it will lag behind. But over time, with what is admittedly great public discussion, but little in the way of serious overt attacks on judicial power, the Court and the public will come into basic alliance with one another.

In the course of acting thus the Supreme Court has made itself one of the most popular institutions in American democracy. The Justices regularly outpoll the Congress and often even the President in terms of public support or confidence.

When the Supreme Court decided the contested presidential election of 2000 in *Bush v. Gore*, many saw this as a low point for the Justices. Yet, prior to the decision over 60 percent of the country said it was the Court's job to resolve the matter—compared to only 17 percent for Congress! And within a year of the decision in *Bush v. Gore* the Court again was running at high levels of support among Republicans and Democrats alike.

These facts profoundly call into question the image of the Supreme Court as an institution that runs contrary to the popular will. In the modern era the supposed tension between popular opinion and judicial review seems to have evaporated...

The ultimate question, of course, is whether this is a good thing...

The short answer...rests in distinguishing the passing fancy of the American people from their considered judgment. Judicial review would indeed be a puzzling addition to the American system of government if all the Supreme Court did was mirror transient public opinion. The value of judicial review in the modern era is that it does something more than that. It serves as a catalyst for the American people to debate as a polity some of the most difficult and fundamental issues that confront them. It forces the American people to work to reach answers to these questions, to find solutions—often compromises—that obtain broad and lasting support. And it is only when the people have done so that the Court tends to come into line with public opinion.

This, then, is the function of judicial review in the modern era: to serve as a catalyst, to force public debate, and ultimately to ratify the American people's own views about the meaning of their Constitution.

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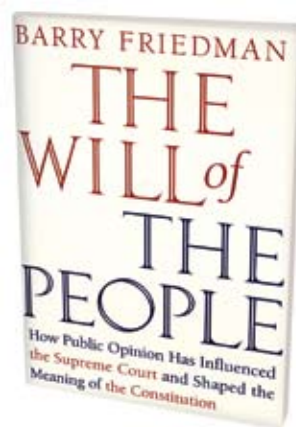
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Reporter. *Extrajudicial, Summary or Arbitrary Executions to the U.N. Human Rights Council*. U.N. Doc. A/HRC/8/3 and A/HRC/8/3/Add. 1 (2008).

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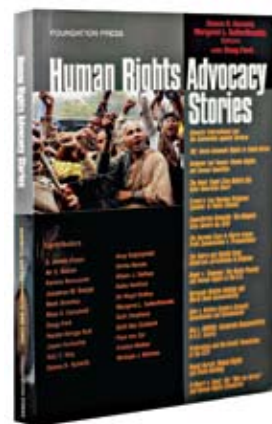
Human Rights Advocacy Stories

EDITED BY MARGARET L. SATTERTHWAITE AND DEENA R. HURWITZ WITH DOUG FORD
Foundation Press, 2009

“ On the second night of his imprisonment in Afghanistan, Khaled El-Masri was interrogated by four masked men. One of the men asked him if he knew where he was. He replied, ‘Yes, I know, I’m in Kabul.’ The man then replied, ‘It’s a country without laws. And nobody knows that you are here. Do you know what that means?’... ”

As much as any area of the law, human rights involves narratives—the stories of individuals, groups, and movements of people—who engage in different ways with strategies, institutions, and legal frameworks that we refer to as international human rights. But perhaps more than many other fields of law, human rights norms and standards develop as much through individual and collective vision and action in the world as through cases before courts and tribunals. By making real the stories of collective action behind human rights advocacy, developing norms, and enforcement mechanisms, *Human Rights Advocacy Stories* illustrates the dynamic interactions between advocacy and legal doctrine.

The chapters in this volume tell the stories of individuals and groups whose bodies, minds, lives, identities, communities, and cultures are threatened at the hands of governments, corporations, armed groups, or communities. They are the stories of people who are brave, desperate, determined, or just angry enough to stand up against those abuses.



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