

Good Reads 2012

Publications by the full-time faculty from January 1, 2011, through December 31, 2011. Works by multiple NYU School of Law faculty authors are shaded.

BOOKS

Alvarez, José

The Evolving International Investment Regime: Expectations, Realities, Options. New York: Oxford University Press, 2011 (with Kamil Gérard Ahmed, Karl Sauvart, and Gabriela Vizcaíno).

The Public International Law Regime Governing International Investment. Boston: Martinus Nijhoff Publishers, 2011 (also cited as 344 *Recueil des Cours* 195).

Barkow, Rachel

Editor. *Prosecutors in the Boardroom: Using Criminal Law to Regulate Corporate Conduct.* New York: New York University Press, 2011 (with Anthony Barkow).

Beebe, Barton

Trademarks, Unfair Competition, and Business Torts. New York: Wolters Kluwer Law & Business, 2011 (with Thomas Cotter, Mark Lemley, Peter Menell, and Robert Merges).

Choi, Stephen

Securities Regulation: Cases and Analysis. 3rd edition. New York: Foundation Press, 2011 (with A. C. Pritchard).

Cunningham, Noël

The Logic of Subchapter K: A Conceptual Guide to the Taxation of Partnerships. 4th edition. St. Paul, MN: Thomson/West, 2011 (with Laura Cunningham).

Davis, Peggy Cooper

Editor. *Enacting Pleasure: Artists and Scholars Respond to Carol Gilligan's New Map of Love.* London: Seagull Books, 2011 (with Lizzy Cooper Davis).

De Búrca, Gráinne

EU Law: Text, Cases, and Materials. 5th edition. New York: Oxford University Press, 2011 (with Paul Craig).

Editor. *The Evolution of EU Law.* 2nd edition. New York: Oxford University Press, 2011 (with Paul Craig).

De Búrca, Gráinne

Weiler, Joseph

Editor. *The Worlds of European Constitutionalism.* Cambridge, UK: Cambridge University Press, 2011.

Dreyfuss, Rochelle

Strandburg, Katherine

Editors. *The Law and Theory of Trade Secrecy: A Handbook of Contemporary Research.* Northampton, MA: Edward Elgar Publishing, 2011.

Dworkin, Ronald

Justice for Hedgehogs. Cambridge, MA: Belknap Press of Harvard University Press, 2011.

Epstein, Richard

Design for Liberty: Private Property, Public Administration, and the Rule of Law. Cambridge, MA: Harvard University Press, 2011.

Estreicher, Samuel

Editor. *Labor and Employment Law Initiatives and Proposals under the Obama Administration: Proceedings of the New York University 62nd Annual Conference on Labor.* Austin, TX: Wolters Kluwer Law & Business, 2011 (with Andrew Morriss).

Labor Law: Cases, Materials and Problems. 7th edition. New York: Wolters Kluwer Law & Business, 2011 (with Michael Harper).

Ferrari, Franco

Editor. *Conflict of Laws in International Arbitration.* Munich: Sellier, 2011 (with Stefan Kröll).

Contracts for the International Sale of Goods: Applicability and Applications of the 1980 United Nations Sales Convention. Boston: Martinus Nijhoff Publishers, 2011.

Fox, Eleanor

Editor. *Economic Development: The Critical Role of Competition Law and Policy.* Northampton, MA: Edward Elgar Publishing, 2011 (with Abel Moreira Mateus).

Friedman, Barry

Open Book: Succeeding on Exams from the First Day of Law School. New York: Wolters Kluwer Law & Business, 2011 (with John Goldberg).

Garland, David

Editor. *America's Death Penalty: Between Past and Present.* New York: New York University Press, 2011 (with Michael Meranze and Randall McGowen).

Geistfeld, Mark

Principles of Products Liability. 2nd edition. New York: Foundation Press, 2011.

Gillette, Clayton

Local Redistribution and Local Democracy: Interest Groups and the Courts. New Haven, CT: Yale University Press, 2011.

Goodman, Ryan

Editor. *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions.* New York: Cambridge University Press, 2011 (with Thomas Pegram).

Hertz, Randy

Federal Habeas Corpus Practice and Procedure (in two volumes). 6th edition. New Providence, NJ: LexisNexis, 2011 (with James Liebman).

Issacharoff, Samuel

Civil Procedure. 3rd edition. New York: Foundation Press, 2011.

Jacobs, James

Breaking the Devil's Pact: The Battle to Free the Teamsters from the Mob. New York: New York University Press, 2011 (with Kerry Cooperman).

Kingsbury, Benedict

Editor. *International Financial Institutions and Global Legal Governance.* Washington, DC: World Bank, 2011 (with Hassane Cissé and Daniel Bradlow).

Editor. *The Wars of the Romans: A Critical Edition and Translation of De Armis Romanis.* New York: Oxford University Press, 2011 (with Benjamin Straumann; translated by David Lupher).

Miller, Geoffrey

Trust, Risk, and Moral Hazard in Financial Markets. Bologna: Il Mulino, 2011.

The Ways of a King: Legal and Political Ideas in the Bible.

Göttingen, Germany: Vandenhoeck & Ruprecht, 2011.

Reid, John Phillip

Forging a Fur Empire: Expeditions in the Snake River Country, 1809-1824. Norman, OK: Arthur H. Clark Company, 2011.

Stewart, Richard

Administrative Law and Regulatory Policy: Problems, Text, and Cases. 7th edition. New York: Wolters Kluwer Law & Business, 2011 (with Stephen Breyer, Cass Sunstein, Adrian Vermeule, and Michael Herz).

Editor. *Carbon Capture and Storage: Emerging Legal and Regulatory Issues.* Portland, OR: Hart Publishing, 2011 (with Ian Havercroft and Richard Macrory).

Fuel Cycle to Nowhere: US Law and Policy on Nuclear Waste. Nashville, TN: Vanderbilt University Press, 2011 (with Jane Stewart).

Weiler, Joseph

Editor. *International Law* (in six volumes). New York: Routledge, 2011 (with Alan Nissel).

Yoshino, Kenji

A Thousand Times More Fair: What Shakespeare's Plays Teach Us About Justice. New York: Ecco, 2011.

CHAPTERS AND SUPPLEMENTS

Adler, Barry

"Bankruptcy as Property Law," in *Research Handbook on the Economics of Property Law*. Kenneth Ayotte and Henry Smith, editors. Northampton, MA: Edward Elgar Publishing, 2011.

"Contract Law and the Willfulness Diversion," in *Fault in American Contract Law*. Omri Ben-Shahar and Ariel Porat, editors. New York: Cambridge University Press, 2011.

"Resolution Authority," in *Regulating Wall Street: The Dodd-Frank Act and the New Architecture of Global Finance*. Viral Acharya, Thomas Cooley, Matthew Richardson, and Ingo Walter, editors. Hoboken, NJ: John Wiley & Sons, 2011 (with Viral Acharya, Matthew Richardson, and Nouriel Roubini).

Allen, William

"Engaging Corporate Boards: The Limits of Liability Rules in Modern Corporate Governance," in *The Embedded Firm: Corporate Governance, Labor, and Finance Capitalism*. Cynthia Williams and Peer Zumbansen, editors. New York: Cambridge University Press, 2011.

Alston, Philip

"Foreword," in *The Millennium Declaration, Rights and Constitutions*. Yash Ghai and Jill Cottrell, editors. New York: Oxford University Press, 2011.

"Using International Law to Combat Unlawful Targeted Killings," in *From Bilateralism to Community Interest: Essays in Honour of Judge Bruno Simma*. Ulrich Fastenrath, Rudolf Geiger, Daniel-Erasmus Khan, Andreas Paulus, Sabine von Schorlemer, and Christoph Vedder, editors. New York: Oxford University Press, 2011.

Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Addendum: Mission to Albania. Geneva: United Nations, 2011.

Amsterdam, Anthony

"Narrative as Possibility," in *Enacting Pleasure: Artists and Scholars Respond to Carol Gilligan's New Map of Love*. Peggy Cooper Davis and Lizzy Cooper Davis, editors. London: Seagull Books, 2011.

Arlen, Jennifer

"Removing Prosecutors from the Boardroom: Limiting Prosecutorial Discretion to Impose Structural Reforms," in *Prosecutors in the Boardroom: Using Criminal Law to Regulate Corporate Conduct*. Anthony Barkow and Rachel Barkow, editors. New York: New York University Press, 2011.

Bar-Gill, Oren

Ferrari, Franco

"Informing Consumers about Themselves," in *Juxtaposing Autonomy and Paternalism in Private Law*. Anthony Ogus and Willem van Boom, editors. Portland, OR: Hart Publishing, 2011.

Barkow, Rachel

"The Prosecutor as Regulatory Agency" and "Conclusion," in *Prosecutors in the Boardroom: Using Criminal Law to Regulate Corporate Conduct*. Anthony Barkow and Rachel Barkow, editors. New York: New York University Press, 2011.

Been, Vicki

"Matching Words and Deeds? How Transit-Oriented Are the Bloomberg-Era Rezonings in New York City?" in *Transportation and Economic Development Challenges*. Kenneth Button and Aura Reggiani, editors. Northampton, MA: Edward Elgar Publishing, 2011 (with Simon McDonnell and Josiah Madar).

Bell, Derrick

"Foreword," in *Marshalling Justice: The Early Civil Rights Letters of Thurgood Marshall*. Michael Long. New York: Amistad, 2011.

Chase, Oscar

Civil Litigation in New York, 5th Edition. 2011 Update Memorandum. www.lexisnexis.com/lawschool/study/texts/pdf/497_2011Supp.pdf (with Robert Barker).

On Sacrifice

MOSHE HALBERTAL

Princeton University Press, 2012



Self-sacrifice, with all its subtleties and complexities, enables violence because it allows a role reversal between the aggressor and victim. The contemporary suicide bomber is a complex icon of such a merger of violence and self-sacrifice.

In his act of unleashing violence, the suicide bomber is simultaneously initiating an act of self-sacrifice and murder. He constitutes himself as the victim of the violence that he is perpetrating. The suicide bomber is presumably an effective tactical instrument—a human version of a high-tech smart bomb. Yet despite the surface efficiency of the act, suicide bombing is a powerful cultural statement, a simultaneous image of self-sacrifice and murder, a perverse conjunction of blood and purity, crime and atonement. It is no accident that the suicide bomber emerges from a larger politics of victimhood. This internal connection between self-sacrifice and violence along with the reversals that self-sacrifice enables do not belong exclusively to the religious sphere. War, which manifests such a connection, has been practiced in thoroughly secularized nation-states, and Camus's just assassin is a secular socialist.

A deep inner tension is thus evident in the noble ideal of self-transcendence. Through two reversals, self-sacrifice mobilizes crimes that in their magnitude are far greater than those motivated by self-interest. This phenomenon forces a critical reformulation of the nature of moral conflict, especially in light of Kant's view that the essence of moral conflict is the struggle between self-love and the categorical imperative. By posing this polarity, Kant ignored the realm at the core of moral drama: self-sacrifice—by no means an expression of self-love, and yet also unable to fulfill the demands of the universalized categorical imperative...

The moral drama and its psychology have to be reformulated: *misguided self-transcendence is morally more problematic and lethal than a disproportionate attachment to self-interest*. In line with a long philosophical tradition, I think that self-transcendence does constitute the moral act. But from that fact itself, self-sacrifice also derives its corrupting force. Misdirected self-transcendence falsely stimulates a noble moral act, and with that it enables a complex mechanism, based on the two reversals, to purify crimes. The religious sensitivity to such a phenomenon is the reason why misguided self-transcendence constitutes the ultimate sin of idolatry. Idolatry, in this sense, is the utmost surrender to a cause that is not worthy of the corresponding sacrifice.



Choi, Stephen

Securities Regulation Statutory Supplement, 2011. New York: Foundation Press, 2011 (with A. C. Pritchard).

Choudhry, Sujit

"Federalism, Devolution and Secession: From Classical to Post-conflict Federalism," in *Comparative Constitutional Law*. Tom Ginsburg and Rosalind Dixon, editors. Northampton, MA: Edward Elgar Publishing, 2011 (with Nathan Hume).

The Impact of Regionally Differentiated Entitlement to EI on Charter-Protected Canadians. Toronto: Mowat Centre Employment Insurance Task Force, 2011 (with Michael Pal).

Voter Equality & Other Canadian Values: Finding the Right Balance. Toronto: Mowat Centre for Policy Innovation, 2011 (with Matthew Mendelsohn).

**Davis, Kevin
Kingsbury, Benedict**

Indicators as Interventions: Pitfalls and Prospects in Supporting Development Initiatives. New York: Rockefeller Foundation, 2011.

Davis, Peggy Cooper

"An Invocation," "Looking in Hard-to-See Places," and "Love, Law, and Politics," in *Enacting Pleasure: Artists and Scholars Respond to Carol Gilligan's New Map of Love*. Peggy Cooper Davis and Lizzy Cooper Davis, editors. New York: Seagull Books, 2011.

Epstein, Richard

"Can We Design an Optimal Constitution? Of Structural Ambiguity and Rights Clarity," in *What Should Constitutions Do?* Ellen Frankel Paul, Fred Miller Jr., and Jeffrey Paul, editors. New York: Cambridge University Press, 2011.

"Deferred Prosecution Agreements on Trial: Lessons from the Law of Unconstitutional Conditions," in *Prosecutors in the Boardroom: Using Criminal Law to Regulate Corporate Conduct*. Anthony Barkow and Rachel Barkow, editors. New York: New York University Press, 2011.

"The Imperfect Reconciliation of Liberty and Security," in *Confronting Terror: 9/11 and the Future of American National Security*. Dean Reuter and John Yoo, editors. New York: Encounter Books, 2011.

"What Is So Special about Intangible Property?: The Case for Intelligent Carryovers," in *Competition Policy and Patent Law under Uncertainty: Regulating Innovation*. Geoffrey Manne and Joshua Wright, editors. New York: Cambridge University Press, 2011.

Why Progressive Institutions Are Unsustainable. New York: Encounter Books, 2011 (Encounter Broadside no. 26).

Estreicher, Samuel

Cases and Materials on Employment Discrimination and Employment Law, 2011 Supplement. St. Paul, MN: West Group, 2011 (with Michael Harper).

"Improving the Administration of the NLRA without Statutory Change," in *Labor and Employment Law Initiatives and Proposals under the Obama Administration: Proceedings of the New York University 62nd Annual Conference on Labor*. Samuel Estreicher and Andrew Morriss, editors. Austin, TX: Wolters Kluwer Law & Business, 2011.

Labor Law: Selected Statutes, Forms, and Agreements, 2011-2012. New York: Wolters Kluwer Law & Business, 2011 (with Michael Harper).

Ferrari, Franco

"La formazione del contratto," and "Tipicità e atipicità del fatto illecito. I contrapposti modelli francese e Tedesco," in *Atlante di diritto privato comparato*. 5th edition. Francesco Galgano, editor. Bologna: Zanichelli, 2011.

**Ferrari, Franco
Silberman, Linda**

"Getting to the Law Applicable to the Merits in International Arbitration and the Consequences of Getting It Wrong," in *Conflict of Laws in International Arbitration*. Franco Ferrari and Stefan Kröll, editors. Munich: Sellier, 2011.

Ferejohn, John

"A Theory of the Politically Independent Judiciary: A Comparative Study of the United States and Argentina," in *Courts in Latin America*. Gretchen Helmke and Julio Ríos-Figueroa, editors. Cambridge, UK: Cambridge University Press, 2011 (with Rebecca Bill Chávez and Barry Weingast).

First, Harry

Antitrust: Statutes, Treaties, Regulations, Guidelines, Policies, 2011-2012. New York: Foundation Press, 2011 (with John Flynn and Darren Bush).

"Trade Secrets and Antitrust Law," in *The Law and Theory of Trade Secrecy: A Handbook of Contemporary Research*. Rochelle Dreyfuss and Katherine Strandburg, editors. Northampton, MA: Edward Elgar Publishing, 2011.

Fox, Eleanor

"Antitrust without Borders: From Roots to Codes to Networks," in *Cooperation, Comity, and Competition Policy*. Andrew Guzman, editor. New York: Oxford University Press, 2011.

"Linked-In: Antitrust and the Virtues of a Virtual Network," in *The International Competition Network at Ten: Origins, Accomplishments and Aspirations*. Paul Lugard, editor. Portland, OR: Intersentia, 2011.

Friedman, Barry

"Looking for Law in All the Wrong Places: Some Suggestions for Modeling Legal Decision-making," in *What's Law Got to Do with It? What Judges Do, Why They Do It, and What's at Stake*. Charles Geyh, editor. Palo Alto, CA: Stanford University Press, 2011 (with Andrew Martin).

Galowitz, Paula

"Ethical Issues in Medical-Legal Partnership," in *Poverty, Health and Law: Readings and Cases for Medical-Legal Partnership*. Ellen Lawton and Elizabeth Tobin Tyler, editors. Durham, NC: Carolina Academic Press, 2011 (with Jerome Tichner, Paul Tremblay, and Steven Blatt).

Garland, David

"Concepts of Culture in the Sociology of Punishment," in *Travels of the Criminal Question: Cultural Embeddedness and Diffusion*. Dario Melossi, Máximo Sozzo, and Richard Sparks, editors. Portland, OR: Hart Publishing, 2011.

"Criminology's Place in the Academic Field," in *What Is Criminology?* Mary Bosworth and Carolyn Hoyle, editors. New York: Oxford University Press, 2011.

"Modes of Capital Punishment: The Death Penalty in Historical Perspective," in *America's Death Penalty: Between Past and Present*. David Garland, Michael Meranze, and Randall McGowen, editors. New York: New York University Press, 2011.

Gillers, Stephen

Regulation of Lawyers: Statutes and Standards. New York: Aspen, 2011 (with Roy Simon and Andrew Perlman).

Gillette, Clayton

Municipal Debt Finance Law: Theory and Practice. 2011 Supplement. New York: Aspen, 2011 (with Robert Amdursky).

"Standard Form Contracts," in *Contract Law and Economics*. Gerrit De Geest, editor. Northampton, MA: Edward Elgar Publishing, 2011.

Ginsburg, Douglas

"The Role of Economic Analysis in Competition Law," in *Intellectual Property, Competition Law and Economics in Asia*. R. Ian McEwin, editor. Portland, OR: Hart Publishing, 2011 (with Eric Fraser).

Golove, David

"The Supreme Court, the War on Terror, and the American Just War Constitutional Tradition," in *International Law in the US Supreme Court: Continuity and Change*. David Sloss, Michael Ramsey, and William Dodge, editors. New York: Cambridge University Press, 2011.

Halbental, Moshe

"The Goldstone Illusion," in *The Goldstone Report: The Legacy of the Landmark Investigation of the Gaza Conflict*. Adam Horowitz, Lizzy Ratner, and Philip Weiss, editors. New York: Nation Books, 2011.

**Hershkoff, Helen
Miller, Arthur
Sexton, John**

Civil Procedure Supplement for Use with All Pleading and Procedure Casebooks. 2011-2012 Supplement. St. Paul, MN: West, 2010 (with Jack Friedenthal).

Hershkoff, Helen

Federal Practice and Procedure: Jurisdiction and Related Matters, Volumes 14 and 14A. 2011 Supplement. St. Paul, MN: West, 2011.

"State Common Law and the Dual Enforcement of Constitutional Norms," in *New Frontiers of State Constitutional Law: Dual Enforcement of Norms*. James Gardner and Jim Rossi, editors. New York: Oxford University Press, 2011.

Holmes, Stephen

"Il futuro del liberalismo," in *Il Futuro de Norberto Bobbio*. Michelangelo Bovero, editor. Rome: Laterza, 2011.

Howse, Robert

"Comment: China—Measures Affecting the Protection and Enforcement of Intellectual Property Rights," in *The WTO Case Law of 2009: Legal and Economic Analysis*. Henrik Horn and Petros Mavroidis, editors. New York: Cambridge University Press, 2011.

"Global Judicial Activism, Fragmentation, and the Limits of Constitutionalism in International Law," in *From Bilateralism to Community Interest: Essays in Honour of Judge Bruno Simma*. Ulrich Fastenrath, Rudolf Geiger, Daniel-Erasmus Khan, Andreas Paulus, Sabine von Schorlemer, and Christoph Vedder, editors. New York: Oxford University Press, 2011 (with Ruti Teitel).

"Multi-Sourced Equivalent Norms: Concluding Thoughts," in *Multi-Sourced Equivalent Norms in International Law*. Tomer Broude and Yuval Shany, editors. Portland, OR: Hart Publishing, 2011.

Issacharoff, Samuel

"Judging Democracy's Boundaries," in *Race, Reform, and Regulation of the Electoral Process: Recurring Puzzles in American Democracy*. Guy-Uriel Charles, Heather Gerken, and Michael Kang, editors. New York: Cambridge University Press, 2011.

"On Political Corruption," in *Money, Politics, and the Constitution: Beyond Citizens United*. Monica Youn, editor. New York: Century Foundation Press, 2011.

Jacobs, James

"Paedophiles, Employment Discrimination and European Integration," in *Universalis: Liber Amicorum Cyrille Fijnaut*. A. C. Spapens, M. S. Groenhuijsen, and T. Kooijmans, editors. Antwerp: Intersentia, 2011.

Kingsbury, Benedict

"From Bilateralism to Publicness in International Law," in *From Bilateralism to Community Interest: Essays in Honour of Judge Bruno Simma*. Ulrich Fastenrath, Rudolf Geiger, Daniel-Erasmus Khan, Andreas Paulus, Sabine von Schorlemer, and Christoph Vedder, editors. New York: Oxford University Press, 2011 (with Megan Donaldson).

"Introduction: Global Administrative Law in the Institutional Practice of Global Administrative Governance," in *International Financial Institutions and Global Legal Governance*. Benedict Kingsbury, Hassane Cissé, and Daniel Bradlow, editors. Washington, DC: World Bank, 2011.

Neuborne, Burt

"Felix Frankfurter's Revenge: An Accidental Democracy Built by Judges," in *Money, Politics, and the Constitution: Beyond Citizens United*. Monica Youn, editor. New York: Century Foundation Press, 2011.

Pildes, Richard

"Elections as a Distinct Sphere under the First Amendment," in *Money, Politics, and the Constitution: Beyond Citizens United*. Monica Youn, editor. New York: Century Foundation Press, 2011.

"Political Parties and Constitutionalism," in *Comparative Constitutional Law*. Tom Ginsburg and Rosalind Dixon, editors. Northampton, MA: Edward Elgar Publishing, 2011.

"Voting Rights: The Next Generation," in *Race, Reform, and Regulation of the Electoral Process: Recurring Puzzles in American Democracy*. Guy-Uriel Charles, Heather Gerken, and Michael Kang, editors. New York: Cambridge University Press, 2011.

Revesz, Richard

Environmental Law and Policy: Statutory and Regulatory Supplement, 2011–2012. New York: Foundation Press, 2011.

Richards, David

"Love, Manhood, and Democracy," in *Enacting Pleasure: Artists and Scholars Respond to Carol Gilligan's New Map of Love*. Peggy Cooper Davis and Lizzy Cooper Davis, editors. London: Seagull Books, 2011.

Rodríguez, Cristina

"The Constitutional Status of Irregular Migrants: Testing the Boundaries of Human Rights Protection in Spain and the United States," in *Are Human Rights for Migrants?: Critical Reflections on the Status of Irregular Migrants in Europe and the United States*. Marie-Bénédicte Dembour and Tobias Kelly, editors. New York: Routledge, 2011 (with Ruth Rubio-Marín).

"The Integrated Regime of Immigration Regulation," in *Writing Immigration: Scholars and Journalists in Dialogue*. Roberto Suro, Vivian Louie, and Marcel Suárez-Orozco, editors. Berkeley, CA: University of California Press, 2011.

Rubinfeld, Daniel

"Revising the Horizontal Merger Guidelines: Lessons from the US and the EU," in *Competition Policy and Regulation: Recent Developments in China, the US and Europe*. Michael Faure and Xinzhu Zhang, editors. Northampton, MA: Edward Elgar Publishing, 2011 (with Richard Gilbert).

Stewart, Richard

"Governing a Fragmented Climate Finance Regime," in *International Financial Institutions and Global Legal Governance*. Benedict Kingsbury, Hassane Cissé, and Daniel Bradlow, editors. Washington, DC: World Bank, 2011 (with Bryce Rudyk and Kiri Mattes).

Waldron, Jeremy

"Ius gentium: A Defense of Gentili's Equation of the Law of Nations and the Law of Nature," in *The Roman Foundations of the Law of Nations: Alberica Gentili and the Justice of Empire*. Benedict Kingsbury and Benjamin Straumann, editors. New York: Oxford University Press, 2011.

"Legal Judgment and Moral Reservation," in *Law and Democracy in Neil MacCormick's Legal and Political Theory: The Post-Sovereign Constellation*. Agustín José Menéndez and John Erik Fossum, editors. New York: Springer, 2011.

"Rights and the Citation of Foreign Law," in *The Legal Protection of Human Rights: Sceptical Essays*. Tom Campbell, K. D. Ewing, and Adam Tomkins, editors. New York: Oxford University Press, 2011.

"The Rule of Law and the Importance of Procedure," in *Getting to the Rule of Law (Nomos 50)*. James Fleming, editor. New York: New York University Press, 2011.

"Vagueness and the Guidance of Action," in *Philosophical Foundations of Language in the Law*. Andrei Marmor and Scott Soames, editors. New York: Oxford University Press, 2011.

Weiler, Joseph

"Abraham, Jesus, and the Western Culture of Justice," in *From Bilateralism to Community Interest: Essays in Honour of Judge Bruno Simma*. Ulrich Fastenrath, Rudolf Geiger, Daniel-Erasmus Khan, Andreas Paulus, Sabine von Schorlemer, and Christoph Vedder, editors. New York: Oxford University Press, 2011.

Yoshino, Kenji

"The Arguments and Argots of Pleasure," in *Enacting Pleasure: Artists and Scholars Respond to Carol Gilligan's New Map of Love*. Peggy Cooper Davis and Lizzy Cooper Davis, editors. London: Seagull Books, 2011.

Zimmerman, Diane

"Trade Secrets and the 'Philosophy' of Copyright: A Case of Culture Crash," in *The Law and Theory of Trade Secrecy: A Handbook of Contemporary Research*. Rochelle Dreyfuss and Katherine Strandburg, editors. Northampton, MA: Edward Elgar Publishing, 2011.

ARTICLES

Adler, Amy

"To Catch a Predator," 21 *Columbia Journal of Gender and Law* 130 (2011).

Alston, Philip

"The CIA and Targeted Killings Beyond Borders," 2 *Harvard National Security Journal* 283 (2011).

"Hobbling the Monitors: Should UN Human Rights Monitors Be Accountable?" 52 *Harvard International Law Journal* 561 (2011).

"Of Witches and Robots: The Diverse Challenges of Responding to Unlawful Killings in the Twenty-first Century," 28 *Macalester International* 3 (2011).

Alvarez, José

"Are Corporations 'Subjects' of International Law?" 9 *Santa Clara Journal of International Law* 1 (2011).

"MacKinnon's Engaged Scholarship," 46 *Tulsa Law Review* 25 (2010, appeared in 2011).

"Review. *The Multilateralization of International Investment Law*. By Stephan W. Schill. Cambridge, UK, and New York: Cambridge University Press, 2009," 105 *American Journal of International Law* 377 (2011).

"The Return of the State," 20 *Minnesota Journal of International Law* 223 (2011).

"Revisiting the Necessity Defense: *Continental Casualty v. Argentina*," 2010-2011 *Yearbook on International Investment Law & Policy* 319 (2011) (with Tegan Brink).

Barkow, Rachel

"Federalism and Criminal Law: What the Feds Can Learn from the States," 109 *Michigan Law Review* 519 (2011).

Beebe, Barton

"Is the Trademark Office a Rubber Stamp?" 48 *Houston Law Review* 752 (2011).

Been, Vicki

"Decoding the Foreclosure Crisis: Causes, Responses, and Consequences," 30 *Journal of Policy Analysis and Management* 388 (2011) (with Sewin Chan, Ingrid Gould Ellen, and Josiah Madar).

"Does Losing Your Home Mean Losing Your School? Effects of Foreclosures on the School Mobility of Children," 41 *Regional Science and Urban Economics* 407 (2011) (with Ingrid Gould Ellen, Amy Ellen Schwartz, Leanna Stiefel, and Meryle Weinstein).

"Minimum Parking Requirements and Housing Affordability in New York City," 21 *Housing Policy Debate* 45 (2011) (with Simon McDonnell and Josiah Madar).

"Negative Equity, Yes, But Not the Whole Story," 30 *Journal of Policy Analysis and Management* 398 (2011) (with Sewin Chan, Ingrid Gould Ellen, and Josiah Madar).

"Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets in the United States," 48 *Urban Studies* 297 (2011) (with Jenny Schuetz and Rachel Meltzer).

Blank, Joshua

"In Defense of Individual Tax Privacy," 61 *Emory Law Journal* 265 (2011).

Bubb, Ryan

"The Economics of International Refugee Law," 40 *Journal of Legal Studies* 367 (2011) (with Michael Kremer and David Levine).

Choi, Stephen

"Judging Women," 8 *Journal of Empirical Legal Studies* 504 (2011) (with Mitu Gulati, Mirya Holman, and Eric Posner).

"Motions for Lead Plaintiff in Securities Class Actions," 40 *Journal of Legal Studies* 205 (2011).

"The Price of Pay to Play in Securities Class Actions," 8 *Journal of Empirical Legal Studies* 650 (2011) (with Drew Johnson-Skinner and Adam Pritchard).

Breaking the Devil's Pact: The Battle to Free the Teamsters from the Mob

JAMES B. JACOBS AND KERRY T. COOPERMAN

New York University Press, 2011

“After *Mobsters, Unions & Feds: the Mafia and the American Labor Movement* (2006), I thought I would have nothing more to say about labor racketeering. But as *US v. International Brotherhood of Teamsters*, the government's two-decades long effort to purge the Teamsters Unions of organized crime's presence and influence went on and on, I realized the need for a case study of the most important anti-labor-racketeering initiative in US history. First, at the time the lawsuit was filed, the IBT had the largest membership of any US private-sector union. Second, the IBT was indisputably the nation's most powerful union. Third, the IBT was the most written-about union. More than 20 books and scores of articles by journalists, historians, labor studies scholars, and Teamsters offer a rich, if uneven, history of a single labor union, thereby providing a window on 20th- and 21st century American labor history and American history generally. Obviously, the case warranted a major study....

Because *US v. IBT* was, first and foremost, meant to sever ties between Cosa Nostra and its most important economic and political power base, the IBT, this study also contributes to 20th- and 21st century organized-crime studies, especially to the history of the government's organized crime-control strategies. *US v. IBT* was groundbreaking for federal law enforcement because it stretched the legs of civil RICO farther than ever before. DOJ sought to purge Cosa Nostra's presence and influence from an international union (the United States, Canada, and Puerto Rico) with nearly 700 local and regional affiliates. *US v. IBT* tested DOJ's ability to use civil RICO to achieve systemic organizational reform, a goal that scores of criminal prosecutions had failed to achieve. Moreover, the stakes were huge. Failure would likely dissuade DOJ attorneys from bringing future civil RICO suits against systemically corrupted organizations and might thereby encourage labor racketeering. Success would likely encourage similar lawsuits against organized crimes' influence in other unions.



”

"Pricing Terms in Sovereign Debt Contracts: A Greek Case Study with Implications for the European Crisis Resolution Mechanism," 6 *Capital Markets Law Journal* 163 (2011) (with Mitu Gulati and Eric Posner).

Cohen, Jerome

"Ted Kennedy's Role in Restoring Diplomatic Relations with China," 14 *New York University Journal of Legislation and Public Policy* 347 (2011).

Cox, Adam

"Reconsidering Racial and Partisan Gerrymandering," 78 *University of Chicago Law Review* 553 (2011) (with Richard Holden).

Das, Alina

"The Immigration Penalties of Criminal Convictions: Resurrecting Categorical Analysis in Immigration Law," 86 *New York University Law Review* 1669 (2011).

Davis, Kevin

Hershkoff, Helen

"Contracting for Procedure," 53 *William and Mary Law Review* 507 (2011).

Davis, Peggy Cooper

"Making Law Students Healthy, Skillful, and Wise," 56 *New York Law School Law Review* 487 (2011) (with Ebony Coletu, Bonita London, and Wentao Yuan).

De Búrca, Gráinne

"The Road Not Taken: The European Union as a Global Human Rights Actor," 105 *American Journal of International Law* 649 (2011).

Dorsen, Norman

"10 x 10 Global: Norman Dorsen's Response," 8 *I•Con: International Journal of Constitutional Law* 509 (2010, appeared in 2011).

Dreyfuss, Rochelle

"Evaluating the Public Impact of Open Innovation," 44 *The Australian Economic Review* 66 (2011).

"From *Bilski* Back to *Benson*: Preemption, Inventing Around, and the Case of Genetic Diagnostics," 63 *Stanford Law Review* 1349 (2011) (with James Evans).

Dworkin, Ronald

"Retirement and the Social Contract," 171 *Policy Review* 33 (2011).

Epstein, Richard

"Branded Versus Generic Competition? A Kind Word for the Branded Drugs," 6 *Hastings Science & Technology Law Journal* 459 (2011).

"Bundle-of-Rights Theory as a Bulwark Against Statist Conceptions of Private Property," 8 *Econ Journal Watch* 223 (2011).

"Can We Design an Optimal Constitution? Of Structural Ambiguity and Rights Clarity," 28 *Social Philosophy & Policy* 290 (2011).

"*Citizens United v. FEC*: The Constitutional Right that Big Corporations Should Have But Do Not Want," 34 *Harvard Journal of Law and Public Policy* 639 (2011).

"Constitutional Paradox of the Durbin Amendment: How Monopolies Are Offered Constitutional Protections Denied to Competitive Firms," 63 *Florida Law Review* 1307 (2011).

"Constitutional Protection of Trade Secrets and Patents under the Biologics Price Competition and Innovation Act of 2009," 66 *Food & Drug Law Journal* 285 (2011).

"The Constitutionality of Proposition 8," 34 *Harvard Journal of Law and Public Policy* 879 (2011).

"The Dangerous Experiment of the Durbin Amendment," 34 (1) *Regulation* 24 (2011).

"Direct Democracy: Government of the People, by the People, and for the People?" 34 *Harvard Journal of Law and Public Policy* 819 (2011).

"Do Accounting Rules Matter? The Dangerous Allure of Mark to Market," 36 *Journal of Corporation Law* 513 (2011) (with M. Todd Henderson).

"Durbin's Folly: The Erratic Course of Debit Card Markets," 7 (2) *Competition Policy International* 58 (2011).

"Heller's 'Gridlock Economy' in Perspective: Why There Is Too Little, Not Too Much Private Property," 53 *Arizona Law Review* 51 (2011).

"Littoral Rights under the Takings Doctrine: The Clash between the *Ius Naturale* and Stop the Beach Renourishment," 6 *Duke Journal of Constitutional Law & Public Policy* 37 (2011).

"Of Pleading and Discovery: Reflections on Twombly and Iqbal with Reference to Antitrust," 2011 *University of Illinois Law Review* 187 (2011).

"Plain Meaning in Context: Can Law Survive Its Own Language?" 6 *New York University Journal of Law and Liberty* 358 (2011).

"Questioning the Frequency and Wisdom of Compulsory Licensing for Pharmaceutical Patents," 78 *University of Chicago Law Review* 71 (2011) (with F. Scott Kieff).

"Why We Need Term Limits for Congress: Four in the Senate, Ten in the House," 78 *Tennessee Law Review* 849 (2011).

Estlund, Cynthia

"It Takes a Movement"—But What Does It Take to Mobilize the Workers (in the US and China)?" 15 *Employee Rights and Employment Policy Journal* 507 (2011).

"Just the Facts: The Case for Workplace Transparency," 63 *Stanford Law Review* 351 (2011).

Estreicher, Samuel

"Negotiating the People's Capital Revisited," 28 *Hofstra Labor & Employment Law Journal* 253 (2011).

"Privileging Asymmetric Warfare? Part I: Defender Duties under International Humanitarian Law," 11 *Chicago Journal of International Law* 425 (2011).

"Privileging Asymmetric Warfare? Part II: The 'Proportionality' Principle under International Humanitarian Law," 12 *Chicago Journal of International Law* 143 (2011).

Ferejohn, John

"The Judiciary and the Popular Will: The Countermajoritarian Opportunity," 13 *University of Pennsylvania Journal of Constitutional Law* 353 (2010, appeared in 2011) (with Pasquale Pasquino).

Friedman, Barry

"Becoming Supreme: The Federal Foundation of Judicial Supremacy," 111 *Columbia Law Review* 1137 (2011) (with Erin Delaney).

"A Course Unbroken: The Constitutional Legitimacy of the Dormant Commerce Clause," 97 *Virginia Law Review* 1877 (2011) (with Daniel Deacon).

"Discipline and Method: The Making of *The Will of the People*," 2010 *Michigan State Law Review* 877 (2010, appeared in 2011).

Galowitz, Paula

"How Bioethics Can Enrich Medical-Legal Collaborations," 38 *The Journal of Law, Medicine & Ethics* 847 (2011) (with Amy Campbell, Jay Sicklick, Randy Retkin, and Stewart Fleishman).

Garland, David

"The Problem of the Body in Modern State Punishment," 78 *Social Research* 767 (2011).

"Rejoinder to Professors Acker, Bayley, and Bonaventure," 47 *Criminal Law Bulletin* 1308 (2011).

"Whatever Happened to the Death Penalty (translated as 'Wat is er met de doodstraf gebeurrd?')," 37 *Justitiële verkenningen* 11 (2011).

Geistfeld, Mark

"Legal Ambiguity, Liability Insurance, and Tort Reform," 60 *DePaul Law Review* 539 (2011).

"The Principle of Misalignment: Duty, Damages, and the Nature of Tort Liability," 121 *Yale Law Journal* 142 (2011).

"Tort Law and the Inherent Limitations of Monetary Exchange: Property Rules, Liability Rules, and the Negligence Rule," 4 *Journal of Tort Law* No. 1, Art. 4 (2011).

Gillers, Stephen

"Guns, Fruits, Drugs, and Documents: A Criminal Defense Lawyer's Responsibility for Real Evidence," 63 *Stanford Law Review* 813 (2011).

Hershkoff, Helen

"Horizontality and the 'Spooky' Doctrines of American Law," 59 *Buffalo Law Review* 455 (2011).

"Shady Grove: Duck-Rabbits, Clear Statements, and Federalism," 74 *Albany Law Review* 1703 (2011).

"State Courts and Constitutional Socio-Economic Rights: Exploring the Underutilization Thesis," 115 *Penn State Law Review* 923 (2011) (with Stephen Loffredo).

Hills, Roderick

"Balancing the 'Zoning Budget,'" 34 (3) *Regulation* 24 (2011) (with David Schleicher).

Howse, Robert

"Posner's Missing Concept of Law," 2 *Global Policy* 117 (2011) (with Ruti Teitel).

Hulsebosch, Daniel

"The Plural Prerogative," 68 *The William and Mary Quarterly* 583 (2011).

Issacharoff, Samuel

"Constitutional Courts and Democratic Hedging," 99 *Georgetown Law Journal* 961 (2011).

"Disclosure, Agents, and Consumer Protection," 167 *Journal of Institutional and Theoretical Economics* 56 (2011).

Jacobs, James

"Keeping Firearms Out of the Hands of the Dangerously Mentally Ill," 47 *Criminal Law Bulletin* 388 (2011) (with Jennifer Jones).

"Racketeering and the Decline of the Labor Movement," 52 *Labor History* 217 (2011).

Kahan, Marcel

"The Insignificance of Proxy Access," 97 *Virginia Law Review* 1347 (2011) (with Edward Rock).

"When the Government Is the Controlling Shareholder," 89 *Texas Law Review* 1293 (2011) (with Edward Rock).

"When the Government Is the Controlling Shareholder: Implications for Delaware," 35 *Delaware Journal of Corporate Law* 409 (2011) (with Edward Rock).

Kane, Mitchell

"Taxation and Multi-Period Global Cap and Trade," 19 *New York University Environmental Law Journal* 87 (2011).

Levinson, Daryl

"Parchment and Politics: The Positive Puzzle of Constitutional Commitment," 124 *Harvard Law Review* 657 (2011).

Malamud, Deborah

"Class Privilege in Legal Education: A Response to Sander," 88 *University of Denver Law Review* 729 (2011).

Marotta-Wurgler, Florencia

"Some Realities of Online Contracting," 19 *Supreme Court Economic Review* 11 (2011).

"Will Increased Disclosure Help? Evaluating the Recommendations of the ALI's 'Principles of the Law of Software Contracts,'" 78 *University of Chicago Law Review* 165 (2011).

Miller, Arthur

"Are the Federal Courthouse Doors Closing? What's Happened to the Federal Rules of Civil Procedure?" 43 *Texas Tech Law Review* 587 (2011).

Miller, Geoffrey

"Law and Economics versus Economic Analysis of Law," 19 *American Bankruptcy Institute Law Review* 459 (2011).

"Un-manifested Harm in Business-to-Business Cases," 167 *Journal of Theoretical and Institutional Economics* 80 (2011).

Morawetz, Nancy

"Counterbalancing Distorted Incentives in Supreme Court Pro Bono Practice: Recommendations for the New Supreme Court Pro Bono Bar and Public Interest Practice Communities," 86 *New York University Law Review* 131 (2011).

Murphy, Erin

"Familial Searches of DNA Databases," 38 (5) *Search and Seizure Law Report* 37 (2011).

Neuborne, Burt

"Felix Frankfurter's Revenge: An Accidental Democracy Built by Judges," 35 *New York University Review of Law & Social Change* 602 (2011).

"First Amendment Freedom of Speech and Religion—October 2009 Term," 27 *Touro Law Review* 63 (2011) (with Michael Dorf).

"Gravitational Pull of Race on the Warren Court," 2010 *Supreme Court Review* 59 (2011).

"Serving the Syllogism Machine: Reflections on Whether Brandenburg Is Now (or Ever Was) Good Law," 44 *Texas Tech Law Review* 1 (2011).

Pildes, Richard

"Why the Center Does Not Hold: The Causes of Hyperpolarized Democracy in America," 99 *California Law Review* 273 (2011).

Revesz, Richard

"Climate Change and Future Generations," 84 *Southern California Law Review* 1097 (2011) (with Matthew Shahabian).

"Regulatory Change and Optimal Transition Relief," 105 *Northwestern University Law Review* 1581 (2011) (with Allison Westfahl Kong).

"Retaking Rationality Two Years Later," 48 *Houston Law Review* 1 (2011) (with Michael Livermore).

Rubinfeld, Daniel

"Antitrust Class Certification: Towards an Economic Framework," 66 *New York University Annual Survey of American Law* 459 (2011) (with Bret Dickey).

Satterthwaite, Margaret

"Indicators in Crisis: Rights-Based Humanitarian Indicators in Post-Earthquake Haiti," 43 *New York University Journal of International Law and Politics* 865 (2011).

Schenk, Deborah

"Exploiting the Salience Bias in Designing Taxes," 28 *Yale Journal on Regulation* 253 (2011).

Schulhofer, Stephen

"American Policing at a Crossroads: Unsustainable Policies and the Procedural Justice Alternative," 101 *Journal of Criminal Law and Criminology* 335 (2011) (with Tom Tyler and Aziz Huq).

"Mechanisms for Eliciting Cooperation in Counterterrorism Policing: Evidence from the United Kingdom," 8 *Journal of Empirical Legal Studies* 728 (2011) (with Aziz Huq and Tom Tyler).

"Why Does the Public Cooperate with Law Enforcement? The Influences of the Purposes and Targets of Policing," 17 *Psychology, Public Policy, and Law* 429 (2011) (with Aziz Huq and Tom Tyler).

Scott, Helen

"Simulations in Clinics, Contract Drafting, and Upper-Level Courses," 12 *Transactions: The Tennessee Journal of Business Law* 55 (2011) (with David Epstein, Carole Heyward, and Daniel Bogart).

Sharkey, Catherine

"America Gasshukoku-ni Okeru Gendaiteki Fukuzatsu Soshō: Ko-to Shi-no Shudoken Arasoī [A Year of High Profile, High Stakes US Litigation: BP, Toyota & Beyond]," 2011-1 *Amerika-ho* 27 (2011) (translated by Takeshi Wada).

"The Future of Federal Preemption," 6 *New York University Journal of Law & Liberty* 184 (2011).

"The Vicissitudes of Tort: A Response to Professors Rabin, Sebok & Zipursky," 60 *DePaul Law Review* 695 (2011).

Shavero, Daniel

"A Burden-Neutral Shift from Foreign Tax Credibility to Deductibility?" 64 *Tax Law Review* 431 (2011) (with Kimberly Clausing).

"The Case against Foreign Tax Credits," 3 *Journal of Legal Analysis* 65 (2011).

"1986-Style Tax Reform: A Good Idea Whose Time Has Passed," 131 *Tax Notes* 817 (2011).

"The Rising Tax-Electivity of US Corporate Residence," 64 *Tax Law Review* 377 (2011).

Silberman, Linda

"Convention on the Civil Aspects of International Child Abduction-Custody Rights-Ne Exeat Rights," 105 *American Journal of International Law* 108 (2011).

"The Hague Convention on Child Abduction and Unilateral Relocations by Custodial Parents: A Perspective from the United States and Europe—Abbott, Neulinger, Zarraga," 63 *Oklahoma Law Review* 733 (2011).

"*Morrison v. National Australia Bank*: Implications for Global Securities Class Actions," XII *Yearbook of Private International Law* 123 (2010, appeared in 2011).

"The Supreme Court's Recent Perspective on Party Autonomy in Arbitration: What Does It Mean for the Proposed ALI Restatement on International Commercial Arbitration?" 5 *World Arbitration & Mediation Review* 303 (2011).

Stewart, Richard

"The World Trade Organization: Multiple Dimensions of Global Administrative Law," 9 *International Journal of Constitutional Law* 556 (2011) (with Michelle Ratton Sanchez Badin).

Strandburg, Katherine

"Home, Home on the Web and Other Fourth Amendment Implications of Technosocial Change," 70 *Maryland Law Review* 614 (2011).

"Patent Fair Use 2.0," 2 *UC Irvine Law Review* 265 (2011).

Thompson, Anthony

"Clemency for Our Children," 32 *Cardozo Law Review* 2641 (2011).

"From Sound Bites to Sound Policy: Reclaiming the High Ground in Civil Justice Policymaking," 38 *Fordham Urban Law Journal* 775 (2011).

"The Reentry Movement in Corrections: Resiliency, Fragility and Prospects," 47 *Criminal Law Bulletin* 177 (2011) (with Edward Rhine).

"Unlocking Democracy: Examining the Collateral Consequences of Mass Incarceration on Black Political Power," 54 *Howard Law Journal* 587 (2011).

Upham, Frank

"Reflections on the Rule of Law in China," 6 *National Taiwan University Law Review* 251 (2011).

"Stealth Activism: Norm Formation by Japanese Courts," 88 *Washington University Law Review* 1493 (2011).

Waldron, Jeremy

"Are Sovereigns Entitled to the Benefit of the International Rule of Law?" 22 *European Journal of International Law* 315 (2011).

"The Perils of Exaggeration," 22 *European Journal of International Law* 389 (2011).

"Planning for Legality," 109 *Michigan Law Review* 883 (2011).

"Socioeconomic Rights and Theories of Justice," 48 *San Diego Law Review* 773 (2011).

"Thoughtfulness and the Rule of Law," 18 *British Academy Review* 1 (2011).

Weiler, Joseph

"The Political and Legal Culture of European Integration: An Exploratory Essay," 9 *International Journal of Constitutional Law* 678 (2011).

Yoshino, Kenji

"The New Equal Protection," 124 *Harvard Law Review* 747 (2011).

Zimmerman, Diane

"Copyrights as Incentives: Did We Just Imagine That?" 12 *Theoretical Inquiries in Law* 29 (2011).

MISCELLANEOUS**Alston, Philip**

"The General Comments of the UN Committee on Economic, Social and Cultural Rights," *American Society of International Law. Proceedings of the 104th Annual Meeting* (2011).

Choi, Stephen**Kahan, Marcel**

"How Powerful Is ISS? Less—and in Different Ways—than Most People Think," 19 (6) *Corporate Governance Advisor* 7 (2011) (with Jill Fisch).

Dworkin, Ronald

"The Court's Embarrassingly Bad Decisions," 58 (9) *New York Review of Books* (May 26, 2011).

"What Is a Good Life?" 58 (2) *New York Review of Books* (February 10, 2011).

Epstein, Richard

"Book Review. A New Birth of Economic Freedom. *Rehabilitating Lochner: Defending Individual Rights Against Progressive Reform*, by David Bernstein," 11 (4) *Claremont Review of Books* 38 (2011).

"Book Review. Subjective Case: Justice Breyer at the Lectern. *Making Our Democracy Work*, by Stephen Breyer," 91 (1) *Barron's* (January 3, 2011).

"Constitutionality of the Patient Protection and Affordable Care Act," 12 (2) *Engage* 4 (2011) (with Jesse Choper).

The Harm in Hate Speech

JEREMY WALDRON

Harvard University Press, 2012

“A man out walking with his seven-year-old son and his ten-year-old daughter turns a corner on a city street in New Jersey and is confronted with a sign. It says: ‘Muslims and 9/11! Don’t serve them, don’t speak to them, and don’t let them in.’ The daughter says, ‘What does that mean, papa?’ Her father, who is a Muslim—the whole family is Muslim—doesn’t know what to say. He hurries the children on, hoping that the will not come across any more of the signs. Other days he has seen them on the streets: a large photograph of Muslim children with the slogan ‘They are all called Osama,’ and a poster on the outside wall of his mosque which reads ‘Jihad Central.’”

Many of my colleagues who are not Muslim say that they detest these signs and others like them (the racist slogans, the anti-Semitic signage). But they say that people like us, who detest hate speech, should learn to live with it. Less often, and only under pressure, they will say that the father in our example (who is not a First Amendment scholar) and his children and others like them should also learn to live with these signs. But they say that uneasily. They are more often confident in their own liberal bravado, calling attention to their ability to bear the pain of this vicious invective: “I hate what you say but I will defend to the death your right to say it.”

I disagree. I think there is something socially and legally significant at stake. There is a sort of public good of inclusiveness that our society sponsors and that it is committed to. We are diverse in our ethnicity, our race, our appearance, and our religions. And we are embarked on a grand experiment of living and working together despite these sorts of differences. Each group must accept that the society is not just for them; but it is for them too, along with all of the others. And each person, each member of each group, should be able to go about his or her business, with the assurance that there will be no need to face hostility, violence, discrimination, or exclusion by others. When this assurance is conveyed effectively, it is hardly noticeable; it is something on which everyone can rely, like the cleanness of the air they breathe or the quality of the water they drink from a fountain. This sense of security in the space we all inhabit is a public good, and in a good society it is something that we all contribute to and help sustain in an instinctive and almost unnoticeable way.

**Estreicher, Samuel**

"California Unconscionability Doctrine on Class Action Waivers Barred," *New York Law Journal* (May 31, 2011) (with Steven Bennett).

"Discovery from Non-parties in International Arbitration," *New York Law Journal* (March 1, 2011) (with Steven Bennett).

"NLRB Allows Pre-Recognition Framework Agreements," *New York Law Journal* (February 23, 2011) (with Andrew Kramer).

"Practical Responses to the New French Arbitration Law," *New York Law Journal* (August 30, 2011) (with Steven Bennett).

"SEC Issues Final Rules on Whistleblower Protections and Bounty Program," *New York Law Journal* (July 13, 2011) (with Terri Chase).

"Second Circuit on Class-Wide Arbitration Post 'Stolt-Nielsen,'" *New York Law Journal* (December 5, 2011) (with Steven Bennett).

Friedman, Barry

"Not Your Gingrich's Supreme Court: The Supreme Court Rediscovered Federalism Just in Time for 2012 Election," *Slate* (December 14, 2011) (with Dahlia Lithwick).

Howse, Robert

"Freezing Government Policy: Stabilization Clauses in Investment Contracts," 1 (3) *Investment Treaty News Quarterly* 3 (2011).

Nagel, Thomas

"Book Review. *Assisted Death*, by L. W. Sumner," 33 (19) *London Review of Books* (October 6, 2011).

"Book Review. I Intuit, Therefore I Am. *The Social Animal: The Hidden Sources of Love, Character, and Achievement*, by David Brooks," *New York Times Book Review* (March 13, 2011).

"Book Review. In Distress. *Engagement and Metaphysical Dissatisfaction: Modality and Value*, by Barry Stroud," *Times Literary Supplement* (August 12, 2011).

"Book Review. It's Revolting! *Yuck! The Nature and Moral Significance of Disgust*, by Daniel Kelly; *The Meaning of Disgust*, by Colin McGinn," 58 (18) *New York Review of Books* (November 24, 2011).

"Book Review. Tony Judt: The Distinctions. *The Memory Chalet*, by Tony Judt." 58 (2) *New York Review of Books* (February 10, 2011).

Neuborne, Burt

"The Censorship Canard," *Nation* (January 31, 2011).

"Corporations Aren't People," *Nation* (January 31, 2011).

Satterthwaite, Margaret

"Measuring the Way Forward in Haiti: Grounding Disaster Relief in the Legal Framework of Human Rights," 13 *Health and Human Rights* 1 (2011) (with Amanda Klasing and P. Scott Moses).

Sharkey, Catherine

"Vaccines and Drugs: A Brave New Tort World," 8 *Indiana Health Law Review* 259 (2011).

Upham, Frank

"Tribute to Jerome Alan Cohen on His Eightieth Birthday," 43 *New York University Journal of International Law and Politics* 623 (2011).