

CURRICULUM VITAE

Eric A. Posner

May 2018

Address: University of Chicago Law School
1111 E. 60th St.
Chicago, IL 60637
(773)702-0425
eposner@uchicago.edu

Professional Experience

Kirkland & Ellis Distinguished Service Professor of Law, University of Chicago (since 2013)
Member, Committee on International Relations, University of Chicago (since 2003)

Fall 2016 Visiting Professor of Law, Columbia Law School
2003-2012 Kirkland & Ellis Professor of Law, University of Chicago
Fall 2008 Visiting Professor of Law, NYU Law School
1998-2003 Professor of Law, University of Chicago
1998 Professor of Law, University of Pennsylvania
Fall 1997 Visiting Assistant Professor of Law, University of Chicago
1993-1998 Assistant Professor of Law, University of Pennsylvania
1992-1993 Attorney Adviser, Office of Legal Counsel, U.S. Department of Justice
1991-1992 Law Clerk, Judge Stephen F. Williams, U.S. Court of Appeals, D.C. Circuit

Books

Law and Social Norms: Harvard University Press (2000)
Japanese edition (Bokutakusha, 2002)
Chinese edition (China University of Political Science and Law Publishing House, 2005)
Taiwanese edition (Angle Publishing Company, 2006)
South Asia edition (Universal Law Publishing Company, 2009)

Chicago Lectures in Law and Economics (editor): Foundation Press (2000)

Cost-Benefit Analysis: Legal, Philosophical, and Economic Perspectives (editor, with Matthew Adler): University of Chicago Press (2001)

The Limits of International Law (with Jack Goldsmith): Oxford University Press (2005)
Chinese edition (Law Press of Beijing, forthcoming)
Macedonian edition (forthcoming)

New Foundations of Cost-Benefit Analysis (with Matthew Adler): Harvard University Press (2006)
Arabic edition (Institute of Public Administration, Saudi Arabia, 2010)

Terror in the Balance: Security, Liberty and the Courts (with Adrian Vermeule): Oxford University Press (2007)

Social Norms, Nonlegal Sanctions, and the Law (editor): Edward Elgar (2007)

The Perils of Global Legalism: University of Chicago Press (2009)
Chinese edition (Law Press China, 2016)

- Climate Change Justice (with David Weisbach): Princeton University Press (2010)
Korean edition (Sogan Hawoo, 2016)
- Law and Happiness (editor, with Cass R. Sunstein): University of Chicago Press (2010)
- The Economics of Public International Law (editor): Edward Elgar (2010)
- The Executive Unbound: After the Madisonian Republic (with Adrian Vermeule): Oxford University Press (2011)
German edition (Duncker & Humblot, 2014)
- Contract Law and Theory: Aspen (2011)
Second edition (2016)
- Economic Foundations of International Law (with Alan Sykes): Harvard University Press (2013)
Georgian edition (Labyrinth Publishing House, 2014)
- The Twilight of Human Rights Law: Oxford University Press (2014)
Excerpt republished in Harper's, October 2014
- Last Resort: The Financial Crisis and the Future of Bailouts: University of Chicago Press (2018)
Chinese edition (Truth and Wisdom Press, forthcoming)
- Radical Markets: Uprooting Property and Democracy for a Just Society (with E. Glen Weyl): Princeton University Press (2018)
Korean edition (Bookie Publishing House, forthcoming)
Japanese edition (Toyo Keizai, forthcoming)
Chinese edition (Beijing Huazhang Graphics and Information Co. Ltd., forthcoming)
Spanish edition (Antoni Bosch, forthcoming)

Articles and Book Chapters

- Contract Law in the Welfare State: A Defense of Usury Laws, the Unconscionability Doctrine, and Related Limitations on the Freedom to Contract, 24 J. Legal Stud. 283 (1995)
- The Regulation of Groups: The Influence of Legal and Nonlegal Sanctions on Collective Action, 63 U. Chi. L. Rev. 133 (1996)
- Law, Economics, and Inefficient Norms, 144 U. Pa. L. Rev. 1697 (1996)
- The Legal Regulation of Religious Groups, 2 Legal Theory 33 (1996)
- Altruism, Status, and Trust in the Law of Gifts and Gratuitous Promises, 1997 Wisc. L. Rev. 567 (1997)
- The Political Economy of the Bankruptcy Reform Act of 1978, 96 Mich. L. Rev. 47 (1997) (reprinted in part in Bankruptcy Anthology (Charles J. Tabb ed. 2001))
- The Parol Evidence Rule, the Plain Meaning Rule, and the Principles of Contractual Interpretation, 146 U. Pa. L. Rev. 533 (1998)
- Symbols, Signals, and Social Norms in Politics and the Law, 27 J. Legal Stud. 765 (1998) (reprinted in Law and Economics (Nicholas Mercuro ed., Routledge Press, 2007); Foundations of Law and Economics (Robert Cooter & Francesco Parisi, eds., Edward Elgar, 2010))

The Strategic Basis of Principled Behavior: A Critique of the Incommensurability Thesis, 146 U. Pa. L. Rev. 1185 (1998)

The Demand for Human Cloning, in *Clones and Clones: Facts and Fantasies About Human Cloning* (Martha C. Nussbaum and Cass R. Sunstein, eds.): W.W. Norton (1998) (with Richard A. Posner) (Reprinted, with a postscript, in 27 Hofstra L. Rev. 579 (1999))

A Positive Theory of Chapter 11, 74 NYU Law Rev. 161 (1999) (with Kevin A. Kordana)

The Decline of Formality in Contract Law, in *The Fall and Rise of Freedom of Contract* (Frank Buckley, ed.): Duke University Press (1999)

Family Law and Social Norms, in *The Fall and Rise of Freedom of Contract* (Frank Buckley, ed.): Duke University Press (1999)

Shaming White Collar Criminals under the Federal Sentencing Guidelines, 42 J. Law & Econ. 365 (1999) (With Dan M. Kahan)

Arbitration and the Harmonization of International Commercial Law: A Defense of *Mitsubishi*, 39 Va. J. Inter'l Law 647 (1999)

Should Debtors Be Forced into Chapter 13?, 32 Loyola of Los Angeles L. Rev. 965 (1999)

A Theory of Customary International Law, 66 U. Chi. L. Rev. 1113 (1999) (with Jack L. Goldsmith)

Rethinking Cost-Benefit Analysis, 109 Yale L.J. 165 (1999) (with Matthew Adler) (Reprinted in part in *Jurisprudence: Contemporary Readings, Narratives, and Problems* (Robert Hayman et al., ed., 2d ed. 2002))

Contract Remedies: Foreseeability, Precaution, Causation, and Mitigation, in *The Encyclopedia of Law and Economics* (Boudewijn Bouckaert and Gerrit De Geest, eds.): Edward Elgar (2000)

A Theory of Contract Law Under Conditions of Radical Judicial Error, 94 Nw. U. L. Rev. 749 (2000)

Understanding the Resemblance Between Modern and Traditional Customary International Law, 40 Va. J. Int'l Law 639 (2000) (with Jack L. Goldsmith), excerpted in Edward M. Wise, *International Criminal Law: Cases and Materials* (3d ed. 2009)

Implementing Cost-Benefit Analysis When Preferences Are Distorted, 29 J. Legal Stud. 1105 (2000) (with Matthew Adler)

Introduction to the Conference on Cost-Benefit Analysis, 29 J. Legal Stud. 837 (2000) (with Matthew Adler)

Agency Models in Law and Economics, in *Chicago Lectures in Law and Economic* (Eric A. Posner ed., 2000), reprinted in *Game Theory and the Law* (Eric B. Rasmussen ed., 2007)

The Design and Interpretation of Contracts: Why Complexity Matters, 95 Nw. U.L. Rev. 91 (2000) (with Karen Eggleston and Richard Zeckhauser)

Law and Social Norms: The Case of Tax Compliance, 86 Va. L. Rev. 1781 (2000), excerpt reprinted in *Tax Controversies: Practice and Procedure* (forthcoming)

Cost-Benefit Analysis as a Solution to a Principal-Agent Problem, 53 Admin. L. Rev. 289 (2001)

Law and the Emotions, 89 *Georgetown L.J.* 1977 (2001)

Controlling Agencies with Cost-Benefit Analysis: A Positive Political Theory Perspective, 68 *U. Chi. L. Rev.* 1137 (2001)

The Law and Economics of Consumer Finance, 4 *Amer. Law & Econ. Rev.* 162 (2002) (with Richard Hynes)

Legislative Entrenchment: A Reappraisal, 111 *Yale L.J.* 1665 (2002) (with Adrian Vermeule)

Fear and the Regulatory Model of Counterterrorism, 25 *Harv. J.L. & Pub. Pol.* 681 (2002)

Controlling Agencies with Net Benefit Accounts: A Thought Experiment, 150 *U. Pa. L. Rev.* 1473 (2002)

Moral and Legal Rhetoric in International Relations: A Rational Choice Perspective, 31 *J. Legal Stud.* S115 (2002) (with Jack Goldsmith)

Interring the Nondelegation Doctrine, 69 *U. Chi. L. Rev.* 1721 (2002) (with Adrian Vermeule)

Economic Analysis of Contract Law After Three Decades: Success or Failure?, 112 *Yale L.J.* 829 (2003), reprinted in *Economics of Contract Law* (Douglas Baird ed. 2007) and *Law in Society: Nature, Functions and Limits* (Robert Hillman ed., forthcoming)

Four Economic Perspectives on American Labor Law and the Problem of Social Conflict, 159 *J. Inst'l & Theoretical Econ.* 101 (2003)

The Jurisprudence of Greed, 151 *U. Pa. L. Rev.* 1097 (2003)

International Agreement: A Rational Choice Approach, 44 *Va. J. Int'l L.* 113 (2003) (with Jack Goldsmith)

Reparations for Slavery and Other Historical Injustices, 103 *Colum. L. Rev.* 689 (2003) (with Adrian Vermeule)

A Theory of the Laws of War, 70 *U. Chi. L. Rev.* 297 (2003)

Do States Have a Moral Obligation to Comply with International Law?, 55 *Stan. L. Rev.* 1901 (2003)

Accommodating Emergencies, 56 *Stan. L. Rev.* 605 (2003) (with Adrian Vermeule), reprinted in *The Constitution in Wartime* 55 (Mark Tushnet, editor, 2005)

Transfer Regulations and Cost-Effectiveness Analysis, 53 *Duke L.J.* 1067 (2003)

Probability Errors: Implications for Tort and Contract Law, 11 *Sup. Ct. Econ. Rev.* 125 (2004), reprinted in *The Law and Economics of Irrational Behavior* 456 (Francesco Parisi and Vernon Smith, eds., 2005); and in *Law and Economics of Uncertainty* (Joshua C. Teitelbaum, ed., forthcoming)

Transitional Justice as Ordinary Justice, 117 *Harv. L. Rev.* 761 (2004) (with Adrian Vermeule)

The Political Economy of State Bankruptcy Exemptions, 47 *J. Law & Econ.* 19 (2004) (with Richard Hynes and Anup Malani)

Judicial Independence in International Tribunals, 93 *Calif. L. Rev.* 1 (2005) (with John Yoo)

Optimal War and *Jus ad Bellum*, 93 *Georgetown L.J.* 993 (2005) (with Alan Sykes)

International Law and the Disaggregated State, 32 Fla. St. U. L. Rev. 797 (2005)

Dollars and Death, 72 U. Chi. L. Rev. 537 (2005) (with Cass Sunstein)

Is the International Court of Justice Biased?, 34 J. Legal Stud. 599 (2005) (with Miguel de Figueiredo)

Political Trials in Domestic and International Law, 55 Duke L. J. 75 (2005)

Should Coercive Interrogation Be Legal?, 104 Mich. L. Rev. 671 (2006) (with Adrian Vermeule)

Holding Internet Service Providers Accountable, 14 Sup. Ct. Econ. Rev. 221 (2006) (with Douglas Lichtman), reprinted in *The Law and Economics of Cybersecurity* (Mark F. Grady and Francesco Parisi eds. 2006)

The Decline of the International Court of Justice, in *International Conflict Resolution* 111 (Stefan Voigt, Max Albert, and Dieter Schmidtchen eds. 2006).

International Law: A Welfarist Approach, 73 U. Chi. L. Rev. 487 (2006)

International Law and the Rise of China, 7 Chi. J. Int'l L. 1 (2006) (with John Yoo)

Emergencies and Democratic Failure, 92 Va. L. Rev. 1091 (2006) (with Adrian Vermeule)

There Are No Penalty Default Rules in Contract Law, 33 Fla. St. U. L. Rev. 563 (2006)

The Law of Other States, 59 Stan. L. Rev. 131 (2006) (with Cass Sunstein), reprinted in *Comparative Constitutional Law*, edited by Mark Tushnet (Edward Elgar, forthcoming)

Chevronizing Foreign Relations, 116 Yale L.J. 1171 (2007) (with Cass Sunstein), reprinted in Curtis A. Bradley, *Foreign Relations Law* (Edward Elgar, forthcoming)

Signing Statements and Executive Power, 23 Constitutional Commentary 307 (2007) (with Curtis Bradley)

The Second-Order Structure of Immigration Law, 59 Stan. L. Rev. 809 (2007) (with Adam Cox)

Social Norms and Economic Analysis of the Law, in *Economic Analysis of Law: A European Perspective* (Aristides N. Hatzis ed., 2007)

An Economic Analysis of State and Individual Responsibility Under International Law, 9 Amer. L. & Econ. Rev. 72 (2007) (with Alan Sykes)

The Credible Executive, 74 U. Chi. L. Rev. 865 (2007) (with Adrian Vermeule)

The Case for For-Profit Charities, 93 Va. L. Rev. 2017 (2007) (with Anup Malani)

Timing Rules and Legislative Action, 121 Harv. L. Rev. 543 (2007) (with Jacob Gersen)

Climate Change and International Human Rights Litigation: A Critical Appraisal, 155 U. Pa. L. Rev. 1925 (2007), reprinted in *Human Rights and the Environment* (Svitlana Kravchenko, John E. Bonine, & Don Anton eds., 2008); *Environment and Health: Issues and Implications* (L. Lakshmi ed., 2008)

A Critique of the Odious Debt Doctrine, 70 Law & Contemp. Probs. 33 (2007) (with Albert Choi)

The International Protection of Cultural Property: Some Skeptical Observations, 8 Chi. J. Int'l L. 213 (2007)

Constitutional Showdowns, 156 U. Pa. L. Rev. 991 (2008) (with Adrian Vermeule)

Climate Change Justice, 96 Georgetown L.J. 1565 (2008) (with Cass Sunstein), excerpted or reprinted in *Cases and Materials on Environmental Law* (Daniel A. Farber, ed., forthcoming); *Reflecting on Nature: Readings in Environmental Ethics and Philosophy* (Lori Gruen, Dale Jamieson, and Christopher Schlotmann eds., 2d ed., Oxford, 2012); *Ethics, Environmental Justice and Climate Change* (by Paul G. Harris ed., Edward Elgar, forthcoming); *The Ethical Life*, by Russ Shafer-Landau (Oxford, forthcoming); *Introducing Ethics and Contemporary Moral Issues*, by Russ Shafer-Landau (Oxford, forthcoming)

Does Political Bias in the Judiciary Matter?: Implications of Judicial Bias Studies for Legal Reform, 75 U. Chi. L. Rev. 853 (2008)

Happiness Research and Cost-Benefit Analysis, 37 J. Legal Stud. S253 (2008) (with Matthew Adler)

Human Welfare, Not Human Rights, 108 Colum. L. Rev. 1758 (2008)

Soft Law: Lessons from Congressional Practice, 61 Stanford L. Rev. 573 (2008) (with Jacob E. Gersen)

Should Greenhouse Gas Permits Be Allocated on a Per Capita Basis?, 97 Calif. L. Rev. 51 (2009) (with Cass R. Sunstein), republished with modifications in *Post-Kyoto International Climate Policy* 343 (Joseph E. Aldy and Robert N. Stavins, eds. 2010).

Are Judges Overpaid?, 1 J. Legal Analysis 47 (2009) (with Stephen J. Choi and G. Mitu Gulati)

Erga Omnes Norms, Institutionalization, and Constitutionalism in International Law, 165 J. Institutional & Theoretical Econ. 5 (2009)

Judicial Evaluations and Information Forcing: Ranking State High Courts and Their Judges, 58 Duke L.J. 1313 (2009) (with Stephen J. Choi and Mitu Gulati)

Fault in Contract Law, 107 Mich. L. Rev. 1431 (2009), reprinted in *Fault in American Contract Law* (Omri Ben-Shahar & Ariel Porat eds., 2010)

Crisis Governance in the Administrative State: 9/11 and the Financial Meltdown of 2008, 76 U. Chi. L. Rev. 1613 (2009) (with Adrian Vermeule)

A Loan Modification Approach to the Housing Crisis, 11 Amer. L. & Econ. Rev. 579 (2009) (with Luigi Zingales)

The Rights of Migrants: An Optimal Contract Framework, 84 NYU L. Rev. 1403 (2009) (with Adam B. Cox), reprinted in *Immigration and Nationality Law Review* (forthcoming); reprinted in *Law and Economics of Migration* (Howard F. Chang, ed., forthcoming)

Professionals or Politicians?: The Uncertain Empirical Case for an Elected Judiciary, 26 J. Law, Econ., & Org. 290 (2010) (with Stephen Choi and Mitu Gulati)

Against Feasibility Analysis, 77 U. Chicago L. Rev. 657 (2010) (with Jonathan Masur)

Subconstitutionalism, 62 Stanford L. Rev. 1583 (2010) (with Tom Ginsburg)

ProCD v. Zeidenberg and Cognitive Overload in Contractual Bargaining, 77 U. Chicago L. Rev. 1181 (2010)

Economic Foundations of the Law of the Sea, 104 *Amer. J. Inter'l L.* 569 (2010) (with Alan Sykes)

Divide and Conquer, 2 *J. Legal Analysis* 417 (2010) (with Kathryn Spier and Adrian Vermeule)

Universal Exceptionalism in International Law, 52 *Harv. J. Int'l L.* 1 (2011) (with Anu Bradford)

The Limits of Constitutional Convergence, 11 *Chicago J. Int'l L.* 399 (2011) (with Rosalind Dixon)

The Right to Withdraw in Contract Law, 40 *J. Legal Stud.* 115 (2011) (with Omri Ben-Shahar)

The Flaws of Foreign Affairs Legalism, 51 *Va. J. Int'l L.* 507 (2011) (with Daniel Abebe)

Constitutional Possibility and Constitutional Evolution, in *Law, Economics and Evolutionary Theory* (Peer Zumbansen and Graft-Peter Calliess eds. 2011)

Judging Women, 8 *J. Empirical Legal Stud.* 504 (2011) (with Stephen J. Choi, Mitu Gulati, and Mirya Holman)

Pricing Terms in Sovereign Debt Contracts: A Greek Case Study With Implications for the European Crisis Resolution Mechanism, 6 *Capital Markets L.J.* 163 (2011) (with Stephen J. Choi and Mitu Gulati)

Climate Regulation and the Limits of Cost-Benefit Analysis, 99 *California L. Rev.* 1557 (2011) (with Jonathan Masur)

Efficient Breach of International Law: Optimal Remedies, "Legalized Noncompliance," and Related Issues, 110 *Mich. L. Rev.* 243 (2011) (with Alan Sykes)

Deference to The Executive in the United States After September 11: Congress, the Courts, and the Office of Legal Counsel, 35 *Harv. J.L. & Pub. Pol'y* 213 (2012)

Tyrannophobia, in *Comparative Constitutional Design* (Tom Ginsburg, ed. 2012) (with Adrian Vermeule)

What Do Federal District Judges Want?: An Analysis of Publications, Citations, and Reversals, 28 *J. Law, Econ., & Org.* 518 (2012) (with Stephen J. Choi and Mitu Gulati)

The Evolution of Contractual Terms in Sovereign Bonds, 4 *J. Legal Analysis* 131 (2012) (with Stephen J. Choi and Mitu Gulati)

Unemployment, Regulation, and Cost-Benefit Analysis, 98 *Va. L. Rev.* 579 (2012) (with Jonathan Masur)

Aggregation and the Law, 122 *Yale L.J.* 2 (2012) (with Ariel Porat)

Human Rights, the Laws of War, and Reciprocity, 6 *L. & Ethics of Human Rights* 148 (2012)

Delegation in Immigration Law, 79 *U. Chicago L. Rev.* 1285 (2012) (with Adam Cox)

International Paretianism: A Defense, 13 *Chicago J. Int'l L.* 347 (2013) (with David Weisbach)

The Questionable Basis of the Common European Sales Law: The Role of an Optional Instrument in Jurisdictional Competition, 50 *Common Market L. Rev.* 261 (2013)

The Institutional Structure of Immigration Law, 80 *U. Chicago L. Rev.* 289 (2013)

Benefit-Cost Analysis for Financial Regulation, 103 *Amer. Econ. Rev.: Papers & Proceedings* 393 (2013) (with E. Glen Weyl), reprinted in *Economics of Financial Law* (Geoffrey P. Miller, ed., Edward Elgar, forthcoming)

The Law and Policy of Judicial Retirement: An Empirical Study, 42 *J. Legal Stud.* 111 (2013) (with Stephen J. Choi and Mitu Gulati)

The Dynamics of Contract Evolution, 88 *NYU L. Rev.* 1 (2013) (with Stephen J. Choi and Mitu Gulati)

An FDA for Financial Innovation: Applying the Insurable Interest Doctrine to 21st-Century Financial Markets, 107 *Northwestern U. L. Rev.* 1307 (2013) (with E. Glen Weyl)

International Law and the Limits of Macroeconomic Cooperation, 86 *S. Cal. L. Rev.* 1025 (2013) (with Alan Sykes)

Inside or Outside the System?, 80 *U. Chicago L. Rev.* 1743 (2013) (with Adrian Vermeule)

How Well Do Measures of Judicial Ability Predict Judicial Performance?: A Case Study Using Securities Class Actions, 33 *Inter'l Rev. L. & Econ.* 37 (2013) (with Stephen J. Choi and Mitu Gulati)

Quadratic Voting as Efficient Corporate Governance, 81 *U. Chicago L. Rev.* 251 (2014) (with E. Glen Weyl)

Voting Rules in International Organizations, 15 *Chicago J. Int'l L.* 195 (2014) (with Alan O. Sykes), reprinted in *The Law and Politics of International Organizations* (Kenneth W. Abbott, ed., Edward Elgar, forthcoming)

Offsetting Benefits, 100 *Va. L. Rev.* 1165 (2014) (with Ariel Porat)

Unemployment and Regulatory Policy, in *Does Regulation Kill Jobs?* (edited by Cary Coglianese and Adam M. Finkel 2014) (with Jonathan Masur)

Benefit-Cost Paradigms in Financial Regulation, 43 *J. Legal Stud.* S1 (2014) (with E. Glen Weyl)

Altruism Exchanges and the Kidney Shortage, 77 *Law & Contemp. Probs.* 289 (2014) (with Mitu Gulati & Stephen J. Choi), excerpted in part in *The Law of Bioethics: Individual Autonomy and Social Regulation* (Marsha Garrison, ed., West Publishing, 3d ed., forthcoming 2015)

Voting Squared: Quadratic Voting in Democratic Politics, 68 *Vand. L. Rev.* 441 (2015) (with E. Glen Weyl)

Cost-Benefit Analysis of Financial Regulations: A Response to Criticisms, 124 *Yale L.J. F.* 246 (2015) (with E. Glen Weyl)

The Role of Competence in Promotions from the Lower Federal Courts, 44 *J. Legal Stud.* S107 (2015) (with Stephen J. Choi and Mitu Gulati)

How Do Bank Regulators Determine Capital-Adequacy Requirements?, 82 *U. Chicago L. Rev.* 1853 (2015)

An Empirical Study of Political Bias in Legal Scholarship, 44 *J. Legal Stud.* 277 (2015) (with Adam Chilton)

A Framework for Bailout Regulation, 91 *Notre Dame L. Rev.* 479 (2015) (with Anthony Casey)

Toward a Pigouvian State, 164 *U. Penn. L. Rev.* 93 (2015) (with Jonathan Masur)

Institutional Flip-Flops, 94 *Tex. L. Rev.* 485 (2016) (with Cass Sunstein)

The Law, Economics, and Psychology of Manipulation, 1 *J. Marketing Behavior* 267 (2016)

Should Human Rights Law Play a Role in Development?, *World Bank Econ. Rev.* (2016)

The Votes of Other Judges, 105 *Georgetown L.J.* 159 (2016) (with Adrian Vermeule)

The Influence of History on States' Compliance with Human Rights Obligations, *Va. J. Int'l L.* (forthcoming) (with Adam Chilton)

The Constitution of the Roman Republic, in *Roman Law and Economics* (Giuseppe Dari-Mattiacci ed., forthcoming, Oxford University Press).

Unquantified Benefits, 102 *Cornell L. Rev.* 87 (2016) (with Jonathan Masur)

What Legal Authority Does the Fed Need During a Financial Crisis?, *Minn. L. Rev.* (forthcoming)

Supreme Court Justices' Loyalty to the President, 45 *J. Legal Stud.* 401 (2016) (with Lee Epstein)

Demystifying Schmitt, in the *Oxford Handbook of Carl Schmitt* (Jens Meierhenrich & Oliver Simons, eds., 2017) (with Adrian Vermeule)

Martti Koskeniemi on Human Rights: An Empirical Perspective, in *The Law of International Lawyers* 121 (Wouter Werner, Marieke de Hoon, & Alexi Galan eds. 2017)

Quadratic Election Law, 172 *Public Choice* 265 (2017) (with Nicholas Stephanopoulos)

Property Is Only Another Name for Monopoly, 9 *J. Legal Analysis* 51 (2017) (with Glen Weyl)

Moral Commitments in Cost-Benefit Analysis, 103 *Va. L. Rev.* 1809 (2017) (with Cass R. Sunstein)

A Proposal to Limit the Anti-Competitive Power of Institutional Investors, 81 *Antitrust L.J.* 669 (2017) (with Fiona Scott Morton & Glen Weyl)

Should Regulation Be Countercyclical?, 34 *Yale J. Reg.* 857 (2018) (with Jonathan S. Masur)

The Dictator's Handbook, U.S. Edition, in *Can It Happen Here?: Authoritarianism in America* (Cass Sunstein ed., 2018)

Country-Specific Investments and the Rights of Non-Citizens, *Va. J. Int'l L.* (forthcoming 2018) (with Adam Chilton)

Cost-Benefit Analysis and the Judicial Role, *U. Chicago L. Rev.* (forthcoming 2018) (with Jonathan Masur)

The Decline of Supreme Court Deference to the President, *U. Pa. L. Rev.* (forthcoming 2018) (with Lee Epstein)

Presidential Obstruction of Justice, *Calif. L. Rev.* (forthcoming 2018) (with Daniel J. Hemel)

The Trump Presidency: A Constitutional Crisis in the United States?, in *Constitutional Democracy in Crisis?* (Mark A. Grabler, Sanford Levinson, and Mark Tushnet, eds., Oxford University Press, forthcoming 2018)

A Proposal for Protecting Low-Income Workers from Monopsony and Collusion, *Hamilton Project* (forthcoming 2018) (with Alan B. Krueger)

Norming in Administrative Law, *Duke L.J.* (forthcoming) (with Jonathan S. Masur)

Antitrust Remedies for Labor Market Power, 132 Harvard L. Rev. (forthcoming) (with Suresh Naidu and E. Glen Weyl)

Book Reviews, Comments, Replies, and Other Short Pieces

Norms, Formalities, and the Statute of Frauds: A Comment, 144 U. Pa. L. Rev. 1971 (1996)

Standards, Rules, and Social Norms, 21 Harv. J.L. & Pub. Policy 101 (1997)

Efficient Norms, in *The New Palgrave Dictionary of Economics and the Law* (Peter Newman, ed.): Macmillan (1998)

Notes Toward a Theory of Customary International Law, 92 ASIL Proceedings 53 (1998) (with Jack L. Goldsmith)

Law and Regret (Review of *Changing Your Mind* by E. Allan Farnsworth), 98 Mich. L. Rev. 1468 (2000)

Review of *The New Palgrave Dictionary of Economics and the Law*, edited by Peter Newman, 110 Econ J. 824 (2000)

Law and Economics for the Masses (Review of *Law's Order* by David Friedman), *Jurist* (2000)

Strategies of Constitutional Scholarship (Review of *The Strategic Constitution* by Robert D. Cooter), 26 Law & Social Inquiry 529 (2001)

Review of *The Jurisprudential Foundations of Corporate and Commercial Law*, edited by Jody S. Kraus and Steven D. Walt, 112 Ethics 626 (2002)

Review of *Law and Market Economy*, by Robin Paul Malloy, 18 Economics and Philosophy 183 (2002)

The Signaling Model of Social Norms: Further Thoughts, 36 U. Rich. L. Rev. 465 (2002)

Further Thoughts on Customary International Law, 23 Mich. J. Inter'l L. 191 (2002) (with Jack Goldsmith)

Introduction to a Conference on Rational Choice and International Law, 31 J. Legal Stud. S1 (2002)

Comment on Jean Braucher's Means Testing Consumer Bankruptcy, 7 Fordham J. Corp & Fin. L. 457 (2002)

When Reforming Accounting, Don't Forget Regulation. Policy Matters 02-35, AEI-Brookings Joint Center (August 2002)

Forward to the Japanese Edition of Law and Social Norms (Ota Shozo et al. trans. 2002)

Crimes and Punishment, Wall Street Journal, April 11, 2003, p. A10 (with Adrian Vermeule)

Tobacco Regulation or Litigation? (Review of *Smoke-Filled Rooms* by W. Kip Viscusi), 70 U. Chi. L. Rev. 1141 (2003)

The Nondelegation Doctrine: A Postmortem, 70 U. Chi. L. Rev. 1331 (2003) (with Adrian Vermeule)

The Patriot Act Under Fire, Wall Street Journal, December 9, 2003, p. A10 (with John Yoo)

Bankruptcy Act of 1978, in *Major Acts of Congress* (Brian K. Landsberg ed., 2003), vol. 1, p. 59

Reign of Terror, *Chicago Tribune*, January 18, 2004 (with John Yoo)

Evaluating Transfer Regulations, 26 *Regulation* 42 (2004)

International Court of Hubris, *Wall Street Journal*, April 7, 2004, p. A18 (with John Yoo)

Bring Back the Baathists, *The New York Times*, April 28, 2004, p. A23

Emergencies and Political Change: A Reply to Tushnet, 56 *Stan. L. Rev.* 1593 (2004) (with Adrian Vermeule)

A “Torture” Memo and Its Tortuous Critics, *The Wall Street Journal*, July 6, 2004, p. A22 (with Adrian Vermeule)

Remarks on the Alien Tort Claims Act and Transitional Justice, 98 *Am. Soc’y Int’l L. Proc.* 56 (2004)

Transnational Legal Process and the Supreme Court’s 2003-2004 Term: Some Skeptical Observations, 12 *Tulsa Journal of Comparative and International Law* 23 (2004)

Terrorism and the Laws of War, 5 *Chi. J. Int’l L.* 423 (2005)

Contract Theory, in *The Blackwell Guide to the Philosophy of Law and Legal Theory* 138 (Martin P. Golding and William A. Edmundson eds. 2005)

Law, in *The Encyclopedia of Social Measurement* 463 (Kimberly Kempf-Leonard ed. 2005)

All Justice, Too, Is Local, *The New York Times*, December 30, 2004, p. A23

All Hail...King George?, *Foreign Policy Online*, <http://www.foreignpolicy.com/story/files/story2814.php> (March 2005)

The International Court of Justice: Voting and Usage Statistics, *ASIL Papers and Proceedings* 130 (2005).

Where’s the Old Bolton When We Need Him?, *Los Angeles Times*, April 19, 2005, p. B13 (with John Yoo)

Judicial Clichés On Terrorism, *The Washington Post*, August 8, 2005, p. A15 (with Adrian Vermeule)

Justice Within Limits, *The New York Times*, September 26, 2005, p. A20

The Politics of Saddam’s Trial, *openDemocracy.net*, October 31, 2005, republished in German translation as *Recht in Verlegenheit*, *Süddeutsche Zeitung*, Nov. 28, 2005, p. 15

Reply to Helfer and Slaughter, 93 *Cal. L. Rev.* 957 (2005) (with John Yoo)

Sins of the Fatherland, *The Boston Globe*, March 5, 2006, E4

The New International Law Scholarship, 34 *Ga. J. Inter’l & Comp. L.* 463 (2006)

A Threat That Belongs Behind Bars, *The New York Times*, June 25, 2006, s. 4, p. 12

Apply the Golden Rule to al Qaeda?, *The Wall Street Journal*, July 15, 2006, p. A9

Signing Statements: It's a President's Right, *The Boston Globe*, August 3, 2006 (with Curtis Bradley)

A Better Way on Detainees, *The Washington Post*, August 4, 2006, p. A17 (with Jack Goldsmith)

Review of *Terrorism and the State: Rethinking the Rules of State Responsibility*, by Tal Becker, 121 *Pol. Sci. Q.* 505 (2006)

The Humanitarian War Myth, *The Washington Post*, October 1, 2006, p. B7

On Learning from Others, 59 *Stan. L. Rev.* 1309 (2007) (with Cass Sunstein)

What the Cold War Taught Us, *The Wall Street Journal*, April 21, 2007, p. A9

Agencies Should Ignore Distant-Future Generations, 74 *U. Chi. L. Rev.* 139 (2007)

Review of Robert E. Scott and Paul B. Stephan, *The Limits of Leviathan: Contract Theory and the Enforcement of International Law*, 101 *Amer. J. Int'l L.* 509 (2007)

The New Race for the Arctic, *The Wall Street Journal*, August 3, 2007, p. A8

Pay China to Cut Emissions, *The Financial Times*, August 5, 2007, p. 11 (with Cass Sunstein)

Originalism and Emergencies: A Reply to Lawson, 87 *B.U. L. Rev.* 313 (2007) (with Adrian Vermeule)

The Great Divide, *The New Republic.com*, December 20, 2007 <http://tnr.com/politics/story.html?id=86d685dd-948a-43db-b496-260027868950> (with Cass Sunstein)

Review of *Law without Nations?: Why Constitutional Government Requires Sovereign States*, by Jeremy A. Rabkin, 4 *Perspectives on Politics* 432 (2007)

[Out of Commission](#), *Slate*, February 13, 2008 (with Jack Goldsmith)

The Ethics of Climate Change, 31 *Regulation* 14 (2008) (with Cass Sunstein)

Policy by Reflex, Review of Stephen Holmes, *The Matador's Cape: America's Reckless Response to Terrorism*, 70 *Review of Politics* 513 (2008)

Diplomacy, Arbitration, and International Courts, in *The Role of International Courts* (Carl Baudenbacher & Erhard Busek eds., German Law Publishers, 2008)

Review of Benjamin Wittes, *Law and the Long War*, *New York Post*, July 27, 2008

Does Europe Believe in International Law?, *Wall Street Journal*, November 25, 2008 (with Jack Goldsmith)

[Destructive Technologies Require Us to Reassess Civil Liberties](#), *Boston Review*, December 10, 2008

Introduction to the Conference on Law and Happiness, 37 *J. Legal Stud.* S1 (2008) (with Cass Sunstein)

[An Argument Against Legal Extremism](#), Review of Philip K. Howard, *Life Without Lawyers: Liberating Americans From Too Much Law*, *The Daily Beast*, February 17, 2009 (with Robert Silver)

[The Better, Cheaper Mortgage Fix](#), *Slate*, March 2, 2009 (with Luigi Zingales)

[New Foundations of Cost–Benefit Analysis: A Reply to Professors Sinden, Kysar, and Driesen](#), 3 Regulation & Governance 72 (2009) (with Matthew Adler)

Outcomes, Outcomes, Review of Jack M. Balkin & Reva B. Siegel, eds., *The Constitution in 2020*, The New Republic, August 12, 2009, p. 43 (with Adrian Vermeule)

[Do Women Make Better Judges?](#), Slate, October 2, 2009 (with Stephen Choi, Mitu Gulati, and Mirya Holman)

[The Decider](#), Review of Frank J. Colluci, *Justice Kennedy’s Jurisprudence: The Full and Necessary Meaning of Liberty*, The New Republic, The Book, January 11, 2010

[Executive Decision](#), Review of Benjamin Kleinerman, *The Discretionary President: The Promise and Peril of Executive Power*, The New Republic, The Book, March 30, 2010

[Garzon and the Trouble With International Law](#), Wall Street Journal, April 14, 2010

[The Limits of Limits](#), Review of Kal Raustiala, *Does the Constitution Follow the Flag?: The Evolution of Territoriality in American Law*, The New Republic, May 5, 2010, p. 36

[The Case for Electing Judges in Missouri](#), Newsweek, May 17, 2010

[The Prudent and the Imprudent](#), Review of Gabriel Schoenfeld, *Necessary Secrets: National Security, the Media, and the Rule of Law*, The New Republic, The Book, May 17, 2010

[Europe’s Missing Identity](#), Wall Street Journal, European Edition, June 4, 2010

[The Gaza Blockade and International Law](#), Wall Street Journal, June 4, 2010, p. A19

[Echoes of Subprime Ring Out Across Greek Debt Crisis](#), Financial Times, June 28, 2010 (with Mitu Gulati)

[The Four Tops](#), Review of Noah Feldman, *Scorpions: The Battles and Triumphs of FDR’s Great Supreme Court Justices*, The New Republic, The Book, October 14, 2010

[POTUS-Phobia](#), Review of Bruce Ackerman, *The Decline and Fall of the American Republic*, The New Republic November 11, 2010, p. 33

[How Not To Solve the European Debt Crisis](#), Slate, December 2, 2010 (with Mitu Gulati)

Introduction, in *The Economics of Public International Law* (Eric A. Posner, ed.): Edward Elgar (2010)

[Evaluating the Effects of International Law: Next Steps](#), 1 Global Policy 334 (2010),

[One Side Now](#), Review of Erwin Chemerinsky, *The Conservative Assault on the Constitution*, The New Republic, The Book, January 2, 2011

[Why Is Originalism So Popular?](#), The New Republic, January 14, 2011, online

[Obama’s Cost-Benefit Revolution](#), The New Republic, January 22, 2011, online

[Huck and Jim and Law](#), Review of Ethan J. Leib, *Friend v. Friend: The Transformation of Friendship and What the Law Has to Do with it*, The New Republic, The Book, February 21, 2011

[Dockets of War](#), The National Interest, March-April 2011

[The Court of Literature](#), Review of Kenji Yoshino, *A Thousand Times More Fair: What Shakespeare's Plays Tell Us About Justice*, The New Republic, The Book, April 14, 2001

[The Lying Game](#), Review of James Stewart, *Tangled Webs: How False Statements are Undermining America: From Martha Stewart to Bernie Madoff*, The New Republic, The Book, May 29, 2011

[The Beginning and the End](#), Review of Elizabeth Price Foley, *The Law of Life and Death*, The New Republic, The Book, June 23, 2011

[Libyan Legal Limbo](#), Slate, June 27, 2011 (with Adrian Vermeule)

[Stop Complaining About Harold Koh's Interpretation of the War Powers Act](#), The New Republic, July 1, 2011

[Shooting It Out](#), Review of Adam Winkler, *Gunfight: The Battle Over the Right to Bear Arms in America*, The New Republic, The Book, July 6, 2011

[Obama Should Raise the Debt Ceiling on His Own](#), The New York Times, online, July 22, 2011 (with Adrian Vermeule)

[Casual with the Court](#), Review of Kevin J. McMahon, *Nixon's Court: His Challenge to Judicial Liberalism and Its Political Consequences*, The New Republic, The Book, October 24, 2011

[Outside the Law](#), Foreign Policy, October 25, 2011

[Liberalism and Concealment](#), Review of Anita Allen, *Unpopular Privacy: What Must We Hide?*, The New Republic, The Book, December 13, 2011

[Newt and His Surprising Liberal Allies](#), Slate, December 20, 2011

Review of Larry May, *Global Justice and Due Process*, 25 Ethics & Inter'l Aff. 481 (2011)

[The Longest Battle](#), Review of Mary Dudziak, *War Time*, The New Republic, The Book, February 6, 2012

[A Minimalist Reparations Regime for the International Criminal Court](#), Human Rights and International Criminal Law Online Forum, February 2012, reprinted in *Contemporary Issues Facing the International Criminal Court* (Richard H. Steinberg ed., Brill Nijhoff)

[An FDA for Securities Could Help Avert Crises](#), Bloomberg, April 2, 2012 (with Glen Weyl)

[Not Worth the Gamble](#), Slate, April 4, 2012 (with Glen Weyl)

[How Do We Know?](#), Review of Jim Manzi, *Uncontrolled: The Surprising Payoff of Trial-and-Error for Business, Politics, and Society*, The New Republic, The Book, April 25, 2012

[How Low Can We Go?](#), Review of Daniel Gross, *Better, Stronger, Faster: The Myth of American Decline ... and the Rise of a New Economy*, The New Republic, The Book, May 17, 2012

Transitional Prudence: A Comment on David Dyzenhaus, *Leviathan as a Theory of Transitional Justice*, 51 NOMOS 218 (2012)

[Perils and Privileges](#), Review of Ananda Rose, *Showdown in the Sonoran Desert: Religion, Law, and the Immigration Controversy*, The New Republic, The Book, June 11, 2012

[The Absurd International Criminal Court](#), Wall Street Journal, June 11, 2012, at A13

[The Imperial President of Arizona](#), Slate, June 26, 2012

[Capitalism Is Regulation](#), Review of Edward Conard, Unintended Consequences: Why Everything You've Been Told about the Economy Is Wrong, The New Republic, The Book, July 5, 2012

Some Skeptical Comments on Beth Simmons's Mobilizing for Human Rights, 44 NYU J. Inter'l Law & Politics 819 (2012)

[The Other Value of Life](#), Review of Kenneth R. Feinberg, Who Gets What: Fair Compensation After Tragedy and Financial Upheaval, The New Republic, The Book, July 31, 2012

[Assange's London Bunker](#), Wall Street Journal, August 21, 2012, at A13

[The Lincoln Laws](#), Review of John Fabian Witt, Lincoln's Code, Slate, August 28, 2012

[The World Doesn't Love the First Amendment](#), Slate, September 25, 2012

[Overruled: How Conservative Was Chief Justice Rehnquist?](#), Review of John A. Jenkins, The Partisan: The Life of William Rehnquist, The New Republic, The Book, October 2, 2012

[Obama's Drone Dilemma](#), Slate, October 8, 2012

[The Drones Are Coming to Libya](#), Slate, October 17, 2012

[Why Amnesty Should Lose at the Supreme Court](#), Slate, October 26, 2012

[Citizens United Is Still Worth Hating](#), Slate, November 9, 2012

[Don't Worry About the Voting Rights Act](#), Slate, November 20, 2012 (with Nicholas Stephanopoulos)

[Is Israel or Hamas Breaking International Law in Gaza?](#), Slate, November 27, 2012

[The War on Terror Will Be Ever With Us](#), Slate, December 11, 2012

[Why the U.S. Shouldn't Sign On to Empty Human Rights Treaties](#), Slate, December 21, 2012

[Against Casino Finance](#), National Affairs, No. 14, p. 58, Winter 2013 (with Glen Weyl)

[The President Has the Power to Raise the Debt Ceiling on His Own](#), Slate, January 4, 2013

[The Danger Lurking Behind the Platinum Coin](#), Slate, January 10, 2013

[How Aaron Swartz's Cause Wins in the End](#), Slate, January 22, 2013

[There's No Such Thing as an Illegal Immigrant](#), Slate, February 4, 2013

[Benefit-Cost Analysis for Financial Regulation](#), HLS Forum on Corporate Governance and Financial Regulation, February 4, 2013 (with Glen Weyl)

[President Obama Can Do Anything He Wants To Fight Terrorism](#), Slate, February 5, 2013

[Ronald Dworkin's Error](#), Slate, February 19, 2013

[The Mother of DNA Databases](#), Slate, March 5, 2013

[Indefinite Articles](#), Slate, March 19, 2013

[The Real Problem With Law Schools](#), Slate, April 2, 2013

Introduction to Symposium on Immigration Law and Institution Design, 80 U. Chicago L. Rev. 1 (2013) (with Adam B. Cox and Richard A. Epstein)

[Fool's Gold](#), Slate, April 11, 2013

[The New Law We Need in Order to Deal With Dzhokhar Tsarnaev](#), Slate, April 22, 2013

[The United States Can't Be the World's Courthouse](#), Slate, April 24, 2013

[President Obama Can Shut Guantanamo Whenever He Wants](#), Slate, May 2, 2013

[Shareholder Democracy Needs People To Pay for Their Votes](#), Financial Times, May 13, 2013 (with Glen Weyl)

[The Killer Robot War Is Coming](#), Slate, May 15, 2013

[Secrets and Scoops](#), Slate, May 17, 2013 (exchange with Emily Bazelon)

[President Ruthless](#), Slate, May 23, 2013

[The Good Way to Buy Votes](#), Slate, June 5, 2013

[Quadratic Vote Buying, Square Root Voting, and Corporate Governance](#), HLS Forum on Corporate Governance and Financial Regulation, June 6, 2013 (with Glen Weyl)

[Secrecy and Freedom](#), New York Times Room for Debate, June 9, 2013 (exchange with Jameel Jaffer)

[Supreme Court 2013: Year in Review](#), Slate, June 20-27, 2013 (with Emily Bazelon, Walter Dellinger, and Richard Posner)

[Why Won't Anyone Take Edward Snowden?](#), Slate, July 3, 2013

[Wrong Number](#), Slate, July 9, 2013

[How to Make Poison Pills Palatable](#), New York Times DealBook, July 17, 2013

[Secrets and Scoops, Part 2](#), Slate, July 22, 2013 (exchange with Emily Bazelon)

[The Best Rescue Plan for Detroit](#), Slate, July 23, 2013

[Square Root Voting: A New Approach to Regulation of Chaebol, Keiretsu, and Other Conglomerate Organizations in Asia](#), The CLS Blue Sky Blog, July 24, 2013 (with E. Glen Weyl and Sang-Seung Yi)

[The Virtues of Government Secrecy](#), Slate, August 5, 2013

[Frisk Aversion](#), Slate, August 21, 2013

[The U.S. Has No Legal Basis to Intervene in Syria](#), Slate, August 28, 2013

[Obama Is Only Making His War Powers Mightier](#), Slate, September 3, 2013

[The U.S. Ignores the U.N. Charter Because It's Broken](#), Slate, September 9, 2013

[Assad and the Death of the International Criminal Court](#), Slate, September 19, 2013

[On the Debt Ceiling, at Least, Congress Will Blink](#), Slate, September 30, 2013

[Emergency Powers Let the President Borrow](#), New York Times Room for Debate, October 2, 2013

[Three Ways Obama Could Raise the Debt Ceiling On His Own](#), The New Republic, online, October 7, 2013

[If He Has to, Obama Should Raise the Debt Ceiling Unilaterally](#), Slate, October 11, 2013 (with Emily Bazelon)

[Never Again](#), Slate, October 16, 2013

[A Solution to the Collective Action Problem in Corporate Reorganization](#), HLS Forum on Corporate Governance and Financial Regulation, October 23, 2013 (with Glen Weyl)

[Is the Constitution Written Like the Da Vinci Code?](#), Slate, October 31, 2013

[The Paradox of Secrecy](#), Review of Rahul Sagar, Secrets and Leaks, The New Republic, November 11, 2013, at p. 52

[Keep Spying on Foreigners, NSA](#), Slate, November 14, 2014

[You Can Have Either Climate Justice or a Climate Treaty](#), Slate, November 19, 2014

[Benefit-Cost Paradigms in Financial Regulation](#), HLS Forum on Corporate Governance and Financial Regulation, November 20, 2013 (with Glen Weyl)

[Centrists Should Mourn the Demise of the Filibuster](#), Slate, November 22, 2013

[Bitcoin's Bandwagon Has Never Been More Crowded](#), The New Republic, online, December 3, 2013

[How to Make Sure the Volcker Rule Survives in Court](#), Bloomberg View, December 10, 2013

[Stop Fussing Over Personhood](#), Slate, December 11, 2013

[The NSA's Metadata Program Is Perfectly Constitutional](#), Slate, December 30, 2013

[Forget the Framers](#), Slate, January 8, 2014

[The Case for Cost-Benefit Analysis in Financial Regulation](#), 36 Regulation 30, Winter 2013-2014

[Make Journalists Testify](#), Slate, January 16, 2014

[Let's Make a Deal with Snowden](#), Slate, January 27, 2014

[A Powerful Tool to Use With Caution](#), New York Times, Room for Debate, January 29, 2014

[The Presidency Comes With Executive Power. Deal With It](#), The New Republic, online, February 3, 2014

[Socialized Law Would Be a Massive, Unworkable Nightmare](#), The New Republic, online, February 4, 2014

[Now That Boehner Has Backed Down, Let's Fix The Debt Ceiling For Good](#), The New Republic, online, February 11, 2014

[The Paranoid Libertarian and His Enemy, the Angry Liberal](#), Slate, February 14, 2014

[Why Are China and Japan Inching Toward War Over Five Tiny Islands?](#), Slate, February 25, 2014

[Let Crimea Go](#), Slate, March 10, 2014

[What to Do About Crimea? Nothing](#), Slate, March 27, 2014

[In Defense of GM](#), Slate, April 10, 2014

[The Puzzle of Paying Amy](#), Slate, April 25, 2014

[The U.S. Constitution Is Impossible to Amend](#), Slate, May 5, 2014

[Sorry, America, the New World Order Is Dead](#), Foreign Policy, May 6, 2014

[We All Have the Right to Be Forgotten](#), Slate, May 14, 2014

[China Can Sink All the Boats in the South China Sea](#), Slate, May 28, 2014

[Rappers v. Scotus](#), Slate, June 12, 2014

[Supreme Court 2014: Year in Review](#), Slate, June 25-July 1, 2014 (with Emily Bazelon, Walter Dellinger, Dahlia Lithwick, Richard Posner, and Larry Tribe)

[Boehner's Lawsuit Against Obama Is a Loser](#), Slate, July 11, 2014

Why and How the Government Should Assess the Costs and Benefits of Financial Regulations, 13 Review of Financial Regulation Studies 4 (Summer 2014) (with E. Glen Weyl)

[We Don't Need to End "Too Big to Fail."](#) Slate, July 28, 2014

[Thomas Piketty Is Wrong: America Will Never Look Like a Jane Austen Novel](#), The New Republic, July 31, 2014

[Obama Is Legally Allowed to Enforce—or Not Enforce—the Law](#), The New Republic, August 3, 2014

[Yes, Obama Can Stop Millions of Deportations](#), Slate, August 12, 2014

[Treaty-ish](#), Slate, August 28, 2014

[Let Scotland Go Free](#), Slate, September 11, 2014

[Obama Can Bomb Pretty Much Anything He Wants To](#), Slate, September 23, 2014

[Eric Holder's Legacy](#), Slate, September 25, 2014

[How Do Bank Regulators Determine Capital Adequacy Requirements?](#), Harvard Law School Forum on Corporate Governance and Financial Regulation, October 15, 2014.

[A Moral Market](#), Slate, October 17, 2014

[Legacy Time](#), Slate, November 6, 2014

[A Radical Solution to Global Income Inequality: Make the U.S. More Like Qatar](#), The New Republic, November 6, 2014 (with Glen Weyl)

[The Human-Rights Charade](#), The Chronicle of Higher Education, November 17, 2014

[The President's Constitutional Authority Is Clear](#), New York Times Room For Debate, November 18, 2014

[Obama's Immigration Plan Is Perfectly Constitutional](#), Slate, November 20, 2014

[Obama's Immigration Order Is a Gift to Future Republican Presidents](#), The New Republic, November 23, 2014

[The Twilight of Human Rights Law](#), openDemocracy.net, November 25, 2014

[Prosecuting Dictators Is Futile](#), Slate, December 3, 2014

[The Case Against Human Rights](#), The Guardian, December 4, 2014

[Why Obama Won't Prosecute Torturers](#), Slate, December 9, 2014

[The Year of the Dictator](#), Slate, December 22, 2014

[Have Human Rights Treaties Failed?](#), New York Times Room for Debate, December 28, 2014 (with Kenneth Roth)

[Why Uber Will—and Should—Be Regulated](#), Slate, January 5, 2015

[Let's Admit It: Human Rights Law Is a Complete Failure](#), Washington Post, January 14, 2015

[Why Do Judges and Politicians Flip-Flop?](#), Slate, January 26, 2015

[Universities Are Right—and Within Their Rights—to Crack Down on Speech and Behavior](#), Slate, February 12, 2015

[Faithfully Executed](#), Slate, February 19, 2015

[Exchanges No One Can Use?](#), Slate, March 2, 2015

[The Silence of the Law](#), Review of *Scrap of Paper: Breaking and Making International Law During the Great War*, by Isabel V. Hull, New Rambler Review, March 4, 2015

[Should Charity Be Logical?](#), Slate, March 26, 2015

[A Terrible Shame](#), Slate, April 9, 2015

[Mutual Funds' Dark Side](#), Slate, April 16, 2015

[Citizenship for Sale](#), Slate, May 13, 2015

[A Fractious Majority](#), Slate, June 30, 2015

[It's Not Donating. It's Selling](#), Slate, July 29, 2015

[The Strangest Campaign Pledge](#), Slate, August 13, 2015

[Trump Is the Only Candidate Talking About a Taboo Subject](#), Slate, August 25, 2015

[The Spectrum of Suffering](#), Slate, September 8, 2015

[Is America Heading Toward Dictatorship?](#), Slate, October 23, 2015

[Bernanke's Biggest Blunder](#), Slate, October 29, 2015

[Has Obama Upheld the Rule of Law](#), Slate, November 9, 2015

[Why Are People So Scared of Syrian Refugees](#), Slate, November 20, 2015

[The Republican-Democratic Divide on Civil Liberties](#), Slate, December 7, 2015

[Potemkin Power?](#), New Rambler Review, December 9, 2015

[ISIS Gives Us No Choice but to Consider Limits on Speech](#), Slate, December 16, 2015

[How Can Banks Get Away With Charging Such High Fees?](#), Slate, January 7, 2016

[Campus Free Speech Problems Are Less Than Meets the Eye](#), Cato Unbound, January 8, 2016

[Warren's Wrong: Bank Rules Need Cost-Benefit Test](#), BloombergView, February 3, 2016

[Ted Cruz Is Not Eligible to Be President](#), Slate, February 8, 2016

[The Tragedy of Antonin Scalia](#), Slate, February 16, 2014

[Merrick Garland Would Shift the Court Decisively Leftward](#), Slate, March 17, 2016

[What Should We Expect From the Supreme Court's Showdown Over Immigration?](#), New York Times Magazine, April 18, 2016 (with Emily Bazelon)

Review of *The Future of Law and Economics: Essays in Reform and Recollection* by Guido Calabresi, 54 J. Econ. Lit. 600 (2016)

Presidential Leadership and the Separation of Powers, *Daedalus* 35 (summer 2016)

[Citizens Can't Sue the Government for Laws They Don't Like](#), The New York Times, May 23, 2016

[And if Elected: What President Trump Could or Couldn't Do](#), The New York Times, June 4, 2016

[New York Times Magazine Discussion of the Supreme Court at End of Term](#), Part I, June 24, 2016

[New York Times Magazine Discussion of the Supreme Court at End of Term](#), Part II, June 27, 2016

[Are There Limits to Trump's Power?](#), The New York Times, November 10, 2016

Review of *The Court and The World: American Law and the New Global Realities*, by Stephen Breyer, 126 Yale L.J. 504 (2016)

[A Monopoly Donald Trump Can Pop](#), The New York Times, December 7, 2016 (with Glen Weyl and Fiona Scott Morton)

[How Antonin Scalia's Ghost Could Block Donald Trump's Wall](#), The New York Times, January 25, 2017 (with Daniel Hemel and Jonathan Masur)

[Gorsuch Must Condemn Trump's Attack on Judge](#), The New York Times, February 4, 2017

[Judges v. Trump: Be Careful What You Wish For](#), The New York Times, February 15, 2017

Coase Theorem, in *Economic Ideas You Should Forget* (Bruno S. Frey & David Iselin, eds., 2017)

[The Government Gorsuch Wants to Undo](#), The New York Times, April 1, 2017 (with Emily Bazelon)

Introduction, in *The Timing of Lawmaking* (Frank Fagan & Saul Levmore, eds., 2017)

[Will the Presidency Survive this President?](#), The New York Times, May 21, 2017 (with Emily Bazelon)

[The Case for Obstruction Charges](#), The New York Times, June 15, 2017 (with Daniel Hemel)

Quadratic Voting and the Public Good: Introduction, 172 *Public Choice* 1 (2017) (with E. Glen Weyl)

[If Trump Pardons, It Could Be a Crime](#), The New York Times, July 21, 2017 (with Daniel Hemel)

[The Obstruction of Justice Case Against Donald Trump](#), Slate, July 27, 2017 (with Daniel Hemel)

[A Better Way to Protect Robert Mueller](#), The New York Times, August 7, 2017 (with Daniel Hemel)

[Trump Could Be Removed for Political Incompetence—Using the 25th Amendment](#), The Washington Post, September 12, 2017

[Why the Trump Team Should Fear the Logan Act](#), The New York Times, December 4, 2017 (with Daniel Hemel)

[The Logan Act and its Limits](#), Lawfare, December 7, 2017 (with Daniel J. Hemel)

[America Is Nowhere Near a Constitutional Crisis](#), Foreign Policy, December 16, 2017

[It's Time to Audit America's Secrets](#), Foreign Policy, February 2, 2018

[Trump Has Plenty of Bark. His Predecessors Had More Bite](#), Washington Post, February 2, 2018

[How Congress Can Protect Mueller](#), The New York Times, February 4, 2018

[Sponsor an Immigrant Yourself](#), Politico. February 13, 2018

[Corporate America Is Suppressing Wages for Many Workers](#), The New York Times, February 28, 2018 (with Alan B. Krueger)

[More and More Companies Have Monopoly Power Over Workers' Wages. That's Killing the Economy.](#) Vox, April 6, 2018

[Want Our Personal Data? Pay for It](#), The Wall Street Journal, April 20, 2018 (with E. Glen Weyl)

[The Real Villain Behind Our New Gilded Age](#), The New York Times, May 1, 2018 (with Glen Weyl)

[Neoliberalism and Human Rights](#), Lawfare, May 1, 2018

[How Economists Became So Timid](#), Chronicle, May 7, 2018

Testimony

3/16/99: Subcommittee on Commercial and Administrative Law, Committee on the Judiciary, House of Representatives, U.S. Congress: H.R. 833, The Bankruptcy Reform Act of 1999

9/26/17: Committee on the Judiciary, U.S. Senate: [Special Counsels and the Separation of Powers](#)

Education

Harvard Law School. J.D., magna cum laude, 1991

Yale University. B.A., M.A. in philosophy, summa cum laude, 1988

Professional Organizations

Maryland Bar Association (admitted 1991)

American Law and Economics Association

Grants, Fellowships, and Awards

John M. Olin fellowship, University of Southern California (3/95)

University Research Foundation grant, University of Pennsylvania (6/96)

Olin Fellow, University of Virginia Law School (9/02)

Simon Visiting Scholar, Florida State University College of Law (3/18/04)

Fellow, American Academy of Arts and Sciences (elected 2010)

Sloan Grant for Conference on Benefit-Cost Analysis and Financial Regulation (2013) (with Glen Weyl)

Teaching

Contracts; Secured Transactions; Bankruptcy; Corporate Reorganization; Seminar on Contract Theory; Seminar on Game Theory and the Law; Employment and Labor Law; Public International Law; International Human Rights Law; Foreign Relations Law; International Law Workshop; European Union Law; Seminar on the Financial Crisis of 2008-2009; Banking Law; Seminar on the Federal Reserve Board; Seminar on Executive Power; Seminar on Originalism and Its Critics; Corporate Finance

Other Professional Activities

Of Counsel, Boies, Schiller & Flexner (2010-2016)

Cofounder and editor, New Rambler Review (2015-2017)

Member, American Law Institute (elected 2014)

Columnist, Slate Magazine (2012-2016)

Editor, The Journal of Legal Studies (1998-2010)

Adviser, Restatement (Third) of Restitution, American Law Institute

Referee for Journal of Law and Economics, Journal of Economic Literature, Oxford University Press, Harvard University Press, Edward Elgar, Quarterly Journal of Economics, National Science Foundation, Law and Social Inquiry, American Economic Review, Journal of Law, Economics, & Organization, American Law and Economics Review, International Review of Law and Economics, American Journal of Political Science, Law and Society Review, Journal of Policy Analysis and Management, Journal of the European Economics Association, Health Affairs, University of Chicago Press, Canada Council for the Arts, World Politics, Supreme Court Economic Review, Law and Philosophy, Ethics and International Affairs, Institute of Medicine, Israel Science Foundation, Conflict Management and Peace Science, Smith Richardson Foundation, Yale University Press, Hart Publishing, Journal of Peace Research, British Journal of Political Science, National Academy of Sciences, Social Theory and Practice, Politics, Philosophy and Economics, Journal of Global Ethics, Climate Policy, Political Science Quarterly, Journal of Benefit-Cost Analysis, Journal of Legal Analysis, European Journal of International Law

Member, Editorial Board, Law & Social Inquiry (2000-2001)

Member, Board of Directors, American Law and Economics Association (2000-2003; 2013-)

Member, Board of University Publications, University of Chicago (2001-2004)

Member, Editorial Board, Review of Law and Economics (2004-)

Member, Oxford University Press Legal Education Advisory Board (2006-)

Member, Editorial Board, Journal of Benefit-Cost Analysis (2009-)

Short-Term Consultant, World Bank (2007)

Participant in Simulated Canada-United States Negotiation Over the Northwest Passage, sponsored by ArcticNet (Ottawa, February 2008)

Member, Faculty Steering Committee, Milton Friedman Institute (2008-2010)

Member, International Advisory Board, the Centre for Law, Economics and Society, University College London (2013-)

Member, Editorial Board, Economic Analysis of Law Review (2014-)

Presentations

Available upon request