Abstracts

Articles

Treaty Interpretation and Constitutional Transformation: Informal Change in International Organizations

This Article presents an argument about the constitutional transformation of international organizations through the judicial interpretation of their constituent instruments. The organizations at issue are public institutions, established by international agreement and charged with the exercise of transnational governmental power. They are, on one view, essentially treaty-based organizations that derive authority from the consent of the Parties. At the same time, these organizations must be understood as constitutional bodies, constituted with substantial delegated powers and varying degrees of independence vis-à-vis their constituent Member States. Some have developed the capacity to evolve over time, informally and autonomously. I argue that the judicial organs of certain organizations have transformed their material constitutions by engaging in particularly liberal approaches to the interpretation of their constituent instruments.

The analysis focuses on one particular technique of interpretation: the doctrine of interpretation on basis of the subsequent practice of the States Parties. I trace the use of this doctrine by three judicial bodies: the World Trade Organization Appellate Body, the International Court of Justice (ICJ), and the European Court of Human Rights (ECtHR). The first organ represents a control, implementing a strict approach to subsequent practice. By contrast, I suggest that the ICJ and ECtHR have each adopted radically expansive approaches to subsequent practice, with the effect of transforming the powers and autonomy of the organizations to which they belong.

Interpretation Catalysts and Executive Branch Legal Decisionmaking

Recent years have seen much speculation over executive branch legal interpretation and internal decisionmaking, particularly in matters of national security and international law. Debate persists over how and why the executive arrives at
particular understandings of its legal constraints, the extent to which the positions taken by one presidential administration may bind the next, and, indeed, the extent to which the President is constrained by law at all. Current scholarship focuses on rational, political, and structural arguments to explain executive actions and legal positioning, but it has yet to take account of the diverse ways in which legal questions arise for the executive branch, which have a significant effect on executive decisionmaking.

This Article adds necessary texture to these debates by identifying and exploring the role of distinct triggers for legal interpretation—which this Article terms "interpretation catalysts"—in driving and shaping executive branch decisionmaking, particularly at the intersection of national security and international law. Interpretation catalysts impel the executive to consider, crystallize and potentially assert a legal interpretation of its obligations under domestic or international law on a particular matter, and they can both impede and facilitate change within the executive. Examples of interpretation catalysts include such diverse triggering events as decisions regarding whether to use force against an armed group; lawsuits filed against the U.S. government; obligatory reports to human rights treaty bodies; and even the act of speechmaking. Each of these unique catalysts triggers a distinct process for legal decisionmaking within the executive, and is instrumental in framing the task at hand, shaping the process engaged to arrive at the substantive decision, establishing the relative influence of the actors who will decide the matter, and informing the contextual pressures and interests that may bear on the decision—thus shaping the ultimate substantive position itself. These distinct mechanisms for decisionmaking each carry their own individual pressures and biases. By laying bare the interpretation catalyst phenomenon, this Article demonstrates potential avenues for actors within and external to the executive branch to predict, to explain, and to affect executive decisionmaking. This Article will explore the effect of interpretation catalysts on executive legal interpretation, and address some of the implications of this phenomenon for scholars, private actors, courts, and executive branch officials.

The Judicial Role in New Democracies: A Strategic Account of Comparative Citation

Johanna Kalb

The United States Supreme Court has come under fire in recent years for its occasional references to foreign and international law. Critics suggest that the practice is undemocratic, displacing democratically developed norms for those of the international community. This Article challenges this critique via reference to the comparative citation practice of successful judiciaries in new democracies around the world. When institutional failures and international pressures threaten the democratic accountability of elected institutions, as they do in most countries in political transition, jurists may strategically use foreign and international law as a tool of "diagonal accountability" to mediate between domestic and international actors in ways that build the legitimacy of national political institutions and create space for democratic deliberations to occur. Thus, contrary to the dominant critique, this Article suggests that when democratic legitimacy is challenged, comparative citation can be part of the solution, rather than part of the problem. Moreover, given the important work that comparative citation can do in transitional regimes, labeling it as undemocratic can itself undermine institutional legitimacy, particularly in new or weak democracies.
As violence in Mexico has escalated in recent years, many have argued that its metaphorical drug “war” is starting to look more like a de jure armed conflict. This Note maintains that, although a new approach is desperately needed, the proverbial “war” on drugs should be limited to metaphors, and the criminal law framework should be retained. This Note rejects reclassifying the confrontation between Mexico and the drug cartels as a non-international armed conflict (NIAC) under the laws of war because: (1) it fails to meet the criteria of a NIAC set forth by the relevant legal instruments and judicial decisions; and (2) the potential consequences of an armed conflict designation in terms of the lawful use of deadly force, prolonged detention, and unfettered prosecution powers would further exacerbate the problems that Mexico is facing. Instead, Mexico continues to confront a criminal problem, albeit one of extraordinary proportions. The Note concludes by providing a set of recommendations focused on empowering law enforcement, reforming Mexico’s institutions, and strengthening the rule of law.
Yale Law School

Officers of Administration
Richard Charles Levin, B.A., B.Litt., Ph.D., President of the University
Peter Salovey, A.B., M.A., Ph.D., Provost of the University
Robert C. Post, J.D., Ph.D., Dean
Douglas Kysar, B.A., J.D., Deputy Dean
S. Blair Kauffman, J.D., LL.M., M.L.L., Law Librarian
Megan A. Barnett, B.A., J.D., Associate Dean
Toni Hahn Davis, J.D., LL.M., Associate Dean
Brent Dickman, B.A., M.B.A., Associate Dean
Mark LaFontaine, B.A., J.D., Associate Dean
Kashmir B. Ovety, J.D., Ed.D., Associate Dean
Asa Ranapaga, A.B., J.D., Associate Dean
Mike Thompson, M.B.A., J.D., Associate Dean

Faculty Emeriti
Guido Calabresi, LL.B., Dr.Jur., LL.D., D.Politi. Sc., Sterling Professor Emeritus of Law and Professorial Lecturer in Law
Dennis E. Curtis, B.S., LL.B., Clinical Professor Emeritus of Law and Professorial Lecturer in Law
Harold C. Dahl, B.A., J.D., Professor Emeritus of Law
Miran Radovan Damatka, LL.B., Dr.Jur., Sterling Professor Emeritus of Law and Professorial Lecturer in Law
Drew S. Days, III, B.B.A., LL.B., Alfred M. Rankin Professor Emeritus of Law and Professorial Lecturer in Law
Jan Ginzger Drench, LL.B., Ph.D., Walter Hale Hamilton Professor Emeritus of Law and Professorial Lecturer in Law
Owen M. Fiss, M.A., LL.B., Sterling Professor Emeritus of Law and Professorial Lecturer in Law
Robert W. Gordon, A.B., Sterling Professor Emeritus of Law and Professorial Lecturer in Law
Michael J. Graetz, B.B.A., LL.B., LL.D., Justin S. Hotchkiss Professor Emeritus of Law and Professorial Lecturer in Law
Guido Calabresi, LL.B., Dr.Jur., LL.D., Sterling Professor Emeritus of Law
John O. Simon, LL.B., LL.D., Augusta E. Lines Professor Emeritus of Law and Professorial Lecturer in Law
Robert A. Solomon, B.A., J.D., Clinical Professor Emeritus of Law
Stephen Winter, A.B., J.D., William O. Douglas Clinical Professor Emeritus of Law, Supervising Attorney, and Professorial Lecturer in Law

Faculty
Bruce Ackerman, B.A., LL.B., Sterling Professor of Law and Political Science
Maureen I. Ahmad, A.B., J.D., Clinical Professor of Law
Ann Alston, B.A., J.D., Jacques D. Bierman Professor of Taxation
Akhil Reed Amar, B.A., J.D., Sterling Professor of Law
Ian Ayres, J.D., Ph.D., William K. Townsend Professor of Law
Jack M. Balkin, J.D., Ph.D., Knight Professor of Constitutional Law and the First Amendment
Aharon Barak, LL.M., Dr.Jur., Visiting Professor of Law and Gruber Global Constitutionalism Fellow (full term)
Megan A. Barnett, B.A., J.D., Associate Dean
Les Brinmer, J.D., LL.M., Howard M. Holtzmann Professor of International Law
Richard R.W. Brooks, J.D., Ph.D., Leighton Homer Settle Professor of Law
Robert Amsterdam, B.A., J.D., Alexander M. Bickel Professor of Law (full term)
Guido Calabresi, LL.B., Dr.Jur., LL.D., D.Politi. Sc., Sterling Professor Emeritus of Law and Professorial Lecturer in Law
Stephen Little Carter, B.A., J.D., William Nelson Cromwell Professor of Law
Amy Chua, A.B., J.D., John M. Duff Jr. Professor of Law
Dennis E. Curtis, B.S., LL.B., Clinical Professor Emeritus of Law and Professorial Lecturer in Law
Harold C. Dahl, B.A., J.D., Professor Emeritus of Law
Miran Radovan Damatka, LL.B., Dr.Jur., Sterling Professor Emeritus of Law and Professorial Lecturer in Law
Toni Hahn Davis, J.D., LL.M., Associate Dean
Drew S. Days, III, B.B.A., LL.B., Alfred M. Rankin Professor Emeritus of Law and Professorial Lecturer in Law
Jan Ginzger Drench, LL.B., Ph.D., Walter Hale Hamilton Professor Emeritus of Law and Professorial Lecturer in Law
Brent Dickman, B.A., M.B.A., Associate Dean
Fiona M. Doherty, B.A., Visiting Professor of Law and Professorial Lecturer in Law
William N. Eskridge, Jr., M.A., J.D., John A. Garver Professor of Jurisprudence
† Deniel C. Esty, M.A., J.D., Willhite Professor of Environmental Law and Policy, School of Forestry & Environmental Studies; and Clinical Professor of Environmental Law and Policy, Law School
Jeffrey Fagan, B.E., Ph.D., Florence Regan Visiting Professor of Law (spring term)
Owen M. Fiss, M.A., LL.B., Visiting Professor Emeritus of Law and Professorial Lecturer in Law
James Forman, Jr., A.B., J.D., Clinical Visiting Professor of Law
† Hunter K. Gerken, A.B., J.D., J. Skelly Wright Professor of Law
Paul Gewirtz, A.B., J.D., Potter Stewart Professor of Constitutional Law
Abbe R. Gluck, A.B., J.D., Associate Professor of Law
Robert W. Green, A.B., J.D., Chancellor Kent Professor Emeritus of Law and Legal History
Michael J. Graetz, B.B.A., LL.B., LL.D., Justin S. Hotchkiss Professor Emeritus of Law and Professorial Lecturer in Law (full term)
David Singh Greer, J.D., Ph.D., Associate Professor of Law
Daniel Crumlin, LL.M., Dr.Jur., Visiting Professor of Law and Gruber Global Constitutionalism Fellow (spring term)
Henry B. Hansmann, Ph.D., Oscar M. Ruebhausen Professor of Law
Robert D. Harrison, J.D., Ph.D., Lecturer in Legal Method
Osita A. Hushayo, B.A., J.D., Gerhard C. and Berenice Lathrop Smith Professor of International Law
Rodricken M. Hills, Jr., B.A., J.D., Anne Ureyuki Visiting Professor of Law
Edward J. Janzen, B.A., Visiting Professor of Law (full term)
Quintin Johnstone, B.A., J.S.D., Justin S. Hotchkiss Professor Emeritus of Law
† Christine Jolls, J.D., Ph.D., Gordon Bradford Tweedy Professor of Law and Organization
Den M. Kahn, B.A., J.D., Elizabeth K. Dollard Professor of Law and Professor of Psychology
Paul W. Kahn, J.D., Ph.D., Robert W. Wien Professor of Law and the Humanities
Amy Kapczynski, M.A., J.D., Associate Professor of Law
S. Blair Kauffman, J.D., LL.M., M.L.L., Librarian and Professor of Law
Amalia D. Kasler, J.D., Ph.D., Sidney Austen—Robert D. McLean ’70 Visiting Professor of Law (full term)

† William N. Eskridge Jr., M.A., J.D., John A. Garver Professor of Jurisprudence
‡ Deniel C. Esty, M.A., J.D., Willhite Professor of Environmental Law and Policy, School of Forestry & Environmental Studies; and Clinical Professor of Environmental Law and Policy, Law School
Jeffrey Fagan, B.E., Ph.D., Florence Regan Visiting Professor of Law (spring term)
Owen M. Fiss, M.A., LL.B., Visiting Professor Emeritus of Law and Professorial Lecturer in Law
James Forman, Jr., A.B., J.D., Clinical Visiting Professor of Law
Hunter K. Gerken, A.B., J.D., J. Skelly Wright Professor of Law
Paul Gewirtz, A.B., J.D., Potter Stewart Professor of Constitutional Law
Abbe R. Gluck, A.B., J.D., Associate Professor of Law
Robert W. Green, A.B., J.D., Chancellor Kent Professor Emeritus of Law and Legal History
Michael J. Graetz, B.B.A., LL.B., LL.D., Justin S. Hotchkiss Professor Emeritus of Law and Professorial Lecturer in Law (full term)
David Singh Greer, J.D., Ph.D., Associate Professor of Law
Daniel Crumlin, LL.M., Dr.Jur., Visiting Professor of Law and Gruber Global Constitutionalism Fellow (spring term)
Henry B. Hansmann, Ph.D., Oscar M. Ruebhausen Professor of Law
Robert D. Harrison, J.D., Ph.D., Lecturer in Legal Method
Osita A. Hushayo, B.A., J.D., Gerhard C. and Berenice Lathrop Smith Professor of International Law
Rodricken M. Hills, Jr., B.A., J.D., Anne Ureyuki Visiting Professor of Law
Edward J. Janzen, B.A., Visiting Professor of Law (full term)
Quintin Johnstone, B.A., J.S.D., Justin S. Hotchkiss Professor Emeritus of Law
† Christine Jolls, J.D., Ph.D., Gordon Bradford Tweedy Professor of Law and Organization
Den M. Kahn, B.A., J.D., Elizabeth K. Dollard Professor of Law and Professor of Psychology
Paul W. Kahn, J.D., Ph.D., Robert W. Wien Professor of Law and the Humanities
Amy Kapczynski, M.A., J.D., Associate Professor of Law
S. Blair Kauffman, J.D., LL.M., M.L.L., Librarian and Professor of Law
Amalia D. Kasler, J.D., Ph.D., Sidney Austen—Robert D. McLean ’70 Visiting Professor of Law (full term)
Visiting Lecturers in Law

Daniel Kevles, B.A., Ph.D., Professor (Adjunct) of Law (fall term)

Alvin Krish Keeverick, M.A., Ph.D., John Thomas Smith Professor of Law and Professor of Economics

Harold Hongiu Koh, A.B., J.D., Martin R. Flack ’55 Professor of International Law

Anthony Townsend Kravanas, J.D., Ph.D., Sterling Professor of Law

Douglas Kysar, B.A., J.D., Deputy Dean and Joseph M. Field ’35 Professor of Law

Mark LaFreniere, B.A., J.D., Associate Dean

John H. Langbein, LL.B., J.D., Sterling Professor of Law and Legal History

Josie Levit, Ph.D., M.P.A., Visiting Associate Professor of Law (spring term)

Vair Liissikas, Ph.D., J.D., Professor of Law

Carroll L. Luebke, M.S.W., J.D., Clinical Emeritus Professor of Law, Supervising Attorney, and Professorial Lecturer in Law

Jonathan R. Macey, A.B., J.D., Sum Harris Professor of Computer Law, Corporate Finance, and Securities Law

Lohn Miguel Prieto Post, M.A., Lic. en Derecho (J.D.), Ph.D., Visiting Professor of Law Gruber Global Constitutionalism Fellow (fall term)

Chibui Mallet, LLM., Ph.D., Visiting Professor of Law and Oscar M. Ruebhausen Distinguished Senior Fellow (fall term)

Joseph C. Manning, A.M., Ph.D., Professor (Adjunct) of Law (fall term)

David Marcus, B.A., J.D., Maurice R. Greenberg Visiting Professor of Law

Daniel Marksbur, D.Phil., J.D., Guido Calabret Professor of Law

Jerry Louis Mathias, LL.B., Ph.D., Sterling Professor of Law (fall term)

Braxton McKenzie, M.D., Associate Professor (Adjunct) of Law (fall term)

Tracy L. Meares, B.S., J.D., Wotman Hole Hamilton Professor of Law

Nahf Menich, B.A., J.D., Lecturer in the Practice of Law and Legal Writing

Jeffrey A. Meyer, B.A., J.D., Visiting Professor of Law

Alisa Miller, B.A., J.D., Associate Professor (Adjunct) of Law (spring term)

Kathleen B. Ovely, J.D., Ed.D., Associate Dean

Nicholas Parrillo, M.A., J.D., Associate Professor of Law

Jean Zos Peters, A.B., J.D., Sol Goldman Clinical Professor of Law and Supervising Attorney

Teressa Pegge, Dipl. in Soziologie, Ph.D., Professor (Adjunct) of Law (spring term)

Robert C. Petti, J.D., Ph.D., Dean and Silliam Goldman Professor of Law

J.L. Pezenger, K., A.B., J.D., Nathan Baker Clinical Professor of Law and Supervising Attorney

Claire Priest, J.D., Ph.D., Professor of Law

George L. Prior, B.A., J.D., Edward J. Phelps Professor of Law and Economics and Kauffman Distinguished Research Scholar in Law, Economics, and Entrepreneurship

Asha Rangappa, A.B., J.D., Associate Dean

William Michael Reisman, B.A., J.S.D., Myron S. McDougall Professor of International Law

Judith Renck, B.A., J.D., Arthur Liman Professor of Law

Roberta Ronzano, M.A., J.D., Sterling Professor of Law

Carol M. Rose, J.D., Ph.D., Gordon Bradford Tweedy Professor Emeritus of Law and Organizations and Professorial Lecturer in Law

Susan Rose-Ackerman, B.A., Ph.D., Henry R. Luce Professor of Jurisprudence (Law School and Department of Political Science)

Tad Rubenfeld, A.B., J.D., Robert R. Slaughter Professor of Law

Jennifer Brackett Ruger, M.A., Ph.D., Associate Professor (Adjunct) of Law (spring term)

William M. Sage, M.D., J.D., Visiting Professor of Law (spring term)

Peter H. Schuck, M.A., J.D., LLM., Simeon E. Baldwin Professor Emeritus and Professor (Adjunct) of Law (fall term)

Vicki Schultz, B.A., J.D., Ford Foundation Professor of Law and Social Sciences

Alan Schwartz, B.S., LL.B., Sterling Professor of Law

Ian Shapiro, Ph.D., J.D., Professor (Adjunct) of Law (spring term)

Scott J. Shapiro, J.D., Ph.D., Charles F. Southanoy Professor of Law and Professor of Philosophy

Robert J. Shiller, S.M., Ph.D., Professor (Adjunct) of Law (spring term)

Reva Siegel, M.Phl., J.D., Nicholas dkh. Katzenbom Professor of Law

Norman I. Silver, M.B.A., J.D., Visiting Professor of Law

James J. Silk, M.A., J.D., Clinical Professor of Law

John G. Simon, L.L.B., LL.D., Augustine E. Lines Professor Emeritus of Law and Professorial Lecturer in Law

Robert A. Solonon, B.A., J.D., Clinical Professor Emeritus of Law

Richard Squire, M.B.A., J.D., Florence Rugg’s Visiting Professor of Law

Stephanie M. Stein, B.A., J.D., Irving S. Rubins Visiting Professor of Law (fall term)

Richard Stewart, M.A., LL.B., Visiting Professor of Law (fall term)

Kate Stinch, M.P.P., J.D., Lafayette S. Foster Professor of Law

Alex Stone Sweet, M.A., Ph.D., Leiser Professor of International Law, Politics, and International Studies

Mike K. Thompson, M.B.A., J.D., Associate Dean

Tom R. Tyler, M.A., Ph.D., Macklin Fleming Professor of Law and Professor of Psychology

Patrick Weil, M.B.A., Ph.D., Maurice R. Greenberg Visiting Professor of Law (fall term)

James Q. Whitman, J.D., Ford Foundation Professor of Comparative and Foreign Law

Abraham L. Wickliefi, J.D., Ph.D., Francisco Roque Visiting Professor of Law

Lucia Wildhaber, LLM., J.D., Visiting Professor of Law and Gruber Global Constitutionalism Fellow (fall term)

Ralph Earl Winter, Jr., M.A., L.L.B., Visiting Professor (Adjunct) of Law

Michael J. Wolchin, B.A., J.D., William O. Douglas Clinical Professor of Law

John Fabian Witt, J.D., Ph.D., Allen H. Duffy Class of 1980 Professor of Law

Stephen Winter, B.A., J.D., William O. Douglas Clinical Professor Emeritus of Law, Supervising Attorney, and Professorial Lecturer in Law

Gideon Yaffe, A.B., Ph.D., Professor of Law and Professor of Philosophy

Howard V. Zemana, B.A., M.D., Professor of Psychiatry and Clinical Professor (Adjunct) of Law

Lecturers in Law

Emily Bazelon, B.A., J.D.

Cynthia Carr, J.D., LL.M.

Adam S. Cohen, A.B., J.D.

Linda Greenhouse, B.A., M.S.L., Joseph Goldstein Lecturer in Law

Adam Gregg, M.Phl., J.D.

Lucas Guntzvorg, A.B., J.D.

Jaimie P. Horzly, M.A., J.D.

Margot E. Kanemien, B.A., J.D.

Hope A. Menzil, B.A., J.D.

Christina M. Mulligan, B.A., J.D.

James E. Poet, M.A., D.D.

Nina Rabito, B.A., J.D.

Sia M. Saneh, M.A., J.D.

Daniel Wade, M.S., J.D.

Visiting Lecturers in Law

Josh Auelwitz, A.B., J.D.

Guillermo Aguiller-Alvarez, Lic. en Derecho (J.D.)

Richard Baxter, M.A., J.D., John R. Ruben/Sullivan & Cromwell Visiting Lecturer in Accounting

H.E. Stein Beck, B.A., J.D.
Stephen B. Bright, B.A., J.D., Harvey Karp Visiting Lecturer in Law
Jennifer Gerarda Brown, A.B., J.D.
Brett Cohen, B.A., J.D.
Timothy C. Collins, B.A., M.B.A.
Victoria A. Cundiff, B.A., J.D.
Brian T. Daly, M.A., J.D.
Karl (Tom) Dannenhauer, M.A., J.D., Robina Foundation Visiting Human Rights Fellow
Eugene R. Fidell, B.A., LL.B., Florence Rogatz Visiting Lecturer in Law
Gregory Fleming, B.A., J.D.
Lawrence J. Fox, B.A., J.D., George W. and Sadella D. Crawford Visiting Lecturer in Law
Gregory Gonzalves, B.S.
Benjamin W. Heineman, Jr., B.Lit, J.D.
Frank Jacobucci, LL.B., LL.M., Gruber Global Constitutionalism Fellow
Aaron Korman, M.Sc., J.D.
Barbara Marcus, M.S., Ph.D.
Charles Nathan, B.A., J.D.
Andrew J. Pincus, B.A., J.D.
Eric S. Robinson, M.B.A., J.D.
Charles A. Rotfeld, A.B., J.D.
David A. Schultz, M.A., J.D.
Michael S. Solender, B.A., J.D.
Laurence T. Serkin, J.D., LL.M.
Sidney H. Stein, A.B., J.D.
David J. Stoll, B.A., J.D.
Christof R.A. Swaak, Ph.D.
William B. Taylor, B.A., LL.B.
Stefan R. Underhill, B.A., J.D.
John M. Walker, Jr., B.A., J.D.
David M. Zornow, B.A., J.D.

† On leave of absence, fall term, 2012-2013.
‡ On leave of absence, spring term, 2013.
THE YALE JOURNAL
OF INTERNATIONAL LAW
Volume 38, Number 2, Summer 2013

ADVISORY BOARD

ROBERT B. AHDIEH
Professor,
Emory Law School

OONA A. HATHAWAY
Professor,
Yale Law School

NICHOLAS ROSTOW
Professor, National Defense
University, Editor-in-Chief, Vol. 7

LEA BRILMAYER
Professor,
Yale Law School

MELANIE KHANNA
Senior Donor Relations Officer,
United Nations Human
Rights Council

STEPHEN RUCKMAN
Special Appointee, Executive Division
Maryland Attorney General’s Office,
Editor-in-Chief, Vol. 32

AMY CHUA
Professor,
Yale Law School

MITCHEL LASER
Professor,
Cornell University Law School

JAMES J. SILK
Professor,
Yale Law School

MIRJAN DAMASKA
Professor,
Yale Law School

JANET KOVEN LEVIT
Dean,
University of Tulsa College of Law

ALEC STONE SWEET
Professor,
Yale Law School

LAURA DICKINSON
Professor, Sandra Day O’Connor
College of Law,
Arizona State University

GRETA S. MILLIGAN
Associate,
Covington & Burling LLP
Editor-in-Chief, Vol. 33

PATRICIA WALD
Judge, D.C. Circuit
Court of Appeals (Retired)

OWEN M. FISS
Professor,
Yale Law School

ROBERT C. POST
Dean,
Yale Law School

JOHN D. WATSON, JR.
Partner,
Latham & Watkins LLP
Editor-in-Chief, Vol. 9

PAUL GEWIRZ
Professor,
Yale Law School

W. MICHAEL REISMAN
Professor,
Yale Law School

JAMES Q. WHITMAN
Professor,
Yale Law School

SUSAN ROSE-ACKERMAN
Professor,
Yale Law School