

Impact of Current Projects and Programs FY 2019-20

The American Bar Foundation (ABF) continues to serve the bar, the bench, the legal academy, and the broader community by bringing first-class research to bear upon critical issues facing the legal profession and society at large. By conducting projects of unmatched scale, quality, and methodological rigor on topics of fundamental and current interest, ABF research is at the forefront of policy-relevant research on law, legal institutions, and legal processes. Moreover, ABF researchers are widely recognized as thought leaders in their respective specialties. The following is a report on the impact of current programs and projects. As a note, the list is representative but not exhaustive; we have also categorized the projects within our three broad areas of research:

1. Learning and Practicing Law
2. Protecting Rights, Accessing Justice
3. Making and Implementing Law

Learning and Practicing Law

Lawyer Activism in China Terence Halliday and Sida Liu

For the past decade, this project has undertaken research on lawyers and defense of basic legal freedoms in China through the lens of everyday criminal defense practice. Halliday and Liu (University of Toronto) found significant evidence that a small but critical proportion of China's criminal defense lawyers are strongly critical of the country's current illiberal political society and legal system. Notable activist and grassroots lawyers have been striving for a China that protects basic legal freedoms, energizes a vibrant civil society, and moves towards a moderate state. These efforts have met with growing resistance by the Party-state, crystallized in a nationwide crackdown against rights defense lawyers in mid-2015 and deepening authoritarianism since then.

Halliday's current research with Liu investigates how international public opinion, states and non-organizations are mobilizing to influence China as it deviates farther and farther from international norms on human rights and rule of law. The research focuses on sites of struggle

(e.g., UN Human Rights Council; Hong Kong), the mobilization of international NGOs which advocate for legal rights, ethnic and religious freedoms, developments in traditional and new media coverage of China, the activism of overseas lawyers' organizations, the dramas and rhetoric of international discourse, and linkages between international civil society and China's domestic activist lawyers. Fieldwork is currently underway inside China, complemented by archival and media analysis outside of China.

FY 2019-20 Media Coverage:

- [“Highly Educated Young People at Core of Hong Kong Protests”](#) | Terry Halliday featured | *Inside Higher Ed* | August 16, 2019
- [“British Academics Call on University of Hong Kong Not to Dismiss Jailed Law Professor”](#) | Terry Halliday featured | *The Telegraph* | August 12, 2019

FY 2019-20 Presentations:

- Briefing at the U.S. State Department, “How the International Mobilizes to Influence China on Basic Legal Freedoms, Washington, D.C., April 8, 2019.
- Keynote Speech, Second China Human Rights Lawyers' Day, Anniversary Event, Fordham University Law School, New York University, 8 July 2019.
- *Masterclass: Research Methods on Global Lawmaking and Governance*. Half Day Workshop. Australian National University, 26 February 2019.
- “Bulwarks Against Genocide: Lawyers and Bar Associations in the Defense of Fundamental Freedoms.” ABA Section on International Law Meeting, Session on Lawyers in an Age of Genocide, April 10, 2019

Portrait Project 2.0
Ajay K. Mehrotra

Asian Americans have been the fastest-growing minority group in the legal profession for the past three decades, but they have made only limited progress in reaching the top ranks of the profession, according to a recent report (Portrait Project) by the National Asian Pacific American Bar Association and Yale Law School. This new ABF project, led by ABF Executive Director Ajay K. Mehrotra and Hon. Goodwin Liu with support from several external organizations, will expand upon the initial findings and explore the next phase of research. *Portrait Project 2.0* will explore several follow up questions, including: Why do Asian Americans have such high attrition rates at major law firms? Why do minority law students not get clerkships in proportion to their numbers at the top law schools? What explains the sharp and continuing decline in Asian American and other minority law school enrollment since 2009? Why are Asian Americans so dramatically underrepresented among the top ranks of prosecutors and other government officials?

FY 2019-20 Media Coverage:

- [“A New Push to Solve the Mystery of Low Numbers of Minority Law Clerks”](#) | Ajay K. Mehrotra featured | *Law.com* | August 15, 2019
- [“Why are Law Clerks So White?”](#) | Ajay K. Mehrotra featured | *Law 360* | May 3, 2019

FY 2019-20 Presentations:

- "Portrait Project 2.0." (with Hon. Goodwin Liu):
 - Asian American Bar Association of New York, Sept. 2019
 - National Association of Law Placement Annual Conference, April 2019
 - Latham & Watkins (Chicago), Feb. 2019

**Senior Status, Gender, and Race in the Legal and Liberal Arts Academies
Elizabeth Mertz**

While many of the more overt forms of discrimination are arguably on the wane, scholars have identified a number of “second generation” problems in employment discrimination. These include structural and cultural exclusion and other attitudes that create hostile or unpleasant work environments. This study is examining the post-tenure experience of law professors, addressing several core questions: Do the experiences of female or minority law professors differ significantly from those of white male law professors? Is there variation in law professors’ experience according to institutional characteristics of the law schools in which they teach? The study will provide the first national-level picture of law professors’ post-tenure experiences, along multiple dimensions.

In 2019, the book [Power, Legal Education, and Law School Cultures](#) (Routledge) was published. The volume, edited by Mertz along with Meera E. Deo and Mindie Lazarus-Black, reveals that hierarchies of power and cultural norms shape and maintain inequities in legal education. Mertz contributed a chapter to the book, “Canaries in the Mines of the U.S. Legal Academy,” which describes the continuing difficulties facing “traditional outsiders” on U.S. law faculties and warns that real remedies will require deep and ongoing attention.

FY 2019-20 Presentations:

- Discussant for panel entitled “Dignifying Legal Translation” at the 2019 Law & Society Association Meetings in Washington DC, May/June 2019
- Presenter in Roundtable on “New Legal Realism, Part II” (CRN 28) at the 2019 Law & Society Association Meetings in Washington DC, May/June 2019

- “A Realist View of U.S. Law Professors.” Paper presented in panel entitled “Transnational Legal Education and Systemic Inequality” at the 2019 Law & Society Association Meetings, Washington DC, June 2019

The Future of Latinos in the United States: Law, Opportunity, and Mobility
Robert L. Nelson

Inaugural ABF Neukom Chair Rachel F. Moran and ABF Research Professor Robert Nelson co-direct the major research and planning initiative, *The Future of Latinos in the United States: Law, Opportunity, and Mobility*. The Future of Latinos is a nation-wide, interdisciplinary project dedicated to understanding and advancing research on the current condition the Latinx community in the United States, the structural barriers that impede full equality and integration for this emerging population, and the sites of intervention that promise to be most effective in promoting opportunity and mobility through law and policy

In 2019, the ABF convened leading members of the Latino community at Duke University for a Southern Roundtable. The roundtable focused on Latinx communities in the southern United States and was one of five regional symposia and roundtables. Roundtable participants consisted of academics, representatives of foundations, community and social service providers, emerging leaders, policymakers, and journalists, among others. Participants examined four key drivers of opportunity and mobility: education, economic participation, political mobilization and civic engagement, and immigration.

FY 2019-20 Presentations:

- Southern Roundtable on the Future of Latinos in the United States, Duke University November 1-2, 2019
- “Latinxs in the Legal Profession: A Statistical Portrait,” White Paper Prepared for the State of Latinos in Law Conference, Meghan Dawe and Robert L. Nelson, U.S. District Court for the Northern District of Illinois, Chicago, October 12, 2018.

After the JD
Robert L. Nelson

The ABF long has been recognized as the leading source of research on legal education and the profession. One of the ABF’s hallmark projects in this area is After the JD (AJD), the first national study of legal careers. AJD is following a large national sample of lawyers admitted to the bar in 2000 over the first decade-plus of their careers. AJD is a unique source of information on the changing nature of legal careers. Data collection for Wave III of AJD was completed in

early 2013. Data analysis on this rich sample continues, and a capstone book project is now underway on the findings from the first three waves.

In 2019, ABF researchers published an article based in part on the After the JD research, which found that perceived bias in the legal workplace is widespread and often explicit. “Perceiving Discrimination: Race, Gender, and Sexual Orientation in the Legal Workplace,” was published in the most recent issue of [Law & Social Inquiry](#) and finds that attorneys of color, white women, and LGBTQ attorneys perceive high levels of workplace bias compared to white male attorneys and to respondents in other workplace studies.

FY 2019-20 Media Coverage:

- [“Preparing to Practice – How Incubators Help Law Students Pave Their Own Way”](#) | After the JD research cited | *The National Jurist Magazine* | September 12, 2018

FY 2019-20 Presentations:

- “The Social Correlates of Pro Bono Effort: A Career Perspective,” Robert L. Nelson and Ioana Sendroiu. Presentation at Business Law Section of the American Bar Association, Washington, D.C., September 12, 2019.
- “Gender, Race, and Class in the Making of Lawyer Careers,” Robert L. Nelson and Meghan Dawe. Presentation to the DC Fellows of American Bar Foundation. Washington, D.C., September 11, 2019.
- “Two Hemispheres Revisited: Fields of Law, Practice Settings, and Types of Clients,” Meghan Dawe and Robert L. Nelson. Presentation at Law and Society Association Meetings, Washington, D.C. May 31, 2019.
- “Gender, Race, and Class in the Making of Lawyer Careers,” Robert L. Nelson and Meghan Dawe. Presentation to Department of Sociology, Northwestern University, Evanston, IL, April 18, 2019.

Protecting Rights, Accessing Justice

African Americans and Chicago’s Criminal Courts, 1896-1964

Tera Agyepong

This project examines Cook County’s municipal court system between 1896 and 1964. It pays particular attention to state criminal laws and sheds light on the kinds of local-level processes that undergirded the emergence of mass incarceration. During the Progressive era, Cook County created an extensive municipal court system—including thirty-seven civil and criminal branch courts. By 1964, an amendment to the state constitution consolidated these courts into one

criminal court. This study of the evolution of Cook County Criminal Court(s) will be analyzed alongside the context of other important legal and demographic changes in Illinois.

In 2019, Agyepong was hired as an ABF Research Professor.

Conceptualizing Property Takings **Bernadette Atuahene**

Using the concept of a “dignity taking,” linking the unconsented taking of property rights with the deprivation of dignity, this research project seeks to further understand the relationship between property and dignity and extends the earlier analysis to the case of squatting. Among other things, the research will help illuminate why some populations choose to squat instead of pursuing alternative accommodations, and how these risky and illegal actions may enhance or degrade their dignity.

In 2019, Atuahene received a Soros Equality Fellowship. The Soros Equality Fellowship program supports innovators and risk-takers striving to create and develop new ways of tackling the systemic causes and symptoms of racial disparity and discrimination. Beyond nurturing their specific projects, the support aims to create new ideas in the racial justice movement. Atuahene plans to use the award to build on her academic research by creating a comprehensive guide and user-friendly, interactive information hub that communities can use to fight back against racially discriminatory property tax information. Atuahene also took part in a Congressional field hearing in Detroit centered on affordable housing, hosted by U.S. Representative Rashida Tlaib.

FY 2019-20 Media Coverage:

- [“Tlaib Hosts Detroit Hearing on Access, Equity Issues in Housing”](#) | Bernadette Atuahene featured | *Michigan Advance* | August 2, 2019
- [“How Detroit's Mistakes Cost This Woman Her Home”](#) | Bernadette Atuahene featured | *Detroit Free Press* | June 21, 2019

Policing and Political Participation **Traci Burch**

Despite the prominence of policing and police misconduct on the national agenda, scholars still know very little about the extent to which police act in ways that are contrary to the public good and public safety. Primarily, this lack of information stems from a lack of data and analytical techniques that can be used to examine policing. This project addresses this important dearth of

information and will develop measures of problem policing over a series of papers and attempt to examine the effects of problem policing on voter turnout and political protest. Burch will identify and collect existing data on policing in order to develop measures of “problem policing.” This project will result in a book manuscript, and will be the first to attempt to measure multiple forms of problematic policing and to examine their effects both separately and simultaneously.

FY 2019-20 Presentations:

- “The Effect of Officer Involved Killings on Protest,” The Pennsylvania State University, November 2019
- “The Effects of Officer Involved Killings on Protest,” Princeton University, November 2019
- "Media and Public Attention to Police Use of Lethal Force," [Missouri Fellows Breakfast](#) in Branson, Missouri, September 20, 2019
- “Policing and Participation in Chicago,” Northwestern University Department of African American Studies. April 2019

**Science and the Legal System
Shari Seidman Diamond**

This research (with Richard O. Lempert) considers the relationship between scientists and engineers and the legal system. Surveys and in-depth interviews have yielded a wealth of findings, including most of the scientists and engineers surveyed agreed to participate in lawsuits when asked, more often for educational and moral reasons than financial. If the scientists and engineers refused to participate in lawsuits when asked, it was mainly because they lacked the time or relevant expertise. Some of the scientists and engineers reported being uncomfortable with adversarial legal proceedings and would be more likely to participate in the future if procedural changes were made.

Diamond and Lempert were guest editors on a recent issue of *Daedalus, the Journal of the Academy of Arts and Sciences*, and hosted a panel discussion at the National Press Club in Washington, D.C. to mark the public release of the *Dædalus* volume. The panelists included three contributors to the *Dædalus* issue: distinguished federal judges David Tatel and Jed Rakoff and former federal judge Nancy Gertner.

FY 2019-20 Media Coverage:

- [“The indigenous jury in Chaco took a big step towards its implementation”](#) | Shari Diamond quoted | Association Argentina de Juicio por Jurados | August 11, 2019
- [“How Juries Bring Legitimacy to Legal Proceedings”](#) | Shari Seidman Diamond interviewed | *Planet Lex Podcast* | February 6, 2019

FY 2019-20 Presentations:

- What the Legal System Can Offer Scientists and Engineers, Whole-Brain Leadership Series, McCormick School of Engineering, Northwestern University, May, 2019
- Gender on the Argentine Jury, Law & Society Assoc., Washington, DC, May 2019
- The Mixed Court of Cordoba: Recent Changes Empowering Lay Jurors, Law & Society Assoc., Washington DC, May 2019
- Why 12, Why Unanimous, Why Final? *El Jurado en America Latina*, March, 2019 (Mendoza, Argentina); and August, 2019 (Chaco, Argentina)
- Jurors and Judges, *V Congreso Internacional de Juicio por Jurados*, Neuquén, Argentina, May 2019.
- The Disappearing Jury Trial, ABA Jury Commission, Jan. 2019 (Las Vegas, NV) ;and NYU Civil Jury Project Roundtable, March 2019 (NYC, NY)
- [Panel on Science and the Legal System](#), American Academy of Arts & Sciences, National Press Club, Washington DC, October 2018.

**Adolescent and Adult Lives of Children of Parents Returning From Prison
John Hagan**

What is the impact of a parent returning from prison on their child? This project collects data on the historic return of parents from prison and its impact on the lives of their children. The children of parents returning from prison continue to confront risks of systemic exclusion resulting from the "marking" of their parents, with exclusion taking multiple forms: for example, legal (justice system contact), residential (homelessness); social (isolation); political (disenfranchisement); and health (depressive symptoms). The project is especially concerned with education as a focal mediator of systemic exclusion. We seek to explain variation in specific and combined outcomes that culminate in compounding disadvantages involving three theoretical elements: (1) selection and self-control; (2) state governmental regimes and stigmatization, and (3) socialization and strain. The challenge is to expand our understanding of intergenerational consequences of incarceration and reentry to society.

FY 2019-20 Presentations:

- Presented paper "Enablers of International War Crimes" at the Nuremberg Court in Nuremberg, Germany, September 2019
- "Incarceration of Fathers, State Investment in Families, and Educational Success of Children," Oregon Fellows Reception, Portland, OR, September 4, 2019
- Commentator for Author Meets Critics session on Richard Abel's new books on Law's Wars and Law's Trials, Law & Society Association, Washington DC, June 2019

- ABA Criminal Justice Section Meetings and webinar to follow on “Paternal Incarceration, State Investment in Families and Children, and Educational Success of Children,” Nashville, TN, April 2019

The Financing of Legal Education **Stephen Daniels**

This project follows up on and expands the work of the American Bar Association Task Force on the Financing of Legal Education (Daniels served as the reporter and consultant for the Task Force). It does so by fully analyzing the data collected as a part of the Task Force’s work in combination with additional relevant data and materials relevant to the challenges facing legal education. Like the Task Force itself, this project takes seriously the need to mine and analyze the best available data relevant to the challenges facing legal education – not just financing. The project has been supported by a grant from Access/Lex Institute.

In 2019, data was collected related to enrollment, applications, tuition, and employment outcomes for graduates. Analysis is underway and continuing. Student-level data from the annual Law School Survey of Student Engagement (LSSSE) was collected to explore patterns and changes related to students and their views. Finally, information has been gathered from law school websites and other sources to explore recent changes and innovations in response to the changing law school environment.

FY 2019-20 Media Coverage:

- [“Be True to Your School: But True to Your Law School?”](#) | Stephen Daniels Blog Post | LSSSE Blog | April 22, 2019
- [“With smack-talking invective, lawyer groups appeal to the public as one big jury pool”](#) | Stephen Daniels featured | *Salon* | January 27, 2019

Alternative Legal Professionals **Stephen Daniels**

The lack of access to competent legal assistance because of the absence of resources, social capital, awareness, or because of geographic distance is described as a justice gap. The existence of this gap is uncontested, and the gap is wide. In response, bar groups, the courts, and academic commentators are giving increasing attention to a range of access-enhancing innovations all of which share a greater role for nonlawyers. This project explores the recent diffusion of one of those innovations, an especially important one, Washington State’s Limited Licensed Legal Practitioner program.

Approved in FY 2019, the project is in the data collection stage. Documentary materials have been collected from Washington State, Utah, Colorado, Arizona, Montana, Oregon and Minnesota. Interviews are beginning in Colorado along with attendance at Colorado Supreme Court Advisory Committee meetings dealing with alternative legal professionals.

Public Opinion, Private Governance, and the Influence of Source Credibility
Janice Nadler

This project seeks to explore whether corporate endorsements and implementations of practices influence public support for legislation and regulation that would generally mandate such practices. While scholars have addressed the effects of popular media and the rise of a hyper-politicized media on popular attitudes and the production of law, they have largely ignored the possible effects of corporate endorsements and the implementation of practices on popular attitudes and, hence, the lawmaking and regulatory processes. This project aims to fill that gap in the literature, building on experimental surveys, case studies and theoretical analysis.

FY 2019-20 Presentations:

- The Role of Emotion in Politically Polarized Debates: The Case of Food Policy (*With David Dana*), University of Illinois at Chicago, Social Psychology, Chicago, IL. September 2019
- Moral Psychology and Political Polarization (*With David Dana*), International Convention of Psychological Science, Paris. March 2019
- The Role of Emotion in Politically Polarized Debates: The Case of Food Policy (*With David Dana*), Arizona State University Law & Behavioral Science, Phoenix AZ. February 2019.

The Probative Versus Prejudicial Effect of Gruesome Photographs in Court
Janice Nadler

Courtroom images can influence beliefs, emotions, and judgments in ways that have never been empirically examined. This project will investigate how these emotionally evocative modes of visual evidence can affect the psychology of jurors' decision-making processes, through influence on emotions, attention to evidence, and legal judgments at the individual and group level. We plan to examine the extent to which gruesome photographs (versus verbal descriptions or neutral photographs) rouse negative emotion, causing jurors to pay more selective attention to case evidence that is consistent with their emotions and less attention to evidence that is not consistent with them.

Consent to Sex on Campus

Laura Beth Nielsen

This project is a multi-year, large-scale data collection and analysis phase of a research project about “new” civil rights. Nielsen is studying the impact (if any) of the Obama-era “Dear Colleague” (DCL) letter on undergraduates at universities, as they relate to drinking, drugs, and sexual activity. The project combines a large-scale quantitative analysis of Title IX compliance policies at a national, random sample of universities, along with a large-scale, in-person interview phase with undergraduates at five college campuses in the Midwest about Title IX compliance regarding sexual assault among undergraduates. The research also will incorporate (as is possible); the current dismantling of these regulations by the Trump Administration. The study builds on Nielsen’s previous scholarly work investigating the dissemination of information about civil rights, how organizations respond when they are responsible for enforcement, the institutional structures that interfere or complement achieving the goals of the civil rights movement, and, most importantly, how, if at all, ordinary people think about, integrate, and ignore law as they go about their daily life.

In 2019, this project was in data collection, with 60 of 180 interviews conducted on 4 campuses in 2 states.

Contested Constructions of Discrimination

Laura Beth Nielsen

Despite the volume of empirical research about employment civil rights litigation, we know very little about how people come to assess whether workplace experiences are thought to be “discrimination” or “personal disputes.” This project combines a quantitative analysis of judges’ and laypeople’s determinations about whether hypothetical workplace disputes rise to the level of discrimination with qualitative in-depth interviews of judges to probe this determination further. Drawing on the legal consciousness and judicial decision-making literatures, this research examines the effect of social status, workplace context, plaintiff characteristics, and dispute characteristics on the likelihood that a person determines that a workplace dispute constitutes discrimination.

FY 2019-20 Media Coverage:

- [“Legal Experts Explain Why Luke Walton's Accuser Didn't Speak to Investigators”](#) | Laura Beth Nielsen quoted | *NBC Sports* | August 25, 2019
- [“Odds Stacked Against Victims of Sexual Harassment in Georgia”](#) | Laura Beth Nielsen featured | *Atlanta Journal-Constitution* | July 26, 2019
- ["The Brett Kavanaugh Confirmation Hearings Will Dominate The Week - Here's What To Watch For"](#) | Laura Beth Nielsen interviewed | *Bustle* | September 4, 2018

FY 2019-20 Presentations:

- “Free Speech and Expression on College Campuses,” Northwestern University Faculty Senate, Evanston, IL March 13, 2019.
- “Conversation with Issa Kohler-Housman,” Northwestern Law School, Chicago, IL March 11, 2019,
- New York Fellows of the American Bar Foundation Luncheon, Offices of Wachtell, Lipton, Rosen & Katz, New York, NY February 20, 2019.

Tenant Screening and Fair Housing Law in the Information Age

Anna Reosti

This project contains two extensions of a larger study of tenant screening and fair housing law in the information age. The first extension investigates the costs of housing searches for renters with criminal conviction records, past evictions and/or damaged credit histories. Findings highlight the significant economic, social and health-related costs associated not only with the substandard housing options that renters with stigmatizing background records are relegated to, but with the housing search process itself. Another collaborative project, with coauthor Kyle Crowder, University of Washington, explores how landlords in Seattle understand and adapt to new regulations, using in-depth interviews, focus groups and a large-scale survey conducted during the lead-up to, and following the enactment of, multiple laws governing tenant screening and move-in fees. It investigates the less-visible ways landlords shape the meaning and effects of new laws through their ground-level practices.

In 2019, Reosti was hired as an ABF Research Professor.

Increasing Access to Justice: Legally Empowering Technologies

Rebecca Sandefur

ABF Faculty Fellow Rebecca Sandefur leads the ABF’s Access to Justice research initiative. Released in 2019, *Legal Tech for Non-Lawyers: Report of the Survey of U.S. Legal Technologies* examines an expansive list of digital tools that help a range of users to act on a legal problem. *Legal Tech for Non-Lawyers* assesses how legal technology tools can assist people who do not practice law in dealing with legal challenges. It focuses on bridging the access to justice gap for low-income communities and others who have restricted access to law and legal services. Her findings reveal over 320 digital legal tools for nonlawyer users exist for US jurisdictions, offering assistance with a range of both criminal (e.g., arrest, police stops, expungement) and civil (e.g., family, housing, health, employment) justice problems.

FY 2019-20 Media Coverage:

- [“Break Up Lawyers’ Monopoly on the Law”](#) | Op-Ed by Rebecca Sandefur | POLITICO Magazine | September 30, 2019
- [“Civil Justice Needs Federal Leadership”](#) | Rebecca Sandefur work featured | Center for American Progress | September 16, 2019
- [“Lawyers: Who Needs ‘Em?”](#) | Rebecca Sandefur interviewed | *Slate Amicus Podcast* | August 17, 2019
- [“The Real Access-to-Justice Problem and How We Might Solve It”](#) | Rebecca Sandefur interviewed | *Lawyerist Podcast* | June 12, 2019
- [“Legal Tech Abounds, But Not the Kind People Need Most”](#) | Rebecca Sandefur featured | *Law 360* | February 3, 2019

Accessing Justice in Contemporary America: The Community Needs and Services Study Rebecca Sandefur

This project investigates the American public’s experiences with civil justice problems and the institutions of remedy that exist for those problems. The study focuses on a core set of commonly experienced problems that have civil legal aspects, raise civil legal issues, and have consequences shaped by civil law. Funded by the National Science Foundation and the American Bar Foundation, this project is now in the write-up stage.

In FY 2019, Sandefur received a MacArthur “Genius” grant for her work on Access to Justice.

FY 2019-20 Media Coverage:

- [“U. of I. Professor Wins ‘Genius Grant’ for Civil Justice Research”](#) | Rebecca Sandefur Interviewed | WTTW Chicago | October 12, 2018
- [“Here are 2018’s MacArthur ‘genius grant’ winners, including an Illinois legal scholar”](#) | Rebecca Sandefur Interviewed | *Chicago Tribune* | October 9, 2018
- [“Access-to-justice work earns MacArthur ‘genius grant’ for American Bar Foundation faculty fellow”](#) | Rebecca Sandefur Interviewed | *ABA Journal* | October 5, 2018
- [“Can licensed legal paraprofessionals narrow the access-to-justice gap?”](#) | Access to Justice research cited | *ABA Journal* | September 6, 2018

FY 2019-20 Presentations:

- Remarks to the Chief Judge’s Annual Hearing on Civil Legal Services, New York State Court of Appeals, Albany, NY, September 23, 2019
- “Access to Justice. It’s Not Just Lawyers Anymore.” New York City Bar Association, New York, New York, September 10, 2019
- “Public Experience of Civil Justice Problems.” Computing, Data Science and Access to Civil Justice. Georgetown University Law School, Washington, DC, June 2, 2019

- “The Hidden Crisis of Access to Justice.” Briefing. United States Congress, Washington, DC, May 21, 2019
- “Civil Justice and Social Inequality.” University of Sao Paulo Law School, Sao Paulo, Brazil, May 15, 2019
- “What Lawyers Need to Know about Access to Justice.” National Conference of Bar Examiners, San Francisco, CA, May 2, 2019
- “Civil Justice and Social Inequality.” MIT Sloan School of Management. Cambridge, MA, April 23
- “Civil Justice at the Crossroads.” Keynote. Campaign for Legal Services Kickoff, Manchester, NH, April 16.
- “Access to Justice and Legal Technologies.” Testimony to the Task Force on Access through Innovation of Legal Services of the State Bar of California. San Francisco, CA, April 8.
- “Civil Justice and Social Inequality.” Arizona State University, April 4.
- “Civil Justice and Social Inequality.” Department of Sociology, University of California-Berkeley, April 1.
- “Starting Somewhere.” Keynote. McKinley Foundation Social Justice Awards, Urbana, IL, March 30.
- “Civil Justice and Social Inequality.” Department of Political Science, University of Massachusetts-Amherst, March 21.
- “Civil Justice and Social Inequality.” Department of Criminology, Law and Society, University of California-Irvine, March 6.
- “The Quiet Crisis of Access to Justice.” Research Week, Oklahoma State University, Stillwater, Ok, February 20.
- “Civil Justice at the Crossroads.” Department of Sociology, University of Illinois-Chicago. February 14.

Civil Rights: An American History
Christopher Schmidt

This book project offers a history of how Americans have struggled over the meaning of the term “civil rights” from the Civil War through today. It provides an historical case study of how the words and categories by which we understand our world become objects of contestation and points of leverage for social, political, and legal action.

In 2019, Schmidt was hired as an ABF Research Professor.

FY 2019-20 Media Coverage:

- [“The Sit-Ins: Protest and Legal Change in the Civil Rights Era Named a Finalist for the Langum Prize in American Legal History”](#) | The Langum Foundation | Christopher Schmidt featured | June 2019
- [“The Kavanaugh hearings had one big benefit for all Americans”](#) | *The Washington Post* | Op-Ed by Christopher Schmidt | November 1, 2018
- [“Supreme Court Fight Goes Prime Time with Kavanaugh’s Fox News Interview”](#) | Christopher Schmidt interviewed | *The New York Times* | September 25, 2018

FY 2019-20 Presentations:

- “What is a Conservative Supreme Court?” Constitutional Law Colloquium, Loyola University Chicago School of Law, November 8, 2019
- “The Thirteenth Amendment and the Transformation of Civil Rights,” Conference on the Thirteenth Amendment and Racial Justice, Chicago-Kent College of Law, November 10, 2019
- “Supreme Court Preview,” Chicago-Kent College of Law in Chicago, IL, October 15, 2019
- “Symposium to Commemorate the Bicentennial of the Federal District Court in Chicago,” Chicago-Kent College of Law in Chicago, IL, October 11, 2019
- “Victory as Resource: A New Perspective on Social Movements,” 2019 LSA Meeting in Washington, DC, June 2019
- “Amending America’s Unwritten Constitution,” Boston College in Chestnut Hill, MA, May 16, 2019

[Making and Implementing Law](#)

Legal Defenses Against Democratic Decline Tom Ginsburg

ABF Research Professor Tom Ginsburg and his colleague Aziz Huq, University of Chicago Law School Professor, explore how democracies erode and how to better uphold democratic values by drawing on historical lessons and recent experiences of democratic decline worldwide. In 2019, Ginsburg and Huq published the book [How to Save a Constitutional Democracy](#). The book investigates the two main pathways that can lead a nation away from democracy: (1) Authoritarian collapse, or the sudden and complete collapse into an authoritarian form of government, and; (2) democratic erosion, which occurs when the rule of law, individual rights, and competitive elections decay slowly over time.

The book offers a wealth of examples from around the world to demonstrate how, in practice, constitutional rules can both deter and accelerate decline. Using these examples, the authors mount an urgent argument against complacency and for constitutional reform. They make the

case that while the U.S. Constitution has endured for centuries, it does not contain the necessary provisions to slow down any potential autocrat or eroding political competition that is bent on dismantling the republic.

FY 2019-20 Media Coverage:

- [“How Impeachment Works Outside of America”](#) | Tom Ginsburg featured | The Economist | December 16, 2019
- [“Opinion: Impeachment has rebooted other democracies stuck in corruption and gridlock”](#) | Op-Ed by Tom Ginsburg (with Aziz Z. Huq and David Landau) | Los Angeles Times | December 15, 2019
- [“Constitutional Questions Debated in Testy New Phase of Impeachment”](#) | Tom Ginsburg Interviewed | WTTW Chicago Tonight | December 4, 2019
- [“We Have To Guard Ourselves Against Gradual Erosion Of Democratic Space”](#) | Tom Ginsburg featured | *Live Law* | November 10, 2019
- [“What is Populism and Why Does it Matter?”](#) | Tom Ginsburg featured | *Inkstick Media* | October 22, 2019
- [“Interview with Professor Tom Ginsburg, Leo Spitz Professor of International Law and Political Science in the University of Chicago”](#) | Tom Ginsburg interviewed | The Economic Times | October 19, 2019
- [“Death by a Thousand Cuts”](#) | Tom Ginsburg featured | *India Today* | October 04, 2019
- [“Democratic erosion does not happen in one sweep, but slowly, says DY Chandrachud,”](#) Tom Ginsburg featured | *Firstpost* | September 25, 2019
- [“Constitution is among India’s greatest success stories”](#) | Tom Ginsburg featured | *The Times of India* | September 22, 2019
- [“Britain’s Supreme Court Is Thrust Into Center of Brexit Debate”](#) | Tom Ginsburg quoted | *The New York Times* | September 18, 2019
- [How to Save Constitutional Democracy Wins the 2019 ICON-S Book Prize](#) | Tom Ginsburg featured | International Society of Public Law | August 2019
- [“Book Examines What Helps Keep Democracies Safe”](#) | Tom Ginsburg featured | *Chicago Daily Law Bulletin* | February 12, 2019

FY 2019-20 Presentations:

- “Authoritarian International Law” Pluricourts, Oslo, June 21, 2019.
- “How to Save a Constitutional Democracy”, Law and Society Association, Washington DC, May 31, 2019.
- “Thailand’s Elections: The Constitutional Dimension”, US Department of State, Foreign Service Institute, March 29, 2019.
- “Democracy without Democrats” Sorbonne Law School, March 18, 2019.
- “Democracies and International Law: The Trials of Liberalism” Hersch Lauterpacht Memorial Lectures, Cambridge University, April 12-15, 2019.

- “How to Save a Constitutional Democracy” House of Lords, United Kingdom, April 11, 2019.
- “Unconstitutional Constitutional Amendments” Colombian Constitutional Court, Annual Conference, January 27, 2019

**Analyzing the Influential Early Childhood Policies that are
Proven to Promote Human Flourishing
James J. Heckman**

A large and growing literature documents the effectiveness of early childhood interventions on a variety of outcomes, including crime, education, teenage pregnancy, earnings, health, and mental health. The evidence points to the effectiveness of prevention as opposed to later-life remediation of these same problems. This project is a multi-year study of the economics of human potential, strengthening the evidence and interpreting it more finely with an eye toward guiding the design of effective policy and determining which programs work.

In 2019, Heckman and his team released several new papers focusing on the long-term effects of early childhood education. [Two new papers](#) looked at the long-term effects of a 1960s-era early childhood experimental pilot program, the Perry Preschool Project. Participants were surveyed through late midlife, and it was found that the program benefited not only the children involved but also their children, a generation later. [Another paper](#) found that the Abercledarian project, a North Carolina early education program from the 1970s, had an annual return on investment of almost fourteen percent.

FY 2019-20 Media Coverage:

- [“Why technology is both a threat and opportunity to your job”](#) | James Heckman quoted | Business Insider | September 30, 2019
- [“Our Children Deserve Better”](#) | James Heckman work featured | *The New York Times* | September 11, 2019
- [“Intergenerational benefits of high-quality early childhood education for underprivileged children: Evidence from the iconic Perry Preschool Project”](#) | Column by James Heckman | *VOX CEPR Policy Portal* | August 23, 2019
- [“The Benefits of Pre-Schooling May Extend for Generations”](#) | James Heckman featured | *The Economist* | June 11, 2019
- [“What's Not on the Test”](#) | James Heckman interviewed | *NPR Hidden Brain* | May 13, 2019
- [“The early years are getting increased attention”](#) | James Heckman featured | *The Economist* | January 3, 2019

FY 2019-20 Presentations:

- “Analyzing Social Experiments as Implemented.” Sargan Keynote Lecture. Royal Economic Society Annual Conference. Warwick, UK. April 16, 2019
- “Analyzing Social Experiments as Implemented.” University of Pennsylvania PIER Distinguished Visitors. Penn Institute for Economic Research. University of Pennsylvania. April 4, 2019
- “Early Childhood Education and Economic Inequality and Child Development.” SRCD Biennial Meeting. Baltimore. MD. March 22, 2019
- “The Economics and Psychology of Personality.” Economic Theory: Challenges for the Next 50 Years.” Université Paris-Dauphine, Paris, France. January 14, 2019

**Lessons for American Law & Public Policy
from the Scandinavian Welfare State
James J. Heckman**

Poverty, inequality, and social mobility occupy the attention of lawmakers and the public around the world. A variety of legislative and administrative proposals to address these issues are currently being advocated, and many suggest basic modifications in the law to implement these proposals. This project will examine the effectiveness of the Danish welfare state in creating economic and social opportunity, benchmarking its performance against that of the U.S. It will examine how successful Denmark has been in eliminating the influence of the accident of birth in shaping lives. It will compare the life outcomes of Americans with those of Danes to determine the effectiveness of Danish regulation and benefit policies. It will examine if place of birth determines life destiny in both environments, the channels through which it works, and if we actually detect a powerful influence of zip codes isolated from other factors associated with zip codes.

This project was approved in 2019 and is in development.

**The Legal Transformation of Medicine:
How Rules Work in the International World of HIV/AIDS
Carol Heimer**

This book project braids together investigations of three transformative events — the “legalization” and globalization of medicine and the advent of HIV/AIDS — in a study of how laws, regulations and other rules are actually used in HIV research and treatment in the United States, Uganda, South Africa, and Thailand. It investigates what happens when laws, regulations, and guidelines, admittedly created with the best of intentions, are transported to new sites where they confront the realities of medical care, clinical research, and healthcare administration in

developing countries. Impacts include resource shortages, desperate patients, culturally-based miscommunications about ethical principles, discrepancies between first-world research designs and third-world research settings, as well as the mundane uncertainties typical of the encounter between medicine and human biology.

In 2019, the book project was underway. Several papers from the project are under preparation or review for journal publication.

FY 2019-20 Media Coverage:

- [“Crisis Bill Due: Who Will Pay for Ebola?”](#) | Op-Ed by Carol A. Heimer | *The Hill* | July 26, 2019
- [“With Candida Auris, a Lack of Transparency Could Make Things Worse”](#) | Op-Ed by Carol A. Heimer | *U.S. News* | July 16, 2019
- [“DRC's Contested Election: Constitutional Coup or Baby Step to Democracy?”](#) | Op-Ed by Carol Heimer | *TRT World* | February 1, 2019
- [“We’re advancing to a cure after 30 years of HIV/AIDS treatment”](#) | Op-Ed by Carol Heimer | *The Hill* | November 30, 2018

FY 2019-20 Presentations:

- “Can Treaties Protect Us from Superbugs and Pandemics?” Presentation to the New York American Bar Foundation Fellows, New York, September 26, 2019.
- “Social Science and Social Justice: What Can Sociology Contribute to Global Health?” Paper presented at the annual meeting of the American Sociological Association, Pre-Conference on Global Health and HIV, New York, August 9, 2019.
- “Between the Constitution and the Clinic: De Facto and Formal Rights to Health in Global HIV/AIDS Care.” C.A. Heimer and A.W. Tolman. Paper presented at the annual meeting of the Law and Society Association, June 1, 2019, Washington, D.C.
- “Between the Constitution and the Clinic: De Facto and Formal Rights to Health in Global HIV/AIDS Care.” C.A. Heimer and A.W. Tolman. Paper presented at the annual meeting of the Eastern Sociological Society, Boston, March 15, 2019.

**The VAT Laggard
Ajay K. Mehrotra**

This project explores how and why the United States has historically rejected national consumption taxes. Because nearly all developed countries, and many in the developing world, have a national consumption tax in the form of a value-added tax (VAT), this project focuses on the more specific question: why no VAT in the United States? To address this overall research

question, this project explores three key historical periods from a comparative perspective to study how and why the U.S. has failed to adopt national consumption taxes, like the VAT.

FY 2019-20 Media Coverage:

- [“GOP Tax Overhaul Leaves Unending Policy Debate In Its Wake”](#) | Ajay K. Mehrotra featured | Law360 | December 20, 2019
- [“When higher taxes brought Americans together instead of dividing them”](#) | Op-Ed by Ajay K. Mehrotra | *The Washington Post* | November 27, 2018

FY 2019-20 Presentations:

- “Economic Expertise, Democratic Constraints, and the Historical Irony of U.S. Tax Policy: Thomas S. Adams and the Beginnings of the Value-Added Tax.”
 - University of Illinois School of Law, Faculty Workshop, August 2019
 - ABF Fellows Webinar (hosted by Tony Patterson), March 2019;
 - University of Toronto Law School Tax Policy Colloquium, March 2019;

Rule of Law Discourses

Jothie Rajah

‘Rule of law’ is a concept and category that is incessantly invoked in the international public domain. At different times and in different hands, a range of different meanings has attached to ‘rule of law’. In response to the impact of the post-9/11 rule of law, this project includes both doctrinal and non-doctrinal articulations of meanings, values, and relations for rule of law. In 2019, Rajah worked on a forthcoming monograph, *Reading for Law in a Post-9/11 World*, which is driven by a protective and passionate concern for rule of law as a legal, social, and political ideal. *Reading for Law* examines both standard legal text — legislation — as well as non-doctrinal texts to illuminate legal meanings, relations, and values that are being constructed and disseminated in ways that tend to evade critical attention. In particular, it is motivated by the striking contrast in visibility that marks the events of 9/11 and the visible legal response.

In 2019, Rajah was awarded an IFK Senior Fellowship in Vienna. This fellowship is given to outstanding researchers with an international reputation and publication profile that identifies them as leading experts in their fields.

FY 2019-20 Media Coverage:

- [“The necropolitical law of assassination”](#) | Op-Ed by Jothie Rajah | October 31, 2019

FY 2019-20 Presentations:

- “Law’s Governing Centers: A Global Sociolegal Approach” presented at Käte Hamburger Kolleg / Centre for Global Cooperation Research in Duisburg, Germany, March 2019.

Surrogate Decision Making

Susan Shapiro

Using unprecedented data from two years of observation in two intensive care units at a major urban teaching hospital, this project examines how surrogate decision makers make medical—often end-of-life—decisions for patients unable to speak for themselves. In 2019, Shapiro published a book based on these findings. [*Speaking for the Dying: Life-and-Death Decisions in Intensive Care*](#) (University of Chicago Press) uses real-time observations of medical decision making to offer a very different perspective on the effectiveness of advance medical directives than that suggested in previous research based on retrospective accounts. Shapiro finds that medical advance directives are of limited value as few people have them, and decision makers and physicians often ignore those that exist. At present, given the limitations of advance directives, Shapiro found that the best protection for potential patients is to hold ongoing conversations with a family member who is designated to be aware of the patient’s wishes and to honor them.

FY 2019-20 Media Coverage:

- [“Choosing an Effective Surrogate Decision Maker”](#) | Susan Shapiro featured | *The Detroit Jewish News* | August 30, 2019
- [“‘Speaking for the Dying’: 2 Years of Observations on ICU Decision-Making”](#) | Susan Shapiro interviewed | *WTTW Chicago Tonight* | July 07, 2019
- [“Aetna Foresees Savings, Better Care from End-of-Life Counseling”](#) | Susan Shapiro interviewed | *Bloomberg Law* | June 27, 2019

FY 2019-20 Presentations:

- “Speaking for the Dying” book event at Seminary Co-op Bookstore, Chicago, IL December 3, 2019
- “Speaking for the Dying” book event, Schuler Books, Okemos Michigan, November 13, 2019
- "Speaking for the Dying," Montgomery Seminar Series, Northwestern University, Medical Humanities and Bioethics Program, Chicago, IL, October 17, 2019
- Discussion of "Speaking for the Dying", Northwestern Memorial Hospital Palliative Care Team, Chicago, IL September 23, 2019
- University of Chicago Geriatrics and Palliative Care Grand Rounds, Chicago, IL, September 19, 2019
- “Speaking for the Dying” Presentation at the University of Illinois Medical Center, Chicago, Clinical Ethics Program, Chicago, IL, August 28, 2019

- “Speaking for the Dying” Book Launch Reception, ABF Woods Conference Room, Chicago, Illinois, July 10, 2019
- “I Thought the Law Would Take Care of This. Do Advance Directives Direct?” Medicine and Media Conference, Northwestern Center for Medical Humanities and Bioethics in Chicago, IL, May 3, 2019

Trust 2.0: Law, Social Control, and New Technologies of Trust
Susan Shapiro

Observers of the world of trust or fiduciary relationships have identified an evolution from institutional trust—which flows upward from individuals to states, organizations, and third parties—to distributed trust—which “flows laterally between individuals, enabled by networks, platforms, and systems.” Examples include the difference between the dollar and bitcoin, the New York Stock Exchange and Kickstarter, the *New York Times* and Facebook, or the United Way and GoFundMe. Fueled by new technologies, distributed trust is often virtual, digital, global, decentralized, algocratic, and sometimes structured to escape legal or government oversight. This capstone project revisits my scholarship on “traditional” institutional trust to examine the legal and social control of computer-mediated distributed trust—what I am calling Trust 2.0. The project will survey new developments in the role of law, regulation, and social control of trust in the internet age. It will examine the opportunities, strategies, efficacy, and limitations of these measures. It will explore the often-belated scrutiny by legal institutions of forms of trust that intentionally sought to escape state or legal oversight. It will examine how this regulatory landscape has evolved over the relatively short lifespan of Trust 2.0.

This project was approved in 2019 and is in development.