

OWEN M. FISS

List of Publications – Last updated October 10, 2016

[Racial Imbalance in the Public Schools: The Constitutional Concepts](#), 78 Harvard Law Review 564 (1965); The Development of School Busing as a Desegregation Remedy (D. Douglas, ed., 1993)

[Gaston County v. United States: Fruition of the Freezing Principle](#), 1969 Supreme Court Review 379

[A Theory of Fair Employment Laws](#), 38 University of Chicago Law Review 235 (1971); Employment Law In Its Industrial Relations Context (J. Burton, Jr., S. Schwab, S. Willborn, eds. 1992); Foundations of Employment Discrimination Law 35 (John Donohue, III, ed. 1999)

[The Charlotte-Mecklenburg Case — Its Significance for Northern School Desegregation](#), 38 University of Chicago Law Review 697 (1971); 19 U. of Chicago Law School Record 11(1972); Hearings before the Senate Select Committee on Equal Educational Opportunity, June 15, 1971

[Busing Amendment: Does This Proposal Violate Constitution?](#), Chicago Tribune, March 13, 1972

Injunctions, Foundation Press, New York, 1972

School Desegregation: The Uncertain Path of the Law, 4 Philosophy and Public Affairs 3 (1974); Equality and Preferential Treatment 155 (M. Cohen, T. Nagel, T. Scanlon, eds., 1977); Busing U.S.A. 9 (N. Mills, ed., 1979)

[The Fate of An Idea Whose Time Has Come: Antidiscrimination Law in the Second Decade After Brown v. Board of Education](#), 41 University of Chicago Law Review 742 (1974)

[The Jurisprudence of Busing](#), 39 Law & Contemporary Problems 194 (1975); The Courts, Social Science and School Desegregation 194 (B. Levin and W. Hawley, eds., 1977)

[Kalven's Way](#), 43 University of Chicago Law Review 4 (1975)

[Groups and the Equal Protection Clause](#), 5 Philosophy and Public Affairs 107 (1976); Equality and Preferential Treatment 84 (M. Cohen, T. Nagel, T. Scanlon, eds., 1977); Modern Constitutional Theory 319 (J. Garvey, T. A. Aleinikoff, eds, 1989); The International Library of Essays in Law & Legal Theory (T. Campbell, ed., 1990); Anti-Discrimination Law, The International Library of Essays in Law & Legal Theory (C. McCrudden, ed., 1991); Derecho y Grupos Desventajados, p. 137 (R. Gargarella, ed. Gedisa) (1999) (in Spanish)

[Affirmative Action: An Answer to Discrimination?](#) American Enterprise Institute Roundtable (1975)

[The Inappropriateness of the Intent Test in Equal Protection Cases](#), 74 Federal Rules of Decision 276 (1977)

[Dombrowski](#), 86 Yale Law Journal 1103 (1977)

[The Civil Rights Injunction](#), Indiana University Press, Bloomington, 1978

[A Vision of the Constitution](#), 13 Harvard Civil Rights-Civil Liberties Law Review 243 (1978); 40 Maryland Law Review 401 (1981)

The Structure of Procedure, Foundation Press, New York, 1979 (with Robert M. Cover)

[The Forms of Justice](#), 93 Harvard Law Review 1 (1979)

[The Varieties of Positivism](#), 90 Yale Law Journal 1007 (1981)

[Making Coffee and Other Duties of Citizenship](#), 91 Yale Law Journal 224 (1982); Remarks at Memorial Service for Arthur Allen Leff, Yale Law School Pamphlet, 1982, p. 11

The Rehnquist Court, The New Republic, March 10, 1982 (with Charles Krauthammer)

[Objectivity and Interpretation](#), 34 Stanford Law Review 739 (1982); Interpreting Law and Literature 229 (Sanford Levinson & Steven Mailloux, eds., 1988); II Legal Reasoning, The International Library of Essays in Law & Legal Theory 13 (A. Aarnio & D. N. MacCormick, eds., 1992); Constitutional Theory: Arguments and Perspectives, Second Edition (M. Gerhardt, T. Rowe, Jr., R. Brown & G. Spann, eds., 2000).

[Free Speech and the Prior Restraint Doctrine: The Pentagon Papers Case in The Supreme Court and Human Rights](#) 49 (B. Marshall, ed., 1982)

[The Social and Political Foundations of Adjudication](#), 6 Law and Human Behavior 121 (1982)

[Note on "Racial Imbalance in the Public Schools,"](#) 14 Current Contents, September 27, 1981, at 20; reprinted in Contemporary Classics in the Social and Behavioral Sciences (ISI Press 1986)

[The High Court: Illusion of Victory](#), The Nation, December 18, 1982 (with Geoffrey Aronow)

[The Bureaucratization of the Judiciary](#), 92 Yale Law Journal 1442 (1983)

Injunctions, Second Edition, Foundation Press, 1984 (with Doug Rendleman)

Legal Modes of Interpretation: Principled, Political or Nihilistic?, Panel on Law and Humanities, 1984 AALS Annual Meeting, San Francisco, Jan. 7, 1984 (with R. Cover, S. Fish & R. Weisberg) (tape available from AALS)

[Against Settlement](#), 93 Yale Law Journal 1073 (1984); 11 Litigation 3 (1984); Dispute Resolution 497 (S. Goldberg, F. Sanders & E. Green, eds., 1985); Mediation 15 (J. Palenski & H. Launer, eds., 1986); Dispute Resolution and Lawyers (Riskin & Westbrook, eds., 1987); An Introduction to Advocacy 106 (S. Landsman, ed., 1987); Canadian Civil Procedure: Cases and Materials (G. Watson & A. Hutchinson, eds., 1987); Processes of Dispute Resolution 38 (J. Murray, A. Rau, E. Sherman, eds., 1989); Taking Sides: Clashing Views on Controversial Legal Issues (M. E. Katsh, ed., 1990); Australian Family Law in Context (Parker, Parkinson & Behrens, eds. 1994); Law and Justice: Cases and Readings on the American Legal System 701 (D. A. Nance, ed., 1994); An Administrative Law Anthology (T. Sargentich, ed., 1994); An Ethics Anthology (T. Metzloff (1994); Introduction to Legal Studies, Captus University Publications (1994); International Library of Essays in Law and Legal Theory, Dartmouth Publishing Co. (1995); Alternative Dispute Resolution: Cases, Materials & Problems (E. W. Trachte-Huber, S. Huber, eds., 1995); Civil Procedure Anthology, (D. I. Levine, D. L. Doernberg, M. L. Nelken, eds., 1997); 9 Judicial Reform Review (2009) (in Chinese).

[Conventionalism](#), 58 Southern California Law Review 177 (1985); Constitutional Theory: Arguments and Perspectives, Second Edition (M. Gerhardt, T. Rowe, Jr., R. Brown & G. Spann, eds., 2000)

[Two Models of Adjudication in "How Does the Constitution Secure Rights?,"](#) (Robert Goldwin and William Schambra, eds., 1985); Teoria do Processo: Panorama Doutrinário Mundial 761 (Fredie Didier Jr. and Eduardo Ferreira Jordão, eds., 2008)

[The Jurisprudence \[?\] of Stanley Fish](#), ADE Bulletin, Spring 1985, p. 1

Correspondence on the Critical Legal Studies Movement, 35 Journal of Legal Education 24, 26 (1985)

Coney Island: A Game of Discovery, Center for Computer Assisted Legal Instruction, 1985 (with Thomas Glocer and Ronald Wright)

[The New Procedure](#), 54 Revista Juridica de la Universidad de Puerto Rico 209 (1985); The Constitution and the Regulation of Society 129 (Gary Bryner and Dennis Thompson, eds., 1988)

[The Law According to Yale](#), in Power and Policy in Quest of Law 417 (Myres S. McDougal and W. Michael Reisman, eds., 1985); El derecho según Yale, La

Enseñanza del Derecho y el Ejercicio de la Abogacía, P. 25, (M. Bohmer, ed. Gedisa) (1999) (in Spanish); 8 Zhongshan University Law Review 375 (2010) (in Chinese)

[Out of Eden](#), 94 Yale Law Journal 1669 (1985); 35 Law Review Digest 23 (1986); Dispute Resolution and Lawyers (Riskin & Westbrook, eds., 1987); Civil Procedure Anthology, (D. I. Levine, D. L. Doernberg, M. L. Nelken, eds., 1997)

[David J. Brewer/The Judge as Missionary in The Fields and the Law](#) 53 (1986)

[ADR: Second-Class Justice?](#) Connecticut Law Tribune, Vol. 12, No. 11, p. 1 (March 17, 1986)

[Two Constitutions](#), 11 Yale Journal of International Law 492 (1986); 32 Yale Law Report 28 (1986); The Chinese Intellectual, Spring 1987, p. 111 (in Chinese); Law in the People's Republic of China (Ralph Folsom and John Minan, eds., 1989)

[Letter to the Editor, Charting the Supreme Court's Conservative Drift](#), The New York Times, June 29, 1986, Section 4 (Week in Review), p. 22

[Racial Discrimination](#), Encyclopedia of the American Constitution 1500 (Leonard Levy, ed. 1986); 15 Capital University Law Review 395 (1986); Civil Rights and Equality 17 (L. Levy, K. Karst, D. Mahoney, eds., 1989)

[The Fuller Court](#), Encyclopedia of the American Constitution 816 (Leonard Levy, ed., 1986); American Constitutional History 184 (L. Levy, K. Karst, D. Mahoney, eds., 1989)

[Free Speech and Social Structure](#), 71 Iowa Law Review 1405 (1986); Ein Richter, ein Burger, ein Christ: Festschrift fur Helmut Simon 291 (Eckertz-Hofer, Fritz, Henschel, eds., 1987) (in German and English); A Less Than Perfect Union 346 (J. Lobel, ed. 1988); Equal Opportunity 175 (N. Bowie, ed., 1988); Law Review of Wuhan University 57 (1988) (in Chinese); 8 Tel Aviv University Studies in Law 249 (1989); Election Law (D. Lowenstein, ed. 1995)

[Letter to the Editor, Music, Myth, and Wonder](#), The New Republic, September 29, 1986, p. 42

[The Death of the Law?](#) 72 Cornell Law Review 1 (1986); La Muerte Del Derecho?, 10 DOXA 123 (1991); Elements of Law, (E. Hanks, S. Nemerson, Herz, eds., 1994); Jurisprudence: Contemporary Readings, Narratives and Problems, (R. Hayman, N. Levit, eds., 1994)

[Why the State?](#) 100 Harvard Law Review 781 (1987); 32 Law Review of Wuhan University 60 (1988) (in Chinese); Democracy and the Mass Media 136 (J. Lichtenberg, ed., 1990); The First Amendment: A Reader (J. Garvey, F. Schauer, eds., 1992); Constitution, Democracy and State Power: The Institutions of Justice (J. Cohen, A. Fung, eds., 1995); Teoria del neoconstitucionalismo 105 (Miguel Carbonell, ed., 2007) (in Spanish)

[Letter to the Editor, President Alfonsín's Compromise](#), The New York Times, June 10, 1987, Section A, p. 30

[Remarks at Memorial Service for Robert M. Cover](#), 96 Yale Law Journal 1717 (1987); Yale Law School Pamphlet, 1987, p. 21

Letter to the Editor, Bork is No Centrist Disguised as a Conservative, The New York Times, July 31, 1987

Statement Before the Committee on the Judiciary of the United States Senate, Hearings on the Nomination of Robert H. Bork to be an Associate Justice of the United States Supreme Court, One Hundredth Congress, First Session, September 25, 1987, Committee Print Part 2, p. 2495

[Justice Chicago Style](#), 1987 University of Chicago Legal Forum 1

The Law Proclaimed, The Cambridge Lectures 1985, Canadian Institute for Advanced Studies 103 (Frank McArdle, ed., 1987)

Procedure, Foundation Press, New York (1988) (with Robert M. Cover and Judith Resnik)

The Federal Procedural System: A Rule and Statutory Source Book, Foundation Press, New York (1988; 2d ed. 1989) (with Robert M. Cover and Judith Resnik)

[Coda](#), 37 University of Toronto Law Journal 229 (1988)

[The Challenge Ahead](#), 1 Yale Journal of Law & the Humanities viii (1988)

[The Awkwardness of the Criminal Law](#), 11 Human Rights Quarterly 1 (1989)

[La Independencia Judicial](#), in Formación y perfeccionamiento de los jueces, 8 Cuadernos de Análisis Jurídico, Universidad Diego Portales, Chile 51 (1989)

[The Law Regained](#), 74 Cornell Law Review 245 (1989); 11 DOXA 233 (1992)

[Letter to the Editor \(Poder Judicial Destruído\)](#) in La Nación, Buenos Aires, Argentina, April 25, 1990

[Letter to the Editor, Checkbook vs. Badge](#), The New York Times, May 29, 1990, Section A, p.22

[Las privatizaciones, un remedio desesperado](#), 3 Relato de Hechos e Ideas 31 (1990)

[Reason in All its Splendor](#), 56 Brooklyn Law Review 789 (1991)

[David J. Brewer](#), The Oxford Companion to the Supreme Court of the United States (1991); 2nd edition, 2005

[State Activism and State Censorship](#), 100 Yale Law Journal 2087 (1991); Helms v. Mapplethorpe: Is the Denial of a Subsidy a Form of Censorship?, 37 (2) Yale Law Report 12 (1991)

[A Life Lived Twice](#), 100 Yale Law Journal 1117 (1991); 26 Valparaiso Law Review ix (1991); Justice William J. Brennan, Jr., Freedom First, R. Goldman with D.Gallen (1994)

Buffalo Creek: A Game of Discovery, Center for Computer Assisted Legal Instruction 1991 (with Ronald Wright)

[An Uncertain Inheritance](#), in The Outer Circle: Women in the Scientific Community (H. Zuckerman, J. Cole and J. Bruer, eds. 1991)

A Decency Czar? The Nation, 473, April 15, 1991

[Tribute to Justice Thurgood Marshall](#), 105 Harvard Law Review 49 (1991)

[The Other Goldberg, in The Constitution of Rights: Human Dignity and American Values](#) (M. Meyer and W. Parent, eds. 1992)

[The Irrepressibility of Reason](#), 5 Yale Journal of Criticism 213 (1992)

[What is the Federalist Society?](#), 15 Harvard Journal of Law and Public Policy 5 (1992)

[Silence on the Street Corner](#), 55 Albany Law Review 713 (1992); 26 Suffolk University Law Review 1 (1992); Public Values in Constitutional Law, 195 (Stephen Gottlieb, ed., 1993)

[Capitalism and Democracy](#), 13 Michigan Journal of International Law 908 (1992); Öffentliche oder private Moral?, Festschrift für Ernesto Garzón Valdés, Werner Krawietz und Georg Henrik von Wright, eds. (1992); 6 Právník 465 (1992)(in Czech); 27-28 Themis 95, Revista de Derecho (in Spanish) (1994)

[Freedom and Feminism](#), 80 Georgetown Law Review 2041 (1992); Orientamenti Civilistici E Canonistici Sulla Condizione Della Donna 171 (Maria Teresa Guerra Medici, ed., 1996)

Troubled Beginnings of the Modern State, 1888-1910, The Oliver Wendell Holmes Devise, History of the Supreme Court, Volume VIII, Macmillan (1993), Reprinted by Cambridge University Press, 2006

[The Right Degree of Independence](#), in The Role of the Judiciary in the Transition to Democracy in Latin America, 55 (Irwin Stotzky, ed., 1993); 25 University of Miami Inter-American Law Review 57 (1993); Revista Derecho y Humanidades (Facultad de Derecho Universidad de Chile Santiago) 71 (1997) (in Spanish)

Tribute to Justice Marshall, Special Session of the United States Court of Appeals for the Second Circuit Honoring the Memory of Justice Thurgood Marshall, 995 F.2d xcix (1993)

[The Allure of Individualism](#), 78 Iowa Law Review 965 (1993)

[What is Feminism?](#), 18 Tel Aviv University Law Review 5 (in Hebrew) (1993); 26 Arizona State Law Journal 413 (1994); 14 DOXA 319 (1993)([In Spanish](#))

[La misión democrática de la prensa](#) (The Democratic Mission of the Press), IV No Hay Derecho 26 (1993) (in Spanish); 13 Rivista Critica Del Diritto Privato 111 (1995) (in Italian)

[Introductory Remarks, Constitutionalism in the Post-Cold War Era, The Role of the Judiciary](#), 19 Yale Journal of International Law 219 (1994)

[The Death of a Public Intellectual](#), 104 Yale Law Journal 1187 (1995); Deliberative Democracy and Human Rights 21 (Harold Hongju Koh and Ronald C. Slye, eds., 1999); La muerte de un intelectual público, Democracia Deliberativa y Derechos Humanos 35, Gedisa Editorial (H. H. Koh and R. C. Slye eds. 2004)

[Building a Free Press](#), 20 Yale Journal of International Law 187 (1995); Rights of Access to the Media (András Sajó & Monroe Price, eds., 1996)

In Search of a New Paradigm, 104 Yale Law Journal 1613 (1995)

A Solution in Search of a Problem, Ontario Law Reform Commission, Study Paper on Prospects for Civil Justice, 205 (in English and French) (1995)

[The Right Kind of Neutrality](#), in Freeing the First Amendment 79 (D. Allen, R. Jensen, eds.1995)

[The Political Theory of the Class Action](#), 53 Washington and Lee Law Review 21 (1996); 1 Revista Jurídica de la Universidad de Palermo 5 (1996) ([in Spanish](#)); Class Actions and Other Multi-Party Litigation: Cases and Materials (E. Bilich & R. Klonoff, eds., 1999; A Constitucionalização do Direito, ed. Daneil Sarmento, 2006 (in Portuguese)

Liberalism Divided: Freedom of Speech and the Many Uses of State Power, Westview (1996); Wolters Kluwer Kft (2013) (in Hungarian).

[El Efecto Silenciador de la Libertad de Expresión](#), 4 Isonomía 17 (1996)

The Irony of Free Speech, Harvard University Press (1996); Gedisa (Spain) (1999); Az-Boli (Macedonia) (2003), Editora Renovar (Brazil) (2005); Shanghai Sanhui Culture and Press (China) (2005)

[Can A Lawyer Ever Do Right?](#), 17 Cardozo Law Review 1859 (1996)

[The Supreme Court and the Problem of Hate Speech](#), 24 Capital University 281 (1996)

[Human Rights as Social Ideals](#), Lecciones y Ensayos de la Universidad de Buenos Aires 66 (1996) (in Spanish); Normative Systems in Legal and Moral Theory, Festschrift for Carlos E. Alchourrón and Eugenio Bulygin 103 (Ernesto Garzón Valdés, Werner Krawietz, Georg Henrik von Wright, Ruth Zimmerling, eds.) Duncker & Humblot, Berlin, 1997; Human Rights in Political Transitions: Gettysburg to Bosnia (Carla Hesse & Robert Post, eds.) P. 263, Zone Books (1999)

[Affirmative Action as a Strategy of Justice](#), 17 Philosophy & Public Policy 37 (1997); El Derecho frente a la pobreza. Pedro P. Grández Castro (ed.), Palestra Editores, Lima, Peru, 2011, pp/17-23 (in Spanish)

[Beyond Diversity](#), Op. Ed., Washington Post, P. A21, May 7, 1997

[Speech & Power Symposium](#), Is First Amendment Absolutism Obsolete? The Nation, p. 13, July 21, 1997

Libertad de Expresión y Estructura Social, Fontamara (Mexico) (1997)

[The Unruly Character of Politics](#), 29 McGeorge Law Review 1 (1997); El carácter indócil de la política, 80 Lecciones y Ensayos 41, Lexis Nexis, Buenos Aires (2004) (in Spanish)

[Money and Politics](#), 97 Columbia Law Review 2470 (1998); Política y dinero, 8 Isonomía 125, Instituto Tecnológico Autónomo de Mexico (1998) (in Spanish)

[Hong Kong Democracy](#), 36 Columbia Journal of Transnational Law 493 (1998)

[The Immigrant as Pariah](#), Boston Review, October/November, 1998, p.4

[A Third Reconstruction?](#), Boston Review, October/November, 1998, p. 24

Discipline and Passion, Remarks to Honor Eugenio Bulygin and Carlos Alchourrón in Rechtstheorie, Zeitschrift fur Logik, Methodenlehre, Kybernetik und Sozologie des Rechts, Duncker & Humblot, P.269 (W. Krawietz, ed. 1998)

Decolonizing Puerto Rico, 67 Revista Jurídica Universidad De Puerto Rico 1121 (1998)

A Community of Equals, Beacon Press (1999); Una comunidad de iguales, Miño y Dávila (Spain, 2002), Biblioteca de Ética, Filosofía del Derecho y Política (Mexico, 2008) (in Spanish)

[A National Communications Policy](#), FCC Testimony Regarding Local Television Ownership Rules, February 12, 1999

[Judicial Independence](#), Encyclopedia of the American Constitution, Supplement II (L. Levy, K. Karst, A. Winkler, eds., 1999)

The Censorship of Television, 94 Nw U.L. Rev. 1215 (1999); Eternally Vigilant: Free Speech in the Modern Era (L. Bollinger, G. Stone, eds., 2001), p. 256

[Political Violence and Freedom of Speech](#), 22 Tel Aviv Law Review 543 (1999) (in Hebrew); Liberal Democracy and the Limits of Tolerance, In Honor and Memory of Yitzhak Rabin (R. Cohen-Almagor, ed., 2000), p. 70

[Woburn: A Game of Discovery](#), Center for Computer Assisted Legal Instruction 1999 (with Charles Berger)

[What Should Be Done For Those Who Have Been Left Behind?](#), Boston Review, July/August 2000; Taking Sides, Race and Ethnicity (R. Monk, ed. 2002), p. 4

[A Task Unfinished](#), Boston Review, July/August 2000, p. 19

[Do Public Officials Have a Right to Privacy?](#), Zur Autonomie des Individuums, Liber Amicorum Spiros Simits (D. Simon and M. Weiss, eds., Nomos Verlagsgesellschaft 2000), p. 91 (in English); Más Allá Del Acceso a la Información, Transparencia, Rendición de Cuentas y Estado de Derecho, Mexico City: Siglo XXI/Instituto de Investigaciones Jurídicas, UNAM/CETA, 2008 p. 311 (in Spanish)

[The Supreme Court at the Bar of Politics](#), The Hartford Courant, December 14, 2000, Section A, p. 25

[El Valor de la Libertad de Expresión](#), Apuntes de Derecho, Derechos Fundamentales y Libertades Públicas, VII, Facultad de Derecho, Universidad Diego Portales, Primavera 2000, p.32

[The Civilizing Hand of the Law?](#) Birmingham, 1963, 89 Yale Review 1 (2001)

[Yale According to Joe](#), 110 Yale Law Journal 913 (2001); 110 Yale Law and Policy Review 893 (2001)

[Libertad política y empleo público](#), 2 Revista Mexicana de Derecho Público, Octubre 2001

[La autonomía del derecho](#), in Estado de derecho y democracia, Un debate acerca del rule of law, SELA 2000, Buenos Aires, Argentina (2001), p. 51-60; 26 Yale Journal of International Law 517 (2001); Constituicao e Crise Politica (Constitution and Political Crisis), Jose Adericio Leite Sampaio, ed. Del Rey 2006 (in Portuguese), p.57

[The Many Faces of the State](#), 6 Review of Constitutional Studies 1 (2001)

[Statement on the Proposed Amendments to the Class Action Rule](#), Advisory Committee on the Civil Rules of the Judicial Conference of United States, January 22, 2002, (with John Bronsteen)

[The Fallibility of Reason](#), in Bush v. Gore: The Question of Legitimacy, Yale University Press (B. Ackerman, ed. 2002), p. 84

[The Idea of Political Freedom](#), in Looking Back at Law's Century, Cornell University Press, (A. Sarat, B. Garth, R. Kagan, eds. 2002), p.35

La Justicia no puede actuar como sirviente del mercado, Clarín (Argentina) 16 June 2002 (interview in Spanish)

[A Freedom Both Personal and Political](#), in On Liberty, John Stuart Mill, Yale University Press (D. Bromwich & G. Kateb, ed. 2002), p. 179; in the Chinese edition of The Irony of Free Speech, Shanghai Sanhui Culture and Press (2005), p.89; Una libertad tanto personal como politica, 6 Revista Jurídica de la Universidad de Palermo 39 (2005) (in Spanish)

[A Way Out/America's Ghettos and the Legacy of Racism](#), Princeton University Press, 2003

The Law as it Could Be, New York University Press (2003). Spanish translation: El derecho como razón publica, Marcial Pons (Barcelona, 2007). Chinese translation from China University of Political Science and Law Press (in press)

Adjudication and Its Alternatives, Foundation Press, 2003 (with Judith Resnik)

[The Class Action Rule](#), 78 Notre Dame Law Review, p. 1419 (2003) (with John Bronsteen)

[Not With Our Tears](#), 113 Yale Law Journal 785 (2004), In Memoriam, Burke Marshall 1922-2003, Yale Law School, 2005

[Another Equality](#), The Origins and Fate of Antisubordination Theory: A Symposium on Owen Fiss's "Groups and the Equal Protection Clause", BePress, 2003; ["Another Equality" \(Chinese translation\)](#), in [Public Law Research, Vol. 15 \(Spring, 2016\)](#), at pp. 253-286.

[In the Shadow of War](#), 58 University of Miami Law Review 449 (2003)

[Violencia, debido proceso y educación en latinoamerica](#), [Themis – Revista de Derecho](#), p. 307 (Dec 2003) (Peru) (Interview in Spanish)

Speak, Canada, Speak, Convocation Address to the Class of 2004, University of Toronto, June 7, 2004, Toronto Star, A26, June 15, 2004(Peru) (interview in Spanish)

Um novo processo civil: estudos norte-americanos sobre jurisdição, constituição e sociedade, Editora Revista Dos Tribunais, 2004 (In Portuguese)

Modelos de Adjudicacao, Cadernos Direito GV, J.R. Rodriguez, Ed., Caderno #8 (November 2005 Symposium)

[The War Against Terrorism and the Rule of Law](#), 26 Oxford Journal of Legal Studies 235 (2006); La Guerra contra el terrorismo y el Estado de Derecho, Revista Argentina de Teoría Jurídica, May 2006

[Foreword to Courts and Social Transformation in New Democracies: An Institutional Voice for the Poor?](#) (P. Domingo, R. Gargarella, T. Roux, eds. (Ashgate Publishing Company, Burlington, VT, 2006)); Prologue to El Derecho frente a la pobreza. Pedro P. Grande Castro (ed.), Palestra Editores, Lima, Peru (2011) (in Spanish)

Between Supremacy and Exclusivity, The Least Examined Branch: The Role of Legislatures in the Constitutional State, 452, Cambridge University Press (R. Bauman & T. Kahana, eds.) 2006; 57 Syracuse Law Review 187 (2007)

[Prologo a Los Escritos de Carlos S. Nino](#), Gustavo Maurino, ed., Editorial Gedisa (Barcelona, 2007) (In Spanish)

[The Fragility of Law](#), 54 Yale Law Report 40 (Summer 2007); Anuario de derechos humanos, Centro de Derechos Humanos, Universidad de Chile, July 2009 ([in Spanish](#))

Within Reach of the State / Prosecuting Atrocities in Africa, [Boston Review](#), September/October, 2007, p. 7; 31 [Human Rights Quarterly](#) pp. 59-69 (2009) Number 1

Comentario sobre la globalizacion y poder ejecutivo, Seminario en Latinoamérica de Teoría Constitucional y Política (SELA 2006) 151, Editores del Puerto (Buenos Aires, 2007)

The Challenge Ahead, published in the Seattle Post-Intelligencer under the title "Sometimes There is No Other Way to Achieve Integration," on Aug. 31, 2007; published in the Louisville Courier-Journal under the title "A Compelling Basis for Integration: Study of Louisville's Case Offers Parameters" on Sept. 16, 2007

[Law is Everywhere](#), 117 Yale Law Journal 256 (2007); 24 Bar Ilan Journal 351 (2008) (in Hebrew)

[Prologue to John Rawls' The Best of All Games](#),, Boston Review, (Mar/Apr 2008), p. 22

[No dar conferencias de prensa es una forme de censura](#), interview by Laura Di Marco of La Nación, Buenos Aires, Argentina, July 23, 2008 (In Spanish), p.10

[The Perils of Minimalism](#), 9 Theoretical Inquiries in Law 643 (2008)

Prologue to Lucas Grosman, *Escasez e Igualdad: los derechos sociales en la Constitución*, Libreria, Buenos Aires (2008) (in Spanish)

[Obama debe enfrentar el pasado para construir las bases del futuro](#), *Semana.com*, April 30, 2009. (Interview in Spanish)

[Agradecimientos por la distinción Sócrates](#), Speech (in Spanish), Universidad de los Andes, April 28, 2009

[The Example of America](#), *Yale Law Journal Pocket Part*, May 1, 2009; [Huffington Post](#), May 12, 2009; [The Daily Star](#) (Lebanon), July 7, 2009

[John Doar](#), *Biographical Dictionary of American Law*, Roger Newman, Ed., Yale University Press, May 2009, p. 168

[Brown in the Age of Obama](#), Fourth Child Policy Forum of New York, November 14, 2009

[Obama's Betrayal](#), *Slate*, December 4, 2009; *The Daily Star* (Lebanon); *Encarcelamiento sin juicio* (Spanish) *El Cronista*, Portal Derecho, Madrid. January 17, 2011, p.16; (Spanish) *Inseguridad, democracia y derecho*, Seminario en Latinoamérica de teoría constitucional y política, Libreria, Buenos Aires, 2011, p. 208

[The History of an Idea, in Symposium, Against Settlement Twenty-five Years Letter](#), 78 *Fordham Law Review* 1273 (2009)

Democracia y Disenso. Una teoría de la libertad de expresión, Ad Hoc, Buenos Aires, 2010 (in Spanish)

Trebilcock's Heresy, 60 *Univ. of Toronto L.J.* 511 (2010)

[Timeless Truths, in Transformations in American Legal History](#), Daniel Hamilton and Alfred Brophy, Eds., Harvard University Press, 2010, p.400

Libertad de Expresión: Dos caras del Estado. Democracia y Disenso. Una teoría de la libertad de expresión, Ad Hoc, Buenos Aires, 2010 (in Spanish); *Libertad de expresión. Entre tradición y renovación. Ensayos en homenaje a Owen Fiss*, ed. Esteban Restrepo Saldarriaga, Ediciones Uniandes, Bogotá, Colombia, 2013, 21 – 32 (in Spanish)

[Aberrations No More](#), 2010 *Utah Law Review* 1085

[Imprisonment without Trial](#), 47 *Tulsa Law Review* 347 (2011); *El Cronista*, January 2011, p.16 ([in Spanish](#)); SELA 2010 (Libreria, Argentina, 2011) (in Spanish)

[A Predicament of His Own Making](#), *Boston Review* (online) (May 3, 2011); *El Cronista* (in Spanish), Madrid, no. 27, March 2012, p. 18

[The World We Live In](#), 83 Temple Law Review 295 (2011); Legal Studies, Number 1, 2013, General Serial No. 374, published by East China University of Political Science & Law (in Chinese); El Cronista del Estado Social y Democrático de Derecho, May 2013, 20-31 (in Spanish)

[A Confession](#), 58 Yale Law Reports 52 (2011); **Chinese translation in Peking University Lawyers, No. 78 (July 1st, 2016), at 15.**

The Dictates of Justice: Essays on Law and Human Rights. Republic of Letters, Dordrecht (2011)

[Agradecimientos en la ocasión del Honoris Causa conferido por la Universidad de Buenos Aires](#). Speech (in Spanish), October 7, 2011

Universidad y prensa tienen roles similares, Clarín (Argentina, in Spanish), October 31, 2011

Doar/Fiss, [A Conversation with John Doar](#), conducted as part of the “Voices of the Civil Rights Division, Then and Now” program in Washington, D.C. on October 28 & 29, 2011. 44 McGeorge Law Review 293 (2013)

[Even in a Time of Terror](#), 31 Yale Law & Policy Review 1 (2012)

[The Democratic Mission of the University](#), 76 Albany Law Review 735 (2013); "La misión democrática de la Universidad," Academia. Revisita sobre Enseñanza del Derecho, Departamento de Publicaciones de la Facultad de Derecho de la Universidad de Buenos Aires, Año 10, Número 20, Anon 2012, 269-286 (in Spanish)

["Obama y Bush se parecen" Interview](#) (in Spanish), published in Pagina 12 (Buenos Aires) and CubaDebate (Havana), October 20, 2013

“Warrantless Wiretapping in the United States,” in Surveillance, Counter-Terrorism and Comparative Constitutionalism, Routledge, Fergal Davis et al., eds. (2014), pp. 213 – 233

“La concentración es un peligro para la democracia” Interview in La República (Lima, Peru) published on June 20, 2014 (in Spanish). Online version at <http://www.larepublica.pe/20-06-2014/la-concentracion-es-un-peligro-para-la-democraci>

“To Stand for What is Right,” Eulogy for John Doar, Princeton University, January 24, 2015

A War Like No Other: The Constitution in a Time of Terror, The New Press, May 2015

“Robert A. Burt” (a biographical note), with Paul Schwaber, Journal of the International Academy of Law and Mental Health

“The Odd Couple,” 125 Yale Law Journal (2016)

“Tiers of Standing,” 2015 Supreme Court Review 89

“Como hacer para que la Constitución sea una verdad viviente,” Prologue to *Más allá de la igualdad formal ante la ley: ¿qué les debe el estado a los grupos desaventajados?* Roberto Saba, Siglo Veintiuno Editores, Buenos Aires, 2016 (in Spanish) (available at <http://www.sigloxxieditores.com.ar/fichaLibro.php?libro=978-987-629-672-4>).

“Remarks on the 20th Anniversary of the Global Constitutional Seminar,” September 21, 2016. Available at <https://www.law.yale.edu/centers-workshops/gruber-program-global-justice-and-womens-rights/global-constitutionalism-seminar/global-constitutionalism-20th-anniversary/remarks-20th-anniversary>.

“Brennan and the Struggle for Civil Rights,” October 1, 2016. Remarks delivered at a reunion of former law clerks of U.S. Supreme Court Associate Justice William J. Brennan, Jr. organized by the Brennan Center for Justice. Available at https://www.law.yale.edu/system/files/documents/faculty/fiss-justice_brennan.pdf.

Una guerra sin igual: La Constitución en los tiempos del terrorismo (Spanish translation), Marcial Pons. January 2017.

Direito como Razão Pública: Processo, Jurisdição e Sociedade (Portuguese translation), Juruá Editora (Curitiba, Brazil), March 2017.

“Fazendo da Constituição uma verdade viva: Quatro Conferências sobre a ‘structural injunction’” (in Portuguese) *Processos Estruturais*, Sergio Cruz Arenhart and Marco Félix Jobim (eds.), Editora Jus Podium, Salvador da Bahia, Brazil (June 2017).

Pillars of Justice/Lawyers and the Liberal Tradition, Harvard University Press, May 2017.