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FORDHAM UNIVERSITY
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Faculty Bibliography

January-June 2020

Fordham University School of Law

This is the final version of the Fordham Law School Faculty Bibliography covering January – June 2020. We strive to make the bibliography as complete and error-free as possible. If you notice any omission or error in this document, please immediately send any additions or corrections to Kelly Leong, Head of Reference, at kleong4@law.fordham.edu.

This bibliography represents books, journal articles, book chapters and other scholarly writings published or accepted for publication by Fordham Law School Faculty and senior staff between **January 1, 2020** and **June 31, 2020**. Published items appearing in the previous year's bibliography will not appear in the current year's bibliography. Items that were forthcoming in the 2019 bibliographies will appear again only in the bibliography corresponding to the year in which those items appear in print (i.e., a forthcoming item will appear only in one bibliography before the item is published).

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Book Chapters & Other Writings:

“America Amended.” Review of *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* by Eric Foner, 38 *The New Criterion* 74-77 (March 2020).

“Tawk the Tawk.” Review of *You Talkin' to Me: The Unruly History of New York English* by E.J. White, 39 *The New Criterion* 60-63 (September 2020) (forthcoming).

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A.B., *magna cum laude*, Harvard College, 1999; M.Sc., University of Oxford, 2000; J.D., Yale Law School, 2003

Journal Articles:

“Lying and Cheating, or Self-Help and Civil Disobedience?,” 85 *Brooklyn Law Review* 355-392 (2020).

Book Chapters & Other Writings:

“The Employment Relationship as an Object of Employment Law” in *The Oxford Handbook of the New Private Law* (Andrew S. Gold, ed., Oxford: Oxford University Press, 2020).

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Journal Articles:

“Conflicting Justice in Conflict of Laws,” 53 *Vanderbilt Journal of Transnational Law* 461-523 (2020).

“L’Idéalisme Pragmatique de Josephus Jitta (1854-1925) [The Pragmatic Idealism of Josephus Jitta (1854-1925)],” 2020 *Revue Critique de Droit International Privé* [Critical Review of Private International Law] 5-29 (March 2020).

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Journal Articles:

“A Sociology of International Commercial Law,” 1 *Transnational Commercial Law Review* 49-75 (2020).

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B.A., *magna cum laude*, Yale University, 2001; J.D., University of Virginia School of Law, 2006

Journal Articles:

“The Adjudication Business,” 45 *Yale Journal of International Law* ____ (2020) (forthcoming).

“Arbitral Courts,” ____ *Virginia Journal of International Law* ____ (2020) (forthcoming).

“The Innovation and Limitations of Arbitral Courts,” ____ *Judicature* ____ (2020) (forthcoming).

Book Chapters & Other Writings:

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Books:

Legislation and Statutory Interpretation, 3d ed. New York: Foundation Press (forthcoming) [with William N. Eskridge, Jr., Philip P. Frickey & Elizabeth Garrett].

Journal Articles:

“The Belt-and-Suspenders Canon,” 105 *Iowa Law Review* 735-769 (2020) [with Ethan J. Leib].

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“The Right to Strike as Customary International Law,” 46 *Yale Journal of International Law* ____ (2021) (forthcoming).

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A.B., Rockhurst University, 1974; J.D., University of California-Berkeley School of Law, 1977

Books:

2020 Cumulative Supplement, *New York Evidence Handbook: Rules, Theory, and Practice*, 3d ed. New York: Wolters Kluwer Law & Business, 2020 [with Michael M. Martin].

American Criminal Procedure, Cases and Commentary, 2020-2021 Supplement. St. Paul, MN: West Academic Publishing, 2020 [with Stephen A. Saltzburg & David C. Gray].

Federal Rules of Evidence, 2020-2021 Edition. St. Paul, MN: West Academic Publishing, 2020.

2020 Supplement, *Federal Rules of Evidence Manual*. New York: Matthew Bender, 2020 [with Michael M. Martin & Stephen A. Saltzburg].

Journal Articles:

“Evidentiary Irony and the Incomplete Rule of Completeness: A Proposal to Amend Federal Rule of Evidence 106,” ____ *Minnesota Law Review* ____ (2021) (forthcoming) [with Liesa L. Richter].

Book Chapters & Other Writings:

“Conference on Best Practices for Managing *Daubert* Questions,” 88 *Fordham Law Review* 1215-1263 (2020).

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Books:

Law and the New Urban Agenda: A Comparative Perspective. New York: Routledge, 2020 [with Geeta Tewari].

Cases and Materials on State and Local Government Law, 9th ed. St. Paul, MN: West Academic Publishing, 2021 (forthcoming) [with Richard Briffault & Laurie Reynolds].

Property, 6th ed. New York: Wolters Kluwer, 2022 (forthcoming) [with Joseph W. Singer].

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“Sharing in Cities: Why Here? Why Now?” in *Modern Guide to the Urban Sharing Economy* (Northampton, MA: Edward Elgar, 2020) (forthcoming) [with John Infranca].

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Journal Articles:

“The ‘Ought’ of Law and Neuroscience,” 62 *William and Mary Law Review* ____ (2021) (forthcoming).

Book Chapters & Other Writings:

“Back to the Future with Execution Methods” in *The Eighth Amendment and its Future in a New Age of Punishment* (William W. Berry III & Meghan Ryan, eds., New York: Cambridge University Press, 2020).

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A.B., *magna cum laude*, Harvard University, 1981; J.D., *magna cum laude*, Harvard University, 1985

Book Chapters & Other Writings:

“‘Find a Footing in This New World’,” *New York Law Journal*, May 20, 2020, at 6.

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A.B., Harvard University, 1985; J.D., New York University School of Law, 1990

Books:

Civil Procedure, Advanced Ed.. New York: Wolters Kluwer, 2020 [with J. Maria Glover].

Journal Articles:

“The Dark Side of Consensus and Creativity: What Mediators of Mass Disputes Need to Know About Agency Risks,” 88 *Fordham Law Review* 2155-2163 (2020).

“What Is the Difference Between a Conclusion and a Fact?” 41 *Cardozo Law Review* 899-920 (2020).

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B.A., Fordham University, 1958; LL.B., Fordham Law School, 1961; LL.D. (Honorary), Fordham Law School, 2002

Books:

That Further Shore: A Memoir of Irish Roots and American Promise. New York: Fordham University Press, 2020.

Journal Articles:

"The Twenty-Fifth Amendment: In the Words of its Principal Author, Birch Bayh," ____ *Fordham Law Review* ____ (2020) (forthcoming).

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Journal Articles:

"Introduction: Global Order of the Court," 43 *Fordham International Law Journal* 1229-1234 (2020).

Book Chapters & Other Writings:

"China's National Security Law in Hong Kong Doubles Down on Imperialism," *Washington Post*, July 3, 2020, available at <https://www.washingtonpost.com/opinions/2020/07/03/chinas-national-security-law-hong-kong-doubles-down-imperialism/>.

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B.S., *summa cum laude*, Cornell University, 2009; J.D., *magna cum laude*, Harvard Law School, 2012

Journal Articles:

“The Replicability Crisis in Patent Law,” 95 *Indiana Law Review* 431-483 (2020).

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Mag.iur. [Law], University of Vienna, 1998; Mag.rer.soc.oec. [Business administration], WU Vienna University of Economics, 1998; Dr.iur., University of Vienna, 2001; Dr.rer.soc.oec., WU Vienna University of Economics, 2003; LL.M. (waived for fellowship), Harvard Law School, 2003; S.J.D., Harvard Law School, 2009; M.A., Columbia University, 2018

Books:

Research Handbook on Comparative Corporate Governance. Cheltenham, UK: Edward Elgar Publishing (forthcoming) [with Afra Afsharipour].

Journal Articles:

“Addressing the Auditor Independence Puzzle: Regulatory Models and Proposal for Reform,” 53 *Vanderbilt Journal of Transnational Law* 787-827 (2020) [with Aurelio Gurrea-Martínez].

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B.A., *magna cum laude*, Radcliffe College, 1987; J.D., *magna cum laude*, Harvard Law School, 1992

Book Chapters & Other Writings:

“The Obstacles to Decent Work for Migrants in Jordan: A Discussion with Alia Hindawi,” 2 *Civil Society Review* 12-20 (2020).

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Journal Articles:

“A Fiduciary Theory of Prosecution,” 69 *American University Law Review* 805-862 (2020)
[with Rebecca Roiphe].

“Restorative Justice from Prosecutors’ Perspective,” 88 *Fordham Law Review* 2287-2318 (2020)
[with Lara Bazelon].

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Journal Articles:

“Liberalism and the Distinctiveness of Religious Belief,” 35 *Constitutional Commentary* ____ (2020) (forthcoming).

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Journal Articles:

“Deal Insurance: Representation and Warranty Insurance in Mergers and Acquisitions,” 104 *Minnesota Law Review* 1839-1920 (2020).

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“Class Action Nuisance Suits: Evidence from Frequent Filer Shareholder Plaintiffs” in *The Cambridge Handbook of Class Actions: An International Survey* (Brian Fitzpatrick & Randall Thomas, eds., Cambridge: Cambridge University Press, 2021) (forthcoming).

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Books:

Antitrust and Competition Laws. Huntington, NY: Juris Publishing, 2021 (forthcoming).

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Book Chapters & Other Writings:

“Constitutional Controversies: Comparing Constitutions in Latin America regarding Race Discrimination” in *Oxford Handbook of Constitutional Law in Latin America* (Roberto Gargarella & Conrado Hubner Mendes, eds., Oxford: Oxford University Press) (forthcoming).

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Journal Articles:

“Special Education Disparities Are Social Determinants of Health: A Role for Medical-Legal Partnerships,” 14 *Progress in Community Health Partnerships: Research, Education, and Action* 251-257 (2020) [with Karen Bonuck].

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Journal Articles:

“Conceptualizing Legal Childhood in the Twenty-First Century,” 118 *Michigan Law Review* 1371-1456 (2020) [with Elizabeth Scott].

“The Legal Framework Governing Corporal Punishment,” 73 *The Psychoanalytic Study of the Child* 91-95 (2020).

“Lessons from the Prekindergarten Movement,” 47 *Fordham Urban Law Journal* 343-351 (2020).

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Books:

American Legal Systems: A Resource and Reference Guide, 3d ed. Durham, NC: Carolina Academic Press, 2020.

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B.S.B.A., West Virginia University, 1981; J.D., Harvard University, 1984

Journal Articles:

“A Considered African American Practice of Arms,” ___ *Journal of African American History* ___ (forthcoming).

“Defiance and Concealed Carry,” ___ *Law and Contemporary Problems* ___ (forthcoming).

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B.S.C., Loyola University; M.A., DePaul University; Ph.D., University of Minnesota; J.D., New York University School of Law

Book Chapters & Other Writings:

“Honorable A. Leon Higginbotham, Jr.” in *Of Courtiers and Princes: Portraits of Federal Court Law Clerks and their Judges* (Todd C. Peppers, ed., Charlottesville, VA: University Press of Virginia, 2020).

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Journal Articles:

“May Class Counsel Also Represent Lead Plaintiffs?” 72 *Florida Law Review* ___ (2020) (forthcoming) [with Bruce A. Green].

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<https://www.washingtonpost.com/outlook/2020/01/17/president-trump-cant-stop-john-bolton-testifying/>.

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B.A., Indiana University, 2000; J.D., Yale Law School, 2004

Journal Articles:

“Unraveling the Tax Treaty,” 104 *Minnesota Law Review* 1755-1837 (2020).

“Value Creation: A Dimming Lodestar for International Tax,” 74 *Bulletin International Taxation* No. 4/5 (2020).

“Interpreting by the Rules,” 99 *Texas Law Review* ____ (2021) (forthcoming).

“The New Tax Legislative and Regulatory Process,” ____ *National Tax Journal* ____ (2020) (forthcoming).

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“Broken Records: Reconceptualizing Rational Basis Review to Address ‘Alternative Facts’ in the Legislative Process,” 73 *Vanderbilt Law Review* 425-479 (2020).

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Journal Articles:

“Responsible A.I. Credit Scoring - A Legal Framework,” 31 *European Law Review* 527-573 (2020).

“European Capital Market Union - The High Level Forum Report,” ____ *European Company and Financial Law Review* ____ (2020) (forthcoming).

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“Responsible A.I. Credit Scoring - A Lesson from Upstart.com,” ____ *European Company and Financial Law Review* ____ (2021) (forthcoming) [with Patrick Corcoran].

Book Chapters & Other Writings:

“The Wirecard Lessons: A Reform Proposal for the Supervision of Securities Markets in Europe,” SAFE Policy Letter No. 88, July 2020 [with Jan Krahn].

“Der Aufsichtsrat in Finanzinstituten [Corporate governance of supervisory boards in financial institutions]” in *Handbuch Corporate Governance von Banken und Versicherungen* [Corporate Governance Guide for Banks and Insurance Companies] (Klaus J. Hopt, Jens-Hinrich Binder & Hans-Joachim Böcking, eds., Munich: C.H. Beck, 2020) (forthcoming).

“Besitzeffekte – ein Methodisches Lehrstück zu “Transdisziplinären Clichés” [Endowment effects – a Methodological Illustration of “Transdisciplinary Clichés”]” in *Liber Amicorum Böcking* (Munich: C.H. Beck, 2020) (forthcoming).

“Financial Rewards for Whistleblowing and Motivation Crowding Theory – A Lesson from Psychology for Transposing EU Directive 2019/1937” in *Liber Amicorum Windbichler 1377-1394* (2020) (forthcoming).

“Kapitalmarktunion und marktinduzierte Aktionärsrechte [Capital Markets Union and Trading-Related Shareholder Rights]” in *Liber Amicorum Hopt* (Berlin: De Gruyter, 2020) (forthcoming).

“Kreditscoring: von Auskunfteien zu Künstlicher Intelligenz [Creditscoring: from Credit Bureaus to Artificial Intelligence]” in *Liber Amicorum Krieger* (Munich: C.H. Beck, 2020) (forthcoming) [with Johannes Adolff].

“Une Langue Commune du Droit et de l’Économie? Sur les Transferts Hétérogènes [A Common Language of Law and Economics? On Economic Transplants]” in *Le Tournant Global en Droit International Privé: Jurisprudence sans Frontières* [The Global Turning Point in Private International Law: Jurisprudence Without Borders] (Horatia Muir-Watt, Lucia Biziková, Agatha Brandao de Oliveira & Diego Fernández Arroyo, eds., Paris: Pédone, 2020) (forthcoming).

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Finanzkommunikation [Investor Relations and Financial Communication Manual] (Christian Pieter Hoffmann, Dirk Schiereck & Ansgar Zerfaß, eds., Wiesbaden, Germany: Springer Fachmedien, 2020) (forthcoming) [with P. Rataj & L. Vossen].

“Virtuelle Währungen [Virtual Payments]” in *Bankrechts-Kommentar [Commentary on Banking Law]* 3d ed. (Katja Langenbucher, Dirk H. Bliesener & Gerald Spindler, eds., Munich: C.H. Beck, 2020) (forthcoming).

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Books:

Justifying War. Oxford: Oxford University Press, 2021 (forthcoming).

Journal Articles:

“In Defense of International Comity,” 93 *Southern California Law Review* 169-216 (2020) [with Samuel Estreicher].

Book Chapters & Other Writings:

“Customary International Law and U.S. Judicial Power: From the Third to the Fourth Restatements” in *The Restatement and Beyond: The Past, Present, and Future of U.S. Foreign Relations Law* (Paul B. Stephan & Sarah A. Cleveland, eds., New York: Oxford University Press) (2021) (forthcoming).

“The United States and Individual and Collective Self-Defense in Northeast Asia” in *Strengthening the U.S.-Japan Alliance* (Masahiro Kurosaki & Matthew Waxman, eds., Institute of Japanese Studies, Columbia University, 2021) (forthcoming).

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Book Chapters & Other Writings:

“Criminalization, Legal Moralism, and Abolition” Review of *The Realm of Criminal Law* by R.A. Duff, 70 *University of Toronto Law Journal* 194-215 (2020).

“Problem of Proportional Punishment” in *The Routledge Handbook of Philosophy and Science of Punishment* (Farah Focquaert, Elizabeth Shaw & Bruce N. Waller, eds., Oxford: Routledge, 2020) (forthcoming).

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Books:

Loyalty in Life, Law, and Politics. Oxford: Oxford University Press, 2021 (forthcoming) [with Stephen R. Galoob].

Journal Articles:

“The Belt-and-Suspenders Canon,” 105 *Iowa Law Review* 735-769 (2020) [with James Brudney].

“Motives and Fiduciary Loyalty,” 65 *American Journal of Jurisprudence* 41-63 (2020) [with Stephen R. Galoob].

“Fiduciary Law and the Law of Public Office: Suggestions for a Research Agenda,” 62 *William and Mary Law Review* ____ (2021) (forthcoming) [with Andrew Kent].

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Books:

2020 Supplement Federal Rules of Evidence Manual. New York: Matthew Bender, 2020 [with Daniel J. Capra & Stephen A. Saltzburg].

2020 Cumulative Supplement, New York Evidence Handbook: Rules, Theory, and Practice, 3d ed. New York: Wolters Kluwer Law & Business, 2020 [with Daniel J. Capra].

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Journal Articles:

“Introductory Note to Inter-State Communication Submitted by the State of Palestine against State of Israel (U.N. Committee on the Elimination of Racial Discrimination),” *59 International Legal Materials* ___ (2020) (forthcoming).

Books Chapters & Other Writings:

“The UN Makes Unprecedented Response to George Floyd’s Murder,” Human Rights At Home Blog, June 21, 2020, available at https://lawprofessors.typepad.com/human_rights/2020/06/the-un-makes-unprecedented-response-to-george-floyds-murder.html.

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Journal Articles:

“The Mainstreaming of Sex Workers’ Rights as Human Rights,” *43 Harvard Journal of Law and Gender* 91-136 (2020).

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Book Chapters & Other Writings:

“Convert New York’s Hotels for Coronavirus Quarantine,” *New York Times*, March 20, 2020, available at <https://www.nytimes.com/2020/03/30/opinion/coronavirus-new-york-quarantine.html>

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Journal Articles:

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Books:

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Books:

Professional Responsibility: A Contemporary Approach, 4th ed. St. Paul, MN: West Academic Publishing, 2020 [with Renee Newman Knake, et al.].

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Journal Articles:

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Book Chapters & Other Writings:

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Journal Articles:

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