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# LAW INSIDER REVIEW

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## In This Issue:

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- 02 **Letter From Founder & Team**
- 04 **Introduction To The Website**
- 05 **Does ‘Suits’ Really Show What It’s Like To Work In A Corporate Law Firm?**  
JENNA JOKHANI - CORPORATE LAW
- 08 **Maternal v. Federal Rights**  
JESLYN BROUWERS - SERVICE AND ETHICS
- 11 **Trump Pardoning Himself?**  
LUCA CRIMI - AMERICAN CONSTITUTIONAL LAW
- 14 **How is Antarctica's environment legally protected?**  
VICTORIA MCKENZIE - ENVIRONMENTAL LAW
- 18 **Grandson To The Multi Billion Dollar Red-bull Empire Is Sacrosanct As He Gets Away With Murder**  
PRIM KAMOLYABUT - LEGAL NEWS
- 21 **Deficient US Supreme Court To Return With A Multitude Of Difficulties Ahead**  
LULU LAMEY- LEGAL NEWS
- 25 **South Africa’s GBV Crisis**  
MOGALE TSEBANE - CRIMINAL LAW
- 28 **Significance of Gideon v. Wainwright: How it Impacted Society Today**  
SOHEE YIM - CRIMINAL LAW
- 30 **Who protects the Galapagos?**  
RDU DILLON - ENVIRONMENTAL LAW
- 34 **Concluding Statements**
- 35 **Concluding Statements**



## Letter From Founder & Team

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Greetings Everyone,

Starting Law Insider has been an amazing opportunity that I have enjoyed every moment of, and this journal is a small snippet of all the amazing articles produced by this group of talented writers I am able to work with. The articles range on a variety of topics and provide insight on topical legal issues around the world and challenge your view of the world allowing you to see things in a new light. Each of the articles that are published has been carefully and thoughtfully written for your viewing. Below are messages from some of the writers on their articles as well as their experience as writers for Law Insider.

As a writer, my aim is to help educate and spread awareness to other students and people of younger generations about the importance of law around the world and how these legal news stories have an impact on different communities. This article is a perfect example of the overall objective of the legal news section of law insider as it reflects a real-world event that will have a significant impact on people's lives and determine the outcome of a variety of legal cases that are important within communities across the globe. - **LULU LAMEY- LEGAL NEWS**

This is a personal favorite article of mine because the content is very interesting yet relevant. I was able to report news that was very highly talked about in Thailand at that time, and summarize other reports and articles into one concise and easy to understand article because I found that even though this is an interesting topic people should know about, they need to want to read it. It doesn't only summarize what happened in the news and reports the summary of events, but it talks about what this shows about Thailand as a country in general and I personally think that is an important aspect for everyone to know. - **PRIM KAMOLYABUT - LEGAL NEWS**

Hey! My name is Jeslyn Brouwers and I am the writer for the Ethics and Criminal Law categories in Law Insider. In pursuing Law in higher education next year, I feel as though writing articles on current news has bolstered my passion for law, while also allowed me to hone my writing skills which will be crucial in the coming years. I have also found reading the other contributor's articles to be very enjoyable, not only to become more informed on the world around me, but to hear unique stories, reflective of each author's own interests and curiosities.



The article I have published pertains to a topic in legal ethics I found compelling to share, I hope you enjoy. - **JESLYN BROUWERS - SERVICE / CRIMINAL EDITOR**

Hi everyone! My name is Sohee Yim, and I am the Senior Writer for Law Insider. Through working as a Senior Writer, not only have I been able to improve on my writing skills, but I have also been able to explore various intriguing issues from all around the world. I have become more open-minded through researching different perspectives of a particular case and curious to learn more. Collaborating with other students who have the same interests has allowed me to share my ideas and have fruitful discussions. I am excited to continue sharing fascinating stories and continue growing my passion for the law. - **SOHEE YIM - SENIOR WRITER**

The opportunity to write for Law Insider has not only educated me incalculably, but it has allowed me to explore juicy topics, such as "Trump Pardoning Himself" (the article in this journal!), that grab my attention and glue my hands to the keyboard. I hope you enjoy reading this article as much as

I loved writing it. - **LUCA CRIMI - AMERICAN CONSTITUTIONAL LAW EDITOR**

Overall all the articles are meaningful pieces that all the writers have written and put all of their efforts into. They are meant to both inform you as well as make you think about the legal world in a different light.

We all hope you enjoy,  
Jenna Jokhani and The Law Insider Team



## Introduction To The Website

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Law Insider is a legal website that publishes articles on legal topics happening in the world today and reports on legal current events around the world. All the articles are written by highschool students and reviewed and currently edited by a talented board of highschool students from an abundance of countries.

This website serves to provide students with an opportunity to share their work as well as develop more knowledge about the world today on an array of topical legal issues. Not only that, but it opens a new door to a different demographic, informing high school students all around the world about these issues and allows them to read short articles written by individuals their own age that can inspire them to not only be interested in law but take a stance against current world issues.

The website covers many different purposes, the main focus will be on the publishing of articles, but there will be a student spotlight tab, highlighting work that different students have done that deserves recognition while giving them a platform, a subscribable newsletter to keep readers updated on newly published articles, and a legal news section that reports on different current events happening in today's society.

Our team is always open to applications from new students to join our board of editors and writers. We hope to grow our team as time continues and really be a global network of high school students that are all working towards one goal: to inform the younger demographic about legal and current news/ information and further facilitate the amount of discussion on current world topics.

The website includes many aspects and pages that are packed with information and places to learn. If any questions arise feel free to email [contactlawinsider@gmail.com](mailto:contactlawinsider@gmail.com) and we will get back to you as soon as we can.



# Does 'Suits' Really Show What It's Like To Work In A Corporate Law Firm?

JENNA JOKHANI - CORPORATE LAW



If you are a law fanatic or just have any general interest in law, you have definitely watched the hit American Legal television show *Suits* starring Gabriel Macht, Meghan, Duchess of Sussex, and Patrick J. Adams. Additionally, every individual who has watched the show would definitely recommend it as they will mostly say “this is what I want to do in the future” and according to The Lawyer Portal, what “sparked (their) interest in a career in law which is unsurprising, seeing as the series follows the lives of top-paid lawyers with luxurious lifestyles”. But how accurate of a representation is the show? Do people actually get to be like Harvey Specter? And do all lawyers get a fancy floor to ceiling glass office in the middle of new york?

For individuals who have not watched the show, *Suits* surround a character named Mike Ross who uses his impressive memory skills to scam his way into a top new york corporate law firm whilst not attending law school. He works under Harvey Specter “the best closer in new york” who helps Mike practice law while still keeping his secret. The show quickly gained a lot of recognition and made it all the way to 9 seasons which just ended in late September of last year. The show was also considered as one of the breakthrough acting jobs for now duchess of Sussex Megan Markle.



As for the accuracy of the show, many different professionals in the field have much to say as to how accurate *Suits* represents a real corporate legal work environment. According to *The Lawyer Portal*, one of the small technical differences between real-world lawyers and lawyers in *Suits* is that in *Suits*, the characters work as both Litigators and Transactional Lawyers which is very unlikely in a top firm in New York which is what's depicted in the show. Additionally, picking again at small details, many different aspects are added in to make the show more visually appealing and interesting to keep the audience engagement, as it is first and foremost a TV show. An example of this is how the different associates and paralegals do research and prep for cases. In the show both Mike (a first-year associate) and Rachel (a paralegal), work together to research in the firm's fancy legal library using physical law books. In a more modern real-world legal setting, technological solutions are more likely to be used, but since putting the two characters in the library with books makes better TV than them just sitting in their offices, that is what the show depicts instead.

One of the main praises of the show however is their implementation of female empowerment and diverse representation. Jessica Pearson, an African American managing partner, played by Gina Torres, has the most power in the firm and is one of the most powerful attorneys in New York. Sadly, however, this is not similar to the real-life lawyer scene as it is very uncommon to see a female managing partner, let alone at one of the top law firms in the country as unfortunately, "if it were to be realistic, the managing partner would probably be male, white and elderly."

However, *Suits* does an amazing job of including many female partners who continue to demonstrate female empowerment, and hope to convince more females to go into the legal field.

Another factor that is not as represented in real-life corporate law that might be shocking to many is the number of times that Harvey Specter and the other lawyers in the firm go to court. In real large corporate law cases, it is very unlikely to ever bring your case to an actual courtroom in front of a judge and argue your case. This is because a lot of corporate cases are solved by settlements, therefore, making it not necessary to go into court.

On the other hand, there are many factors that are similar to a real corporate law life. One example is the luxury lives that some of the senior partners in the show live. Many of the top corporate lawyers in top law firms can afford to rent luxurious apartments, have top of the line cars, and be very well-paid.



According to Reuters, At Wachtell, Lipton, Rosen & Katz what is considered to be the highest-ranked law firm in New York, the top partners profited a whopping total of \$5.8 million each in the past year compared to the average top 100 law firms making \$1.66 million per year.

Another example is the swift pace and intimidating environment of the law firm. Associates in the show (excluding Mike Ross) are shown to be “ground down and given grunt work assignments” as this is very similar to “the reality of an associate's day - doing legwork and drudgework for their partners.” This nevertheless, is the beginning of the long road of working their way up to being a partner, which ends up being the main goal of every associate in the firm; also well depicted in the show. Additionally, the very infamous Harvey Specter, who is a staple in the show and a person that everyone would love to have in their law firm. “Specter is another good example of a typical lawyer, he is arrogant and risky with a charming personality, whilst also being a brilliant lawyer. The series does explore all the characteristics of lawyers that may be found in top firms.”

Although *Suits* is maybe not the most accurate portrayal of a corporate lawyer, many parts remain true. At the end of the day, the show is made to not be a direct documentary of a corporate lawyer's day to day life, but rather made to have dramatic flair and be entertaining for the audience. If they were, to be honest about the actual life of a lawyer, there would be hours upon hours of case research, negotiations, and settlements and would exclude the entertaining trials, under the table deals and all the shady business Harvey Specter pulls with Mike that elevates the show to another level.



# Maternal v. Federal Rights

JESLYN BROUWERS - SERVICE AND ETHICS



One ethical dispute within the legal system regards the maternal vs. federal rights of a mother under prosecution. When a pregnant woman endangers her fetus or causes prenatal harm to an offspring, she may face criminal charges due to her actions.

As the knowledge of prevention of prenatal harm increases, so too has public pressure to legally force non-compliant pregnant women to behave in a way that acts in the best interests of the child. The growing number of legal cases throughout the US has supported a trend of forced treatment of pregnant women, whether being: mandatory diet restrictions, court-ordered Caesarean sections, and such as in the hypothetical case, incarceration for failing to follow medical advice. This may also apply to other prenatal dangers such as poor nutrition, use of drugs, or alcohol. However, moral opinion is ambiguous on the matter. Do society and the legal system have the right to control the behavior of mothers?

A hypothetical case would be as follows. A mother's doctor thinks the woman has irresponsibly been drinking excessive amounts of alcohol which poses dangers to the child as heavy alcohol use may result in "fetal alcohol syndrome." The infant, as a result, may suffer from physical deformities, have a high birth-mortality probability, or suffer from mental retardation.



The mother's doctor is seeking a court order to incarcerate the mother throughout the duration of her pregnancy, forcing her to follow the doctor's advice, and halt her drinking habits for the wellbeing of the infant.

On one hand, research in modern medicine continues to highlight the importance of abstaining from drinking habits throughout pregnancy to maintain the baby's health. Moreover, developments in genetics provide prenatal diagnostic tests and medical treatments which would enable doctors to prevent birth defects during pregnancy. However, while most women act for the sake of their child, some continue to participate in activities or behave in a way that would cause long-term harm to their offspring and refuse medical treatments. As a child has a right to be protected from avoidable harm, society must protect the child, even to the extent of forcing a woman to change her behavior.

There are cases in which a pregnant woman's right to freedom of choice may be weighted against a child's right to be healthy. For example, prenatal medical treatments that pose little health risk to mothers, such as the administration of drugs or low-risk surgeries allow society to force mothers to undergo such treatments.

Those opposed argue that every person has an undeniable fundamental right to freedom of choice and control over his or her life. In the context of the ethical dilemma at hand, forcing a woman to undergo medical treatment against her will violates this right and may also harm the mother to protect the child. The prenatal decisions made during pregnancy are made based on a mother's circumstances, her values, and her preferences. Others, especially being the judicial system, do not have a moral right to impose judgment about what is best for the child and deprive the mother of her freedom.

Furthermore, forcing women to submit to medical treatment for the sake of their fetuses imposes an obligation that is not imposed on others - which is a major concern considering that justice requires that all persons be treated equally. In society, it is not forced upon someone to donate their kidney, blood, or bone marrow to benefit the lives of others, yet it is acceptable for pregnant women to undergo dangerous surgeries or change their lifestyles to benefit a fetus. The legal control of women is to demand authority and compliance which is over and above what is demanded from the rest of society.



Finally, compelling a pregnant woman to follow medical advice otherwise face incarceration, as demonstrated in the hypothetical case above, will only cause more harm than good. To avoid legal issues, women with high-risk pregnancies, of whom require prenatal care, may avoid doctors or withhold important information concerning their health. As a result, the health of the fetus may be placed in even greater jeopardy.

This debate attempts to draw the lines as to what, in the US criminal justice system constitutes child abuse and thus grounds of taking legal ownership of a child from his or her parents. The careful balance in the values of freedom and self-determination attempts to distinguish between what does or does not constitute harmful prenatal conduct which may provide a reason for the forced treatment of pregnant women



# Trump Pardoning Himself?

LUCA CRIMI - AMERICAN CONSTITUTIONAL LAW



On June 4th, 2018, Trump tweeted: "I have the absolute right to PARDON myself, but why would I do that when I have done nothing wrong?"

It's like telling your partner: You will never know if I've been cheating on you... but it's okay because I haven't.

Not even Trump's horde of lawyers or Republican allies can deny that that tweet wasn't alarmingly ambiguous.

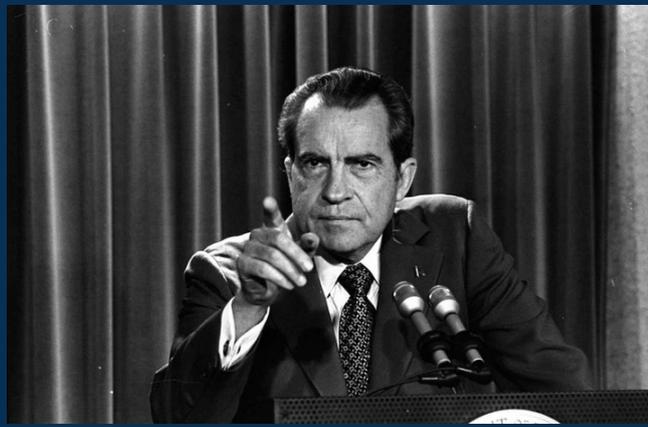
Nevertheless, the question remains: Can Trump actually pardon himself?

Article II Section 2 of the U.S Constitution states that "the President shall have the power to grant Reprieves and Pardons for Offenses against the United States." This means that Trump, just like any other President, can grant pardons to people who have broken federal law.

Here is where it gets murky.

Due to the way the U.S judicial system works, there needs to be a precedent set for the courts to interpret the law and make a decision. In Trump's case, there is not a precedent - in his favor - for self-pardoning. Therefore, many legal experts believe that this act of Presidential self-pardoning will not follow through.

In fact, pointing back to President Richard Nixon's plea for self-pardoning, an opinion issued by the justice apartment stated that Nixon could not pardon himself "under the fundamental rule that no one may be a judge in his own case."



Agreeing with that statement, Brian Kalt, a law professor at Michigan State University reiterated, "You can't grant something to yourself. You can't pardon yourself."

But the opposing side begs to differ.

Ethan Leib, a law professor at Fordham University, said it is possible for Trump to argue that a self-pardon is in the public interest as it can prevent a "divisive prosecution that could potentially upend democracy and trigger civil war."

While it does sound outlandish, this argument can be grounded in the legal norm that presidents are supposed to act in the public interest rather than for personal gain, and by self-pardoning himself, Trump can evade civil unrest, thus helping the public.

In other words, he should pardon himself so his supporters won't do something brash like storm the U.S Capital.

But, the irony that Leib noted is that Trump "does not seem particularly public-spirited." There is a minuscule chance that maybe - just maybe - Trump will grant himself clemency for his personal gain.

However, if that doesn't work, some legal experts speculate that Trump could leave the office before January 20th (the date the ex-president must leave the office), declare himself temporarily unfit for office under the Constitution's 25th Amendment, and transfer his power to the vice president, Mike Pence, who could then grant Trump clemency. But the reasons why this won't happen are two-fold: It doesn't seem that President Trump and VP Pence are on the best of terms right now, and Trump's ego is too colossal to push away and step down as president.

Therefore, while it seems like there are dire ways Trump can be pardoned, it's highly unlikely that he will be able to.

But wait...

Why would Trump even say that he could "hypothetically" self-pardon himself? What crimes has he committed in order for him to "hypothetically" need clemency?

To Letitia James, the New York Attorney General and Manhattan District Attorney, Cyrus Vance, Trump's need for clemency is a reality. According to them, Trump can potentially be charged with obstruction of justice, bribery, campaigning finance violations, tax fraud, inflating asset values, plus several personal lawsuits.



The minute Trump steps out of office, this legal tsunami will envelop him, which not even a pardon can save. The charges these New York lawyers have on Trump are state crimes and the presidential pardon is only for federal crimes.

Ultimately, whether Trump can pardon himself or be pardoned, he will do whatever he needs to save face, pushing the knife deeper into American democracy and presidential integrity.

# How is Antarctica's environment legally protected?

VICTORIA MCKENZIE - ENVIRONMENTAL LAW



Antarctica is one of the most unique places on Earth. As the coldest, windiest and driest continent on the planet, the polar environment is an incredibly unique biome. In saying this, the ecosystems that exist in Antarctica are also incredibly delicate. Threats to the Antarctic environment include climate change, pollution, habitat destruction, wildlife disturbance and non-native species introductions. So – who, in the legal sense, is liable to stop the impact of these threats? If sovereignty does not exist, how can Antarctica be legally protected?

## DEFINITIONS

Legally, “Antarctica” refers to:

1. The continent, surrounding islands, and oceanic area south of latitude 60° south and
2. the sub-Antarctic islands and ocean south of the Antarctic Convergence or Polar Front (ACPF), which variably bounds Antarctica at 45 degrees to 60 degrees south.

The area south of 60 degrees is the legal area of application of the Antarctic Treaty System (ATS), which is the core of the present Antarctic environmental law arrangements.

## THE MATTER OF SOVEREIGNTY

In 1959, territorial sovereignty of Antarctica was addressed, with seven states claiming territories.

This sovereignty, however, was ceded to some degree in the following years, as the ATS was first brought into effect. 12 countries signed onto the Treaty System – Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom and the United States. These countries, therefore, all have equal rights and a degree of power through a “consulting status”, however no single sovereign power has wholistic control.

## ANTARTICA’S HISTORICAL LEGAL PROTECTION

The three pillars of the ATS are peaceful purposes (avoiding militarisation), environmental protection and freedom of scientific enquiry. The Antarctic Treaty “froze positions on territorial sovereignty” in its Article IV – demilitarising the continent, establishing science as the basis for Antarctic presence. This demilitarisation of Antarctica was a vital point in International Environmental Law, observing states working together for a common cause, prioritising the sustainability and protection of delicate ecosystems over profit or political gain. The significant impacts the Antarctic Treaty made on the development of environmental law can be seen in Article I (the “prohibition of measures of a military nature”) and Article V (prohibitions of “nuclear explosions and waster disposal”). These Articles within the treaty were important not only to protect Antarctica’s fragile environmental, but also to set important precedent to restrain other potentially problematic activities there.

This treaty progressed to adopt the “Agreed Measures for the Conservation of Antarctic Fauna and Flora” in 1964, declaring Antarctica as a “special conservation area” and establishing a “general duty to avoid harmful interference with fauna and flora”. These measures also “created categories of Specially Protected

Species and Specially Protected Areas”.

Following conventions for the legal protection of the Antarctic environment are as follows:

- o 1972 Convention for the Conservation of Antarctic Seals
- o 1980 Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)
- o 1988 Convention on the Regulation of Antarctic Mineral Resource Activities
- o 1991 Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol)

On 22 May 1989, Bob Hawke, the then serving Australian Prime Minister, refused to sign the Minerals Convention, announcing that Australia was opposed to mining in Antarctica. In August 1989, Mr Hawke, with the support of the then Prime Minister of France, Mr Michel Rocard, fought for a comprehensive regime to protect the Antarctic environment and associated ecosystems. The result of this, was that at the 15th Antarctic Treaty Consultative Meeting in Paris in October 1989, “Parties to the Treaty agreed to hold a Special Consultative Meeting during 1990 to consider proposals for comprehensive protection of the Antarctic environment.”

This resulted in the establishment of the 1991 Protocol. The 1991 [Madrid] Protocol is the most recent, and current acting Treaty providing legal protection to Antarctica’s wildlife and ecosystems.

## THE 1991 MADRID PROTOCOL: ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY

Signed on October 4, 1991, the Protocol on Environmental Protection to the Antarctic Treaty entered “into force” in 1998. This Protocol saw an impressive commitment from the Parties to “comprehensively protect the environment of the Antarctic region... and dependent and associated ecosystems”. Within the Protocol (Art. 2) Antarctica is designated as a “natural reserve, devoted to peace and science”. There are also basic principles applicable to human activity in Antarctica outlined (Art. 3) and a prohibition on all activity “relating to Antarctic mineral resources, except for scientific research” (Art. 7). This “prohibition on mineral resource activities cannot be removed unless a binding legal regime on Antarctic mineral resource activities is in force (Art. 25.5).”



According to the official Antarctica website [cited in bibliography] the 1991 Protocol:

- “designates Antarctica as a ‘natural reserve, devoted to peace and science
- establishes environmental principles that must be a fundamental consideration in the planning and conduct of all activities
- prohibits mining indefinitely
- requires that all proposed activities must be subject to a prior assessment of their environmental impacts
- establishes the Committee for Environmental Protection, to develop advice and formulate recommendations to the Antarctic Treaty Parties on implementation of the Protocol
- requires the development of contingency plans to respond to environmental emergencies”

The Protocol is also accompanied by Annexes that detail specific measures and procedures relating to: “Environmental Impact Assessment, Conservation of Antarctic Fauna and Flora, Waste Disposal and Waste Management, Prevention of Marine Pollution, Area Protection and Management and Liability Arising from Environmental Emergencies”.

## COOPERATION FOR A COMMON CAUSE

The 1991 Protocol on Environmental Protection to the Antarctic Treaty is a milestone for “international management of Antarctica and generally for international environmental law.” This protocol sees the Parties’ prioritisation of environmental sustainability and protection over political gain or profit. This Protocol sets important legal precedent in the realm of Environmental Law for the prioritising the protection of flora and fauna.

# Grandson To The Multi-Billion Dollar Red-bull Empire Is Sacrosanct As He Gets Away With Murder

PRIM KAMOLYABUT - LEGAL NEWS



BANGKOK -

37 year old Vorayuth Yoovidhya, grandson to Red Bull's co-founder, and his family currently own approximately 50% of the multi billion dollar empire.

The 37 year old man is the grandson of Chaleo Yoovidhya who co-founded the Red Bull empire in 1984. Their family now own about half of this extensive business. When Chaleo died in 2012, he was the second richest man in Thailand (according to Forbes magazine) with a net worth of 160 billion THB and an estimated wealth of 660 billion THB. This story proves that his grandson, the heir to one of Thailand's greatest fortunes is just as untouchable as Chaleo was himself.

September 3rd 2012 - Just before dawn on the dark streets of Bangkok, a Ferrari speeding up to 177 kilometers per hour struck and killed a Thai police officer, Wichian Glanprasert.

Police Sergeant-Major, Wichian Klanprasert was riding his motorbike along Sukhumvit Road when he was hit by the Ferrari that dragged his body for several hundred meters before he fell to the road with the Ferrari speeding off ahead.

After fleeing the scene, investigating officers followed a trail of leaking engine brake fluid leading to a luxury home only a short distance away from the horror scene. The Ferrari that was found there had shattered windshields, with its bumpers dangling, badly dented and damaged. Although he was not the one driving the night of the crime, officers first detained the family's hired driver as their main suspect and he was blamed for the accident. Vorayuth later admitted to being the one driving the car during that night.

When he was tested, it was found that he had excessive alcohol in his blood and had been intoxicated, but he insisted that it was only from drinking at home after the accident had already occurred. He turned himself in and got arrested but released shortly afterwards after paying about THB 480,000 bail the same day.

Repeatedly, he was called by authorities to face charges but his lawyers managed to put off any court appearance until 5 years following the accident. Their excuses being he had work commitments overseas, and that he was "ill".

However in April 2017 a warrant was issued for his arrest a few days after he left the country, which revoked his passports. These extreme actions still didn't stop him and "Despite the legal threats hanging over him, Vorayuth managed after the accident to lead a busy globetrotting life, flying in private Red Bull jets to attend Formula One races, go snowboarding in Japan and cruising in Venice, among other activities" stated the US News.

However, when news of the lavish lifestyle Vorayuth continued to live reached the ears of the public, it provoked widespread anger.

As the crime was revealed publicly in an investigation, Vorayuth fled the country many times to avoid the issues, paid large sums of money for bail and repeatedly failed to meet police to face his charges after he recklessly drove under the influence and killed an innocent man. A crime that would serve a lifetime in prison, had it been committed by someone less fortunate.

After bribing almost 100,000 US dollars, all three of Vorayuth's lifelong charges were dropped and arrest warrants were withdrawn. Authorities then closed the case and Vorayuth was free to continue his effusive lifestyle, flying from one private beach to another, dining at only the finest restaurants and spending the summer months relaxing on the front deck of a yacht.

Although the case might be closed, the anger and frustration from the Thai public is not over. The extreme wealth of the red bull family was not only used to eliminate charges against Vorayuth, but also to compensate more than 2 million TBH for the death of the police officer to his family.

Many people feel that this case is a perfect example of the extreme wealth divide in Thailand and corruption that takes place behind the scenes. It is felt amongst the public that certain people are given loopholes and justice is not served fairly because of corruption and bribery. Even the brother of the police officer killed stated that “It hurts me a lot. It shows no justice for the poor. Thailand has a very wide gap between the rich and the poor in every aspect, and this case is a clear example.”

If such as awful crime can be disregarded once with no consequence, what is to say it won't happen again?

This case is just one of many examples where money is used by the unphasable elite to cover for mistakes and take away responsibility. What's more is that this issue is not just relevant in Thailand but all over the world. Many countries, even the ones you would least expect, have major issues with corruption when it comes to the law.

Yet it could be our generation who finally step up and fix these moral issues so that justice systems around the world are civil and equitable, and the seemingly separate wealth benefits cannot change a crime

# Deficient US Supreme Court To Return With A Multitude Of Difficulties Ahead

LULU LAMEY - LEGAL NEWS

The new, nine month term will begin for the US supreme court on Monday the 5th of October. Agonized by the death of Liberal Justice Ruth Bader Ginsburg, a Senate battle over her successor, the approaching presidential elections, whose outcome the supreme court may be called upon to help decide and the global pandemic, there is an array of challenges the justices are set to face in the upcoming future.

The Supreme Court As It's Seen Today:



Despite the large crowds who gathered outside the court building to mourn the death of Ginsburg, it remains closed to the public until further notice due to the pandemic. However, the court starts its term according to custom on the first Monday of October, with two cases being argued via teleconference. This practice was established in May 2020 and will be continued into the new term.

Due to the sorrowful death of Ginsburg, the court is left incomplete with just eight justices instead of nine. Alongside this tragedy, there are a variety of difficult cases to tackle, one of which is a Republican bid to abolish the Obamacare healthcare law. This debate is set to take place a week after election day on November the 10th.

In the case that Donald Trump's nominee to replace Ginsburg, federal court judge Amy Coney Barret, is confirmed, the courts ideological balance would shift further right with a 6-3 conservative majority amongst the justices. This raises questions about the overall validity of the supreme court.

]The series of events and challenges that the court now faces will put Chief Justice John Roberts to the test in terms of leadership. Roberts is known to be “an institutionalist who prizes the courts independence” and who in February, conducted the impeachment trial that ended on Trump’s clearing of charges of abuse of power and obstruction of Congress for using Ukraine to “investigate his democratic rival Joe Biden.” Roberts “would like to be a steady hand” and wants the court to be in a more stable position going forward.



Upcoming Cases:

### **Google vs Oracle Corp**

In the first week of this upcoming term, one of the most anticipated cases will be argued on Wednesday. The justices are to weigh a multi-billion dollar copyright controversy between Alphabet Inc’s Google and Oracle Corp. The case will deal with “Oracles accusation that Google infringed it’s software copyrights to build the Android operating system” that Oracle uses in it’s smartphones.

### **Obamacare Laws**

Coming back to the Obamacare case, which deals with the request to eradicate the Affordable [health] Care Act, Amy Coney Barret could play a crucial role in the outcome if she gets confirmed to take the position of Ginsburg.

Obamacare, previously known as the Affordable Care Act, aims to make affordable health insurance accessible to more people, expand the medicaid programs and support innovative medical care delivery methods which are designed to lower healthcare costs in general across the US. Various democratic states such as New York and California, are fighting to keep the Affordable Care Act in place. However, republican led states under Trump's Administration are aiming to strike it down.

This case is particularly important for many Americans as Obamacare has helped more than 20 million Americans to get medical insurance since it was established in 2010. It also prevents insurance companies from refusing to cover people with pre-existing medical conditions. Resulting in an overall higher quality of healthcare across the USA.

Despite the many positive impacts of this law, the Republican party views this law as an “unwarranted intervention” by the government in health insurance markets.

The supreme court previously discussed this issue in 2012 and again in 2015. Ginsburg was an important figure in both these debates and Obamacare laws were kept in place. Barret however, criticized those two rulings. Democrats worry that with the potential 6-3, right leaning ideological ratio, Barret will come in and strike down Obamacare. Although experts say that it is highly unlikely the court will agree to do so.

### **Same-sex couples vs the foster care system**

The court plans to hear another significant case on the 4th of November which attends to the issue of religious rights exemptions to federal laws. This argument arose when Philadelphia made the decision to ban a Catholic institution from taking part in the city's foster care program as the organization prohibits same-sex couples from being foster parents.

The US National elections are a significant weight over the Supreme Court. “The conservative majority has sided with state officials opposed to courts imposing changes to election procedures to make it easier to vote during the pandemic.”

Trump wants Barret to be confirmed prior to election day, which could potentially work in his favour as she could cast a decisive vote which impacts the election results.

The president of the US has also said he wants the Supreme Court to decide on the outcome of the election even though this has only happened once before with Republican George W Bush.

Democrats will continue to question Barret during her confirmation hearings which are set to begin on October 12th. However, in the case Barret gets confirmed as a justice, the court is expected to either refrain from involvement in major election cases or try to reach a unanimous decision between the justices.

The legitimacy of the court is extremely important to all of the justices, presidential candidates and citizens of America who they serve, at this incredibly delicate and challenging time. Therefore, people must trust in the court to make the appropriate decisions for the benefit of the country, going forward with this new term.

# South Africa's GBV Crisis

MOGALE TSEBANE - CRIMINAL LAW

Rape culture and gender-based violence (GBV) are, without a doubt, a major concern in South Africa. This might be a surprise as Mzansi is filled with beautiful landscapes, colourful vibrant people and firmly enriched by its historical and cultural roots. Sadly, the mesmerising aspects of this land are infected by the culture of female assault and abuse that brews in the dark corners of South African society.



According to WHO, as of 2019, South Africa has had a femicide rate of 12.5 per 100,000 women (Per Annum) and a rape rate of 72.1 per 100,000 women (Per Annum). Considering South Africa's approximate female population of 29.7 million, that equates to an estimated 25.1 thousand women murdered and raped in South Africa each year. These has been a recent escalation in these statistics, due to the COVID-19 lockdown procedures. In April 2019 South African president Cyril Ramaphosa, declared that the rape capital of the world was in a state of emergency as Gender-Based violence was finally acknowledged as a national crisis.

It is clear that South Africa's criminal justice, legal and policy frameworks are heavily flawed. Although, the cause for such prominent rates in gender-based violence and rape is unknown. It can be said that the government, its policies and the constitution beneath it, play a considerably large role in the rate of its occurrence. The South African constitution, which has been said to be one of the most progressive constitutions in the world, fundamentally protects all its citizens from any form of discriminatory and or dehumanising grievances regardless of their ethnicity, religion, culture or socio-economic background. However, in practice, the South African government has failed to reach the standards set by its venerated bill of rights. The President, the South African Police Service (SAPS) and the South African Human Rights Commission (SAHRC) desperately need to collaborate effectively to catalyse change in Mzansi.



The SAPS recorded 42,289 rapes in the 2019/20 calendar year. Surprisingly enough, the number of opened and or convicted cases of rape in the same year were significantly lower. The process in which cases fail to reach fruition within the criminal justice system is referred to as “attrition”. Attrition is the reason for the inefficiency of South Africa's justice system. The unreliable discretion of police officials, errors in both investigation and prosecution stages and the failure to establish prima facie cases in the trial stage are all causes of attrition and the subsequent reason for the injustices done to all South Africans but more importantly the women and children who's dignity and lives are at risk. This evidently should be a key point of attention for SAPS and the president of South Africa.

Prevention strategies are key to a better and safer South Africa. The importance of changing the social norm in South Africa is paramount and this can be done effectively through schools across the country. Through teaching young South Africans skills on how to prevent sexual assault and how to support victims of gender-based violence, the societal norm will be subject to change. Furthermore, with the help of the SAHRC and SAPS the government may be able to provide better opportunities, safe protective environments and economically empower South African women and children. Strengthened female leadership, economic support and the creation of protective environments ensure better prevention from gender-based violence.



Unfortunately, the sad reality is that we live in a wicked world and the painful truth is that perpetrators of gender-based violence and sexual assault are bound to be in our society. However, we do not have to submit to them. This is simply for the sake of women such as Uyinene Mrwetyana, Jankia Mallo, Leighandre Jegel, Jesse Hess and many more who've already lost their lives to the GBV crisis and the millions of women who still face the crisis in their daily lives. As South Africans, we need to come together to fight the disease that is gender-based violence and bring a brighter South Africa into reality.

“The only thing necessary for the triumph of evil is for good men to do nothing.”

- Edmund Burke

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South Africa's National Strategic Plan on GBV and Femicide

# Significance of Gideon v. Wainwright: How it Impacted Society Today

SOHEE YIM - CRIMINAL LAW



It is common knowledge that the U.S Constitution involves the establishment of significant rights. Specifically, the right to court-appointed counsel afforded by the Sixth Amendment in federal prosecutions and extent state trials under the Fourteenth Amendment. However, it may not be common knowledge that prior to 1963, this Constitution actually did not exist. It wasn't until after the Gideon v. Wainwright case that established the right to the public was changed.

To start off, the case first began in 1961 with the arrest of Clarence Earl Gideon who was charged with breaking and entering as well as stealing money in Panama City, Florida. During the trial, Gideon requested for an attorney, since he wasn't able to afford legal support, to which the judge replied that the state of Florida was only able to provide attorneys to those who are indigent defendants charged with serious crimes that may lead to the death penalty if found guilty. And just like that, without any proper attorney to help defend his case, Gideon was sentenced to five years in prison. Furious by this verdict, Gideon decided to file for a habeas corpus petition (which is a petition that attempts to release individuals from unjust imprisonment) to the Supreme Court in Florida. Although the Florida Supreme Court denied his petition, Gideon was determined and decided to appeal his case to the U.S Supreme Court, in which they accepted to review his case two years after his conviction. The Supreme Court, in 1963, then ruled that the Constitution would now require the state to provide defense attorneys as well as any other legal support to criminal defendants that cannot afford lawyers.

So how exactly did this case impact today's society? After the establishment of this Constitution, the Supreme Court had to look back at a previous case that asked the same question of whether or not the state followed the same "right to counsel" rule that the federal courts had to abide by. In *Betts v. Brady*, Smith Betts, a Maryland farm worker, requested for a defense attorney to represent him for a robbery case. However, similar to *Gideon*, this request was denied due to the state of Maryland could only provide legal support to those involved in capital cases. In other words, at that time during Betts' trial, the refusal to appoint him counsel was not a violation of his Fourteenth Amendment.

After careful consideration, the Supreme Court decided that the *Betts v. Brady* case would have to be reconsidered due to the nature of the Sixth and Fourteenth Amendment as Betts was denied access to the right to a fair trial with adequate legal representation. This decision ultimately created a large impact on the criminal justice system as the "right to counsel" was now a new rule federal courts had to follow. From this moment forward, anyone, regardless of their background, would be able to recess equal legal support without having to risk representing themselves, possibly putting their freedom in danger.



# Who protects the Galapagos?

RDU DILLION - ENVIRONMENTAL LAW



The Galapagos Islands are an archipelago of 21 volcanic islands belonging to the Republic of Ecuador and are located roughly 600 miles off of the Ecuadorian coast. The islands are considered to be the home of modern ecology, where established ecologist Charles Darwin developed his world-famous theory on the evolution of species. Ecologists from all over the world continue to flock to the Galapagos for their studies of the world's most unique ecosystems.

In comparison to the innumerable quantities of biodiversity that inhabit the vastness of Amazon or even the Antarctic, the Galapagos, being a fraction of the size is home to only a fraction of the number of species, a mere 56 to be exact. To put this into perspective, the Amazon has 450 species of reptiles while the Galapagos has exactly 25. Yet this tiny ecosystem is considered equally if not more important and has even been accorded its own law to ensure its protection from the environmental degradation brought about by otherwise unregulated human activities.

With ecotourism becoming the fastest growing sector of the Ecuadorian economy, the special law of the Galapagos was published relatively recently, on 18 March 1998, by the Official Registry of Ecuador as Law No. 278.

The law itself, formally titled the Law on the Special Regime for the Conservation and Sustainable Development of the Galapagos Province (Registro Oficial No. 278, Law 67, Ecuador), it was passed essentially in order to protect the Island's marine resources from commercialised and illegal fishing which was becoming increasingly problematic. The lengthy piece of legislation covers a range of topics but in essence it sets the basis for the legal framework that ensures the protected status of the islands and strengthens their conservation.

The Law encapsulates a number of terms, one being a provision for the extension of the outer boundary of the marine reserve from 24 to 64 km offshore and for the establishment of a significant 130,000 square kilometre reserve for the conservation of the precious local marine environment where only tourism and artisanal fisheries will be permissible by law. The constitution of the Ecuadorian Republic also permits for the Galápagos to be run by a Special Regime, and for its protection, waives the freedom of the rights to free residence, property, and commerce to protect against or at least slow down the environmental deterioration the increasing population size brings.

There are eight other main points that summarise the aims of the legislation in its totality, the first being the listing of the Galapagos as a Natural Heritage of Humanity site, and its addition to the list of Biosphere Reserves for innate value to science and ecology. This makes it the duty of the Ecuadorian State to the world to "preserve the Galápagos Islands for present and future generations."

Secondly, the State is obligated to maintain the integrity of all natural areas, both land and marine, as well as providing the means for responsible human development on the islands; developing legislation that preserves the environment while still giving the islands' inhabitants the means for development.

The activities of the political establishment, public and private sectors are limited by the boundaries the following provisions - the maintenance of ecological systems and the biodiversity of the province of Galápagos, particularly native and endemic species, permitting the natural continuation of the evolutionary mechanism with minimal human interference as well as controlled, sustainable economic development within the capacity of strain that the environment has ( this has proved elusive).

Additionally, the National Institute of Galápagos (INGALA) maintains the right to create public legislation, has its own jurisdiction and judicial components and administrative and fiscal autonomy. INGALA comprises of two bodies, the Council and a Technical Secretariat, which in turn is made up of Management division and the various entities under it. INGALA oversees the decisions of institutions in the islands regarding matters involving environmental conservation, public services, community welfare, sustainable development, tourism and most importantly the exploitation of natural resources.

The Marine reserve is home to nearly 3000 species and protects a variety of marine habitats including seamounts, reefs, lagoons and underwater cliffs. It is managed by the Inter-institutional Management Authority which consists of the Ministers of the Environment, Defense, Commerce and Tourism and representatives from the Chamber of Tourism, the Sustenance Fishermen, and the Conservation sector. It has executive power over plans for its sustainable development, resource assignments, and providing permits for any ecological expeditions. Most notably, it is in charge of setting the fishing calendar and its components- the quantities, sizes, species of fish, and methods of fishing which are permitted in the Marine reserve.

To ensure uniform and effective execution of the above policies, all Galapagan government institutions are legally required to comply with the policies created by INGALA. The construction of new touristic infrastructure is under strict regulation by INGALA and getting construction permits has been made a much more tedious process, with the undertaking of said construction only by permanent residents of the islands who must prove that it will- 1.produce local benefits, 2.Guarantee the quality of tourism services as established by the Special Rules of Tourism in Protected Areas legislation, 3. Guarantee minimal impact on the environment and 4. Be established within expressly permitted zones delineated by regional and environmental law.

INGALA also has the responsibility to eradicate invasive species of the islands like the feral goat and the hill blackberry through any means permissible by law.

Despite the numerous provisions undertaken by the Ecuadorian government like the Special Law of the Galapagos, daily life for residents of the islands, both human and animal is still filled various challenges. The Ecuadorian government faces the impossible balance beam of sustainable development and economic growth on the other end where one can only be furthered at the expense of the other but both are necessary for the country's growth.

A prominent example that illustrates this issue would be the 2001 oil spill that occurred near the islands while a cruise ship was being refilled. The oil tanker unfortunately ran ashore and 80,000 gallons of diesel were irrecoverably spilt. A disaster of this proportions poses hazardous consequences anywhere but especially so in the Galapagos due to the number of rare birds and marine life. Problems like this are inevitable given the dependence on tourism and do not have a clear policy solution even in such an egregious instance of risking the welfare of the environment. Under the law, offshore refuelling is mandatory due to concerns about the environmental impacts of the construction and maintenance of large harbours in the fragile reef ecosystems in the surrounding shallow waters. An outright ban on the refuelling of tourism ships given their contribution to the economy is not a feasible option either.

With time, the Special Law of the Galapagos has brought about its own set of challenges for the inhabitants of the island as well. With the growing population, the island will not be able to support its people considering that currently, by law, only 3% of land is set aside for human habitation and there will be significant strain on already weak public infrastructure. Already there have been calls for change regarding the government's approach to ecotourism policies as existing laws are deemed to be scoped too narrowly.

Although it should be the priority of the Ecuadorian government to protect one of the most fragile, unique and threatened ecosystems to exist on this planet, development is also undeniably necessary and conservation efforts in the Galapagos will have to likewise adapt more holistically to tackle this range of novel challenges.



## Concluding Statements

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After reading all of these articles we hope you have gained more insight and have taken a different approach to think about all the topics presented. There are many ways to start an initiative and be a voice to encourage different people to think differently and make an impact on the world and the community around them. We hope you have also enjoyed reading these articles as they also are definitely extremely interesting and show not on the author's point of view but shows their take on the matter at hand.

Again, if there are any queries, want to join our team or want to speak further with any of the authors about their articles feel free to email [contactlawinsider@gmail.com](mailto:contactlawinsider@gmail.com) and we will get back to you as soon as we can.



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