



TAKING THE STAND

MY LIFE IN THE LAW

ALAN DERSHOWITZ

BESTSELLING AUTHOR OF *CHUTZPAH*

ALSO BY ALAN DERSHOWITZ

The Trials of Zion

The Case for Moral Clarity: Israel, Hamas and Gaza

The Case Against Israel's Enemies: Exposing Jimmy Carter and Others Who Stand in the Way of Peace

Is There a Right to Remain Silent? Coercive Interrogation and the Fifth Amendment after 9/11

Finding Jefferson: A Lost Letter, a Remarkable Discovery, and the First Amendment in an Age of Terrorism

Blasphemy: How the Religious Right Is Hijacking Our Declaration of Independence

Preemption: A Knife That Cuts Both Ways

What Israel Means to Me: By 80 Prominent Writers, Performers, Scholars, Politicians, and Journalists

Rights from Wrongs: A Secular Theory of the Origins of Rights

America on Trial: Inside the Legal Battles That Transformed Our Nation

The Case for Peace: How the Arab-Israeli Conflict Can Be Resolved

The Case for Israel

America Declares Independence

Why Terrorism Works: Understanding the Threat, Responding to the Challenge

Shouting Fire: Civil Liberties in a Turbulent Age

Letters to a Young Lawyer

Supreme Injustice: How the High Court Hijacked Election 2000

Genesis of Justice: Ten Stories of Biblical Injustice That Led to the Ten Commandments and Modern Law

Just Revenge

Sexual McCarthyism: Clinton, Starr, and the Emerging Constitutional Crisis

The Vanishing American Jew: In Search of Jewish Identity for the Next Century

Reasonable Doubts: The Criminal Justice System and the O.J. Simpson Case

The Abuse Excuse: And Other Cop-Outs, Sob Stories, and Evasions of Responsibility

The Advocate's Devil

Contrary to Popular Opinion

Chutzpah

Taking Liberties: A Decade of Hard Cases, Bad Laws, and Bum Raps

Reversal of Fortune: Inside the von Bülow Case

The Best Defense

Criminal Law: Theory and Process (with Joseph Goldstein and Richard Schwartz)

TAKING THE STAND

— MY LIFE IN THE LAW —

ALAN DERSHOWITZ



CROWN PUBLISHERS / NEW YORK

All rights reserved.

Published in the United States by Crown Publishers, an imprint of the Crown Publishing Group, a division of Random House LLC, a Penguin Random House Company, New York.

www.crownpublishing.com

CROWN and the Crown colophon are registered trademarks of Random House LLC.

Library of Congress Cataloging-in-Publication Data

Dershowitz, Alan M.

Taking the stand : an autobiography / by Alan Dershowitz.—First edition.

pages cm.

1. Dershowitz, Alan M. 2. Lawyers—United States—Biography. 3. Jewish lawyers—United States—Biography. 4. Law teachers—United States—Biography. 5. Freedom of speech—United States—Cases. 6. Capital punishment—United States—Cases. I. Title.

KF373.D46A3 2013

340.092—dc23

[B] 2013022762

ISBN 978-0-307-71927-0

eISBN: 978-0-307-71929-4

Jacket design by Eric White

Jacket photography: Michael Weschler

v3.1

*This book is lovingly dedicated to my family—
past, present, and future.*

L'dor v'dor.

CONTENTS

Cover
Other Books by This Author
Title Page
Copyright
Dedication

Introduction
A Life of Continuous Change

PART I

FROM BROOKLYN TO CAMBRIDGE
With Stops in New Haven and Washington

- 1 Born and Religiously Educated in Brooklyn
Williamsburg and Boro Park
- 2 My Secular Education
Brooklyn and Yale
- 3 My Clerkships
Judge Bazelon and Justice Goldberg
- 4 Beginning My Life as an Academic
Harvard Law School

PART II

THE CHANGING SOUND OF FREEDOM OF SPEECH
From the Pentagon Papers to WikiLeaks

- 5 The Evolution of the First Amendment
New Meanings for Cherished Words
 - 6 Direct and Vicarious “Offensiveness” of Obscenity
I Am Curious (Yellow) and Deep Throat
 - 7 Disclosure of Secrets
The Pentagon Papers and Julian Assange
 - 8 Expressions That Incite Violence and Disrupt Speakers
Bruce Franklin and the Muslim Student Association
 - 9 The Right to Falsify History and Science
Holocaust Denial, Space Aliens, and Academic Freedom
 - 10 Defamation and Privacy
“He That Filches from Me My Good Name”
 - 11 Speech That “Supports” Terrorist Groups
The MEK Case
 - 12 Life Intrudes on Law
Illness and Other Close Calls
- Photo Insert*

PART III

CRIMINAL JUSTICE
From Sherlock Holmes to CSI

13 “Death Is Different”

Challenging Capital Punishment

14 The Death Penalty for Those Who Don’t Kill

Ricky and Raymond Tison

15 Using Science, Law, Logic, and Experience to Disprove Murder

Von Bülow, Simpson, Sybers, Murphy, and MacDonald

16 Death, Politics, Religion, and International Intrigue

Sharansky, Kennedy, and the Former President of the Ukraine

17 Death Cases from the Classroom to the Courtroom and from the Courtroom to the Classroom

Shooting a Corpse and Crashing a Helicopter

18 The Changing Politics of Rape

Mike Tyson, DSK, and Student Protestors

19 The Changing Impact of the Media on the Law

Bill Clinton and Woody Allen

PART IV

THE NEVER-ENDING QUEST FOR EQUALITY AND JUSTICE

20 The Changing Face of Race

From Color Blindness to Race-Specific Remedies

21 The Crumbling Wall Between Church and State

Attempts to Christianize America

22 From Human Rights to Human Wrongs

How the Hard Left Hijacked the Human Rights Agenda

Conclusion

Closing Argument

Acknowledgments

Notes

INTRODUCTION

A Life of Continuous Change

An autobiographer is like a defendant who takes the stand. We all have the right to remain silent, in life and in law. But if one elects to bear witness, he must tell the truth, the whole truth, and nothing but the truth, subject only to limited privileges, such as between a lawyer and a client, or a husband and a wife.

What Tocqueville observed two centuries ago—that in our country, great issues find their way into courts¹—is even truer today. Accordingly, my autobiography will be a history of the last half century as seen through the eyes of a lawyer privileged to have participated in some of the most intriguing and important cases and controversies of our era. It is also an account of one man's intellectual and ideological development during a dramatic period of world, American, and Jewish history, enriched with anecdotes and behind-the-scenes stories from my life and the lives of those I have encountered.

The law has changed considerably over the past half century. I have not only observed and written about these changes, I have helped to bring some about through litigation, writing, and teaching. This book presents an account of these changes and of my participation in the cases that precipitated them. My commitment to full disclosure requires that I not hide behind the distorting shield of feigned humility—calculated to preempt criticism—that denies the reader an accurate picture of the impact the author has had on events.² (One of my favorite jokes is about feigned humility: The pompous rabbi prostrates himself on Yom Kippur, shouting to God, “I am nothing before you.” The equally pompous cantor emulates the rabbi, shouting even louder, “I am less than nothing before you.” The lowly sexton (“shammes”), seeing the rabbi and the cantor engaging in such self-flagellation, also gets down on his knees and screams, “I too am nothing.” The rabbi looks contemptuously at the sexton and whispers to the cantor, “Look who’s claiming to be nothing.”) Nor will I rewrite my past to conform to present notions of political correctness. Instead, I will try to offer an honest assessment of the roles I have played—for better or worse—in legal developments.

You may have witnessed my public persona—confrontational, unapologetic, brash, tough, argumentative, and uncompromising. These characteristics have provoked strong reactions, both positive and negative, rarely neutral. Yet those who know me—family, friends, and colleagues—hardly recognize the “character” I come across as on TV. In my personal life, I shy away from confrontation and am something of a pushover. My son Elon says that when people bring me up in conversation, he can instantly tell whether they know me from TV or from personal interactions—whether they know what he calls “the Dersh Character” or “the real Alan.”

This sharp dichotomy between my public and private persona was brought home to me vividly when a motion picture, *Reversal of Fortune*,³ was made about the Claus von Bülow case. I was played by Tony Award-winning actor Ron Silver.

The opening scene had my character playing an energetic basketball game with himself—true enough. When he's interrupted by a phone call giving him the news that he has lost a case involving two brothers on death row,⁴ he smashes the phone on the pavement. When

complained to my son, who had coproduced the film, that I don't throw phones, my son responded: "Dad, the person on the screen isn't you; it's 'the Dersh Character.'" He explained that characters have to "establish themselves" early in a film, and that this establishing was intended to convey my passion for the rights of criminal defendants. "If we had several hours, we could have recounted your involvement in many other cases, but we had about a minute; hence the smashed phone."

"That scene doesn't show passion," I said. "It shows a temper tantrum." My son explained that a character has to have faults, so that he can "overcome" them. "The viewing audience has to see you grow."

In the film, I'm portrayed as a person whose passions are reserved exclusively for his professional life. I hope that's not me, although I have to acknowledge that people who know me only professionally assume that I have nothing left for those I love. They see me busily at work in different jobs—professor, author, litigator, lecturer, and television commentator—and they assume that either I never sleep or that there are several of me. But the fact is that I reserve a lot of love, loyalty, and friendship for family and people close to me. I even make time for having fun—ball games, concerts, walks on the beach, parties, jokes, and schmoozing.

In this book, I intend to explore both sides of my life, the interaction between them, and how they are both the products of my early upbringing and lifelong experiences. So if you think you know me from my public appearances, you may be in for a surprise.

Although this autobiography is my first attempt to explore my life in full, I have written books that touch on earlier aspects of my public life. *The Best Defense*⁵ dealt with my first cases. *Reversal of Fortune*⁶ and *Reasonable Doubts*⁷ each dealt with one specific case (von Bülow and O. J. Simpson). *Chutzpah*⁸ covered my Jewish causes. I will try not to repeat what I wrote in those books.⁹ This more ambitious effort seeks to place my entire professional life into the broader context of how the law has changed over the past half century and how my private life prepared me to play a role in these changes.

I bring to this task a strong and dynamic worldview, shaped by my experiences. In looking back, I am inevitably peering through the prism of the ideology that has provided a compass for my actions.

I believe that ideology is biography. Where we stand (and who and what we can't stand) is the result of where we sat, whom we sat next to, what we sat through, and how we reacted to our experiences. The philosopher Descartes, who famously said, "I think therefore I am," got it backwards. I am—I was, I will be—therefore I think what I think.¹¹ It is our interactions—with other human beings, with nature, with nurture, with love, with hate, with pleasure, with pain, with our own limitations and mortality—that shape our worldviews. It is also our genetic endowment—our temperament, our energy, our intelligence.

And our luck! An old Yiddish saying puts it succinctly: "Man plans, God laughs."

Many of the most important decisions that impact a person's life are made by others and are beyond his control. Probably the most significant decisions affecting my life were made by my great-grandparents and grandparents: the decision to leave the shtetels of Poland and move to New York. Had they remained in Europe, as some of my relatives did, I would probably not have survived the Holocaust, since I was three years old when the systematic genocide began.¹² Nearly all my relatives who remained in Poland were murdered by the

Nazis. That may be why Jews of my generation are so influenced by the Holocaust. There but for the grace of God, and the forethought of our grandparents, go we.¹³

My life has been very different from the lives of my grandparents and parents, who lived insular lives in the Jewish shtetels of Galicia, Poland, the Lower East Side of Manhattan, and the Williamsburg, Crown Heights, and Boro Park Orthodox Jewish neighborhoods of Brooklyn. They had little formal education and rarely traveled beyond their routes to and from work.¹⁴ My grandparents never flew on airplanes despite living into the 1970s and '80s. My parents rarely attended concerts, the Broadway theater, or dance recitals. They owned no art, few books, and no classical records. They didn't visit museums or galleries. Their exposure to culture was limited to things Jewish—cantorial recitations, Yiddish theater, lectures by Orthodox rabbis, Jewish museums, Catskill Mountain and Miami Beach entertainment.

My adult life has been different. I travel the globe, meet with world leaders, own art, and am involved in music, theater, and other forms of culture, and lead a secular life (though I still enjoy cantorial music, “borscht belt” humor, Miami Beach, and a good pastrami sandwich—which you can't get in Miami Beach).

Yet I am their son and grandson. Although my life has taken a different course, I could not begin to explain who I am and where I am heading without exploring my background and heritage. It is this history that helped to form me, caused me to react against parts of it, and—most important—gave me the tools necessary to choose which aspects of my traditions to accept and which to reject.

I was born to a family with strong views on religion, morality, politics, and community service. Our neighborhood was tightly knit. Everyone knew his place. Status was important, as was *yichus* (the Yiddish term for ancestry). But I grew up at a time of change, growth, excitement, and opportunity.

Despite the reality of anti-Jewish discrimination—in college admission, employment, residency, and social clubs—my generation believed there were no limits to what we could accomplish. If Jackie Robinson could play second base for the Brooklyn Dodgers, we could do anything. Maybe that was the reason so many successful people grew up in Brooklyn in the postwar period. (In 1971, I was selected from among forty young scholars for a distinguished fellowship. When the fellows met in Palo Alto, California, we discovered close to half the group had Brooklyn roots!) We were the breakout generation, standing on the broad shoulders and backbreaking work of our immigrant grandparents and working-class parents. We are not smarter than our forebears, only luckier to have been born at a time of great opportunities to be educated, to choose careers, and to thrive in an expanding economy. As a bumper sticker I saw near the Harvard Business School put it: DON'T CONFUSE BRAINS WITH A BULL MARKET. My parents came of age during the Depression. I came of age during a bull market.

I cannot explain my worldview without describing those on whose shoulders I stand. So I will begin at the beginning, with my earliest memories.

But formative experiences do not, of course, end at childhood or adolescence. Learning never stops, at least for those with open minds and hearts. A quip attributed to Winston Churchill put it this way: “Show me a young conservative and I'll show you someone with no heart. Show me an old liberal and I'll show you someone with no brain.”¹⁶ It is true that some young liberals become less idealistic with age, economic security, and family

responsibilities. But it is also true that some young conservatives become more liberal as they seek common ground with their children. Others remain true to their earlier worldview depending on the lives they have lived.

I have been fortunate to live an ever-changing life. Although my views on particular issues have been modified, my basic commitment to liberal values has remained constant, because of my strong upbringing and because I have spent my life among students, who bring to the classroom the views of their contemporaries. An ancient Chinese curse says, "May you live in interesting times." I have been blessed with living an interesting, if often controversial, life.

As an adolescent, I was involved in causes such as justice for the Rosenbergs, abolition of the death penalty, and the end of McCarthyism. In college and law school I became passionate about civil rights, civil liberties, and politics.

As a law clerk, during one of the most dramatic periods of our judicial history, I worked on some of the most important constitutional cases of the Warren court, heard the "I Have a Dream" speech of Martin Luther King, was close to the Cuban Missile Crisis, and partook of events following the assassination of John F. Kennedy.

As a young lawyer, I played a role in the Pentagon Papers case, the forced resignation of Richard Nixon, and the antiwar prosecutions of Dr. Spock, the Chicago Seven, the Weather Underground, and Patricia Hearst. I litigated the *I Am Curious (Yellow)* censorship prosecution, the Deep Throat case, and the *Hair* case. I consulted on the Chappaquiddick investigation of Ted Kennedy, the attempted deportation of John Lennon, and the draft case against Muhammad Ali. I helped to formulate the strategy designed to strike down the death penalty as unconstitutional, and I litigated all types of cases that broadened freedom of expression under the First Amendment and the right to a zealous defense under the Sixth Amendment.

Later in my career, I was a lawyer in the Bill Clinton impeachment, the *Bush v. Gore* election case, and the efforts to free Nelson Mandela, Natan Sharansky, and other political prisoners. I participated in the Senate censure of California senator Alan Cranston, the Frank Snepp CIA censorship case, prosecutions in The Hague involving the former Yugoslavia, the defense of Israel against international war crime prosecution, and the investigation of WikiLeaks and Julian Assange. I worked on the appeal of Jonathan Pollard and was an observer at the trial of accused Nazi war criminal John Demjanjuk and subsequently consulted with the Israeli government about that case. I worked on the defense of director John Landis, the O. J. Simpson double murder case, and the Bakke "affirmative action" litigation. I challenged the tenure denial of Maoist Bruce Franklin at Stanford and Harvard, the investigation of Dr. John Mack, who wrote about human contact with extraterrestrials. I appealed the Claus von Bülow attempted murder conviction, the Leona Helmsley tax case, the Mike Tyson rape prosecution, the Conrad Black fraud conviction, the David Crosby drug rap, and the Tison brothers multiple murder case. I participated in the Woody Allen–Mia Farrow child custody litigation, the defense of Michael Milken, the litigation against the cigarette industry, the Stephen J. Gould wrongful death suit, and the John DeLorean case.

I have litigated or consulted on cases and causes throughout the world, including the Ukraine, the Soviet Union, the Russian Federation, the Republic of Georgia, Italy, Israel, China, New Zealand, Australia, Great Britain, Poland, the Vatican, France, Libya, The Hague, Norway, Sweden, Switzerland, Germany, South Africa, Pakistan, and Macedonia.

I have won more than one hundred cases and have been called—with a bit of hyperbole—“the winningest appellate criminal defense lawyer in history.” Of the more than three dozen murder and attempted murder cases in which I have participated, I lost only a handful. None of my capital punishment clients has been executed.

I will describe and analyze some of these cases and reveal the unique tactics I have developed over the years that helped win so many of them.

Among the people I have advised in legal, political, and other matters are President Barack Obama; President Bill Clinton; Israeli prime minister Benjamin Netanyahu; Canadian prime minister Pierre Trudeau; Assistant Secretary General of the United Nations Luis Maria Gomez; Senator Ted Kennedy; Marlon Brando; Frank Sinatra; Woody Harrelson; Michael Jackson; Natalie Portman; Ben and Casey Affleck; David Merrick; Bill Belichick; Isabella Rossellini; Adnan Khashoggi; Carly Simon; Hakeem Olajuwon; Kevin Youkilis; Stan Getz; Peter Max; Yo Yo Ma; Steven Wright; Robert Downey, Jr.; several billionaires, such as Sheldon Adelson and Mark Rich; authors such as Saul Bellow, David Mamet, and Elie Wiesel; and judges, senators, congressmen, governors, and other public officials.

In addition I have played a role in some of the most interesting litigations involving people who are not well known but whose cases raised intriguing and fascinating issues, such as whether a man can be prosecuted for attempted murder for shooting a dead body that he thought was alive,¹⁷ whether a husband can be prosecuted on charges of slavery for not doing anything about his wife’s alleged abuse of domestic employees,¹⁸ whether a husband can be forced to adopt a child,¹⁹ whether a law firm can discriminate on ethnic grounds in its decision to promote an associate to partner,²⁰ and whether a tenured professor of psychiatry should be investigated for publishing a book suggesting that some of his patients may actually have been abducted by space aliens.²¹

Among the broad constitutional and legal questions I have confronted in my practice and teaching are the following:

- Should governments be empowered to censor speech that endangers national security, defames or offends individuals, falsifies history, or provokes violence?
- Should the death penalty be imposed on a nontriggerman who did not intend to cause the death of a victim?
- Should governments, universities, or employers be allowed to consider race in order to achieve positive goals such as diversity, reparation, or representation?
- Should evidence that conclusively proves the guilt of a criminal defendant—even one charged with multiple murders—be admissible against him if it was obtained in violation of his constitutional rights?
- Should a president be impeached for lying about his sex life?
- Should the courts order a recount of a hotly disputed presidential election?
- Should the President be allowed to secure a warrant to authorize the use of nonlethal torture in an effort to prevent an imminent mass-casualty terrorist attack?
- Should governments be permitted to target and kill suspected terrorists whom they cannot arrest?
- Should the Palestinian Authority be authorized to bring criminal charges against Israeli

An Italian magazine, after reviewing my cases, described my legal practice—also with some hyperbole—as “the most fascinating on the planet,” and a biographer of Clarence Darrow when asked by National Public Radio whether there was “any attorney in this country today with the stature of a Clarence Darrow,” responded by mentioning me and saying that my cases “equaled some of the trials that Darrow had.”²²

My cases have been more interesting because I have brought the classroom into the courtroom, and my classes have been interesting because I bring the courtroom into the classroom. I have learned a great deal from my students, as I hope they have from me. I have always been skeptical of the distinction between “theory” and “practice” when it comes to a real-world discipline such as law. Theory has helped me to win cases, and practice has helped me to teach students. Both have been a major source of my writing. My primary job has been that of a professor and writer. I have taught thousands of students during the one hundred semesters of my career at Harvard. Some have gone on to become world, national, and local leaders, in politics, in the judiciary, in education, in business, and in the arts. I remain in touch with many of them.

In the first phase of my academic career, I focused my writing on scholarly articles for law reviews, publishing more than two dozen on law and psychiatry and the prediction and prevention of violence.

In the next phase, I turned to writing articles for the general public about the law, becoming the first law professor regularly to write about legal issues for the *Week in Review*, *Book Review*, and op-ed sections of the *New York Times*;²³ to appear frequently on television shows, such as *Nightline*, the *MacNeil-Lehrer Report*, *Larry King Live*, *The Today Show*, and *Good Morning America*; and to write about the law in popular magazines, ranging from the *New York Review* to *Penthouse*.²⁴

In the third phase, I began to write books for the general public, including six national bestsellers and one—*Chutzpah*—that became the number one bestseller in the United States. I have written thirty books, including three novels, and continue to write every day about a wide range of subjects, including sports, art, politics, literature, and even delicatessens.²⁵

I write everything by hand, and one of my secretaries, who types my scribbles, has estimated that she types a million of my words each year. I venture to guess that I’ve probably published more words (not necessarily wiser or better) than any professor in the law school’s history.

I’ve probably also taught more different courses than most other professors. These include Criminal Law; Constitutional Litigation; Family Law; Psychiatry and the Law; Prediction and Prevention of Harmful Conduct; Comparative Criminal Law Theory; Race and Violence; Scriptural Sources of Justice; Law of Sports; Legal, Moral, and Psychological Implications of Shakespeare’s Tragedies; Ethics and Tactics in the Trial of Criminal Cases; Human Rights; Terrorism and the Law; Probabilities and the Law; Comparative Analysis of Talmud and Common Law; WikiLeaks and the First Amendment; the Arab-Israeli Conflict Through Literature; Black Power and Its Legal Implications; Writings of Thomas Jefferson; and Constraining Prosecutorial Misconduct.

In addition to my classes at the law school, I have taught numerous classes at Harvard College, including a large course that I created with Professors Robert Nozick and Stephen

Gould, entitled *Thinking About Thinking*; a seminar with Professor Stephen Kosslyn on *Neurobiology and the Law*; a large class with Professor Steve Pinker on *Taboos*; and a series of freshman seminars entitled *Where Does Your Morality Come From?*

I have engaged in public debates and controversies with some of the most contentious figures of the age, including William F. Buckley, Noam Chomsky, Rabbi Meir Kahane, Rabbi Adin Steinsaltz, Justice Antonin Scalia, Ken Starr, Elie Wiesel, Václav Havel, Golda Meir, Reuven Auerbach, William Kunstler, Roy Cohn, Norman Mailer, Patrick Buchanan, Norman Podhoretz, Bill O'Reilly, Sean Hannity, Skip Gates, Alan Keyes, Dennis Prager, Jeremy Ben Ami, Peter Beinart, Mike Huckabee, William Bulger, Hannah Arendt, Wayne La Pierre, James Zogby, Jimmy Carter, Richard Goldstone, Norman Finkelstein, and others.

I was part of an American team selected to confront Soviet debaters on a nationally televised show, during the height of the Soviet oppression of refuseniks, for which William Buckley suggested that the U.S. team be given Medals of Freedom. I was a regular "advocate" on the nationally televised Peabody Award-winning show *The Advocates*. I have been interviewed by nearly every major television and radio talk and news show.

In recent years, I have devoted considerable energy to the defense of Israel, while remaining critical of some of its policies. The *Forward* has called me "America's most public Jewish defender"²⁶ and "Israel's single most visible defender—the Jewish state's lead attorney in the court of public opinion."²⁷ In 2010, the *Jerusalem Post* surveyed its readers and editors as to who were the fifty most influential Jews in the world. The readers ranked me fifth, while the editors placed me ninth.²⁸ In 2010, the prime minister of Israel asked me to become Israel's ambassador to the United Nations—an offer I respectfully declined because I am an American, not an Israeli, citizen.

I keep fairly complete records of my cases and controversies. My archives are in the Brooklyn College Library. My professional life has been an open book, and the accessibility of my archives—containing letters, drafts, and other unpublished material—opens the book even further.

But beyond the written record lies a trove of memories, ideas, dreams, conversations, actions, inactions, passions, joys, and feelings. Fortunately, I have a very good memory, and I am prepared to open much of my memory bank in this autobiography, because I believe that the biography that informs my ideology and life choices cannot be limited to the externalities of my career. It must dig deeper into the thought processes that motivate actions, inactions, and choices. I don't know how much I will be able to retrieve, but I will try. Nor can I be absolutely certain that all of my memories are photographically precise, since my children chide me that my stories get "better" with each retelling.

The law has changed in the half century I have been practicing and teaching it. If the past is the best predictor of the future, then it will change even more during the next half century. I will risk making some predictions about the changes we might anticipate.

Oliver Wendell Holmes once admonished his young colleagues that "it is required [that you] share the passion and action of [your] time at peril of being judged not to have lived."²⁹

I have lived the passion and action of my times. I now wish to share these experiences with my readers.

PART I

FROM BROOKLYN TO CAMBRIDGE

With Stops in New Haven and Washington

BORN AND RELIGIOUSLY EDUCATED IN BROOKLYN

Williamsburg and Boro Park

I was born on September 1, 1938, in a hospital—the first in my family not delivered at home. My parents lived in the Williamsburg neighborhood of Brooklyn, having moved as youngsters from the Lower East Side of Manhattan. Their parents were Orthodox Jews who had emigrated from Poland at the end of the nineteenth and the beginning of the twentieth century.¹ When my mother was pregnant with my brother, Nathan, who is four years younger than me, we moved to the Boro Park neighborhood of Brooklyn, where I grew up and where my parents remained until their deaths. The Boro Park of my youth was a Modern Orthodox community of second-generation Jews. Following the end of World War II, some displaced persons who had survived the Holocaust moved into the neighborhood. The current occupants of Boro Park are Chasidic Jews who have moved from Williamsburg seeking to recreate the shtetels of Eastern Europe. (My daughter Ella and her contemporaries now see Williamsburg as a cool neighborhood—a far cry from the “old country” where grandparents with Yiddish accents lived when I was growing up.)

My parents grew up in Williamsburg during the peak of the Depression. My mother, Claire, had been a very good student at Eastern District High School, graduating with honors at fifteen and a half. She then enrolled at City College in the fall of 1929—the first of her family to attend college. She was forced by her father’s deteriorating economic situation to leave before the end of the semester. She worked as a bookkeeper, earning \$12 a week.

My father, who was not a good student, attended Torah V’Daas—translated as “Bible and Knowledge”—Yeshiva in Williamsburg. He began to work during high school and never attended college.

My grandparents knew each other from the neighborhood. My grandfathers were both *chazanim*, cantors, who sang the Jewish liturgy in small synagogues, called *shteebles*. They were involved in the founding of several Jewish institutions, including a free loan society, a burial society, the Young Israel synagogue, and the Torah V’Daas Yeshiva.² Their day jobs were typical for their generation of immigrants. Louis Dershowitz sold corrugated boxes. Naphtali Ringel was a jeweler. My grandmothers, Ida and Blima, took care of their children. Each had eight, but two of Blima’s died of diphtheria during an epidemic. My mother, Blima’s second surviving child, nearly died during the influenza outbreak of 1917, but according to family lore, she was saved by being “bled.”

Born toward the end of the Depression and exactly a year to the day before the outbreak of the Second World War, I was the first of more than thirty grandchildren on both sides of my family.

My maternal grandfather had been married to my grandmother’s older sister, who died during childbirth, leaving two children. Pursuant to Jewish tradition, he then married the younger sister, my grandmother Blima, who was fifteen. In the 1930s, he traveled

Palestine by boat. Having little money, he worked as a *mashkeach*—the person whose job was to make sure the Kosher food was ritually acceptable—to earn his fare. Once in Palestine, he purchased a small parcel of land on which he someday hoped to build a home, but he quickly realized that he couldn't earn a living there and returned to Brooklyn. Several years later, he suddenly died. Since I was a toddler, I knew him only through family memories and sepia photographs. My grandmother, who still had three unmarried daughters at home, one son in the army, and another in California,³ could not afford to maintain her apartment, so my family moved in and my father paid the rent. We took in a boarder to help with the expenses, and I shared a room with her. After about a year, we moved to our own small apartment and then to the two-and-a-half-family house in which I grew up.

My paternal great-grandfather, Zecharja, who was the first of us to arrive in America in 1888, died in 1921 at age sixty-two. His wife, Lea, died in 1941, at age eighty-two, and I vaguely remember her.

My family has now been in the United States for more than half of our nation's existence. Most of Zecharja's numerous descendants have been very religious and relatively poor, giving rise to the family quip that the Dershowitzes have the lowest rate of wealth to time in America of any Jewish family.⁴ My grandfather Louis Dershowitz died when I was fifteen (he was seventy-one), so I knew him as a child. Though poor, he was respected for having saved many relatives from the Holocaust, by creating "jobs" for them as rabbis, cantors, ritual slaughterers, and other religious functionaries. The questionable affidavits he had concocted to "make up" these jobs helped to secure visas for twenty-eight of his European relatives who arrived in America just before the outbreak of the war. A twenty-ninth relative, a young girl who was studying the violin in Poland, was trapped. My grandfather refused to give up on her, sending his oldest, unmarried son—my uncle Menash—into the belly of the beast to find and "marry" her, so she could come to America. Although the marriage was supposed to be a sham, it lasted for more than fifty years, ending with their deaths less than a year apart.

Both of my grandmothers, Blima and Ida, lived to ripe old ages (Blima into her nineties and Ida into her eighties), and I knew them well. Blima played a significant role in my upbringing, since my mother worked and "Gramma Ringel" was always there to serve me milk and her homemade cookies when I came home from school.

Among my earliest memories were vignettes from the Second World War, which ended when I was nearly seven. I can see my father pasting on the Frigidaire door newspaper maps depicting the progress of Allied troops. I remember hearing radio accounts, in deep, stentorian voices, from WOR (which I thought spelled "war"), announcing military victories. I can still sing a ditty (sung to the tune of the Disney song from *Snow White*):

Whistle while you work

Hitler is a jerk

Mussolini is a meanie

And the Japs are worse⁵

The comic books we read during the war always pitted the superheroes against the Nazis and the "Japs," and I wanted to help. I decided that if Billy Batson could turn into Captain Marvel by simply shouting "Shazam!," so could I. And so, after making a cape out of a red

towel, I jumped out of the window yelling “Shazam!” Fortunately, I lived on the first floor and I only sustained a scraped knee and a bad case of disillusionment.⁶

When I was four years old, German spies landed on Long Island in a submarine. Although they were quickly captured, there were rumors of other planned landings. If I couldn’t help our war effort by turning myself into a superhero, at least I could look out for German spies. Over the next few summers, which my family spent in a rented room near Rockaway Beach, a police officer paid us kids a penny a day to be on the lookout for “Kraut subs.” We took our job seriously and spotted a few suspicious objects that turned out to be birds, or flotsam and jetsam.

I remember both VE (Victory in Europe) and VJ (Victory over Japan) days. There was dancing in the streets, block parties, and prayers. Our soldiers, including several of my uncles, were coming home. (My father received a medical deferment because he had an ulcer, which my mother said was caused by my bad behavior.)⁷

We weren’t told of the Holocaust or Shoah, just that we had lost many relatives in Europe to Hitler (*Yemach Sh’mo*—“May his name be erased”). We cheered Hitler’s death, which, according to a Jewish joke, we knew would occur on a Jewish holiday—because whatever day he died would *be* a Jewish holiday!⁸

The “greenies” (recent immigrants, “greenhorns”) who moved to Boro Park from the displaced persons camps never talked about what had happened “over there.” The tattooed numbers on their arms remained unexplained, though we knew they were dark reminders of terrible events. Even my grandfather rarely talked about the noble role he had played in saving family members, because he knew how many friends had lost relatives in Europe. My maternal grandparents lost nearly all their families, except for one couple who had managed to emigrate to Palestine before the war.

I grew up in a home entirely free of any racial prejudice. My parents admired black leaders (we called them “Negro” or “colored”). My father, who sold men’s work clothing and underwear, had several black customers, whom he treated as equals. My favorite college professor was black. Once every two weeks my mother hired a “cleaning woman” to dust and help her with the house. Some were black. Some were white. A few were Jewish immigrants. The only bigotry I remember was directed against Hungarian Jews by my maternal grandmother. She had obviously brought her prejudice with her from Poland. Following the end of World War II, several Hungarian Jewish families moved into the neighborhood. My grandmother immediately expressed a dislike. I recall her joking about the recipe for Hungarian omelet: “First steal two eggs!”

Among my other memories was Israel’s struggle for statehood. My family members were religious Zionists. We had blue-and-white Jewish National Fund *pushkas* (“charity boxes”) in our homes, and every time we made a phone call, we were supposed to deposit a penny. We sang the “Jewish National Anthem” (“Hatikvah”) in school assemblies. I still remember its original words, before Israel became a state: “*lashuv l’eretz avosainv*” (“to return to the land of our ancestors”).

One particular incident remains a painful memory. My mother had a friend named Mr. Perlestein, whose son Moshe went off to fight in Israel’s War of Independence. There was a party to celebrate his leaving. Several months later, I saw my mother crying. Moshe had been killed, along with thirty-four other Jewish soldiers and civilians, trying to bring supplies to

Jewish outpost near Jerusalem. My mother kept sobbing, “She was in the movies, when her son was killed.” Israel’s war had come home. Everyone in the neighborhood knew Moshe. He had attended my elementary school, played stickball on my block, and was a hero. It was a shared tragedy, and Moshe’s death—combined with my mother’s reaction to it—had a profound and lasting effect on me.

My friends and I formed a “club”—really just a group of kids who played ball together. We named it “the Palmach”—after the Israeli strike force that was helping to win the war. We memorized the Palmach anthem, “*Rishonim, tamid anachnu tamid, anu, anu Hapalmach.*” (“We are always the first, we are the Palmach.”)

VIGNETTE

Vidal Sassoon

Several years ago, I spoke to a Jewish group in Los Angeles, and among the guests were David Steinberg (the comedian) and the late Vidal Sassoon (the style master). Steinberg mentioned to me that when Sassoon was young, he fought for the Palmach. (If you think that seems unlikely, consider that “Dr. Ruth” Westheimer served as a sniper in the same war.) I challenged Sassoon to sing the Palmach anthem, and before you knew it, Sassoon and I were loudly belting out the Hebrew words to the amusement of the other surprised guests.

Israel declared statehood in May 1948, when I was nine years old. Following its bold declaration that after two thousand years of exile, there has arisen a Jewish state in the Land of Israel (supported by the United Nations, the United States, the Soviet Union, and most Western nations), the nascent state was attacked by the armies of the surrounding Arab countries. One out of every hundred Israeli men, women, and children were killed while defending their new state—some in cold blood, after surrendering. Many of those killed had managed to survive the Holocaust. That summer I went to a Hebrew-speaking Zionist summer camp called Massad (where the counselor in an adjoining bunk was Noam Chomsky, then a fervent left-wing Zionist). We heard daily announcements regarding the War of Independence. We sang Israeli songs, danced the hora, and played sports using Hebrew words (a strike was a *shkeya*, a ball a *kadur*).

Shortly after Israel defended itself against the Arab attacks, we learned of a new threat to the Jewish people: Stalin’s campaign against Jewish writers, politicians, and Zionists. Stalin became the new Hitler as we read about show trials, pogroms, and executions of Jews. We hated Communism almost as much as we hated fascism. We were also frightened of the threat posed by the Soviet Union, with its atomic arsenal. Our school made us practice running to the “shelter” in the event of a nuclear attack. During my latter years in elementary school, I wrote the following poem:

Engines all around us roaring with steam

Powerfull [sic, powerful] bombers and jets that gleam

Sources [sic, saucers] in the skyline, vechels [sic, vehicles] on earth

Atomic energy surrounding us from birth

Medical wonders, and scientific news

Wonderfull [sic, wonderful] progress, we hope to never loose [sic, lose]

But someday, in the future when energy turns to bombs

Atoms splitting [sic, splitting] all around us recking [sic, wrecking] homes and farms.

Someday in the future we shall be in the past.

Without electric bulbs to warm us—and without the funsets [sic, furnace's] blast.

These early memories contributed significantly to my emerging ideology and worldview. My family's politics were liberal, Zionist, and anti-Communist. Presidents Roosevelt and Truman and Mayor La Guardia were our heroes.

Although there were plenty of discussions about current events, politics, and religion, our home had few books, little music, no art, no secular culture. My parents were smart but had no time or patience for these "luxuries." Our apartment was modest—the ground floor of a two-and-a-half-family house. The upstairs was rented to my uncle, aunt, and their two children, while the finished basement was rented to my cousin and her husband, who had recently been discharged from the army. We lived in two small bedrooms, the smaller of which I shared with my brother. We ate in the kitchen. My mother's dream, never realized, was to have "a real dining room." The living room, which had the mandatory couch covered with plastic, was reserved for guests (who were rare). The tiny bathroom was shared by the four of us. The foyer doubled as a dining area for Shabbos meals. The total area was about one thousand square feet. But we had an outside—and what an outside it was! In the front there was a small garden and a stoop. In the rear we had a tiny back porch, a yard, and a garage. Since we had no car, we rented the garage to another cousin, who used it to store the toys he sold wholesale.

We were not poor. We always had food. But we couldn't afford luxuries, such as restaurants. We passed down clothing from generation to generation and ate a lot of "leftovers." (Remember the comedian who said, "We always ate leftovers—nobody has ever found the 'original' meal.") My mother has always said we were "comfortable." (The same comedian told about the Jewish man who was hit by a car and was lying on the ground when the ambulance attendant asked him, "Are you comfortable?" He replied, "I make a living.") I worked at part-time jobs beginning in elementary school and throughout high school and college—delivery boy, deli slicer, babysitter, Bar Mitzvah tutor, camp waiter and counselor.

VIGNETTE

Deli Guy

My first job was as a deli guy in a kosher delicatessen on the Lower East Side of New York. I tied the strings on the hot dogs and took pickles out of the barrels. One day I was locked in the freezer with an elderly worker, who figured out, fortunately for both of us, how to open the door from the inside. I also made deliveries on my bike. I couldn't drive, because I was only fourteen. One of my teachers, to whom I made a delivery, had suggested I become a deli guy.

Nearly half a century later, I opened a kosher deli in Harvard Square, in partnership with several friends. We called it Mavin's Kosher Court. The reviews were great, there were always lines to get in, but we were losing about two bucks a sandwich. With the high price of importing good pastrami and corned beef from New York, and with the need to close on Friday night and Saturday, we simply couldn't turn a profit. And so in less than a year, we paid off all our debts and closed shop. It turns out I wasn't suited to be a deli guy after all.

The social heart of our home was the front stoop. We conversed on it, played stoop ball on it, jumped from it, and slid down the sides. It was like a personal playground. On nice days the family was on the stoop. We listened to the radio—Brooklyn Dodger baseball games, *The Lone Ranger*, *Can You Top This?*, *The Shadow*, *Captain Midnight*, and *The Arthur Godfrey Show* (we hadn't yet learned of his anti-Semitism)—with the radio connected to an inside socket by a long, frayed extension cord. We ate lunch on the stoop, had our milk and cookies on the stoop when we got back from school, traded jokes and even did our homework on the stoop. Mostly, we just sat on the stoop and talked among ourselves and to passing neighbors, who knew where to find us. In those days, nobody called ahead—phone calls were expensive. They just dropped by.

In front of the stoop was what we called “the gutter.” (Today it is referred to as “the street.”) The gutter was part of our playground, since cars were rare. We played punch ball in the gutter, stickball in the driveway, and basketball in front of the garage—shooting at a rim screwed to an old Ping-Pong table secured to the roof of the garage by two-by-fours.

Our house became the magnet for my friends because we had a stoop, a hoop, and a gutter in front of our stoop with few trees to hinder the punched ball. (A ball that hit a tree was called a “hindoo”—probably a corruption of “hinder.”)

The stereotype of the Brooklyn Jewish home during the post-World War II era was one filled with books, music, art prints, and intellectual parents forcing knowledge into the upwardly mobile male children aspiring to become doctors, professors, lawyers, and businessmen.⁹ (The daughters were also taught to be upwardly mobile by marrying the doctors, lawyers, et cetera.)

My home could not have been more different. My musical training was limited to a year of accordion lessons (we couldn't afford a piano), which ended unceremoniously when my cousin who lived upstairs threw my accordion (which cost \$20) out the window because he hated “the noise” I was making. The living room bookshelves were filled with inexpensive tchotchkes. The only books were a faux leather yellow dictionary that my parents got for free by subscribing to *Coronet* magazine. When I was in college, they briefly subscribed to the

Reader's Digest Condensed Books. There was, of course, a *Chumash* (Hebrew Bible) and half dozen prayer books. I do not recall seeing my parents read anything but newspapers (the *New York Post*) until I went to college. They were just too busy making a living and keeping house.

There were no bookstores in Boro Park, except for a small used bookshop that seemed to specialize in subversive books. The owner, who smelled like his mildewed books, looked like Trotsky, who he was said to admire. We were warned to stay away, lest we be put on some "list" of subversives.

My parents, especially my mother, were terrified about "lists" and "records." This was after all, the age of "blacklists," "Red Channels," and other colored compilations that kept anyone on them from getting a job. "They will put you on a list," my mother would warn. "It will go on your permanent record." When I was fourteen, I actually did something that may have gotten me on a list.

It was during the height of the McCarthy period, shortly after Julius and Ethel Rosenberg had been sentenced to death. A Rosenberg relative was asking people to sign a petition to save the Rosenbergs' lives. I read the petition and it made sense to me, so I signed it. A neighbor observed the transaction and duly reported it to my mother. She was convinced that my life was over, my career ruined, and my willingness to sign a Communist-inspired petition part of my permanent record. My mother decided that I had to be taught a lesson. She told my father the story. I could see that my father was proud of what I had done, but my mother told him to slap me. Ever obedient, he did, causing him, I suspect, more pain than me.¹⁰

In addition to the "subversive" bookstore, our neighborhood had a library that was tiny and decrepit. When I was nearing the end of high school, a spacious library opened. We went there every Friday afternoon because that's where the girls were and because we could take out up to four books. The two reasons merged when Artie Edelman realized that we could impress the girls by taking out serious books. Up until that time my reading of literature had been limited to Classic Comics.

Don't laugh! Classic Comics were marvelous. Not only could we read about the adventures of Ivanhoe, we could see what he looked like! My first erotic desires were aroused by the illustration of the dark-haired "Jewess" Rebecca. (I have searched for a copy of this Classic Comic at flea markets to relive my unrequited adolescent lust.)

I recently came across the Classic Comic of *Crime and Punishment*. Having now read three translations of this great work, I was amazed at how faithful the comic was to the tone and atmosphere, and even words of the original. I tried to give it to my granddaughter, who was reading the book for class, but she politely turned down the offer, with an air of condescension that one accepts only from a grandchild.

Among the first real books I read were several to which I had been introduced by the Classic Comics: *The Count of Monte Cristo*, *The Red Badge of Courage*, *Moby Dick*, and *Connecticut Yankee in King Arthur's Court*. (The first three were better than the Classic Comics; the fourth, not as good!)

During my senior year in high school, I became a voracious reader, to the disdain of some family members. My uncle Hedgie (a nickname for Harry) would berate me for sitting around the house reading when I could be working or playing sports. "Be a man," he would demand. "Get off your ass." But I would stay in my tiny room, with my tape recorder playing classical music I had recorded off WQXR, the *New York Times* classical music station, or off a record.

borrowed from the library and recorded from my friend Artie's turntable. I also saved enough money from my jobs to buy a used copy of the *Encyclopedia Americana*. My friend Norman Sohn had found an old bookstore on Fourth Avenue in Manhattan that sold used encyclopedias, and the *Americana* cost only \$75, as contrasted with the *Britannica*, which was \$200.

During my early years, all we had was a small plastic radio that lived in the kitchen, unless it was moved near the stoop. When I was ten years old, we bought a ten-inch TV "console" that included a 78-rpm phonograph player that opened at the top. But my mother had situated her "good" lamp on top of the console, so I couldn't get access to the turntable. With my Bar Mitzvah money, I bought a humongous Webcor reel-to-reel tape recorder, which must have been a foot cubed. I could barely lift it, and the tape often tangled or split, but it was better than the wire recorder technology that it replaced.

I loved classical music, especially opera. As an adolescent I had sung alto in the local synagogue choir, and I had a fairly good voice. My passion for music took me to the Metropolitan Opera House, where for 50 cents, a student could get a seat with a table and a lamp if he came with a score of the opera. We would borrow the score from the library, take a train to Times Square, and listen to Richard Tucker, Robert Merrill, Jan Peerce, Richard Stevens, and Roberta Peters sing *Carmen*, *La Bohème*, and *La Traviata*. (We were forbidden to listen to Wagner, because he was an anti-Semite whom Hitler admired.)

I also became passionate about art. All kinds of art, from Egyptian and Roman sculpture to Picasso's *Guernica* and Rodin's *The Thinker*. There were no art posters or prints in our home. The walls had mirrors (to make the apartment seem bigger). But there were free museums all around us, and the library had art books—with pictures of naked women! I loved Goya's *Nude Maja*, especially when contrasted with the clothed version, who I imagined was undressing just for me!

The girls loved to be asked on a museum date, and we loved to ask because it was free and it showed them that we had "culture" (pronounced "culchah").

To this day I have no idea how I fell in love with literature, music, and art. I was never exposed to classical music or art, even in school, where our music teacher taught us "exotic" songs like "Funiculi, Funicula," American songs by Stephen Foster, and an assortment of religious and Zionist Hebrew songs ("Zum Gali, Gali, Gali," "Tsena, Tsena," "Hayveyanu Shalom Alechem"). Our art teachers tried to teach us to draw "useful" objects, like cars, trains, and horses.

My friends' homes were as barren of culture as mine, with the exception of Artie Edelman and Bernie Beck, whose parents were better educated and more cultured than mine. I must have picked up some appreciation of music and art from them. When I went to sleepaway camp as a junior counselor, I came in contact with music and art through the "rich" Manhattan kids who had attended the expensive camp as paying campers and were now also junior counselors.

None of these peripheral contacts with culture fully explains my transition from a home barren of books, records, and art to my home as an adult, which is filled with books, music, paintings, sculpture, and historical objects.¹¹

Nor can I explain why none of my three children has any real passion for the classical arts. They are by no means uncultured. They love popular music, films, current fiction, theater,

- [download Gilded Latten Bones \(Garrett Files, Book 13\)](#)
- [download Dialectic and Dialogue pdf](#)
- [download online Porn for Women](#)
- [read online Inside Iran pdf, azw \(kindle\)](#)
- [Draw 50 Horses: The Step-by-Step Way to Draw Broncos, Arabians, Thoroughbreds, Dancers, Prancers, and Many More... online](#)
- [read online An Encyclopedia of the History of Technology \(Routledge Companion Encyclopedias\) pdf, azw \(kindle\)](#)

- <http://betsy.wesleychapelcomputerrepair.com/library/Gilded-Latten-Bones--Garrett-Files--Book-13-.pdf>
- <http://cavalldecartro.highlandagency.es/library/Leverage--The-Roleplaying-Game--Get-Ready-to-Get-Even.pdf>
- <http://ramazotti.ru/library/Romanticism-and-Philosophy--Thinking-with-Literature--Routledge-Studies-in-Romanticism-.pdf>
- <http://aseasonedman.com/ebooks/The-Memory-Cure--How-to-Protect-Your-Brain-Against-Memory-Loss-and-Alzheimer-s-Disease.pdf>
- <http://www.netc-bd.com/ebooks/Sherlock-Holmes--The-Man-Who-Never-Lived-and-Will-Never-Die.pdf>
- <http://bestarthritiscare.com/library/An-Encyclopedia-of-the-History-of-Technology--Routledge-Companion-Encyclopedias-.pdf>