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INSIDE THE WORLD CHANGERS ISSUE

The First Amendment After Hogan v. Gawker

In the December 19 & 26, 2016, issue of *The New Yorker*, in "When Truth Is Not Enough" (p. 96), **Jeffrey Toobin** reports on the attorney Charles Harder's smashing legal victory that led to Gawker's demise, and on the broader Trump-era threat to the First Amendment. In 2012, a videotaped sexual encounter between Hulk Hogan, the professional wrestler, and the wife of his erstwhile best friend, Bubba the Love Sponge, ended up with Gawker's editor, A. J. Daulerio. Daulerio told Toobin, "Of course we were going to run it. . . . It was impossible to think of it as anything other than public news." Since the nineteen-sixties, in a series of Supreme Court precedents, most of them involving newspapers, "the Court came close to saying, but never quite said, that publication of the truth was always protected by the First Amendment," Toobin writes. "But, in an age when Internet publishers can, with a few clicks, distribute revenge porn, medical records, and sex tapes—all of it truthful and accurate—courts are having second thoughts about guaranteeing First Amendment protection." The prospect of liability for true stories—like the Hulk Hogan sex tape—presents a chilling risk for journalists who rely on the right to free speech. The jury's verdict in the Gawker case—a gargantuan award of a hundred and forty million dollars, in Hogan's favor—"heralds a new era, in which judges and jurors see the ribald world of the Internet, rather than the staid realm of newspapers, as the dominant form of journalism," according to Toobin. Amy Gajda, the author of "The First Amendment Bubble," says, "Courts are now viewing newsworthiness in a dangerously subjective way to show that today's Internet-based media sometimes doesn't have the same ethics constraints as more mainstream media." Hogan's attorney, Charles Harder, tells Toobin, "I'm pro responsible press . . . [Gawker's] modus operandi was character assassination. The fact that they are not doing it anymore doesn't bother me."

"In retrospect," Toobin writes, "Hogan v. Gawker in the courtroom looks in some ways like a dress rehearsal for Trump v. Clinton at the polls. In both contests, a star of reality television who initially became famous in another field portrayed himself as an embattled outsider confronting an unaccountable élite. In both, a wealthy and successful man played the victim. And on both occasions that man won a convincing and consequential victory." But the "clearest winner in the Hogan case," Toobin writes, "has been Charles Harder, who has become the de-facto general counsel for the Trump backlash against the press." On behalf of Melania Trump, Harder filed a libel suit against the American Web site of London's *Daily Mail*, which reported that she had once worked as an escort. Again on behalf of Melania Trump, Harder demanded the withdrawal of a YouTube video asserting that her son Barron Trump was autistic. Harder also represents Roger Ailes, the former president of Fox News and sometime Trump adviser. The new President "will certainly welcome a legal environment that is less forgiving of media organizations," Toobin writes. "Trump's victory, along with Hulk Hogan's, suggests that the public may well take their side, too."

Viola Davis Aims to Alter How African-Americans Are Seen

In "Act of Grace" (p. 52), **John Lahr** profiles the actress Viola Davis, who delivers "the best performance—in the best role—of her career," he writes, in the upcoming movie adaptation of August Wilson's Pulitzer Prize-winning play "Fences" (1983), opening on December 25th.

Davis grew up poor, in Rhode Island, and, for most of her childhood, school lunch was her main meal. "When I say we had nothing, I mean zero," she says. The Davises were often without heat or electricity, and Viola sometimes went to bed with rags tied around her neck to keep rats from biting her in her sleep. When it comes to poor communities, she tells Lahr, "You're not even there. You don't exist." To fight that invisibility, Davis discovered acting. In 1989, she was one of two dozen students chosen out of a thousand applicants to enter the acting program at Juilliard.

Now, Davis—who played Aibileen Clark in "The Help" (2011) and has twice been nominated for an Academy Award—stars as Annalise Keating, a high-profile defense attorney and law professor in the ABC legal-drama series "How to Get Away with Murder." Frustrated by the lack of white curiosity about black lives—"I've played many best friends, crack-addicted mothers, next-door neighbors, or professionals with no personal lives," she tells Lahr—Davis worked with the series' creator, Peter Nowalk, to make Keating a three-dimensional character, pushing the show's writers to dramatize the inner world of this tough, brilliant professional. "I don't see acting as hiding," she says. "I see it as stepping up buck naked in front of a group of people that you don't know. . . . It's about exposing. If you're not doing that, you're basically not doing anything." Meryl Streep, who co-starred with Davis in "Doubt" (2008), notes, "[Davis] has enormous restraint as an artist. It's a big dam holding back the deluge, and that power, held in check behind her eyes—what she withholds, or lets you wait for—is evidence of real mastery."



Last month, Lahr visited Davis at her seventy-five-hundred-square-foot home, in Los Angeles. She said, "Because I grew up in such tight spaces, I don't get manicures, pedicures, I'm not into cars, but I am into a fabulous house. I wanted the spiral staircase, clean sheets on the bed, to be able to take a shower." The house is a kind of trophy of Davis's survival. "I consider myself a hero," she tells Lahr. "I had a call to adventure, a call to live life bigger than myself. I found the elixir."

Edward Burtynsky's Quest to Photograph a Changing Planet

In "The Long View" (p. 80), Raffi Khatchadourian profiles Edward Burtynsky, the Canadian photographer known for his sweeping images of industrial projects and their effects on the environment. Khatchadourian travels with Burtynsky to Nigeria, where he is working on a project about Africa, and another, about the way human activity is changing the earth; exclusive photographs from the shoot accompany Khatchadourian's piece. Today, a Burtynsky print sells for tens of thousands of dollars, and the artist can raise millions for his projects. Nicholas Metivier, Burtynsky's chief dealer, in Toronto, recalls a turning point, in 1996, when Burtynsky photographed a large diptych of iron-ore runoff at a mine in Ontario: "He used a very wide angle lens, and with an eight-by-ten camera he was able to keep horizon lines flat, so you didn't get the fish-eye effect. The average viewer had no clue that the river was less than three feet wide. They thought it was the size of the Thames. People found it shocking."

For three decades, Burtynsky has been "documenting colossal mines, quarries, dams, roadways, factories, and trash piles—telling a story, frame by frame, of a planet reshaped by human ambition," Khatchadourian writes. Port Harcourt, in the Niger Delta, is "the most contested landscape that I've photographed," Burtynsky tells Khatchadourian. Burtynsky spent a morning in Lagos taking video at a multibillion-dollar complex called Eko Atlantic, where developers were constructing a privately run city. A few days later, he filmed at Makoko, a shantytown where people live in houses propped on stilts over Lagos Lagoon. Burtynsky was seeking to document not the struggles of individual Nigerians but the aggregate effect of those struggles, how they formed a combined image. Burtynsky says, "What I am interested in is how to describe large-scale human systems that impress themselves upon the land." He continues, "Humans are shifting the balance of the planet, and the choice rests within us to destroy it all, or not. It's a huge, complex thing to solve. We are a predator species run amok."

Can the Emirates' New Cultural Palaces be Built with Fair Labor?

In "The Gulf Art War" (p. 74), **Negar Azimi** reports from the United Arab Emirates, where plans for a multibillion-dollar development in Abu Dhabi, including a new Guggenheim Museum, designed by Frank Gehry, have emboldened human-rights activists to fight for strengthened labor standards across the region. Today, some of the most ambitious building projects in the world are underwritten by Gulf governments. According to U.N. estimates, there are about twenty-five million migrant workers in the Gulf, drawn by wages as much as three times higher than what they can earn at home. Most of these workers are bound to their employers by an informal system known as *kafala*, or "sponsorship." Since the mid-aughts, human-rights groups have been documenting lax safety regulations and substandard living conditions across the region. Plans to develop a vast cultural district in Abu Dhabi have reignited their fight.

In 2010, the conceptual artist Walid Raad, with forty-two other artists, sent a letter to the Guggenheim, suggesting that they would not sell work to the new museum, or have work shown there, unless the Guggenheim agreed to "raise the bar" for working conditions. Gulf Labor, as the activists call themselves, insist that they want the museum to be built. But even as changes are made they continue their protest. Michelle Kuo, the editor of Artforum, told Azimi, "Not since the Art Workers Coalition picketed museums for failures like ignoring the Vietnam War has there been such a visible, and truly international, political movement of artists."

The future of Guggenheim Abu Dhabi appears uncertain. Mishaal al Gergawi, an Emirati intellectual, told Azimi, "You sit there on the throne, thinking, My country is only forty-five years old, and I'm trying to fight ISIS, develop a post-oil economy, foster a tolerant society by building museums and universities, and I'm getting criticized for labor issues? Give me a break." Members of Gulf Labor have expressed dismay at the idea of cancellation. "We want this project to succeed," the artist Naeem Mohaiemen said to Azimi. "That's why we've put six long years into this campaign. We saw an opportunity to make this a great museum—a model institution in every sense." Whatever the fate of the museum, Gulf Labor has made it difficult for arts institutions to ignore the human-rights dimension of their work. "I admire them," Glenn Lowry, of MOMA, said. "They have been very effective in galvanizing attention around the issue and keeping it in play."

In a series of essays, writers reflect on people they consider to be visionaries: **Vinson Cunningham**, on the Motown group Holland-Dozier-Holland (p. 76); **Elif Batuman**, on the stoic philosopher Epictetus (p. 84); **Evan Osnos** on Xu Hongci, a counterrevolutionary under Mao Zedong's regime (p. 94); **Judith Thurman**, on the avant-garde photographer Grete Stern (p. 100); and **Téa Obreht**, on David Attenborough, the creator of "The Blue Planet," "The Trials of Life," and "Planet Earth" (p. 104).

Plus: In Comment, Margaret Talbot considers the extent of Ivanka Trump's influence on protecting the rights of women under a Trump Administration (p. 43); in the Financial Page, James Surowiecki examines the history of doctors blocking health-care reforms in America (p. 50); Alan Burdick reflects on the passage of time, our perception of it, and how it became a property of the mind (p. 68); Cora Frazier imagines Katniss Everdeen's White House intern application (p. 65); Elizabeth Kolbert considers the future of automation (p. 114); Malcolm Gladwell reads a new book about a recent meeting between Daniel Ellsberg and Edward Snowden, and considers the differ-

ences between the two men (p. 119); **Emily Nussbaum** reviews "Search Party," a new dark comedy on TBS (p. 126); **Hilton Als** attends "Dear Evan Hansen," directed by Michael Greif, at the Music Box (p. 128); **Anthony Lane** watches Mike Mills's "20th Century Women" and Pedro Almodóvar's new film, "Julieta" (p. 130); **Ian Frazier** writes the magazine's annual holiday poem, "Greetings, Friends!" (p. 91); a poem by **Mario Chard** (p. 78); and new fiction by **Mariana Enríquez** (p. 106).

Podcasts: Dorothy Wickenden speaks with **John Cassidy** about Donald Trump's potential conflicts of interest; **Camille Bordas** reads her short story "Most Die Young"; and **Paul Muldoon** speaks with Parker Henry about fact-checking poetry for *The New Yorker*.

Digital Extras: A slide show of architecture in the United Arab Emirates; videos, by Edward Burtynsky, that depict views of Lagos, Nigeria; **Mario Chard** reads his poem; and **Richard Brody** comments on scenes from Maya Vitkova's "Viktoria," from 2014.

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