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Blogs: JUST SECURITY (<http://justsecurity.org>) | LAWFARE (<http://www.lawfareblog.com>) | PRAWFSBLAWG (<http://www.prawfs.com>)

EMPLOYMENT

UNIVERSITY OF TEXAS SCHOOL OF LAW, Austin, Tex. June 2016 –
A. Dalton Cross Professor in Law, November 2017 – present.
Professor of Law, June 2016 – November 2017.

Courses: Constitutional Law; Federal Courts; National Security / Counterterrorism Law; Military Justice and Jurisdiction.

Service: University Information Technology Committee (2017–20); Appointments (2016–18); Colloquium/Lectures (2016–17).

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW, Washington, D.C. September 2007 – June 2016
Professor of Law, September 2009 – June 2016.
Associate Dean for Scholarship, September 2011 – August 2014.
Associate Professor of Law, September 2007 – August 2009.

Awards: American University Faculty Award for Outstanding Scholarship, Research, Creative Activity, and Other Professional Contributions (2012–13); WCL Teacher of the Year (2009–10); WCL External Service Award (2010–11); SBA Professor of the Year (2008–09; 2010–11; 2011–12); Emalee C. Godsey Faculty Scholarship Award (2008–09); NIMJ Kevin J. Barry Writing Award for Excellence in Military Legal Studies (2010).

ROBERT STRAUSS CENTER FOR INTERNATIONAL SECURITY AND LAW, Austin, Tex. June 2016 – present
Distinguished Scholar.

THE CABLE NEWS NETWORK, Atlanta, Ga. May 2013 – present
Supreme Court Contributor.

CENTER ON NATIONAL SECURITY, FORDHAM UNIVERSITY SCHOOL OF LAW, New York, N.Y. October 2012 – present
Fellow.

THE CONSTITUTION PROJECT, Washington, D.C. February 2010 – present
Supreme Court Fellow.

UNIVERSITY OF MIAMI SCHOOL OF LAW, Coral Gables, Fla. June 2005 – June 2007
Associate Professor of Law.

HON. ROSEMARY BARKETT, U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, Miami, Fla. May 2006 – August 2006
Law Clerk. (filled a vacancy to complete the Term).

HON. MARSHA S. BERZON, U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT, San Francisco, Cal. June 2004 – June 2005
Law Clerk.

CLEARY, GOTTlieb, STEEN, & HAMILTON, New York, N.Y. and London, England Summer 2003
Summer Associate.

HUMAN RIGHTS FIRST (LAWYERS COMMITTEE FOR HUMAN RIGHTS), Washington, D.C. Summer 2002
Legal Intern, International Justice and U.S. Law & Security Programs.

EDUCATION

YALE LAW SCHOOL, J.D., 2004

Awards: Potter Stewart Prize for Best Team Performance in Moot Court (Spring 2004)
Harlan Fiske Stone Prize for Outstanding Individual Moot Court Oralist (Spring 2004)

Activities: Executive Editor, YALE L.J.; Articles Editor, YALE J. INT'L L.; Submissions Editor, YALE HUM. RTS. & DEV. L.J.
Student Director, Balancing Civil Liberties & National Security Post-9/11 Litigation Project
Research Assistant & Teaching Assistant (Civil Procedure), Prof. Harold Hongju Koh
Teaching Assistant (Civil Procedure), Prof. Oona A. Hathaway

AMHERST COLLEGE, B.A., *summa cum laude*, with Highest Distinction in History and Mathematics, 2001

Thesis: LEIPZIG'S SHADOW: THE WAR CRIMES TRIALS OF THE FIRST WORLD WAR
AND THEIR IMPLICATIONS FROM NUREMBERG TO THE PRESENT

Awards: NACDA / Sears Director's Cup National Postgraduate Scholarship (2001)
Alfred J. Havighurst Prize for Outstanding Senior History Major (2001)
Sphinx Spoon for Outstanding Dedication to Athletics (1999, 2000, 2001)
Samuel Bowles Prize for Excellence in Journalism (1999)

TEACHING AND RESEARCH INTERESTS

Federal Courts; Constitutional Law; National Security Law; Civil Procedure; Military Law; Separation of Powers; Habeas Corpus; International Criminal Law; Immigration Law; Administrative Law; and Legislation.

SELECTED PUBLICATIONS

The Constitutional Right to Collateral Post-Conviction Review, 103 VA. L. REV. 905 (2017) (with Carlos M. Vázquez)

NATIONAL SECURITY LAW (6th ed. 2016) (with Stephen Dycus, Arthur L. Berney, William C. Banks, and Peter Raven-Hansen)

COUNTERTERRORISM LAW (3d ed. 2016) (with Stephen Dycus, William C. Banks, and Peter Raven-Hansen)

Military Courts and Article III, 103 GEO. L.J. 933 (2015)

After the AUMF, 5 HARV. NAT'L SEC. J. 115 (2014) (with Jennifer Daskal)

State Law, the Westfall Act, and the Nature of the Bivens Question, 161 U. PA. L. REV. 509 (2013) (with Carlos M. Vázquez)

The New National Security Canon, 61 AM. U. L. REV. 1295 (2012)

The Passive-Aggressive Virtues, 111 COLUM. L. REV. SIDEBAR 122 (2011)

Book Review, *The New Habeas Revisionism*, 124 HARV. L. REV. 941 (2011)
(reviewing PAUL D. HALLIDAY, *HABEAS CORPUS: FROM ENGLAND TO EMPIRE* (2010))

The Laws of War as a Constitutional Limit on Military Jurisdiction, 4 J. NAT'L SEC. L. & POL'Y 295 (2010)

Terrorism Trials and the Article III Courts After Abu Ali, 88 TEX. L. REV. 1501 (2010)

Boumediene's Quiet Theory: Access to Courts and the Separation of Powers, 84 NOTRE DAME L. REV. 2107 (2009)

Deconstructing Hirota: Habeas Corpus, Citizenship, and Article III, 95 GEO. L.J. 1497 (2007)

Note, *Emergency Power and the Militia Acts*, 114 YALE L.J. 149 (2004)

Case Comment, *Non-Self-Executing Treaties and the Suspension Clause After St. Cyr*, 113 YALE L.J. 2007 (2004)

Note, *The Detention Power*, 22 YALE L. & POL'Y REV. 153 (2004)

Policy Comment, *A Small Problem of Precedent: 18 U.S.C. § 4001(a) and the Detention of U.S. Citizen "Enemy Combatants,"*
112 YALE L.J. 961 (2003)

OTHER BOOKS / BOOK CHAPTERS / ENCYCLOPEDIA ENTRIES

Implied Constitutional Remedies After Abbasi, in AM. CONST. SOC'Y, SUPREME COURT REVIEW, 2016–2017, at 189
(Steven D. Schwinn ed., 2017)

"Incidental" Foreign Intelligence Surveillance and the Fourth Amendment, in THE CAMBRIDGE HANDBOOK
OF SURVEILLANCE LAW 101 (David Gray & Stephen E. Henderson eds., 2017) (with Jennifer Daskal)

STEPHEN DYCUS ET AL., NATIONAL SECURITY LAW (6th ed. Supp. 2017) (co-author)

STEPHEN DYCUS ET AL., COUNTERTERRORISM LAW (3d ed. Supp. 2017) (co-author)

Article I Federal Courts, in AM. BAR ASS'N, THE IMPROVEMENT OF THE ADMINISTRATION OF JUSTICE 745 (8th ed. 2016)

STEPHEN DYCUS ET AL., NATIONAL SECURITY LAW (5th ed. Supps. 2012, 2013, 2014, 2015) (co-author)

STEPHEN DYCUS ET AL., COUNTERTERRORISM LAW (2d ed. Supps. 2012, 2013, 2014, 2015) (co-author)

Detention and Interrogation in Law and War, in ROUTLEDGE HANDBOOK OF LAW AND TERRORISM 163
(Genevieve Lennon & Clive Walker, eds., 2015) (with Clive Walker)

Prosecuting Leakers Under U.S. Law, in WHISTLEBLOWERS, LEAKS, AND THE MEDIA:
THE FIRST AMENDMENT AND NATIONAL SECURITY 29 (Paul Rosenzweig et al., eds. 2014)

- Navigating the Shoals of Secrecy: A Comparative Analysis of the Use of Secret Evidence and “Cleared Counsel” in the United States, the United Kingdom, and Canada*, in REASONING RIGHTS: COMPARATIVE JUDICIAL ENGAGEMENT 161 (Liora Lazarus et al., eds., Hart Publ’g 2014) (with David Cole)
- Eisentrager’s (Forgotten) Merits: Military Commissions and Collateral Review*, in UNTOLD STORIES: HIDDEN HISTORIES OF WAR CRIMES TRIALS 193 (Kevin Heller & Gerry Simpson eds., Oxford Univ. Press 2013)
- The Civilianization of Military Jurisdiction*, in THE CONSTITUTION AND THE FUTURE OF CRIMINAL JUSTICE IN AMERICA 287 (John T. Parry & Song Richardson eds., Cambridge Univ. Press 2013)
- Exceptional Courts and the Structure of American Military Justice*, in GUANTÁNAMO AND BEYOND: EXCEPTIONAL COURTS AND MILITARY COMMISSIONS IN COMPARATIVE AND POLICY PERSPECTIVE 163 (Fionnuala D. Ní Aoláin & Oren Gross eds., Cambridge Univ. Press 2013)
- Comparative Advantages: Secret Evidence and “Cleared Counsel” in the United States, the United Kingdom, and Canada*, in SECRECY, NATIONAL SECURITY AND THE VINDICATION OF CONSTITUTIONAL LAW 173 (David Cole et al., eds., Edward Elgar Publ’g 2013) (with David Cole)
- Detention Policies*, in PATRIOTS DEBATE: CONTEMPORARY ISSUES IN NATIONAL SECURITY LAW 205 (Harvey Rishikof et al., eds., Am. Bar Ass’n 2012) (with Gregory F. Jacob)
- Justice Jackson, the Memory of Internment, and the Rule of Law After the Bush Administration*, in WHEN GOVERNMENTS BREAK THE LAW: THE RULE OF LAW AND THE PROSECUTION OF THE BUSH ADMINISTRATION 183 (Austin Sarat & Nasser Hussain eds., 2010)
- Clay v. United States*, in 4 MILESTONE DOCUMENTS IN AFRICAN AMERICAN HISTORY 1566 (Paul Finkelman ed., 2010)
- The Supremacy Clause*, in 5 THE OXFORD INTERNATIONAL ENCYCLOPEDIA OF LEGAL HISTORY 410 (Stanley N. Katz et al., eds., 2009)
- Rumsfeld v. Padilla*, 542 U.S. 426 (2004), in 4 ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES 306 (David S. Tanenhaus et al., eds., 2008)
- The Statutory Framework*, in GEOFFREY R. STONE, TOP SECRET: WHEN OUR GOVERNMENT KEEPS US IN THE DARK 67 (2007)

ADDITIONAL LAW REVIEW PUBLICATIONS

- Book Review*, 132 POL. SCI. Q. 376 (2017) (reviewing ALLAN A. RYAN, THE 9/11 TERROR CASES: CONSTITUTIONAL CHALLENGES IN THE WAR AGAINST AL QAEDA (2015))
- The Wars of the Judges*, 92 WASH. L. REV. 1 (2017)
- The Demise of Merits-Based Adjudication in Post-9/11 National Security Litigation*, 64 DRAKE L. REV. 1035 (2016)
- Using the Supreme Court’s Original Habeas Jurisdiction To “Ma[k]e” New Rules Retroactive*, 28 FED. SENT. REP. 225 (2016)
- Transcript, *Convicted Terrorists: Sentencing Considerations and Their Implications on Foreign Policy*, 8 J. NAT’L SEC. L. & POL’Y 347 (2016)
- War and Justiciability*, 49 SUFFOLK L. REV. 47 (2016)
- Petty Offenses and Article III*, 19 GREEN BAG 2D 67 (2015)
- The Exceptionalism of Foreign Relations Normalization*, 128 HARV. L. REV. F. 322 (2015)
- The FISA Court and Article III*, 72 WASH. & LEE L. REV. 1161 (2015)
- Transcript, *A New Paradigm of Leaking?*, 8 J. NAT’L SEC. L. & POL’Y 5 (2015)
- Military Courts and the All Writs Act*, 17 GREEN BAG 2D 191 (2014)
- Terrorism Prosecutions and the Problem of Constitutional “Cross-Ruffing,”* 36 CARDOZO L. REV. 709 (2014)
- Detention After the AUMF*, 82 FORDHAM L. REV. 2189 (2014)
- Standing and Secret Surveillance*, 10 I/S: J.L. & POL’Y FOR INFO. SOC’Y 551 (2014)
- Big Data Before and After Snowden*, 7 J. NAT’L SEC. L. & POL’Y 333 (2014)
- Transcript, *Charting the Future: What to Expect from Big Data*, 7 J. NAT’L SEC. L. & POL’Y 341 (2014)
- Targeted Killing and Judicial Review*, 82 GEO. WASH. L. REV. ARGUENDO 11 (2014)
- Pendent Appellate Bootstrapping*, 16 GREEN BAG 2D 199 (2013)

- Habeas, Due Process, and Extradition*, 98 CORNELL L. REV. ONLINE 20 (2013)
- Access to Counsel, Res Judicata, and the Future of Habeas at Guantánamo*, 161 U. PA. L. REV. PENNUMBRA 78 (2012)
- Douglas and the Fate of Ex Parte Young*, 122 YALE L.J. ONLINE 13 (2012)
- Book Review, *Democratic Competence, Constitutional Disorder, and the Freedom of the Press*, 87 WASH. L. REV. 529 (2012)
(reviewing ROBERT POST, *A FIRST AMENDMENT JURISPRUDENCE FOR THE MODERN STATE: DEMOCRACY, EXPERTISE, AND ACADEMIC FREEDOM* (2012))
- States' Rights and State Standing*, 46 U. RICH. L. REV. 845 (2012)
- Insular Thinking About Habeas*, 97 IOWA L. REV. BULL. 16 (2012)
- The D.C. Circuit After Boumediene*, 41 SETON HALL L. REV. 1451 (2011)
- Normalizing Guantánamo*, 48 AM. CRIM. L. REV. 1547 (2011)
- Bivens Remedies and the Myth of the "Heady Days,"* 8 U. ST. THOMAS L.J. 513 (2011)
- The Supreme Court, Original Habeas, and the Paradoxical Virtue of Obscurity*, 97 VA. L. REV. IN BRIEF 31 (2011)
- Why Klein Still Matters: Congressional Deception and the War on Terrorism*, 5 J. NAT'L SEC. L. & POL'Y 251 (2011)
- The Unreviewable Executive: Kiyemba, Maqaleh, and the Obama Administration*, 27 CONST. COMMENT. 603 (2010)
- State Sovereign Immunity and the Roberts Court*, 5 CHARLESTON L. REV. 99 (2010)
- Common-Law Habeas and the Separation of Powers*, 95 IOWA L. REV. BULL. 39 (2010)
- Foreword: National Security's Distortion Effects*, 32 W. NEW ENG. L. REV. 285 (2010)
- Terrorism and International Criminal Law After the Military Commissions Acts*, 8 SANTA CLARA J. INT'L L. 101 (2010)
- National Security and Bivens After Iqbal*, 14 LEWIS & CLARK L. REV. 255 (2010)
- The Problem of Jurisdictional Non-Precedent*, 44 TULSA L. REV. 587 (2009)
- The Case Against National Security Courts*, 45 WILLAMETTE L. REV. 505 (2009)
- Book Review, *The Long War, the Federal Courts, and the Necessity / Legality Paradox*, 43 U. RICH. L. REV. 893 (2009)
(reviewing BEN WITTES, *LAW AND THE LONG WAR: THE FUTURE OF JUSTICE IN THE AGE OF TERROR* (2008))
- AEDPA, Saucier, and the Stronger Case for Rule-First Constitutional Adjudication*, 32 SEATTLE U. L. REV. 595 (2009)
- The Riddle of the One-Way Ratchet: Habeas Corpus and the District of Columbia*, 12 GREEN BAG 2D 71 (2008)
- Habeas Corpus, Alternative Remedies, and the Myth of Swain v. Pressley*, 13 ROGER WILLIAMS U. L. REV. 411 (2008)
- Foreign Affairs Originalism in Youngstown's Shadow*, 53 ST. LOUIS U. L.J. 29 (2008)
- Re-Rethinking The Prize Cases: Some Remarks in Response to Professor Lee*, 53 ST. LOUIS U. L.J. 85 (2008)
- On Jurisdictional Elephants and Kangaroo Courts*, 103 NW. U. L. REV. COLLOQUY 172 (2008)
- The Espionage Act and National Security Whistleblowing After Garcetti*, 57 AM. U. L. REV. 1531 (2008)
- Foreword and Ten Questions*, 34 WM. MITCHELL L. REV. 5001, 5007 (2008)
- The Suspension Clause as a Structural Right*, 62 U. MIAMI L. REV. 275 (2008)
- The Calling Forth Clause and the Domestic Commander-in-Chief*, 29 CARDOZO L. REV. 1091 (2008)
- The Field Theory: Martial Law, the Suspension Power, and the Insurrection Act*, 80 TEMPLE L. REV. 391 (2007)
- Enemy Aliens, Enemy Property, and Access to the Courts*, 11 LEWIS & CLARK L. REV. 963 (2007)
- Congress, the Commander-in-Chief, and the Separation of Powers After Hamdan*,
16 TRANSNAT'L L. & CONTEMP. PROBS. 933 (2007)
- The Law Reviews vs. the Courts: Two Thoughts from the Ivory Tower*, 39 CONN. L. REV. CONNTEMPLATIONS 68 (2007)
- The Increasingly "Unflagging Obligation": Federal Jurisdiction After Saudi Basic and Anna Nicole*, 42 TULSA L. REV. 553 (2007)

Inchoate Liability and the Espionage Act: The Statutory Framework and the Freedom of the Press,
1 HARV. L. & POL'Y REV. 219 (2007)

Ludecke's Lengthening Shadow: The Disturbing Prospect of War Without End, 2 J. NAT'L SEC. L. & POL'Y 53 (2006)

That's So Six Months Ago: Challenges to Student Scholarship in the Age of Blogging, 116 YALE L.J. POCKET PART 31 (2006)

Book Notice, 112 YALE L.J. 1305 (2003)

(reviewing THE REHNQUIST COURT: JUDICIAL ACTIVISM ON THE RIGHT (Herman Schwartz ed., 2002))

Recent Publications, *Eyewitness to a Genocide: The United Nations and Rwanda*, 28 YALE J. INT'L L. 281 (2003)

(reviewing MICHAEL BARRETT, EYEWITNESS TO A GENOCIDE: THE UNITED NATIONS AND RWANDA (2002))

Recent Publications, *International Criminal Law*, 27 YALE J. INT'L L. 243 (2002)

(reviewing KRIANGSAK KITTICHAISAREE, INTERNATIONAL CRIMINAL LAW (2001))

OTHER PUBLISHED PAPERS / PROJECTS

What Abbasi Should Have Said, JOTWELL, Aug. 15, 2017

(reviewing JAMES E. PFANDER, CONSTITUTIONAL TORTS AND THE WAR ON TERROR (2017))

A Bivens Encomium—or Elegy, LAWFARE BOOK REV., May 17, 2017

(reviewing JAMES E. PFANDER, CONSTITUTIONAL TORTS AND THE WAR ON TERROR (2017))

AM. CONST. SOC'Y, ISSUE BRIEF, [THE BIVENS TERM: WHY THE SUPREME COURT SHOULD REINVIGORATE DAMAGES SUITS AGAINST FEDERAL OFFICERS](#) (2017)

Bringing in the Jury, JOTWELL, Oct. 24, 2016 (reviewing SUJA A. THOMAS, THE MISSING AMERICAN JURY: RESTORING THE FUNDAMENTAL CONSTITUTIONAL ROLE OF THE CRIMINAL, CIVIL, AND GRAND JURIES (2016))

The Perils of State Standing, Revisited, JOTWELL, Feb. 2, 2016

(reviewing Alexander M. Bickel, *The Voting Rights Cases*, 1966 SUP. CT. REV. 79)

Hamdi v. Rumsfeld, in 3 ENCYCLOPEDIA OF AMERICAN GOVERNANCE 4 (Stephen L. Schechter et al. eds., 2015)

Treaty Power, in 5 ENCYCLOPEDIA OF AMERICAN GOVERNANCE 207 (Stephen L. Schechter et al. eds., 2015)

The Keepers of the Federal Courts Canon, JOTWELL, Sept. 22, 2015 (reviewing RICHARD H. FALLON, JR. ET AL., HART & WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM (7th ed. 2015))

The Torture Report and the Accountability Gap, GEO. J. INT'L AFF., Summer/Fall 2015, at 174

Appealing to Injustice, JOTWELL, Oct. 28, 2014 (reviewing WILLIAM M. RICHMAN & WILLIAM L. REYNOLDS, INJUSTICE ON APPEAL: THE UNITED STATES COURT OF APPEALS IN CRISIS (2013))

THE CONSTITUTION PROJECT, [THE CASE FOR A FISA "SPECIAL ADVOCATE"](#) (2014)

The National Security Courts We Already Have, JOTWELL, Sept. 23, 2013 (reviewing ROBERT TIMOTHY REAGAN, FED. JUD. CTR., NATIONAL SECURITY CASE STUDIES: SPECIAL CASE-MANAGEMENT CHALLENGES (2013))

Federal Crimes, State Courts, and Palmore, JOTWELL, Oct. 26, 2012 (reviewing Michael G. Collins & Jonathan Remy Nash, *Prosecuting Federal Crimes in State Courts*, 97 VA. L. REV. 243 (2011))

The Supreme Court, the War on Terrorism, and the Separation of Powers, HUMAN RIGHTS, Winter 2011, at 13

Judicial Specialization and the Functional Case for Non-Article III Courts, JOTWELL, Nov. 4, 2011
(reviewing LAWRENCE BAUM, SPECIALIZING THE COURTS (2011))

Book Review, WASH. INDEP. REV. BOOKS, May 1, 2011

(reviewing DAVID K. SHIPLER, THE RIGHTS OF THE PEOPLE: HOW OUR SEARCH FOR SAFETY INVADES OUR LIBERTIES (2011))

Is "National Security Law" Inherently Paradoxical?, NAT'L SEC. L. BRIEF, Fall 2010, at 11

AM. CONST. SOC'Y, ISSUE BRIEF, [TRYING TERRORISTS IN ARTICLE III COURTS: THE LESSONS OF UNITED STATES V. ABU ALI](#) (2010)

THE CONSTITUTION PROJECT, [PROSECUTE TERRORISM SUSPECTS, NOT THEIR LAWYERS](#) (2010)

THE CONSTITUTION PROJECT, [OPPOSING THE TERRORIST EXPATRIATION ACT](#) (2010)

Military Jurisdiction, the Right Not To Be Tried, and the Suspension Clause After Boumediene, HUM. RTS. BRIEF, Fall 2008, at 6

Introductory Note to *Munaf v. Geren*, 128 S. Ct. 2207 (2008), 47 I.L.M. 705 (2008)

Reflecting on Boumediene: The Substance of Habeas and the Futility of Exhaustion, ABA NAT'L SEC. L. REP., June 2008, at 1

THE CONSTITUTION PROJECT, *A CRITIQUE OF “NATIONAL SECURITY COURTS”* (2008)

Habeas Corpus, U.S. Citizens, and Iraq, AM. JURIST, Apr. 2008, at 12

ABA STANDING COMM. ON LAW & NAT’L SEC., *DUE PROCESS & TERRORISM: A WORKSHOP REPORT* (2007)

The Statutory Framework, in GEOFFREY R. STONE ET AL., *THE FIRST AMENDMENT CTR., FIRST REPORTS: GOVERNMENT SECRECY VS. FREEDOM OF THE PRESS 35* (2006)

Rights Without Remedies: The Newfound National Security Exception to Bivens, ABA NAT’L SEC. L. REP., July 2006, at 1

ELIZABETH BRUNDIGE ET AL., *INDONESIAN HUMAN RIGHTS ABUSES IN WEST PAPUA: APPLICATION OF THE LAW OF GENOCIDE TO THE HISTORY OF INDONESIAN CONTROL* (2003) (co-author)

FIONA DOHERTY ET AL., *LAWYERS COMM. FOR HUMAN RIGHTS, A YEAR OF LOSS: REEXAMINING CIVIL LIBERTIES SINCE SEPT. 11* (2002) (co-author)

OP-EDS / POPULAR ESSAYS

An American Held as an ISIS Suspect Deserves a Prompt Hearing, N.Y. TIMES, Nov. 30, 2017

The Justice Department Is Not Actually Promising To Prosecute Hillary Clinton, WASH. POST, Nov. 14, 2017

Take Guantanamo off the Table, WASH. POST, Nov. 2, 2017, at A23

The Dangerous Myth of the Judicial ‘Resistance,’ N.Y. TIMES, Oct. 31, 2017 (with Dahlia Lithwick)

If Trump Plans To Fire Mueller, the Time To Do It Is Right Now, WASH. POST, Oct. 31, 2017

The Long Reach of Guantánamo Bay Military Commissions, N.Y. TIMES, Oct. 4, 2017

How to Replace Jeff Sessions, SLATE, July 25, 2017

Trump Still Could Have Obstructed Justice—Even If He Didn’t Break the Law, WASH. POST, June 16, 2017

The Supreme Court Phone Location Case Will Decide the Future of Privacy, MOTHERBOARD, June 16, 2017

Trump’s Lawyer Says Comey Violated Executive Privilege. He’s Wrong, WASH. POST, June 9, 2017

Trump’s Disclosures to the Russians Might Actually Have Been Illegal, WASH. POST, May 16, 2017

Setting Term Limits For Supreme Court Would Bring Too Many Political Problems, DALLAS MORNING NEWS, Mar. 8, 2017
(with John C. Eastman)

The Courts are Immune to President Trump’s Antics, (N.Y.) DAILY NEWS, Feb. 10, 2017

Hobby Lobby and Executive Power: Gorsuch’s Key Rulings, CNN.com, Feb. 1, 2017

Five Reasons Not To Expect Hillary Clinton To Be Prosecuted, CNN.com, Nov. 11, 2016

Early Voting: Controversy versus Convenience, CNN.com, Nov. 1, 2016

What is the Hatch Act—and Did James Comey Violate It?, CNN.com, Oct. 31, 2016

What are Poll Watchers—and What are they Allowed To Do?, CNN.com, Oct. 29, 2016

Could Donald Trump Legally Challenge the Presidential Election?, CNN.com, Oct. 20, 2016

Why Obama Should Veto 9/11 Families Bill, CNN.com, Sept. 13, 2016 (with Jack Goldsmith)

15 Years On, Military Commission Brings No Justice for 9/11 Victims, AUSTIN AM.-STATESMAN, Sept. 11, 2016, at E3

Hillary Clinton and the Espionage Act, SLATE, July 6, 2016

Comey Is Right: Clinton’s Conduct Was Careless, Not Criminal, N.Y. TIMES, ROOM FOR DEBATE, July 5, 2016

Hillary Clinton’s E-Mail Controversy Should Propel Congress To Fix Outdated Espionage Act, (N.Y.) DAILY NEWS, July 5, 2016

Senate Botched 9/11 Bill, DAILY J. (CAL.), May 27, 2016, at 1

Three Points We Often Miss in Hillary Clinton’s E-Mail Scandal, NEWSDAY, Mar. 21, 2016, at 30

The Real Culprit in the Apple-FBI Encryption Dispute: Congress, AM. PROSPECT, Mar. 9, 2016

Hillary Clinton’s E-Mail Habits: Careless or Criminal?, N.Y. TIMES, ROOM FOR DEBATE, Feb. 4, 2016 (with Andrew McCarthy)

A Teacher’s Example, AMHERST MAG., Winter 2016, at 10

[How To Get Congress and Obama To Agree on Closing Guantanamo](#), WASH. POST, Jan. 21, 2016, at A15 (with Benjamin Wittes)

[Limit State Access to Federal Court](#), N.Y. TIMES, Dec. 22, 2015, at A27 (with Amanda Frost)

[There Are Many, Many Legal Problems With Trump’s Muslim Ban](#), CNN.com, Dec. 8, 2015

[Rights But No Remedies Overseas](#), DAILY J. (CAL.), Nov. 6, 2015, at 1

[Why an Aggressive Supreme Court is Good for the Separation of Powers](#), WASH. TIMES, July 7, 2015

[Restoring What We Lost After 9/11](#), MSNBC.com, June 22, 2015

[The Unraveling Guantánamo Military Commissions](#), MSNBC.com, June 19, 2015

[Forget the Patriot Act—Here Are the Privacy Violations You Should Be Worried About](#), FOREIGN POL’Y, June 1, 2015

[Obama Doubles Down on Perpetual War](#), MSNBC.com, Feb. 11, 2015

[Time to End Authorization for Endless War](#), REUTERS, Feb. 11, 2015

[An Unhelpful Shift in Focus](#), U.S. NEWS & WORLD REPORT, Dec. 15, 2014

[Reaching Consensus on a War Authorization](#), WASH. POST, Nov. 16, 2014, at A21 (with Jack Goldsmith & Ryan Goodman)

[How Not To Go To War Against ISIS](#), MSNBC.com, Aug. 28, 2014 (with Jennifer Daskal)

[Guantánamo and the Erosion of Habeas Corpus](#), MSNBC.com, Aug. 6, 2014

[‘Daoud’ Highlights Shortcomings of Surveillance Act Interpretation](#), NAT’L L.J., June 23, 2014

[Kidnapping is Legally Dubious, But It’s Also the Best Way to Get Terrorists](#), WASH. POST, June 18, 2014

[Ending the ‘War on Terror’ Is Easier Than It Seems](#), MSNBC.com, May 23, 2014

[Not All Foreign Policy Power Resides With the President](#), N.Y. TIMES, ROOM FOR DEBATE, Apr. 22, 2014

[How To Get Out of Gitmo—Now](#), MSNBC.com, Jan. 22, 2014

[My Day at the NSA](#), MSNBC.com, Dec. 17, 2013

[Taking the “Meh” Out of Metadata](#), SLATE, Nov. 22, 2013 (with Dahlia Lithwick)

[The Best Evidence Yet That Government Surveillance Oversight is Nowhere Near Adequate](#), SLATE, Oct. 31, 2013

[Unlawfully Detained by the U.S. Government? Don’t Bother Suing](#), THE NEW REPUBLIC, Oct. 17, 2013

[It’s Time to Fix the FISA Court \(the Way Congress Intended\)](#), MSNBC.com, Aug. 1, 2013

[A Reprieve for Warren Hill, But Not the Supreme Court](#), MSNBC.com, July 16, 2013

[Warren Lee Hill’s—and the Supreme Court’s—Last Chance](#), NAT’L L.J., July 11, 2013 (with James Liebman)

[Snowden and the Lawlessness of Extradition Law](#), MSNBC.com, July 10, 2013

[Don’t Expand the War on Terror](#), N.Y. TIMES, May 15, 2013 (with Jennifer Daskal)

[“It Has Happened!”: On the First No Hitter in Mets History](#), BUZZFEED, June 2, 2012

[Killing Medicaid the California Way](#), N.Y. TIMES, Oct. 14, 2011, at A31 (with Bruce C. Vladeck)

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- Brief for Petitioners and Reply Brief for the Petitioners, *Hernández v. Mesa*, 137 S. Ct. 2003 (2017) (per curiam)
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- Brief for Petitioner and Reply Brief for Petitioner, *Nken v. Holder*, 556 U.S. 418 (2009)
- Memorandum of Law in Support of Petitioner’s Motion for a Preliminary Injunction, *Hamdan v. Gates*, 565 F. Supp. 2d 130 (D.D.C. 2008)
- Brief for Petitioner and Reply Brief for Petitioner, *Engquist v. Or. Dep’t of Agric.*, 553 U.S. 591 (2008)
- Petitioner’s Opposition to Respondents’ Motion to Dismiss and Petitioner’s Surreply Regarding Respondents’ Motion to Dismiss, *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006)

AUTHORED / CO-AUTHORED AMICUS BRIEFS

- Brief for Federal Courts Scholars as *Amici Curiae* Supporting Plaintiffs, *Knight First Amend. Inst. at Columbia Univ. v. Trump*, No. 17-5205 (S.D.N.Y. filed Nov. 6, 2017)
- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of the Petitioner, *Al-Nashiri v. Trump*, 138 S. Ct. 354 (2017) (mem.)
- Brief for Scholars of Federal Jurisdiction as *Amici Curiae* in Support of Respondents, *Trump v. Int’l Refugee Assistance Proj.*, 138 S. Ct. 353 (2017) (mem.)
- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of the Petitioner, *Al Bahlul v. United States*, 138 S. Ct. 313 (2017) (mem.)
- Brief of *Amici Curiae* Institute for Justice et al. in Support of Petitioners, *Batato v. United States*, 138 S. Ct. 66 (2017) (mem.)
- Brief of Federal Courts Scholars as *Amici Curiae* in Support of Petitioner, *Patchak v. Zinke*, No. 16-498 (U.S. filed July 19, 2017)
- Brief of Federal Courts Scholars as *Amici Curiae* in Support of Petitioner, *Patchak v. Zinke*, 137 S. Ct. 2091 (2017) (mem.)
- Brief for *Amici Curiae* Constitutional Law, Federal Courts, Citizenship, and Remedies Scholars in Support of Respondent, *Sessions v. Morales-Santana*, 137 S. Ct. 1678 (2017)
- Brief of Former Federal Judges as *Amici Curiae* in Support of the Writ-Appeal Petition, *Bergdahl v. Nance*, 76 M.J. 342 (C.A.A.F. 2017) (mem.)
- Brief of Constitutional Scholars as *Amici Curiae* in Support of Appellees, *Washington v. Trump*, 847 F.3d 1151 (9th Cir. 2017) (per curiam)
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- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of Petitioner, *Akbar v. United States*, 137 S. Ct. 41 (2016) (mem.)
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- Brief of Law Professors as *Amici Curiae* in Support of Petitioner, *In re* Butler, 136 S. Ct. 698 (2015) (mem.)
- Brief of *Amici Curiae* Scholars of Human Rights Law in Support of Petitioners, Bimenyimana v. Holder, No. 13-1676 (4th Cir. filed Mar. 26, 2015)
- Brief of *Amici Curiae* Law Professors James E. Pfander, Carlos M. Vázquez, and Stephen I. Vladeck in Support of Plaintiff-Appellant, Meshal v. Higgenbotham, 804 F.3d 417 (D.C. Cir. 2015)
- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of Petitioner, Al Bahlul v. United States, 792 F.3d 1 (D.C. Cir. 2015)
- Brief for Former HHS Officials as *Amici Curiae* in Support of Respondents, Armstrong v. Exceptional Child Ctr., Inc., 135 S. Ct. 1378 (2015)
- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of Petitioner, Al Bahlul v. United States, 767 F.3d 1 (D.C. Cir. 2014) (en banc)
- Brief of *Amici Curiae* Professors James E. Pfander and Stephen I. Vladeck in Support of Petitioner, *In re* EPIC, 134 S. Ct. 638 (2013) (mem.)
- Brief of Law Professors Eric M. Freedman et al. as *Amici Curiae* in Support of Petitioner, *In re* Hill, 134 S. Ct. 118 (2013) (mem.)
- Brief of Law Professors as *Amici Curiae* in Support of Respondent, Madigan v. Levin, 134 S. Ct. 2 (2013) (per curiam)
- Brief of Professors James Pfander and Stephen Vladeck as *Amici Curiae* in Support of Petitioners, Vance v. Rumsfeld, 569 U.S. 1038 (2013) (mem.)
- Brief of *Amicus Curiae* National Association of Criminal Defense Lawyers in Support of Petitioner, Behenna v. United States, 569 U.S. 1017 (2013) (mem.)
- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of Petitioner, Al-Bahlul v. United States, No. 11-1324, 2013 WL 297726 (D.C. Cir. Jan. 25, 2013) (per curiam)
- Brief of Legal Historians and Habeas Corpus Experts as *Amici Curiae* in Support of the Petition for a Writ of Certiorari, Trinidad y Garcia v. Thomas, 568 U.S. 1114 (2013) (mem.)
- Brief of Professors of Civil Procedure and Federal Courts as *Amici Curiae* in Support of Plaintiffs-Appellees, Al Shimari v. CACI Int'l, Inc., 679 F.3d 205 (4th Cir. 2012) (en banc)
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- Brief of Federal Jurisdiction Professors as *Amici Curiae* in Support of Respondents, AT&T Mobility, LLC v. Concepcion, 563 U.S. 333 (2011)
- Brief of Law Professors as *Amici Curiae* in Support of the Petitioner, Va. Office for Prot. & Advocacy v. Stewart, 563 U.S. 247 (2011)
- Brief of *Amici Curiae* Professors of Federal Jurisdiction in Support of Plaintiffs-Appellants-Cross-Appellees, Kiobel v. Royal Dutch Petroleum Co., 621 F.3d 111 (2d Cir. 2010)
- Brief for Non-Governmental Organizations and Scholars as *Amici Curiae* in Support of Rehearing and Rehearing En Banc, Al-Bihani v. Obama, 619 F.3d 1 (D.C. Cir. 2010) (mem.)
- Brief of Constitutional Law Professors as *Amici Curiae* in Support of Plaintiffs-Appellees, ACORN v. United States, 618 F.3d 125 (2d Cir. 2010)

- Brief of Law Professors as *Amici Curiae* in Support of the Petition for Certiorari,
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- Brief for Non-Governmental Organizations as *Amici Curiae* in Support of Appellees,
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- Brief of Legal Historians and Habeas Corpus Experts as *Amici Curiae* in Support of Petitioners,
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- Brief of Law Professors as *Amici Curiae* in Support of Petitioner, Kucana v. Holder, 558 U.S. 233 (2010)
- Brief of Professors of Constitutional Law et al. as *Amici Curiae*, Mohamed v. Jeppesen Dataplan, Inc.,
563 F.3d 992 (9th Cir. 2009), *on reh'g en banc*, 614 F.3d 1070 (9th Cir. 2010)
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Mohawk Indus. v. Carpenter, 558 U.S. 100 (2009)
- Brief of Law Professors as *Amici Curiae* in Support of Respondent, United States v. Denedo, 556 U.S. 904 (2009)
- Brief of *Amici Curiae* Professors of Constitutional Law and of Federal Jurisdiction in Support of Petitioner,
Haywood v. Drown, 556 U.S. 729 (2009)
- Brief for *Amici Curiae* Founding-Era Historians and Experts in American Legal History in Support of Petitioner,
Al-Marri v. Spagone, 555 U.S. 1220 (2009) (mem.)
- Brief of *Amici Curiae* Professors of Constitutional Law and of Federal Jurisdiction in Support of Certiorari,
Al-Marri v. Pucciarelli, 555 U.S. 1066 (2008) (mem.)
- Brief of Federal Courts and International Law Professors as *Amici Curiae* in Support of Petitioners,
Boumediene v. Bush, 553 U.S. 723 (2008)
- Brief for *Amici Curiae* Professors of Constitutional Law and of the Federal Courts, Munaf v. Geren, 553 U.S. 674 (2008)
- Brief of *Amici Curiae* Professor Erwin Chemerinsky *et al.*, Hepting v. AT&T Corp., 539 F.3d 1157 (9th Cir. 2008)

BAR ADMISSIONS / MEMBERSHIPS / AFFILIATIONS

- Admitted to the Bar of the State of New York, Third Department (4/19/2006; Bar # 4407904)
- Admitted to the Bar of the Supreme Court of the United States (5/26/2009)
- Admitted to the Bar of the District of Columbia (7/10/2009; Bar # 988509)
- Admitted to the Bar of the U.S. Court of Appeals for the Armed Forces (4/7/2017; Bar # 36839)

- Senior Editor, *Journal of National Security Law & Policy*
- Contributing Editor, CourtsLaw Section, *JOTWELL* (Journal Of Things We Like Lots)
- Editor, *Constitutional Studies*

- Elected Member, American Law Institute
- Member, Advisory Committee, ABA Standing Committee on Law and National Security (2017–18)
- Member, Advisory Board, Electronic Privacy and Information Center
- Member, Board of Advisors, National Institute of Military Justice
- Member, Board of Academic Advisors, American Constitution Society
- Member, Advisory Board, RAND History of U.S. Military Policy
- Member, Scholarly Research Committee, Southeastern Association of Law Schools

- Order of the Coif
- Associate Agent, Amherst College Class of 2001
- Reunion Committee, Yale Law School Class of 2004