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

EMPLOYMENT / FELLOWSHIPS

UNIVERSITY OF TEXAS SCHOOL OF LAW, Austin, Tex. June 2016 – present

Charles Alan Wright Chair in Federal Courts, September 2020 – present.

A. Dalton Cross Professor in Law, November 2017 – September 2020.

Professor of Law, June 2016 – November 2017.

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

Service: **University** — Faculty Council (2020–22); Committee of Counsel on Academic Freedom and Responsibility (2020–21); Information Technology Committee (2017–20).

Law School — Appointments Committee (2016–20); Colloquium Committee (2016–17; 2020–21).

Awards: University of Texas Mexico Center Award for Outstanding Opinion Writing (2019).

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 and Legal Analyst.

CENTER ON NATIONAL SECURITY, FORDHAM UNIVERSITY SCHOOL OF LAW, New York, N.Y. October 2012 – July 2014

Fellow.

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

Supreme Court Fellow.

AMERICAN UNIVERSITY WASHINGTON COLLEGE OF LAW, Washington, D.C. September 2007 – June 2016

Associate Dean for Scholarship, September 2011 – August 2014.

Professor of Law, September 2009 – June 2016.

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).

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; Military Law; Civil Procedure; Separation of Powers; Habeas Corpus; International Criminal Law; Immigration Law; Administrative Law; and Legislation.

SELECTED PUBLICATIONS

The Disingenuous Demise and Death of Bivens, 2020 CATO SUP. CT. REV. 263

Coronavirus, Civil Liberties, and the Courts: The Case Against "Suspending" Judicial Review, 133 HARV. L. REV. F. 179 (2020)
(with Lindsay F. Wiley)

COUNTERTERRORISM LAW (4th ed. 2020) (with Stephen Dycus, William C. Banks, and Peter Raven-Hansen)

NATIONAL SECURITY LAW (7th ed. 2020) (with Stephen Dycus, William C. Banks, and Peter Raven-Hansen)

The Separation of National Security Powers: Lessons from the Second Congress, 129 YALE L.J. F. 610 (2020)

The Supreme Court, 2018 Term — Essay: The Solicitor General and the Shadow Docket, 133 HARV. L. REV. 123 (2019)

Constitutional Remedies in Federalism's Forgotten Shadow, 107 CAL. L. REV. 1043 (2019)

The Aggressive Virtues, 93 N.Y.U. L. REV. 66 (2018)

Military Officers and the Civil Office Ban, 93 IND. L.J. 241 (2018)

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

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

COUNTERTERRORISM LAW (3d ed. Supps. 2017, 2018, 2019) (with Stephen Dycus, William C. Banks, and Peter Raven-Hansen)

NATIONAL SECURITY LAW (6th ed. Supps. 2017, 2018, 2019)
(with Stephen Dycus, Arthur L. Berney, William C. Banks, and Peter Raven-Hansen)

- Implied Constitutional Remedies After Abbasi*, in AM. CONST. SOC'Y, SUPREME COURT REVIEW, 2016–2017, at 179 (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)
- Article I Federal Courts*, in AM. BAR ASS'N, THE IMPROVEMENT OF THE ADMINISTRATION OF JUSTICE 745 (8th ed. 2016)
- NATIONAL SECURITY LAW (5th ed. Supps. 2012, 2013, 2014, 2015)
(with Stephen Dycus, Arthur L. Berney, William C. Banks, and Peter Raven-Hansen)
- COUNTERTERRORISM LAW (2d ed. Supps. 2012, 2013, 2014, 2015)
(with Stephen Dycus, William C. Banks, and Peter Raven-Hansen)
- 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)
- Eisenstrager’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

- Review of Immigration-Related U.S. Supreme Court Cases: Challenges, Ramifications, and What To Expect*, 44 N.Y.U. REV. L. & SOCIAL CHANGE 169 (2020) (with Engy Abdelkader, Lucas Guttentag, & Phil Torrey) (transcript)
- Habeas and the Accumulation of Judicial Power*, 15 L. CULTURE & HUMAN. 1 (2018)
- Unlawful Command Influence and the President’s Quasi-Personal Capacity*, 96 TEX. L. REV. ONLINE 35 (2018)
- 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)
- 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)
- 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 KITTHAISAREE, INTERNATIONAL CRIMINAL LAW (2001))

OTHER PUBLISHED PAPERS / PROJECTS

- An In-Progress Look at the Texas Supreme Court's COVID Response*, THE ADVOCATE, Winter 2020, at 23 (with Thomas R. Phillips)
- Bringing the Supreme Court Out of the Shadows*, JOTWELL, Nov. 26, 2020 (reviewing STEPHEN M. SHAPIRO, KENNETH S. GELLER, TIMOTHY S. BISHOP, EDWARD A. HARTNETT, & DAN HIMMELFARB, SUPREME COURT PRACTICE (11th ed. 2019))
- The Center Cannot Hold*, JOTWELL, July 10, 2019 (reviewing EVAN THOMAS, FIRST: SANDRA DAY O'CONNOR (2019))
- Why Military Justice Doesn't Get Enough Academic Attention*, JOTWELL, Aug. 14, 2018
(reviewing Rodrigo M. Caruço, *In Order to Form a More Perfect Court: A Quantitative Measure of the Military's Highest Court's Success as a Last Resort*, 41 VT. L. REV. 71 (2016))
- 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

- Elections Don't Have to Be So Chaotic and Excruciating*, N.Y. TIMES, Nov. 10, 2020, at A23
- Republicans Now Think Texas Courts Don't Decide Their Own Election Law*, WASH. POST, Nov. 2, 2020
- Why Are Senate Republicans Playing Dead?*, N.Y. TIMES, Aug. 19, 2020
- The Alarming Growth of the Supreme Court's "Shadow Docket"*, SLATE, Aug. 11, 2020
- Running on Roberts*, SLATE, Aug. 5, 2020 (with Dahlia Lithwick)
- Are the Trump Administration's Actions in Portland Legal? Are They Constitutional?*, WASH. POST, July 25, 2020
- Under the Insurrection Act of 1807, Here's What a U.S. President Can and Cannot Do*, WASH. POST, June 19, 2020
- How the Supreme Court is Quietly Enabling Trump*, N.Y. TIMES, June 18, 2020, at A23

[Congress and Trump Could Both Be Losers at the Supreme Court This Week](#), WASH. POST, May 11, 2020

[Trump Says He Can Adjourn Congress. He’s Misreading the Constitution](#), WASH. POST, Apr. 16, 2020

[The Courts Don’t Even Try to Settle Fights About War Powers Anymore](#), WASH. POST, Jan. 15, 2020

[Impeachment Does Not ‘Overturn’ an Election](#), N.Y. TIMES, Oct. 28, 2019

[What Would Happen if Trump Ignored a Divided Supreme Court Ruling Against Him?](#), WASH. POST, Oct. 14, 2019

[Why the Whistle-Blowing Process is Breaking Down](#), N.Y. TIMES, Sept. 20, 2019

[The Perception of the Court Matters](#), WASH. POST, June 19, 2019, at A19 (with Leah Litman & Joshua Matz)

[Congress Should End a ‘Harsh and Unfair’ Rule That Blocks Troops from Court](#), N.Y. TIMES, May 22, 2019, at A21

[Yes, Trump Can Invoke the Insurrection Act to Deport Immigrants](#), THE ATLANTIC, May 17, 2019

[Trump is Fighting Congress—and Defying the Founders](#), WASH. POST, Apr. 28, 2019, at B3

[Trump Is Abusing His Authority to Name “Acting Secretaries.” Here’s How Congress Can Stop Him](#), SLATE, Apr. 9, 2019

[It’s Neil Gorsuch’s Supreme Court Now, Not Anthony Kennedy’s](#), POLITICO, Apr. 2, 2019

[Why William Barr Should Resign in Protest Over Trump’s Obamacare Move](#), CNN.com, Mar. 29, 2019

[Second-Class Justice in the Military](#), N.Y. TIMES, Mar. 20, 2019 (with Eugene R. Fidell)

[Whitaker May Be a Bad Choice, But He’s a Legal One](#), N.Y. TIMES, Nov. 9, 2018

[What Would Happen if Trump Resists an Investigation By the Democratic House?](#), WASH. POST, Nov. 7, 2018

[Where Kavanaugh and Kennedy Differ](#), WASH. POST, July 12, 2018, at A13

[Border Patrol Agents Must Be Held Accountable](#), SLATE, June 24, 2018

[Will the Rule of Law Apply Along the Border?](#), N.Y. TIMES, June 12, 2018

[Presidents Aren’t Kings. Someone Should Tell Trump’s Legal Team](#), WASH. POST, June 4, 2018

[The White House Doctor and the Dual-Officeholding Ban](#), THE ATLANTIC, Mar. 29, 2018

[Our Increasingly Unenforceable Constitution](#), N.Y. TIMES, Mar. 27, 2018

[Now Congress Has To Act to Keep Trump From Firing Mueller on a Whim](#), WASH. POST, Jan. 26, 2018

[Resisting the Myth of the Judicial Resistance](#), SLATE, Jan. 25, 2018 (with Dahlia Lithwick)

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Hearing Before the S. Comm. on the Judiciary, Subcomm. on Terrorism & Homeland Security, May 12, 2010

BAR ADMISSIONS

- New York (Third Judicial Department) (4/19/2006; Bar # 4407904)
- Supreme Court of the United States (5/26/2009; Bar # 271802)
- District of Columbia (7/10/2009; Bar # 988509)
- U.S. Court of Appeals for the Armed Forces (4/7/2017; Bar # 36839)
- Texas (3/22/2018; Bar # 24107443)
- U.S. Court of Appeals for the Second Circuit (5/9/2019)
- U.S. Court of Appeals for the District of Columbia Circuit (5/15/2019; Bar # 61721)
- U.S. Army Court of Criminal Appeals (2/13/2020)

MEMBERSHIPS / AFFILIATIONS

- Senior Editor, *Journal of National Security Law & Policy*
- Founding Co-Editor-in-Chief (2013–20) and Executive Editor (2020–present), JUST SECURITY
- Senior Editor, LAWFARE
- Contributing Editor, CourtsLaw Section, *JOTWELL* (Journal of Things We Like Lots)

- Elected Member, American Law Institute
- Member, Advisory Committee, ABA Standing Committee on Law and National Security
- 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, Book Award Committee, Order of the Coif

- 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