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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; Civil Procedure; National Security / Counterterrorism Law; Military Justice.
Service: **University**:
Elected Member, Faculty Council (2020–22; 2022–24); Elected Member, Faculty Council Executive Committee (2022–23; 2023–24); Elected Member, Law School Dean Search Consultative Committee (2021–22); A-1 Committee of Counsel on Academic Freedom & Responsibility (2020–23; *Chair-Elect*, 2021–22; *Chair*, 2022–23); A-7 UT Press Advisory Committee (2023–24); C-13 Information Technology Committee (2017–20).
Law School:
Appointments Committee (2016–20; 2022–23); Budget Committee (2021–22); Colloquium Committee (2016–17; 2020–21).
- Awards: University of Texas Mexico Center Award for Outstanding Opinion Writing (2019).
- UNIVERSITY OF CHICAGO LAW SCHOOL**, Chicago, Ill. Autumn Quarter 2023
Visiting Professor of Law.
- NATIONAL INSTITUTE OF MILITARY JUSTICE**, Washington, D.C. June 2021 – present
Distinguished Fellow.
- 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.
- THE CONSTITUTION PROJECT, PROJECT ON GOVERNMENT OVERSIGHT**, 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); SBA Professor of the Year (2008–09; 2010–11; 2011–12);
WCL External Service Award (2010–11); 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; Civil Procedure; National Security Law; Military Justice; Separation of Powers.

SELECTED PUBLICATIONS

THE SHADOW DOCKET: HOW THE SUPREME COURT USES STEALTH RULINGS TO AMASS POWER AND UNDERMINE THE REPUBLIC (2023)

The Business of the Supreme Court: How We Do, Don’t, and Should Talk About SCOTUS, 67 ST. LOUIS U. L.J. 571 (2023)

Emergency Relief During Emergencies, 102 B.U. L. REV. 1787 (2022)

The Most-Favored Right: COVID, the Supreme Court, and the (New) Free Exercise Clause, 15 N.Y.U. J.L. & LIBERTY 699 (2022)

The Inconsistent Originalism of Judge-Made Remedies Against Federal Officers, 96 NOTRE DAME L. REV. 1869 (2021)

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)

War and Justiciability, 49 SUFFOLK L. REV. 47 (2016)

The Demise of Merits-Based Adjudication in Post-9/11 National Security Litigation, 64 DRAKE L. REV. 1035 (2016)

Petty Offenses and Article III, 19 GREEN BAG 2D 67 (2015)

The FISA Court and Article III, 72 WASH. & LEE L. REV. 1161 (2015)

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

- 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)
- Pendent Appellate Bootstrapping*, 16 GREEN BAG 2D 199 (2013)
- 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. Ni Aoláin & Oren Gross eds., Cambridge Univ. Press 2013)
- The New National Security Canon*, 61 AM. U. L. REV. 1295 (2012)
- The Passive-Aggressive Virtues*, 111 COLUM. L. REV. SIDEBAR 122 (2011)
- The D.C. Circuit After Boumediene*, 41 SETON HALL L. REV. 1451 (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)
- 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)
- 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)
- 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)
- 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)
- 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)

ADDITIONAL BOOKS / BOOK CHAPTERS / ENCYCLOPEDIA ENTRIES

- COUNTERTERRORISM LAW (4th ed. Supps. 2021, 2022)
(with Stephen Dycus, William C. Banks, Peter Raven-Hansen, and Emily Berman)
- NATIONAL SECURITY LAW (7th ed. Supps. 2021, 2022)
(with Stephen Dycus, Arthur L. Berney, William C. Banks, Peter Raven-Hansen, and Emily Berman)

- 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)
- 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)
- 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)
- 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)
- 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

- Scholarly Impact in the Age of Social Media*, 19 L. CULTURE & HUMAN. 25 (2023)
- Reforming the U.S. Supreme Court by Reforming Its Docket*, 16 J. PARLIAMENTARY & POL. L. 7 (2022)
- Classification and Access to National Security Information*, 19 FIRST AMEND. L. REV. 222 (2021)
(with Margaret Kwoka & David Pozen) (transcript)
- Testa, Crain, and the Constitutional Right to Collateral Relief*, 72 FLA. L. REV. F. 10 (2021) (with Carlos M. Vázquez)
- Habeas and the Accumulation of Judicial Power*, 17 L. CULTURE & HUMAN. 35 (2021)
- 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)
- 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. ONLINE 1 (2017)
- 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)
- The Exceptionalism of Foreign Relations Normalization*, 128 HARV. L. REV. F. 322 (2015)
- Transcript, *A New Paradigm of Leaking?*, 8 J. NAT'L SEC. L. & POL'Y 5 (2015)
- 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)
- 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)
- 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)
- 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 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

COVID Mandates in the Supreme Courts of Texas and the United States, THE ADVOCATE, Spring 2023, at 43
(with Hon. Wallace B. Jefferson and Robert Dubose)

Purcell and the Terrible, Horrible, No Good, Very Bad Year, JOTWELL, Sept. 26, 2022
(reviewing Wilfred U. Codrington III, *Purcell in Pandemic*, 96 N.Y.U. L. REV. 941 (2021))

The Imperial Presidency's Enablers, FOREIGN AFF., Nov./Dec. 2021, at 195

Hiding Behind Habeas's Hardness, JOTWELL, Oct. 6, 2021
(reviewing Jonathan R. Siegel, *Habeas, History, and Hermeneutics*, 64 ARIZ. L. REV. (forthcoming 2022))

The Normalization of the Post-September 11 Regime, TABLET, Jan. 11, 2021

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

The Supreme Court's Voting Rights Act Ruling is No Victory for Democracy, WASH. POST, June 8, 2023 (with Melissa Murray)

Public Criticism Might be the Best Way To Reform the Supreme Court, N.Y. TIMES, May 24, 2023, at A23

What I Realized After Justice Alito Attacked Me for Critiquing the Shadow Docket, SLATE, May 24, 2023

What's Happening in the Supreme Court's Shadows is Shaping America, TIME, May 18, 2023

How Congress Could Rein in an Unchecked Supreme Court, CNN.com, May 16, 2023

The Nefarious Practice of Judge Shopping Has To End, MSNBC, May 8, 2023

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Brief of Anti-Terrorism Act Scholars as *Amici Curiae* in Support of Respondents, Twitter, Inc. v. Taamneh, 143 S. Ct. 1206 (2023)

Brief of Law Professors as *Amici Curiae* in Support of Plaintiffs-Appellants,
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Brief of Federal Courts Law Professors as *Amici Curiae* in Opposition to Defendants’ Motions to Dismiss,
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Brief of Professor Stephen I. Vladeck as *Amicus Curiae* in Support of Petitioners,
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Brief of Professor Stephen I. Vladeck as *Amicus Curiae* in Support of Applicants,
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Brief of Law Professors as *Amici Curiae* in Support of Petitioners,
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Brief of Federal Courts Scholars as *Amici Curiae* in Support of Respondents,
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Brief of Law Professors as *Amici Curiae* in Support of Plaintiffs-Appellants,
Atchley v. AstraZeneca UK, Ltd., 22 F.4th 204 (D.C. Cir. 2022)

Brief of Professor Stephen I. Vladeck as *Amicus Curiae* in Support of Plaintiffs,
Van Stean v. Texas, No. D-1-GN-21-004179 (98th Dist. Ct., Travis County, Tex., Dec. 10, 2021)

Brief of Cross-Industry Groups as *Amici Curiae* in Support of Petitioners, United States v. Arthrex, Inc., 141 S. Ct. 1970 (2021)

- Brief of Law Professors as *Amici Curiae* in Support of Plaintiffs-Appellants,
Kaplan v. Lebanese Canadian Bank, SAL, 999 F.3d 842 (2d Cir. 2021)
- Brief of *Amici Curiae* Law Professors on the Remedial Powers of Federal Courts,
Hernandez Roman v. Wolf, 977 F.3d 935 (9th Cir. 2020) (per curiam)
- Brief of Joshua Davis, Amy Gordon, and Rachael Jensen as *Amici Curiae* in Support of Appellant,
United States v. McPherson, No. 20180214, 2020 WL 5798492 (A. Ct. Crim. App. Sept. 28, 2020)
- Brief of Professor Stephen I. Vladeck as *Amicus Curiae* in Support of Petitioner-Appellee’s Motion to Vacate,
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- Brief of Professor Stephen I. Vladeck as *Amicus Curiae* in Support of Plaintiffs-Appellees,
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- Brief of Professors of Federal Jurisdiction as *Amici Curiae* in Support of Respondent,
Franchise Tax Bd. of Cal. v. Hyatt, 139 S. Ct. 1485 (2019)
- Brief of Professor Stephen I. Vladeck as *Amicus Curiae* in Support of Plaintiffs-Appellants,
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- Brief of Law Professors as *Amici Curiae* in Support of Petitioners,
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- Brief of Constitutional Law Scholars as *Amici Curiae* in Support of Plaintiffs,
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- Brief of Girija Hathaway and Jacob Smith as *Amici Curiae* in Support of Appellant,
United States v. Jones, 78 M.J. 37 (C.A.A.F. 2018)
- Brief for Federal Courts Scholars as *Amici Curiae* Supporting Plaintiffs,
Knight First Amend. Inst. at Columbia Univ. v. Trump, 302 F. Supp. 3d 541 (S.D.N.Y. 2018)
- Brief of Former Judges, Former Prosecutors, Former Government Officials, Law Professors, and Social Scientists as *Amici Curiae*
in Support of Respondents, United States v. Sanchez-Gomez, 138 S. Ct. 1532 (2018)
- Brief for Federal Courts Scholars as *Amici Curiae* Supporting Respondent,
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- Brief of Federal Courts Scholars as *Amici Curiae* in Support of Petitioner, Patchak v. Zinke, 138 S. Ct. 897 (2018)
- 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,
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- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of the Petitioner,
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- Brief of *Amici Curiae* Institute for Justice et al. in Support of Petitioners,
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- 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,
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- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of Petitioner,
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- Brief of Professors of Constitutional Law and Federal Courts as *Amici Curiae* in Support of Plaintiffs-Appellants Seeking
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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.)

- Brief of the National Institute of Military Justice as *Amicus Curiae* in Support of the Petitioner,
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- Brief of Professors of Federal Jurisdiction as *Amici Curiae* in Support of Respondent,
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- Brief of Law Professors as *Amici Curiae* in Support of Petitioner, *In re Williams*, 577 U.S. 1060 (2016) (mem.)
- Brief of Law Professors as *Amici Curiae* in Support of Petitioner, *In re Sharp*, 577 U.S. 1060 (2016) (mem.)
- Brief of Law Professors as *Amici Curiae* in Support of Petitioner, *In re Butler*, 577 U.S. 1046 (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., 575 U.S. 320 (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, 571 U.S. 1023 (2013) (mem.)
- Brief of Law Professors Eric M. Freedman et al. as *Amici Curiae* in Support of Petitioner,
In re Hill, 571 U.S. 813 (2013) (mem.)
- Brief of Law Professors as *Amici Curiae* in Support of Respondent, *Madigan v. Levin*, 571 U.S. 1 (2013) (per curiam)
- Brief of Professors James Pfander and Stephen Vladeck as *Amici Curiae* in Support of Petitioners,
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- 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,
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- Brief of Legal Historians and Habeas Corpus Experts as *Amici Curiae* in Support of the Petition for a Writ of Certiorari,
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- 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)
- Brief of Former HHS Officials as *Amici Curiae* in Support of Respondents,
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- Brief of Professors of Constitutional Law and Federal Jurisdiction as *Amici Curiae* in Support of Plaintiffs-Appellants,
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- Brief of *Amici Curiae* Professors of Federal Jurisdiction in Support of Appellant,
Virginia ex rel. Cuccinelli v. Sebelius, 656 F.3d 253 (4th Cir. 2011)
- Brief of Professors of Federal Jurisdiction as *Amici Curiae* in Support of Defendants-Appellants,
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- Brief of Federal Jurisdiction Professors as *Amici Curiae* in Support of Respondents,
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- 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)
- Brief of Former Article III Judges and Law Professors as *Amici Curiae* in Support of Respondent,
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)

CONGRESSIONAL / EXECUTIVE BRANCH TESTIMONY

- HB19: Relating to the Creation of a Specialty Trial Court to Hear Certain Cases*,
Hearing Before the Tex. H. Comm. on Judiciary and Civil Jurisprudence, Mar. 22, 2023
- Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket*,
Hearing Before the S. Comm. on the Judiciary, Sept. 29, 2021
- Case Selection and Review at the Supreme Court*,
Hearing Before the Presidential Comm'n on the Supreme Court of the United States, June 30, 2021
- The Supreme Court's Shadow Docket*, Hearing Before the H. Comm. on the Judiciary,
Subcomm. on Courts, Intellectual Property, and the Internet, Feb. 18, 2021
- Special Counsels and the Separation of Powers*, Hearing Before the S. Comm. on the Judiciary, Sept. 26, 2017
- Executive Overreach in Foreign Affairs*,
Hearing Before the H. Comm. on the Judiciary, Task Force on Executive Overreach, May 12, 2016
- The Original Understanding of the Role of Congress and How Far We've Drifted from It*,
Hearing Before the H. Comm on the Judiciary, Task Force on Executive Overreach, Mar. 1, 2016
- Executive Order 12,333 and the Intelligence Activities Conducted Under It*,
Hearing Before the Privacy & Civil Liberties Oversight Board, May 13, 2015
- Consideration of Recommendations for Change: The Surveillance Programs Operated Pursuant to Section 215 of the USA PATRIOT Act and Section 702 of the Foreign Intelligence Surveillance Act*,
Hearing Before the Privacy & Civil Liberties Oversight Board, Nov. 4, 2013
- NSA Programs*, Hearing Before the H. Permanent Select Comm. on Intelligence, Oct. 29, 2013
- Drones and the War on Terror: When Can the U.S. Target Alleged American Terrorists Overseas?*,
Hearing Before the H. Comm. on the Judiciary, Feb. 27, 2013
- National Security Leaks and the Law*,
Hearing Before the H. Comm. on the Judiciary, Subcomm. on Crime, Terrorism, and Homeland Security, July 11, 2012

The Due Process Guarantee Act: Banning Indefinite Detention of Americans,
Hearing Before the S. Comm. on the Judiciary, Feb. 29, 2012

The Espionage Act and the Legal and Constitutional Issues Raised by WikiLeaks,
Hearing Before the H. Comm. on the Judiciary, Dec. 16, 2010

United States v. Stevens: *The Supreme Court's Decision Invalidating the Crush Video Statute*,
Hearing Before the H. Comm. on the Judiciary, Subcomm. on Crime, Terrorism, and Homeland Security, May 26, 2010

The Espionage Statutes: A Look Back and a Look Forward,
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)
- U.S. Air Force Court of Criminal Appeals (6/28/2021)

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