

ROBERT L. TSAI

Professor of Law & Harry Elwood Warren Memorial Scholar
Boston University School of Law
765 Commonwealth Avenue
Boston, MA 02215
617-353-4011
rltsai@bu.edu
roberttsai.com

EDUCATION

- J.D. YALE LAW SCHOOL, 1997
The Yale Law Journal, Editor, Volume 106
Yale Law and Policy Review, Editor, Volume 12
Honorable Mention for Oral Argument, Harlan Fiske Stone Prize Finals, 1996
Morris Tyler Moot Court of Appeals, Board of Directors
Allard K. Lowenstein International Human Rights Clinic
- B.A. UNIVERSITY OF CALIFORNIA, LOS ANGELES, History & Political Science, *magna cum laude*, 1993
Phi Beta Kappa
Highest Departmental Honors in History Dept. (conferred by thesis committee)
UCLA College Honors
Carey McWilliams Award for Best Honors Thesis: *Building the City on the Hilltop: A Socio-Political Study of Early Christianity*
Jeffrey George Wilson Research Stipend, 1993
2d Place, Pac-10 Rowing Championships, UCLA Crew (Coxswain), 1990

ACADEMIC APPOINTMENTS

BOSTON UNIVERSITY SCHOOL OF LAW

Professor of Law, January 2021-Present
Harry Elwood Warren Memorial Scholar, April 2024-Present
Law Alumni Scholar, July 2021-April 2024
Courses: Constitutional Law, Mass Inequality and Social Trauma, Election Law & Voting Rights Reform

TEMPLE UNIVERSITY, BEASLEY SCHOOL OF LAW

Clifford Scott Green Chair and Visiting Professor of Constitutional Law, Fall 2019
Courses: Fourteenth Amendment History and Practice, Presidential Leadership and Individual Rights

AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW

Professor of Law, May 2009—December 2020
Associate Professor of Law (with tenure), June 2008—May 2009
Courses: Constitutional Law, Criminal Procedure, Jurisprudence, Presidential Leadership and Individual Rights, The First Amendment

UNIVERSITY OF GEORGIA LAW SCHOOL

Visiting Professor, Semester in Washington Program, Spring & Fall 2012

Course: The American Presidency and Individual Rights

UNIVERSITY OF OREGON, WILLIAM W. KNIGHT SCHOOL OF LAW

Associate Professor of Law (with tenure), 2007-08

Assistant Professor, 2002-07

Courses: Constitutional Law, Federal Courts, Free Speech, Equality, Religious Freedom,
Civil Rights Litigation

YALE UNIVERSITY, DEPARTMENT OF HISTORY

Teaching Fellow, Professor Brian Hayashi, Asian American History, 1996, 1997

FELLOWSHIPS AND HONORS

LAURANCE S. ROCKEFELLER VISITING FACULTY FELLOW, University Center for Human Values, Princeton University, 2024-25

AMERICAN LAW INSTITUTE, elected July 13, 2023

ELIZABETH PAYNE CUBBERLY SCHOLAR AWARD, American University, College of Law, 2010

LORRY I. LOKEY UNIVERSITY AWARD FOR FACULTY EXCELLENCE, University of Oregon, 2008

ORLANDO J. HOLLIS FACULTY TEACHING AWARD, University of Oregon Law School, 2007

CLERKSHIPS

THE HONORABLE HUGH H. BOWNES, U.S. Court of Appeals for the First Circuit, 1998-99

THE HONORABLE DENNY CHIN, U.S. District Court, Southern District of New York, 1997-98

PUBLICATIONS

BOOKS

DEMAND THE IMPOSSIBLE: ONE LAWYER'S PURSUIT OF EQUAL JUSTICE FOR ALL

(W.W. Norton, Mar. 12, 2024)

- Featured by Supreme Myths Podcast, The Good is in the Details Podcast, Discovery Podcast, Future Hindsight Podcast, Touro Law Podcast

PRACTICAL EQUALITY: FORGING JUSTICE IN A DIVIDED NATION (W.W. Norton 2019)

- Reviewed by *Michigan Law Review*, *Constitutional Commentary*, *Law and Politics Book Review*, *Balkinization*, *International Examiner*, *Washington Lawyer*, *Northwest Asian Weekly*
- Featured by *The New Yorker*, MSNBC's Morning Joe, NPR's Think, The American Scholar's

Smarty Pants Podcast, First Monday Podcast, Chris Riback's Conversations, Ipse Dixit Podcast, Future Hindsight Podcast, Adam Conover's Factually Podcast, Washington State Indivisible Podcast

AMERICA'S FORGOTTEN CONSTITUTIONS: DEFIANT VISIONS OF POWER AND COMMUNITY (Harvard University Press 2014)

- Reviewed by *Harvard Law Review*, *Texas Law Review*, *Journal of American History*, *Tulsa Law Review*, *Daily Beast*, *Reason*, *Pop Matters*, *Civil War Book Review*
- Reviews and news collected at www.americasforgottenconstitutions.blogspot.com

ELOQUENCE AND REASON: CREATING A FIRST AMENDMENT CULTURE (Yale University Press 2008)

- Reviews and news collected at www.eloquenceandreason.blogspot.com
- "Highly recommended" by Choice. Also reviewed by *Northwestern University Law Review*, *Perspectives on Politics*, H-Net

ARTICLES

Roads Not Taken on Affirmative Action, 54 SETON HALL LAW REVIEW (forthcoming 2024) (symposium: "Pathways to Inclusion Post-SFFA")

[*Abortion Politics and the Rise of Movement Jurists*](#), 57 U.C. DAVIS LAW REVIEW 2149 (2024) (with Mary Ziegler)
• Featured in *Politico*, *Slate*, *Ms. Magazine*

[*Civic Education and Democracy's Flaws*](#), NOMOS LXVI (forthcoming 2024) (review essay based responding to Seana Shiffirin, *Democratic Civic Education and Democratic Law*)

[*After McCleskey*](#), 96 SOUTHERN CALIFORNIA LAW REVIEW 1031 (2023)
• "Highly Recommended," Legal Theory Blog

[*Abandoning Animus*](#), 74 ALABAMA LAW REVIEW 755 (2023) (symposium: "The End of Animus")

[*The Public Defender Movement in the Age of Mass Incarceration: Georgia's Experience*](#), 1 JOURNAL OF AMERICAN CONSTITUTIONAL HISTORY 85 (2023) (Inaugural Issue)

[*Why Judges Can't Save Democracy*](#), 72 SYRACUSE LAW REVIEW 1543 (2022) (symposium essay on David Driesen, *The Specter of Dictatorship* (Stanford 2021))

[*Legacies of Pragmatism*](#), 69 DRAKE LAW REVIEW 879 (2021) (symposium: "Re-examining Pragmatism in Constitutional Interpretation")

[*Can Sandel Dethrone Meritocracy?*](#), 1 AMERICAN JOURNAL OF LAW AND EQUALITY 70 (2021) (invited comment in inaugural issue, eds. Randall Kennedy, Martha Minow, Cass Sunstein) (review essay on Michael J. Sandel, *The Tyranny of Merit* (FSG 2020))

[*The Place of the Presidency in Historical Time*](#), 101 BOSTON UNIVERSITY LAW REVIEW 1831 (2021) (symposium essay on Jack M. Balkin, *The Cycles of Constitutional Time* (Oxford 2020))

[*A Proper Burial*](#), 74 ARKANSAS LAW REVIEW 307 (2021) (invited symposium essay on *Korematsu v. U.S.*)

- [*Racial Purges*](#), 118 MICHIGAN LAW REVIEW 1127 (2020) (review essay based on Beth Lew-Williams, *The Chinese Must Go!* (Harvard 2018))
- [*Manufactured Emergencies*](#), 129 YALE LAW JOURNAL FORUM 350 (2020) (invited essay)
- [*Considerations of History and Purpose in Constitutional Borrowing*](#), 28 WILLIAM & MARY BILL OF RIGHTS JOURNAL 517 (2019) (symposium: “Constitutional Rights: Intersections, Synergies, and Conflicts”)
- [*Equality is a Brokered Idea*](#), 88 GEORGE WASHINGTON LAW REVIEW ARGUENDO 1 (2020)
- [*Immigration Unilateralism and American Ethno-Nationalism*](#), 51 LOYOLA UNIVERSITY CHICAGO LAW JOURNAL 523 (2019) (symposium: “Democracy in America: The Promise and the Perils”)
- [*The Hidden Costs of Dissent*](#), 34 CONSTITUTIONAL COMMENTARY 489 (2019) (Reply to reviews of *Practical Equality* by Professors Franita Tolson & Nelson Tebbe)
- [*Obama’s Conversion on Same-Sex Marriage: The Social Foundations of Individual Rights*](#), 50 CONNECTICUT LAW REVIEW 1 (2018)
- [*A Tradition at War With Itself*](#), 94 TEXAS LAW REVIEW SEE ALSO 60 (2016) (responding to Aziz Rana, *The Many American Constitutions*, 93 TEX. L. REV. 1163 (2015) (Review of *America’s Forgotten Constitutions*))
- [*Three Arguments About War*](#), 30 CONSTITUTIONAL COMMENTARY 1 (2015)
- [*“Simple” Takes On the Supreme Court*](#), 5 ALABAMA CIVIL RIGHTS & CIVIL LIBERTIES LAW REVIEW 35 (2013)
- [*John Brown’s Constitution*](#), 51 BOSTON COLLEGE LAW REVIEW 151 (2010)
- [*The Ethics of Melancholy Citizenship*](#), 89 OREGON LAW REVIEW 557 (2010)
- [*Constitutional Borrowing*](#), 108 MICHIGAN LAW REVIEW 459 (2010) (with Nelson Tebbe)
- [*Reconsidering Gobitis: An Exercise in Presidential Leadership*](#), 86 WASHINGTON UNIVERSITY LAW REVIEW 363 (2008)
- Selected for 2008 Stanford/Yale Junior Faculty Forum in Constitutional History (Referees: Larry Kramer, William Nelson)
- [*Democracy’s Handmaid*](#), 86 BOSTON UNIVERSITY LAW REVIEW 1 (2006)
- [*Sacred Visions of Law*](#), 90 IOWA LAW REVIEW 1095 (2005)
- Shortlisted for *The Green Bag Almanac & Reader of Good Legal Writing 2006*
- [*Fire, Metaphor, and Constitutional Myth-Making*](#), 93 GEORGETOWN LAW JOURNAL 181 (2004)
- Selected for 2004 Stanford/Yale Junior Faculty Forum in Constitutional Theory (Referees: Kathleen Sullivan, Bruce Ackerman)
 - Shortlisted for *The Green Bag Almanac & Reader of Good Legal Writing 2006*
 - Excerpted in *Oregon Quarterly* 9 (Autumn 2004)

[*Speech and Strife*](#), 67 LAW & CONTEMPORARY PROBLEMS 83 (Summer 2004) (invited paper for 2002 Public Law Conference, Duke University School of Law)

[*Conceptualizing Constitutional Litigation as Anti-Government Expression: A Speech-Centered Theory of Court Access*](#), 51 AMERICAN UNIVERSITY LAW REVIEW 835 (2002)

BOOK CHAPTERS

Somewhere, U.S.A., in KERI LEIGH MERRITT, RHAELYN BARNES, YOHURU WILLIAMS (eds.), AFTER LIFE: DEATH AND LOSS IN 2020 (Haymarket 2022)

[*Supreme Court Precedent and the Politics of Repudiation*](#), in AUSTIN SARAT, LAWRENCE DOUGLAS & MARTHA M. UMPHREY (eds.), LAW'S INFAMY: UNDERSTANDING THE CANON OF BAD LAW (NYU 2021)

- “Highly Recommended,” Legal Theory Blog

[*Legal Language in Nineteenth Century America*](#), in Nan Goodman & Simon Stern eds., ROUTLEDGE RESEARCH COMPANION TO NINETEENTH CENTURY AMERICAN LAW AND CULTURE (Routledge 2017)

OTHER CONTRIBUTIONS

Conclusion—The Migration of Legal Ideas: Legislative Design and the Lawmaking Process, in NICOLA LUPO & LUCIA SCAFFARDI (eds.), COMPARATIVE LAW IN LEGISLATIVE DRAFTING: THE INCREASING IMPORTANCE OF DIALOGUE AMONGST PARLIAMENTS (Eleven Int'l 2014)

[*Introduction—The Politics of Hate*](#), 10 JOURNAL OF HATE STUDIES 9 (2012) (Guest Editor)

Chambers v. Florida, in DAVID S. TANENHAUS (ed.), ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (MacMillan Reference/Thomson-Gale 2008)

First Amendment, in DAVID S. TANENHAUS (ed.), ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (MacMillan Reference/Thomson-Gale 2008)

Public Forum, in DAVID S. TANENHAUS (ed.), ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (MacMillan Reference/Thomson-Gale 2008)

BOOK REVIEWS

Book Review, THE NEW RAMBLER (forthcoming 2024) (reviewing Aziz Rana, *The Constitutional Bind: How Americans Came to Idolize a Document That Fails Them* (University of Chicago 2024))

Book Review, WASHINGTON MONTHLY, July 2023 (reviewing Cliff Sloan, *The Court at War: FDR, His Justices, and the World They Made* (Public Affairs 2023))

Book Review, 137 POLITICAL SCIENCE QUARTERLY (Spring 2023 (reviewing Jared A. Goldstein, *Real Americans: National Identity, Violence and the Constitution* (Kansas 2022))

What the Legal Battles Over Chinese Migration Teach Us, Symposium on Carole Nakenoff & Julie Novkov, *American By Birth* (University of Kansas 2021) Balkinization, Nov. 16, 2021

The Future of Materialist Constitutionalism, THE NEW RAMBLER, Jan. 11, 2021 (reviewing Camila Vergara, *Systemic Corruption* (Princeton 2020))

A President's Uncertain Relationship With Social Movements, Symposium on Adam B. Cox & Cristina M. Rodriguez, *The President and Immigration Law* (Oxford 2020), Balkinization, Dec. 6, 2020

Shall We Break Up?, and *A More Orderly Disunion*, Symposium on F.H. Buckley, *American Secession* (2020) and Timothy William Waters, *Boxing Pandora* (2020), Balkinization, May 13, 2020

Before America Burned, BOSTON REVIEW, Sept. 23, 2019 (reviewing Nicholas Buccola, *The Fire is Upon Us* (Princeton 2019))

What is Inequality?, LOS ANGELES REVIEW OF BOOKS, Aug. 22, 2019 (essay based on Jeremy Waldron, *One Another's Equals* (Harvard 2017), T.M. Scanlon, *Why Does Inequality Matter?* (Oxford 2017), Keri Leigh Merritt, *Masterless Men* (Cambridge 2017))

Book Review, 106 JOURNAL OF AMERICAN HISTORY 423 (2019) (reviewing Fred Lee, *Extraordinary Racial Politics* (Temple 2018))

The Origins of Birthright Citizenship, BOSTON REVIEW, Nov. 8, 2018 (reviewing Martha S. Jones, *Birthright Citizens* (Cambridge 2018))

Specter of a White Minority, LOS ANGELES REVIEW OF BOOKS, Sept. 3, 2018

Book Review, 104 JOURNAL OF AMERICAN HISTORY 179 (2017) (reviewing Nicholas Guyatt, *Bind Us Apart* (Basic 2016))

Book Review, 15 CONTEMPORARY POLITICAL THEORY e33 (2016) (reviewing Elizabeth Beaumont, *The Civic Constitution* (Oxford 2014))

Book Review, 102 JOURNAL OF AMERICAN HISTORY 523 (2015) (reviewing Zephyr Teachout, *Corruption in America* (Harvard 2014))

The Language of Civic Republicanism, and *Theory as Recipe*, Online Symposium on James Fleming & Linda McClain, *Ordered Liberty* (Harvard 2012), Concurring Opinions

Book Review, 8 PERSPECTIVES ON POLITICS 1228 (2010) (reviewing Beau Breslin, *From Words to Worlds* (Johns Hopkins 2009))

Sovereignty as Discourse, 25 CONSTITUTIONAL COMMENTARY 157 (2008) (reviewing Howard Schweber, *The Language of Liberal Constitutionalism* (Cambridge 2007))

The System Worked: Our Schizophrenic Stance on Welfare, 106 YALE LAW JOURNAL 929 (1996) (reviewing Steven M. Teles, *Whose Welfare* (Kansas 1996))

WORKS IN PROGRESS

BATTLE FOR THE SOUL OF COAL COUNTRY (proposal under review at W.W Norton)
REASONING FROM INJUSTICE (book project)
The Capacity Approach to Judicial Review
William O. Douglas as Movement Judge
The Role of the Department of Justice in Transformational Politics
Carter's Pardons of Vietnam Protestors as First Amendment Action (archival project)
The Day Stephen Bright and Bryan Stevenson Debated William F. Buckley, Jr.
Becoming Stephen Bright
Reviving the Public Defender Movement

POPULAR ESSAYS

Why the Supreme Court Really Killed Roe v. Wade: Don't Blame Partisan Judges, The Real Problem is "Movement" Judges, POLITICO MAGAZINE, June 25, 2023 (with Mary Ziegler)

The Power of Langston Hughes's "Melancholy Citizenship," PSYCHE, July 20, 2022

What Rights Could Unravel Next, POLITICO MAGAZINE, May 3, 2022

A Revival of Democratic Politics, in "New Year, New Amendments," LPE BLOG, Jan. 10, 2022

The New Abortion Vigilantism, NEW YORK REVIEW OF BOOKS, Sept. 23, 2021 (with Mary Ziegler)

How the Anti-Abortion Movement Used the Progressive Playbook to Chip Away at Roe v. Wade, POLITICO MAGAZINE, June 13, 2021 (with Mary Ziegler)

Not Popular Enough, DEMOCRACY, Summer 2021 (part of special issue on a new draft U.S. constitution, organized by Sandy Levinson & Michael Tomasky)

Biden's Attempts to Diversify Federal Courts Can't Come Fast Enough, THE HILL, Apr. 6, 2021 (with Christopher Robertson)

How SCOTUS Nominations Became All-Out War, POLITICO MAGAZINE, Oct. 13, 2020

If the Republican Party is the Party of Trump, What Does it Stand For?, WASH. POST, Sept. 25, 2020 (with Linda McClain)

Inequality During a Pandemic, Part II: Rationing Life-Saving Gear and Care, HARVARD LAW REVIEW ONLINE (Apr. 13, 2020)

Inequality During a Pandemic, Part I: Shared Suffering and Self-Quarantine, HARVARD LAW REVIEW ONLINE (Apr. 9, 2020)

Who's In Charge?, BOSTON REVIEW, Apr. 1, 2020

Mueller Was Right to Play It Cool, BOSTON GLOBE, May 31, 2019

Obstruction of Justice? The Damage Runs Deeper Than That, Boston Globe, Apr. 19, 2019

Trump's Travel Ban Faces Fresh Legal Jeopardy, POLITICO MAGAZINE, Mar. 27, 2019

Abortion Goes on Trial, Again, BOSTON GLOBE, Feb. 28, 2019

How Activists Resisted—and Overturned—An Unjust Supreme Court Decision, WASH. POST, Jan. 30, 2019

Trump's Flirtation with Emergency Power Is Not Just About His Wall, SLATE, Jan. 17, 2019

Practical Equality in the Fiction of Langston Hughes, BERFROIS, June 29, 2018

The Anti-Immigration Bible, BOSTON REVIEW, June 18, 2018

Trumpism Before Trump, BOSTON REVIEW, June 11, 2018 (with Calvin TerBeek)

Trump Thinks Americans Should Be Forced to Perform Patriotic Rituals. One of His Predecessors Fiercely Disagreed, WASH. POST, May 29, 2018

The Troubling Sheriffs' Movement That Arpaio Supports, POLITICO MAGAZINE, Sept. 1, 2017

Actually, Paul Ryan, the President's Words Do Matter, SLATE, Dec. 5, 2016 (with Dahlia Lithwick)

Trump's Constitutional Revolution, BOSTON GLOBE, Dec. 2, 2016

What Aryans See in Donald Trump, SLATE, May 26, 2016

Racial Slurs Shouldn't be Trademarked: The Washington Football Team's Name is an Obstacle for Interstate Commerce, SLATE, Apr. 20, 2015 (with Christine Haight Farley)

Why Americans Love to Declare Independence, BOSTON GLOBE, June 29, 2014

From NSA to Race, A Protector of Rights Needed, BOSTON GLOBE, May 4, 2014

A Former Mascot Says: Change "Redskins," PORT TOWNSEND LEADER, July 18, 2012

Aryans, Gender, and American Politics, 4.2 SEXUALITY & POLITICS 16 (2011)

Revolutionary Spark, LEGAL AFFAIRS, Nov./Dec. 2004, p. 20

County Has a Duty to Interpret State Marriage Law and Constitution, Editorial, THE OREGONIAN, Mar. 6, 2004

Deciphering the Will of the People, Editorial, THE OREGONIAN, Nov. 15, 2004

PUBLIC LECTURES AND EVENTS

Demand the Impossible, Public Event, UNLV, Boyd School of Law, Las Vegas, NV, Oct. 17, 2024

Demand the Impossible, Public Event (with Stephen Bright and Brad Snyder), Georgetown University Law Center, Washington, D.C., Apr. 18, 2024

The Making of a Cause Lawyer, Public Event, University of Kentucky College of Law, Lexington, KY, April 1, 2024

Demand the Impossible, Conversation with Eric Seagall, Georgia State University College of Law, Atlanta, GA, Apr. 5, 2024

Demand the Impossible, A Conversation with Sara Mayeux, 2024 Barrett Lecture, George Barrett Social Justice Program, Vanderbilt Law School, Nashville, TN, Apr. 4, 2024

Equal Justice, Public Event (with Stephen Bright and Jed Shugerman), Boston University Law School, Mar. 28, 2024

Demand the Impossible, Book Talk with Carrie Johnson, NPR's National Justice Correspondent, Politics & Prose at the Wharf, Washington, D.C., Mar. 20, 2024

Demand the Impossible, A Conversation with Dean Erwin Chemerinsky, Berkeley Law School, Berkeley, CA, Mar. 19, 2024

Demand the Impossible, Public Event (with Stephen Bright and Harold Hongju Koh), American Constitution Society & YLS Defenders, Yale Law School, New Haven, CT, Mar. 12, 2024

Demand the Impossible, Public Event (with ACLU President Deb Archer and Bennett Capers), Center on Race, Law, and Justice, Fordham Law School, New York, NY, Mar. 11, 2024

SFFA v. Harvard/UNC, In Conversation: The Supreme Court, University of Connecticut School of Law, Hartford, CT, Nov. 15, 2024

Keynote Address, *A Voting Rights Legacy: MLK, Jr.'s and Ours*, Martin Luther King, Jr. Day Celebration, Brookline, MA, Jan. 17, 2022

Democracy Under Duress, Constitution Day Lecture, University of Pittsburgh School of Law, Pittsburgh, PA, Sept. 17, 2021

COVID-19 and Racial Discrimination, Conversation with President Kristan McMahon, Robert H. Jackson Center, Apr. 23, 2020

Living Presidentialism: What, If Anything, Constrains the Modern Executive?, Public Lecture, State University of New York at Albany, Albany, NY, Feb. 22, 2020

Practical Equality, Public Event with former Delaware Supreme Court Justice Randy Holland, History Book Festival, Lewes, DE, Sept. 27-29, 2019

Practical Equality, Public Lecture, Port Townsend High School, Port Townsend, WA, May 3, 2019

Practical Equality, Lecture, Peninsula College, Port Townsend, WA, May 3, 2019

Congress and the Pursuit of Equality: A Conversation with Congressman Jamie Raskin, WCL,

Washington, DC, Apr. 22, 2019

Voting Rights and the First Amendment, Ideas Forum, Lincoln's Cottage, Washington, D.C.,
Apr. 12, 2019

Practical Equality: A Conversation with the Honorable Denny Chin, USCA 2d Circuit, Asian American
Bar Association of New York, NY, Mar. 11, 2019

Practical Equality, Public Event (with *Slate's* Dahlia Lithwick), New York University Law School, NY,
Feb. 27, 2019

Practical Equality, Public Event (with *NY Times's* Adam Liptak), Politics & Prose, Washington, D.C.,
Feb. 21, 2019

Practical Equality, Public Event (with Harvard Professor Noah Feldman), Harvard University Bookstore,
Cambridge, MA, Feb. 20, 2019

What Might Have Been, Featured Speaker, 75th Anniversary of *West Virginia v. Barnette*, Robert H.
Jackson Center, Jamestown, NY, Oct. 16, 2018

Celebrating the Tradition Rather Than the Document, Constitution Day, National Archives,
Washington D.C., Sept. 18, 2014 (lecture drawn from *America's Forgotten Constitutions*)

The Northwest American Republic: Dreams of White Forefathers, Public Lecture, Human Solidarity
and Security Speaker Series, Gonzaga University, Spokane, WA, Jan. 30, 2014

Charles R. Clason Lecture: *Lessons from the Indian Stream Republic*, Western New England College
of Law, Springfield, MA, Mar. 3, 2011

SELECTED ACADEMIC PRESENTATIONS

Toward a Republican Framework for Removing Oligarchic Monuments, Venice Multidisciplinary World
Conference on Republics and Republicanism, Venice International University, Isola di San Servolo,
Venizia, Italy, May 24-26, 2024

Demand the Impossible, University of Kentucky Rosenberg College of Law, Lexington, KY, Apr. 11, 2024

Demand the Impossible, Conversation with Kate Weisburd, George Washington University Law School,
Mar. 21, 2024

Questions for Fellow Popular Constitutionalists, Con Law Schmooze, University of Maryland Law School,
Baltimore, MD, Mar. 1-2, 2024

Roads Not Taken, Pathways to Inclusion: Navigating Affirmative Action Post-*SFFA*, Seton Hall Law
Review Symposium, Seton Hall University School of Law, Newark, NJ, Feb. 16, 2024

Demand the Impossible, University of Washington Law School, Seattle, WA, Jan. 25, 2024

After *McCleskey*, Pepperdine Law School, Malibu, CA, Nov. 20, 2023

Reasoning from Injustice, BYU Law School, Provo, UT, Oct. 13, 2023

After *McCleskey*, First Biennial Conference, Journal of American Constitutional History, Madison, WI, Sept. 29-30, 2023

Movement Judges: Mindset and Esteem, Seattle University Law School, Sept. 19, 2023

Abandoning Animus, National Conference of Constitutional Law Scholars, University of Arizona College of Law, Tucson, AZ, Mar. 25, 2023

Visions and Models of Autonomy, Care, Resistance, and Community after *Roe v. Wade* (and *Dobbs*), AALS Annual Meeting, San Diego, CA, Jan. 5, 2023

Doubling Down on Equality, Faculty Workshop, University of Connecticut Law School, Sept. 14, 2022

After *McCleskey*, Howard H. Rolapp Distinguished Visiting Scholar, University of Utah College of Law, Salt Lake City, UT, Apr. 18, 2022

After *McCleskey*, Fordham Law School, Criminal Law Speaker Series, New York, NY, Apr. 4, 2022

Abandoning Animus, Symposium: The Limits of Animus, University of Alabama School of Law, Tuscaloosa, AL, Mar. 24, 2022

Norms of Revision, Center for Constitutional Democracy, Indiana University, Feb. 17, 2022

Doubling Down on Equality, Symposium: Revoking Irrevocable Punishment, Washington & Lee Law School, Lexington, VA, Feb. 10-11, 2022

After *McCleskey*, New York Law School, Criminal Justice Institute, Jan. 26, 2021

Comment on David Driesen, *The Specter of Dictatorship*, Syracuse Law School, NY, Nov. 12, 2021

Comment on Seana Shiffrin, Civic Education in Polarized Times, American Society for Political and Legal Philosophy, Safra Ethics Center, Harvard University, Oct. 30, 2021

After *McCleskey*, Faculty Workshop, University of Colorado School of Law, Boulder, CO, Oct. 25, 2021

After *McCleskey*, Faculty Workshop, Boston University School of Law, Boston, MA, Oct. 21, 2021

Comment on Sahar F. Aziz, *The Racial Muslim*, Boston University School of Law, MA, Sept. 23, 2021

Comment on Camila Vergara, *Systemic Corruption*, International Society of Public Law, Annual Meeting, July 9, 2021

Moderator and Commentator, Ariela Gross & Alejandro de la Fuente, *Becoming Free, Becoming Black*, Author Meets Readers, Law & Society Association Annual Meeting, Chicago, IL, May 28, 2021

Comment on Mark Tushnet & Bojan Bugarcic, *Populism and Constitutionalism*, Center for the Study of Europe, Pardee School of Global Studies, Boston University, May 24, 2021

Forms of Pragmatism, Constitutional Pragmatism Symposium, Drake University Law Center, Des Moines, IA, Apr. 16-17, 2021

Four Types of Revolution, Constitutional Law Schmooze, University of Maryland, Baltimore, MD, Feb. 27, 2021

What's the Role of Presidentialism in the Cycles of Constitutional Time?, Symposium on Jack Balkin, *The Cycles of Constitutional Time* (Oxford 2020), Boston University School of Law, Boston, MA, Feb. 25, 2021

What's After Practical Equality? (Commentator: David Fontana, GWU Law), AU-Washington College of Law, Washington, D.C., Feb. 11, 2020

Practical Equality, Rutgers Center for Gender, Sexuality, Law & Policy, Rutgers Law School, Newark, NJ, Jan. 21, 2019

Precedent as Artifact, Workshop, Amherst College, Political Science Department, Amherst, MA, Oct. 17, 2019

Egalitarian Origins of Modern Immigration Law, Drexel University, Klein School of Law, Philadelphia, PA, Oct. 3, 2019

The Limits of Practical Equality? (Commentator: Tobias Barrington Wolff, Penn Law), Temple University Beasley School of Law, Philadelphia, PA, Sept. 12, 2019

Immigration Unilateralism and American Ethnonationalism, Presenter, Symposium: "Democracy in America: The Promise and the Perils," Loyola Law School, Chicago, IL, Apr. 5, 2018

Practical Equality: A Conversation with University of Chicago Professor Aziz Huq, Northwestern University School of Law, Chicago, IL, Apr. 4, 2019

Presenter, Book Symposium, Timothy Zick, *Free Speech and its Relation to Other Constitutional Rights* (Oxford 2018), William & Mary Law School, Williamsburg, VA, Mar. 15-16, 2019

Practical Equality: A Conversation with William & Mary Professor Tim Zick, William & Mary School of Law, Williamsburg, VA, Mar. 14, 2019

To Help the Poor?, Comments on Professor Anne Fleming, "Outside the Shadow of the Poor House: Economic Regulation as Poverty Law," WCL Legal Workshop, Washington, D.C., Apr. 17, 2018

Practical Equality, Presenter, Workshop on American Political Development: "Law and Politics Under Stress," University of Oregon Law School-Wayne Morse Center, Portland, OR, Apr. 12-13, 2018

Trumpism's Dilemmas, Panel: "Trumpism, Cosmopolitanism, Identity and Equality: Theorizing the New Political Space," Annual Meeting of the Association for the Study of Law, Culture and the Humanities, Washington, D.C., Mar. 17, 2017

Practical Equality, Constitutional Law Roundtable: “Crime and Punishment,” University of Maryland Law School, Baltimore, MD, Mar. 2-3, 2018

Equality By Other Means, Faculty Workshop, Washington & Lee Law School, Lexington, VA, Feb. 26, 2018

The Search for State Consensus in American Rights Cases, Speaker, State Consensus in Constitutional Adjudication and the Legal Traditions of Member States, Luxembourg Forum, Washington, D.C., Apr. 21, 2017

Police Coercion: A New Theory of Law?, Comments on Rachel Harmon, “Police Violence and Lawful Orders,” WCL Distinguished Speakers Series, Washington D.C., Oct. 7, 2016

The Role of Social Turmoil in First Amendment Cases, First Amendment Roundtable, Washington University School of Law, St. Louis, MO, Apr. 15, 2016

The Social Foundations of Presidential Leadership Over Individual Rights, Constitutional Law Symposium, Loyola University Chicago School of Law, Chicago, IL, Nov. 7-8, 2014

The Republic of New Afrika: Popular Constitutionalism and International Law, Faculty Workshop, Gonzaga University Law School, Spokane, WA, Jan. 30, 2014

Participant, First Amendment Roundtable, Washington University School of Law, St. Louis, MO, Mar. 22, 2013

Three Arguments About War, Oregon Law & Humanities Initiative and the Wayne Morse Center for Law & Politics, University of Oregon School of Law, Eugene, OR, Jan. 31, 2013

Fiction as Dissent: Simple Takes on the Supreme Court, “The Art & Politics of Irony,” Institute for the Public Life of Arts and Ideas, McGill University, Montreal, Quebec, Apr. 13, 2012

Why Study Failed Constitutions? John Brown’s Vision for America, William & Mary Law School, Bill of Rights Institute, Williamsburg, VA, Nov. 10, 2011

Commenter, “First Amendment and Fallen Heroes: The Unpleasant Case of *Snyder v. Phelps*,” American Studies Association Annual Meeting, Baltimore, MD, Oct. 21, 2011

When We Talk About War, Constitutional Law Roundtable, American Constitution Society, George Washington University Law School, Washington, D.C., June 16, 2011

Forms of Popular Sovereignty, “Popular Sovereignty and American Democracy,” Inaugural Conference of American Democracy Forum, University of Wisconsin, Madison, WI, May 25, 2011

Egalitarianism and Displacement, Workshop on Race, Gender, and Sexuality in Law and Political Development, Ohio University, Athens, OH, May 20-21, 2011

Non-Territorial Forms of American Sovereignty, Faculty Workshop, University of Washington Law School, Seattle, WA, May 12, 2011

Whose Virtues?, Comment on Linda McClain, Rights, Responsibilities, and Virtues, WCL Distinguished Speakers Series, Apr. 15, 2011

Is Liberalism Bound by a Command of Evaluative Neutrality?, Comment on Adrienne Stone, Is There a Right to Freedom of Expression? A Response to Larry Alexander, WCL Distinguished Speakers Series, Mar. 30, 2011

Two Alternative Republics, Faculty Workshop, Rutgers University Law School, Camden, NJ, Feb. 7, 2011

“One Good World”: Deploying the American Experience to Undermine the Nation-State, Midwest Constitutional Law Discussion Group, University of Wisconsin, Madison, WI, Oct. 22, 2010

Dealing With Democratic Heartbreak, Address for Conference “How Rhetoric Shapes the Law: Pedagogy, Theory, Practice,” American University, Washington College of Law, Oct. 15, 2010

Pioneer Constitutionalism, D.C. Area Legal History Roundtable, Georgetown University Law Center, Washington, D.C., Oct. 8, 2010

Dreams of White Forefathers, Law & Society Association, Panel: “Uses of the Past in Constitutional Discourse,” Chicago, IL, May 29, 2010

America’s Forgotten Constitutions, Legal Studies Workshop, Stanford Law School, Stanford, CA, Mar. 8, 2010

America’s Forgotten Constitutions, Faculty Colloquium, University of Connecticut Law School, Hartford, CT, Jan. 20, 2010

John Brown’s Constitution, Symposium: “John Brown Remembered: 150 Year Anniversary of the Raid on Harper’s Ferry,” Harper’s Ferry, WV, Oct. 16, 2009

The Northwest Homeland, Loyola Law School, Los Angeles, CA, Sept. 10, 2009

Eloquence and Reason, Author Meets Readers, Annual Meeting of the Law and Society Association, Denver, CO, May 28-31, 2009

The Ethics of Melancholy Citizenship, Symposium: “Contested Citizenship,” University of Oregon School of Law, Eugene, OR, May 7-8, 2009

Eloquence and Reason, Wayne Morse Center for Law & Politics, University of Oregon, Eugene, OR, May 6, 2009 (Commentator: Joseph Lowndes)

Constitutional Borrowing, Annual Meeting of the Association for the Study of Law, Culture, and the Humanities, Boston, MA, Apr. 4, 2009, May 2009

Eloquence and Reason, Author Meets Readers, Annual Meeting of the Association for the Study of Law, Culture, and the Humanities, Boston, MA, Apr. 3, 2009

Two Arguments Against Tolerance, Panel: The Limits of Tolerance, Symposium: Religion and the State, Center for the Study of Liberal Democracy/Lubar Institute for the Study of Abrahamic Religions, University of Wisconsin, Madison, WI, Mar. 27-28, 2009

Bottom-Up Accounts of Religious Support for Gay Marriage, Comment on Sarah Barringer Gordon, The Spirit of the Law, American University, Washington College of Law, Feb. 13, 2009

Constitutional Borrowing, Faculty Workshop, University of Baltimore Law School, Baltimore, Maryland, Oct. 23, 2008

Reconsidering *Gobitis*, Stanford/Yale Junior Faculty Forum, New Haven, CT, June 21, 2008

Contested Citizenship and the Processes of Identity Formation, Annual Meeting of the Association for the Study of Law, Culture and the Humanities, Berkeley, CA, Mar. 29, 2008

John Brown's Constitution, Constitutional Law Discussion Group, University of Maryland School of Law, Baltimore, MD, Mar. 8, 2008

Reconsidering *Gobitis*, Faculty Colloquium, Georgetown University Law Center, Washington, D.C., Feb. 20, 2008

How Social Conservatives Remade the Wall of Separation, Symposium: "The 21st Century Brain: Why It Matters for the Academic and Political Worlds," University of Pittsburgh School of Law, Pittsburgh, PA, Feb. 8, 2008

Presidential Leadership and Linguistic Transformation, University of Iowa College of Law, Iowa City, IA, Sept. 6, 2007

Gobitis Reconsidered, May Gathering, University of Virginia Law School, Charlottesville, VA, June 1, 2007

The Responsive Judiciary, Faculty Workshop, Thomas Jefferson School of Law, San Diego, CA, Apr. 20, 2007

Measuring Interpretive Plausibility, Faculty Colloquium, St. John's University School of Law, New York, NY, Mar. 5, 2007

First Amendment Borrowing, Distinguished Speakers Series, Seattle University School of Law, Seattle, WA, Mar. 3, 2006

Text as One Aspect of a People's Vocabulary, Faculty Workshop, University of Washington School of Law, Seattle, WA, Mar. 2, 2006

The Irrepressible First Amendment, Faculty Workshop, Chicago-Kent College of Law, Chicago, IL, Feb. 8, 2006

Eloquence and Reason, Faculty Workshop, St. Louis University School of Law, St. Louis, MO, Feb. 7, 2006

The Irrepressible First Amendment, Faculty Workshop, Washington University School of Law,

St. Louis, MO, Feb. 6, 2006

The Irrepressible First Amendment, Panel: “First Amendment Borrowing,” Annual Meeting of the Law & Society Association, Las Vegas, NV, June 3, 2005

Metaphor and Democracy, Eighth Annual Meeting of the Association for the Study of Law, Culture and the Humanities, Austin, TX, Mar. 11, 2005

Fire, Metaphor and Constitutional Myth-Making, Stanford-Yale Junior Faculty Forum, Yale Law School, New Haven, CT, June 5, 2004

Roundtable: Brown, Legitimacy, and Constitutional Culture, Annual Meeting of the Law & Society Association, Chicago, IL, May 29, 2004

The First Amendment: Metaphor and Role-Playing, Faculty Colloquium, University of California, Davis, King Hall School of Law, Davis, CA, Oct. 1, 2003

The Meaning of Judicial Authority, Fourth Annual Public Law Conference, Duke University School of Law, Durham, NC, Dec. 14, 2002

OTHER PRESENTATIONS

Book talk, Michael Gerhardt, *The Law of Impeachment* (NYU 2024), Boston University School of Law, Feb. 8, 2024

The Impact of the Pandemic and the Racial Reckoning on Health Outcomes and American Democracy, Institute for Common Power & University of Washington Department of Medicine, Feb. 1, 2023

Book event, Sen. Russ Feingold & Peter Prindiville, *The Constitution in Jeopardy* (Kansas Press 2022), American Constitution Society, Boston University School of Law, Nov. 2, 2022

Book Launch Event for Barnes, Merritt & Williams (eds.), *After Life* (Haymarket 2022), People’s Forum, New York, NY, Oct. 13, 2022

A Conversation with Fiona Hill, Boston University School of Law, Feb. 23, 2022

Anti-Asian Violence and the Law, Kelley Drye & Warren LLP, Washington, DC, May 26, 2021

Anti-Asian Discrimination and Practical Equality, Davis & Gilbert, New York, NY, May 25, 2021

The Chilean Process and the Role of the Constitution in Democratic Stability, U.S. State Department/ Instituto Desafios de la Democracia, Santiago, Chile, May 18, 2021

The Constitution, NAF Academy Speaker Series, Global Service & Academy, Theodore Roosevelt High School, Jan. 8, 2021

Election 2020: Voting Rights, Populism, Political Violence?, Boston University, Oct. 27, 2020

Book Launch Event for Julia Rose Kraut, *Threat of Dissent* (Harvard 2020), New York Historical Society, Aug. 5, 2020

Practical Equality, Lecture, Alston & Bird, July 20, 2020 (via zoom)

Book Launch for Jia Lynn Yang, *One Mighty and Irresistible Tide*, Politics & Prose, Washington, D.C., May 21, 2020

Coronavirus and Inequality, A Conversation on Equity, Justice, and Community, Sidwell Friends School, May 14, 2020

Publishing Books, AALS Annual Meeting, Jan. 3, 2020

Supreme Court Recap and Title VII, Steptoe & Johnson, Washington, D.C., Nov. 18, 2019

Suffrage for Incarcerated Persons, Temple University, Beasley School of Law, Philadelphia, PA, Nov. 19, 2019
 Let's Talk About Text, American Constitution Society, Annual Convention, June 7, 2019
 Can Originalism Be Progressive?, American Constitution Society/Federalist Society, Georgetown University Law Center, Mar. 4, 2019
 Constitution Day & Book Signing, American Constitution Society, Washington College of Law, Sept. 17, 2018
 Recent Research, Adam Mickiewicz University of Poznan, Faculty of Law & Public Administration, Sept. 26, 2011
 Framing First Amendment Arguments in Uncertain Times, Distinguished Speakers' Series, Marbury Institute, Offices of DLA Piper, Atlanta, Georgia, Mar. 6, 2009
 What are the Stakes in the Guantanamo Bay Detention Cases?, Wayne Morse Center for Law and Politics, Eugene, Oregon, Oct. 8, 2007
 The Impact of Judge John Roberts' Confirmation to the U.S. Supreme Court, Seminar, National Association of Criminal Defense Lawyers, Portland, Oregon, Aug. 5, 2005
 Imagining Life Under a Libertarian Constitution, Response to Randy E. Barnett, *Restoring the Lost Constitution* (2003), The Federalist Society, University of Oregon School of Law, Eugene, Oregon, Apr. 19, 2004

EMPLOYMENT HISTORY

Staff Counsel, American Civil Liberties Union, Atlanta, Georgia, 1999-2002
 Summer Associate, Wilmer, Cutler & Pickering, Washington, D.C., 1997
 Research Assistant, Bruce Ackerman, Yale Law School, 1997
 Summer Associate, Cravath, Swaine & Moore, New York, New York, 1996
 Law Clerk, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, Washington, D.C., Summer 1995
 Law Fellow, Congressman Richard A. Gephardt, Washington, D.C., Summer 1995
 Research Assistant, Steven B. Duke, Yale Law School, 1995-97
 Research Assistant, David C. Rapoport, Department of Political Science, UCLA, 1990-92

SELECTED SERVICE

Senior Board of Editors, *Journal of American Constitutional History*, 2022-present
 Founding Board of Editors, *Constitutional Studies*, 2016-present
 Legal Advisor on Impeachment, U.S. Senator Jack Reed (D-RI), 2020
 Signatory, Letter on Constitutionality of Wealth Tax, U.S. Senator Elizabeth Warren (D-MA)
 BU Law Clerkship Committee, 2023-24
 BU Law Appointments Committee, 2021-23
 Co-Chair, BU Law Appointments Committee, 2022-23
 Co-Chair, Faculty Engagement and Reputation Committee, 2022-23
 President, Law & Humanities Section, AALS, 2022-23
 President-Designate, Law & Humanities Section, AALS, 2021-22
 Secretary, Law & Humanities Section, AALS, 2020-21
 Executive Board, Law & Humanities Section, 2019-21
 Guest Editor, "Hate and Political Discourse," *Journal of Hate Studies*, 2012-13
 ASLCH Dissertation Award Committee, 2010
 AUWCL Speaker Series and Scholarship Committee, 2008-09, 2010-11, 2016-17, 2018-19
 AUWCL Appointments Committee, 2017-19

Chair, AUWCL Rank and Tenure Subcommittee, 2008-09, 2010, 2012-19
AUWCL Technology Committee, 2017-19
AUWCL Committee on Career Development, 2014-16
AUWCL Library Committee, 2013-14, Chair 2020
AUWCL Curriculum Committee, 2011-12
AUWCL Public Interest Committee, 2012-13
Founder and Co-Chair, Oregon Legal Theory Workshop, 2005-07
Planning Committee, “Democracy and Citizenship,” Wayne Morse Center for Law & Politics, 2006
Curriculum Committee, 2005-06
UO Dean’s Faculty Advisory Committee (elected), 2004-05, 07-08
UO Faculty Appointments Committee, 2004-05, 06-07

AFFILIATIONS

American Society for Legal History
American Society for Political and Legal Philosophy
American Political Science Association
Law and Society Association
Association for the Study of Law, Culture and the Humanities

PEER REVIEW

Aspen Publishers
Cambridge University Press
Oxford University Press
University of North Carolina Press
Temple University Press
Law and Social Inquiry
Political Science Quarterly
Constitutional Studies
Journal of American Constitutional History
Law, Culture & Humanities
Journal of Criminal Justice and Popular Culture
The Review of Politics
Studies in Law, Politics & Society

SELECTED MEDIA APPEARANCES

Quoted in Jessica Pishko, *The Fringe Ideology of “Constitutional Sheriffs” is Attracting Believers Within Texas Law Enforcement*, TEXAS TRIBUNE, Jan. 13, 2023
Quoted in John Kruzal, *Roe Demise Shows Conservative Supreme Court Wants to Move “Very Far and Very Fast,”* THE HILL, June 25, 2022
Quoted in Irin Carmon, *Are the Atlanta Killings a Hate Crime? The Suspect Doesn’t Get to Decide*, NEW YORK MAGAZINE, Mar. 18, 2021
Trial of Former President Trump is Unconstitutional, GOP Will Argue, ABC News Live, Feb. 8, 2021
The War for the Court, NBC News Now/Meet the Press Reports, Oct. 15, 2020
Featured in *How Amy Coney Barrett Would Reshape the Court—And the Country: More Than Two Dozen Legal Thinkers Game Out What President Trump’s New Supreme Court Pick Means for*

America's Biggest Legal Fights, the Court's Reputation, the Fate of its "Swing Seat," and More, POLITICO MAGAZINE, Sept. 26, 2020

Featured in "The Most Important Woman Lawyer in the History of the Republic": How Did Ruth Bader Ginsburg Change America? More than 20 Legal Thinkers Weigh In, POLITICO MAGAZINE, Sept. 18, 2020

Quoted in Mike Baker et al., *Federal Agents Push Into Portland Streets, Stretching Limits of Their Authority*, N.Y. TIMES, July 31, 2020

Meet the Press, MSNBC, Aug. 14, 2020 (discussing IG report that acting DHS appointments are illegal)

Quoted in Mike Baker et al., *Federal Agents Push into Portland Streets, Stretching Limits of Their Authority*, N.Y. TIMES, July 25, 2020

Guest on NPR's Think, Who Decides What is Really an Emergency?, Feb. 20, 2020 (discussing YALE L.J.F. essay, *Manufactured Emergencies*)

Quoted in John Kruzell, Trump's Acquittal May Have Profound Impact on Presidential Power, THE HILL, Feb. 4, 2020

Quoted in John Kruzell, *How Impeachment Differs From Court Trials*, THE HILL, Jan. 14, 2020

Meet the Press, MSNBC, Dec. 26, 2019 (Is Impeachment a political or legal proceeding?)

Radio Times, NPR, Dec. 5, 2019 ("The Impeachment Probe Gets Constitutional")

Meet the Press, Nov. 11, 2019 (Can Mulvaney and Bolton resist congressional subpoenas?)

Featured in *How to Fix Politics?, A 21st-Century Voting Rights Act*, POLITICO, Sept. 17, 2020

Meet the Press, May 29, 2019 (discussing whether Attorney General William Barr can mislead the public about Robert Mueller's findings)

Meet the Press, July 10, 2019 (update on Emoluments Clause litigation)

Meet the Press, MSNBC, Mar. 19, 2019 (discussing Emoluments Clause lawsuits against President Trump)

Morning Joe, MSNBC, Mar. 1, 2019 (discussing new book *Practical Equality*)

Think, NPR, Feb. 28, 2019 ("A Pragmatist's Take on Equality")

Meet the press, MSNBC, Feb. 18, 2019 (discussing President Trump's declaration of a national emergency to build border wall)

Quoted in Adam Liptak, *Ruling Awaited on Display of Commandments at Court*, N.Y. TIMES, June 4, 2003