

**Name of Panel:** The Possibilities and Perils of Supreme Court Reform

**Date | Time | Location:** June 7, 2019 | 9:15 a.m. to 11:00 a.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** Proposals to alter the structure of the Supreme Court and how it does its business have been around for some time and have only multiplied in recent years as the judicial nominations process has grown increasingly contentious. Some claim the Court has never been this politicized and partisan, and that the notion that the Justices are anything but political actors effectuating predetermined agendas is naive. Perhaps not surprisingly, we now hear calls for term limits and Court packing. What should be the progressive orientation toward the Court? Is the Court's legitimacy at stake and, if so, should we care? If we care, can anything be done about it?

**Panelists' Names and Bios:**

- *Bob Bauer*
  - NYU School of Law
- *Aaron Belkin*
  - Pack the Courts
- *Joan Biskupic (Moderator)*
  - CNN
- *Aziz Huq*
  - University of Chicago Law School
- *Dahlia Lithwick*
  - Slate
- *Neil Siegel*
  - Duke University School of Law
- *Ganesh Sitaraman*
  - Vanderbilt Law School

**Agenda of Panel:** 9:15 a.m. to 11:00 a.m. (1.75 hours of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (75 min)
- Q&A (20 min)

**Materials for Panel:**

- Bob Bauer, [Don't Pack the Courts](#), ATLANTIC (July 6, 2018).
- Bob Bauer, [How to End the Judicial Confirmation Wars](#), ATLANTIC (July 1, 2018).
- Aaron Belkin, [Buttigieg's Judicial Reform Plan Won't Work](#), PACK THE COURTS (Apr. 20, 2019).
- Erwin Chemerinksy, [It's Time to Reform the Supreme Court-Here are Five Ways to Do It](#), BILLMOYERS.COM (July 15, 2014).
- Daniel Epps & Ganesh Sitaraman, [How to Save the Supreme Court](#), VOX (Oct. 10, 2018, 11:25 AM).
- David Faris, [Democrats Must Consider Court-packing When They Regain Power. It's the Only Way to Save Democracy](#), WASH. POST (July 10, 2018).
- Michael Klarman, [Why Democrats Should Pack the Supreme Court](#), TAKE CARE (Oct. 15, 2018).

- Dahlia Lithwick, [\*The Case for Court Packing\*](#), SLATE (Apr. 5, 2019) (interviewing Aaron Belkin of Pack the Courts).
- Jon D. Michaels, [\*The Supreme Court's Liberals Should Follow Conservative Justice Rehnquist's Lead-Dissent, Dissent, Dissent\*](#), L.A. TIMES (July 9, 2018, 4:05 AM).
- Alan Morrison, [\*Term Limits for Justices are the Best Way to Fix this Supreme Court Mess\*](#), HILL (Oct. 5, 2018, 9:00 AM).
- Neil Siegel, [\*The Anti-Constitutionality of Court-Packing\*](#), BALKINIZATION (Mar. 26, 2019).
- [\*The Argument: Is the Supreme Court Broken?\*](#), N.Y. TIMES (Oct. 11, 2018).
- Kermit Roosevelt III & Ruth-Helen Vassilas, [\*Coming to Terms with Term Limits: Fixing the Downward Spiral of Supreme Court Appointments\*](#), ACS ISSUE BRIEF (July 2017).
- Jed Handelsman Shugerman, [\*Balanced Checks\*](#), SLATE (June 20, 2012, 6:19 PM).

**Name of Panel:** Flipping the Narrative on American Democracy

**Date | Time | Location:** June 7, 2019 | 11:15 a.m. to 12:45 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** Many progressives lament that our constitutional system is inherently undemocratic, with electoral seats awarded to candidates who don't win the popular vote, and the explicit denial of voting rights to American citizens based on where they live or because they are felons, despite having served their sentences. Indeed, much of the narrative around voting, democracy, and representation over the last decade has focused on concerted efforts to shrink the electorate and gerrymander political districts, and the progressive response to those efforts. Yet the momentum may be shifting. Innovative ideas are on the table that will expand the electorate and ensure that representatives better resemble their constituents. Are we ready to play offense? Will these strategies ultimately strengthen not only voting rights, but also our democratic institutions? Why are these proposals more likely to gain traction than other ideas, and what can be done to support these efforts?

**Panelists' Names and Bios:**

- *Joshua Douglas*
  - University of Kentucky College of Law
- *Rick Hasen*
  - University of California, Irvine School of Law
- *Marina Jenkins*
  - National Redistricting Foundation
- *Pema Levy (Moderator)*
  - Mother Jones
- *Bertrall Ross*
  - University of California, Berkeley School of Law

**Agenda of Panel:** 11:15 a.m. to 12:45 p.m. (1.5 hours of CLE)

- Introduction/Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

**Materials for Panel:**

- AM. CIVIL LIBERTIES UNION, [OUT OF STEP WITH THE WORLD: AN ANALYSIS OF FELONY DISFRANCHISEMENT IN THE U.S. AND OTHER DEMOCRACIES](#) (2006).
- Erwin Chemerinsky, [End Disenfranchisement of Felons](#), ORANGE CNTY. BAR ASSOC. (Oct. 2016).
- Joshua A. Douglas, [Expanding Voting Rights Through Local Law](#), ACS ISSUE BRIEF (Oct. 2017).
- Joshua A. Douglas, [In Defense of Lowering the Voting Age](#), 165 U. PA. L. REV. ONLINE 63 (2017).
- Joshua A. Douglas, [To Protect the Right to Vote, Look to State Courts and State Constitutions](#), ACS ISSUE BRIEF (Aug. 2015).
- David H. Gans & Elizabeth B. Wydra, [The Voting Rights Act Is in Jeopardy, But It Shouldn't Be: A Close Look at Shelby County v. Holder](#), ACS ISSUE BRIEF (Feb. 2013).
- Richard L. Hasen, [Beyond the Margin of Litigation: Reforming U.S. Election Administration to Avoid Electoral Meltdown](#), 62 WASH. & LEE L. REV. 937 (2005).

- Richard L. Hasen, [\*Race or Party, Race as Party, or Party All the Time: Three Uneasy Approaches to Conjoined Polarization in Redistricting and Voting Cases\*](#), 59 WM. & MARY L. REV. 1837 (2018).
- Bertrall Ross, [\*Partisan Gerrymandering, the First Amendment, and the Political Outsider\*](#), 118 COLUM. L. REV. 2187 (2018).
- Jim Rutenberg, [\*A Dream Undone\*](#), N.Y. TIMES (July 29, 2015).
- William Yeomans et al., [\*The Voting Rights Amendment Act of 2014: A Constitutional Response to Shelby County\*](#), ACS ISSUE BRIEF (May 2014).

**Name of Panel:** Let's Talk About Text

**Date | Time | Location:** June 7, 2019 | 11:15 a.m. to 12:45 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** Some progressive scholars and advocates have long urged that progressives take up the mantle of textualism, arguing that the text, history and structure of the Constitution lead to progressive results. This approach may meet with more support in the coming years as progressive litigators, faced with an increasingly conservative federal judiciary, seize upon originalist and textualist arguments in the hope of winning cases. But some scholars and advocates contend that to concede any ground to conservative interpretive methodology is to ignore its fundamental falsehoods and forsake important constitutional interests. Is there a danger in signing on to a textualist or originalist approach to constitutional interpretation? How should progressives reconcile these arguments?

**Panelists' Names and Bios:**

- *Victoria Nourse*
  - Georgetown Law
- *Hon. Bob Pratt (Moderator)*
  - U.S. District Court for the Southern District of Iowa
- *Jed Shugerman*
  - Fordham University School of Law
- *Robert Tsai*
  - American University Washington College of Law
- *Elizabeth Wydra*
  - Constitution Accountability Center

**Agenda of Panel:** 11:15 a.m. to 12:45 p.m. (1.5 hours of CLE)

- Introduction/Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

**Materials for Panel:**

- [Antonin Scalia & Robert Katzmann on Textualism](#), C-SPAN (Nov. 19, 2014).
- Richard A. Epstein, [The Limits of Textualism](#), HOOVER INST. (Mar. 5, 2018).
- Katie R. Eyer, [Understanding the Role of Textualism and Originalism in the LGBT Title VII Cases](#), ACS BLOGS (Apr. 26, 2019).
- Richard Hasen, [Liberals Must Embrace a Bankrupt Judicial Philosophy to Have Any Chance of Winning at the Supreme Court](#), SLATE (Oct. 18, 2018).
- Bryan Garner, [Old-Fashioned Textualism Is All About Interpretation, Not Legislating from the Bench](#), A.B.A. J. (Apr. 1, 2019).
- Aziz Huq, [Why You Shouldn't Care Whether Kavanaugh is an 'Originalist'](#), POLITICO (Aug. 9, 2018).
- Doug Kendall & Jim Ryan, [The Case for New Textualism](#), DEMOCRACY J. (2011).
- Victoria Nourse, [Reclaiming the Constitutional Text from Originalism: The Case of Executive Power](#), 106 CAL. L. REV. 1 (2018).
- Jedidiah Purdy, [Scalia's Contradictory Originalism](#), NEW YORKER (Feb. 16, 2016).

- Jeffrey Rosen, [\*How New Is the New Textualism?\*](#), 25 YALE J. L. & HUMAN. 43 (2013).
- Michael Rosen, [\*The New Textualists' Finest Hour?\*](#), AMERICAN (June 28, 2012).
- Elizabeth Wydra, [\*Justice Gorsuch, Make the Originalist's Case Against Trump's Travel Ban\*](#), HILL (Apr. 27, 2018).

**Name of Panel:** Promoting Progress: Opportunities and Obstacles to Prosecutor-led Reform

**Date | Time | Location:** June 7, 2019 | 11:15 a.m. to 12:45 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** In the last few election cycles, a number of progressive prosecutors have been elected in places like Chicago, Orlando, Philadelphia, and St. Louis, joining the ranks of progressive prosecutors in other cities. Reform-minded attorneys are also serving as line prosecutors in federal and state prosecutor offices across the country. These attorneys, many of whom are men and women of color, are seeking to leverage their roles as prosecutors to combat racial and economic disparities in the criminal justice system. How can prosecutors use their discretion and influence to pursue racial and economic justice? What constraints, both legal and systemic, limit a prosecutor's ability to achieve reform? What are the ethical obligations to pursue prosecutions, even in cases where the law disparately impacts people of color or the economically vulnerable?

**Panelists' Names and Bios:**

- *Hon. Aramis Ayala*
  - Office of the State Attorney for the Ninth Judicial Circuit
- *Hon. Wesley Bell*
  - St. Louis County Office of the Prosecuting Attorney
- *Adam Foss (Moderator)*
  - Prosecutor Impact
- *Hon. Larry Krasner*
  - City of Philadelphia Office of the District Attorney
- *Marbre Stahly-Butts*
  - Law for Black Lives

**Agenda of Panel:** 11:15 a.m. to 12:45 p.m. (1.5 hours of CLE)

- Introduction/Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

**Materials for Panel:**

- Angela J. Davis, [The Progressive Prosecutor: An Imperative for Criminal Justice Reform](#), 87 FORDHAM L. REV. 1 (2018).
- David Garland, [The Road to Ending Mass Incarceration Goes Through the DA's Office](#), AM. PROSPECT (Apr. 8, 2019).
- Jennifer Gonnerman, [Larry Krasner's Campaign to End Mass Incarceration](#), NEW YORKER (Oct. 22, 2018).
- [Memorandum](#) from Kathleen Jennings, Att'y General, Delaware, to Deputy Attorneys General and Staff (Feb. 15, 2019).
- Note, [The Paradox of "Progressive Prosecution"](#), 132 HARV. L. REV. 748 (2019).
- David E. Patton, [A Defender's Take on "Good" Prosecutors](#), 87 FORDHAM L. REV. ONLINE 20 (2018).
- Jessica A. Roth, [The Necessity of the Good Person Prosecutor](#), 87 FORDHAM L. REV. ONLINE 30 (2018).

- David Alan Sklansky, [\*The Progressive Prosecutor's Handbook\*](#), 50 U.C. DAVIS L. REV. ONLINE 25 (2017).



**Name of Panel:** 2019: A Tech Odyssey

**Date | Time | Location:** June 7, 2019 | 11:15 a.m. to 12:45 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** From Siri to smart cars to facial-recognition that forestalls terrorist attacks, artificial intelligence, (AI) is already affecting everyday life whether we realize it or not. AI already tracks and predicts individuals' shopping preferences, political preferences, and locations. But we do not understand the full range of rewards and risks that arise from the use of this technology and the data accumulation necessary for it to work effectively. Computers make trillions of decisions each day in search results and newsfeeds. Do these decisions merit First Amendment protection? Should a computer's prediction about an individual's propensity to commit a crime be admissible as evidence at trial? If a software program develops racial biases could the program – or the programmer – be held liable for unlawful discrimination? And does it, or should it, make a difference if issues related to AI arise in the United States, the UK, or China?

**Panelists' Names and Bios:**

- *Roy Austin*
  - Harris, Wiltshire & Grannis LLP
- *Rebecca Crootof*
  - Yale Law School
- *Kara Swisher (Moderator)*
  - Recode
- *Frank Torres*
  - Microsoft Corporation
- *Ben Wizner*
  - ACLU

**Agenda of Panel:** 11:15 a.m. to 12:45 p.m. (1.5 hours of CLE)

- Introduction/Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

**Materials for Panel:**

- AI NOW INST., [LITIGATING ALGORITHMS: CHALLENGING GOVERNMENT USE OF ALGORITHMIC DECISIONS SYSTEMS](#) (2018).
- Stephen Buranyi, [Rise of the Racist Robots- How AI Is Learning All Our Worst Impulses](#), GUARDIAN (Aug. 8, 2017).
- Ryan Calo, [Digital Market Manipulation](#), 82 GEO. WASH. L. REV. 995 (2014).
- RYAN CALO, BROOKINGS INST., [THE CASE FOR A FEDERAL ROBOTICS COMMISSION](#) (2014).
- Rebecca Crootof, [The Killer Robots Are Here: Legal and Policy Implications](#), 36 CARDOZO L. REV. 1837 (2015).
- Joshua A. Kroll et al., [Accountable Algorithms](#), 165 U. PENN. L. REV. 633 (2017).
- Jennifer Lynch, [Face Off: Law Enforcement Use of Face Recognition Technology](#), ELECTRONIC FRONTIER FOUND. (Feb. 12, 2018).
- Toni M. Massaro & Helen Norton, [Siri-ously? Free Speech Rights and Artificial Intelligence](#), 110 NW. L. REV. 1169 (2016).

- Megan Smith & Roy L. Austin Jr., [\*Launching the Police Data Initiative\*](#), WHITE HOUSE (May 18, 2015).
- Melanie Reid, [\*Rethinking the Fourth Amendment in the Age of Supercomputers, Artificial Intelligence, and Robots\*](#), 199 W. VA. L. REV. 100 (2017).
- Ben Wizner, [\*Artificial Intelligence at Any Cost Is a Recipe for Tyranny\*](#), ACLU (Aug. 23, 2017).
- Daniel Zwerdling, [\*Your Digital Trail: Does the Fourth Amendment Protect Us?\*](#), NPR (Oct. 2, 2013).

**Name of Panel:** Women's Rights as Human Rights: Raising the Floor & Shattering the Ceiling

**Date | Time | Location:** June 7, 2019 | 2:30 p.m. to 4:00 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** It has been ten years since President Barack Obama signed into law the Lilly Ledbetter Fair Pay Act and more than twenty since the Beijing World Conference on Women pledged to remove all economic, social, cultural, and political obstacles to women's participation in public and private life. In the last year, we've seen American women win more seats in the House of Representatives and in state and local government than ever before, and the Equal Rights Amendment has now been ratified by 37 states. Yet, many women continue to face serious obstacles in the workplace, from gender and pregnancy discrimination, to sexual harassment; and the United States remains the only country in the developed world that does not mandate employers offer paid leave for new mothers. The threat to women's reproductive rights and health is also back in earnest with a conservative shift in the courts. And all these issues disproportionately impact women of color and low-income women. What legal strategies can be employed to improve gender equality—for all women—and what are the likely obstacles from the courts, the Trump administration, and state and local governments?

**Panelists' Names and Bios:**

- *Dina Bakst*
  - A Better Balance
- *Inez Feltscher Stepman*
  - Independent Women's Forum
- *Michele Goodwin*
  - University of California, Irvine School of Law
- *Debra Katz*
  - Katz, Marshall & Banks LLP
- *Melissa Murray (Moderator)*
  - New York University School of Law
- *Carol Robles-Roman*
  - Hunter College

**Agenda of Panel:** 2:30 p.m. to 4:00 p.m. (1.5 hours of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

**Materials for Panel:**

- [Comparative Chart of Paid Family and Medical Leave Laws in the United States](#), A BETTER BALANCE (last updated Mar. 1, 2019).
- DINA BAKST, ELIZABETH GEDMARK, & SARAH BRAFMAN, A BETTER BALANCE, [LONG OVERDUE: IT IS TIME FOR THE FEDERAL PREGNANT WORKERS FAIRNESS ACT](#) (2019).
- Dina Bakst, [Pregnant and Jobless: Pregnant Woman Still Choose Between Paycheck and a Healthy Pregnancy](#), HUFFPOST (last updated Oct. 30, 2016).

- Gaylynn Burroughs & Debra S. Katz, [Won't Back Down](#), MS MAGAZING.COM (2015).
- [Equal Rights Amendment](#), ERA (last visited Apr. 22, 2019).
- Michele Goodwin, [Invisible Women: Mass Incarceration's Forgotten Casualties](#), 94 TEX. L. REV. 353 (2015).
- Michele Goodwin, [Troubling Legislative Agendas: Leveraging Women's Health Against Women's Reproductive Rights](#), ACS ISSUE BRIEF (July 2017).
- Michele Goodwin & Erwin Chemerinsky, [Pregnancy, Poverty, and the State](#), 127 YALE. L. J. 1270 (2018).
- Debra S. Katz, Lisa J. Banks, & Hannah Alejandro, [Delivering on the #MeToo Mandate: Reforming Antidiscrimination Law to Deter and Remedy Sexual Harassment](#), ACS NAT'L CONVENTION (June 8, 2019).
- Melissa Murray, [Consequential Sex: #MeToo, Masterpiece Cakeshop, and Private Sexual Regulation](#), 113 NW. U. L. REV. 825 (2019).
- [Nauser v. Schmidt](#), No. 144,153 (Kan. Sup. Ct. Apr. 26, 2019).
- Maya Salam, [What Is the Equal Rights Amendment, and Why Are We Talking About It Now?](#), N.Y. TIMES (Feb. 22, 2019).
- INEZ FELTSCHER STEPMAN, INDEP. WOMEN'S FORUM, [EQUAL RIGHTS AMENDMENT](#) (2019).

**Name of Panel:** Is Deference Deserved?: Reexamining Judicial Review in National Security Cases

**Date | Time | Location:** June 7, 2019 | 2:30 p.m. to 4:00 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** Nearly 75 years after the Supreme Court infamously deferred to intentionally misleading government claims of military necessity in *Korematsu v. United States*, the Court in *Trump v. Hawaii* upheld on rational basis review the constitutionality of President Trump’s “travel ban,” his third attempt at effecting, in Trump’s own words, a “complete shutdown of Muslims entering the United States.” More recently, the President has asserted “national security” as a justification for imposing tariffs on steel coming from Canada, and has relied upon dubious claims of a national security crisis to invoke the National Emergencies Act of 1976 to unlock other potential sources of funding for his border wall. Unsurprisingly, litigation has ensued. Principles of judicial deference, particularly in the context of national security, are rooted in the acknowledgment that the executive branch is more expert, experienced, and politically accountable than the judiciary. But is judicial deference appropriate when that expertise isn’t consulted or in fact repudiates the executive’s claims? Should deference give way when civil rights are in jeopardy? Should there be a more considered approach to when and how courts defer to the executive in these circumstances?

#### Panelists’ Names and Bios:

- **Baher Azmy**
  - Center for Constitutional Rights
- **Jamil Jaffer**
  - George Mason University Antonin Scalia Law School
- **Mary McCord**
  - Georgetown Law
- **Shirin Sinnar**
  - Stanford Law School
- **Hon. Jack Tunheim (Moderator)**
  - U.S. District Court for the District of Minnesota

**Agenda of Panel:** 2:30 p.m. to 4:00 p.m. (1.5 hours of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

#### Materials for Panel:

- Robert Chesney, [Judicial Deference and the Inevitable Border Emergency Litigation](#), LAWFARE (Feb. 16, 2019).
- Robert Chesney, [National Security Face Deference](#), 95 VA. L. REV. 1361 (2009).
- Ashley Deeks, [The Observer Effect: National Security Litigation, Executive Policy Changes, and Judicial Deference](#), 82 FORDHAM L. REV. 828 (2013).
- W. Neil Eggleston & Amanda Elbogen, [The Supreme Court Should Rethink Deference to the Executive in the Travel Ban Case](#), JUST SECURITY (Apr. 19, 2018).

- Harold Hongju Koh, [Trump v. Hawaii: Korematsu’s Ghost and National Security Masquerades](#), JUST SECURITY (June 28, 2018).
- Marty Lederman, [Contrary to Popular Belief, the Court Did Not Hold that the Travel Ban is Lawful – Anything But](#), JUST SECURITY (July 2, 2018).
- Leah Litman, [Revisiting the Presumption of Regularity](#), TAKE CARE (Jan. 28, 2019).
- DAVID RUDENSTINE, THE AGE OF DEFERENCE: THE SUPREME COURT, NATIONAL SECURITY, AND THE CONSTITUTIONAL ORDER (2016).
- Shirin Sinnar, [Procedural Experimentation and National Security in the Courts](#), 106 CAL. L. REV. 991 (2018).
- Ganesh Sitaraman & Ingrid Wuerth, [National Security Exceptionalism and the Travel Ban Litigation](#), LAWFARE (Oct. 12, 2017).
- Illya Somin, [The Case Against Special Judicial Deference in Immigration and National Security Cases](#), WASH. POST (Oct. 22, 2017).

**Name of Panel:** One Factor Among Many? The Future of Affirmative Action

**Date | Time | Location:** June 7, 2019 | 2:30 p.m. to 4:00 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** The Supreme Court has previously upheld affirmative action at public higher education institutions, ruling in 2003 that a college or university can consider race as part of a holistic, multi-factor admissions process, and again in 2013 and 2016, that an applicant's race can be considered, so long as the process is narrowly tailored to achieve the compelling interest of student body diversity. However, a new legal strategy is now being tested in cases pending against Harvard University and the University of North Carolina at Chapel Hill, and a lawsuit seeking admissions data from the University of California system. These lawsuits allege discrimination not against white students, which had been the claim in the previous cases, but against Asian-American applicants. Moreover, a Department of Justice investigation is underway at Yale as to whether it discriminates against Asian-Americans and treats applicants differently on account of race. The investigation follows the Trump Administration's rescission of Obama Administration guidelines that sought to enhance student diversity at colleges and universities. Does/should the fact that plaintiffs belong to a racial minority affect the legal analysis in affirmative action cases? And in light of the Supreme Court's new composition, how likely is this new legal strategy to prevail?

**Panelists' Names and Bios:**

- *Sheryll Cashin*  
– Georgetown Law
- *Kristen Clarke*  
– Lawyers Committee for Civil Rights Under the Law
- *Hon. Denise Page Hood (Moderator)*  
– U.S. District Court for the Eastern District of Michigan
- *Winnie Kao*  
– Asian Americans Advancing Justice
- *Rick Sander*  
– UCLA School of Law

**Agenda of Panel:** 2:30 p.m. to 4:00 p.m. (1.5 hours of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

**Materials for Panel:**

- Elise C. Boddie, [\*The Future of Affirmative Action\*](#), 130 HARV. L. REV. F. 38 (2019).
- Jenessa Calvo-Friedman, [\*In Defense of Affirmative Action in Higher Education\*](#), ACLU (Aug. 30, 2018).
- Sheryll Cashin, [\*Place, Not Race: Affirmative Action and the Geography of Educational Opportunity\*](#), 47 U. MICH. J. L. REFORM 935 (2014).
- Erwin Chemerinsky, [\*Making Sense of the Affirmative Action Debate\*](#), 22 OHIO NORTHERN U. L. REV. 1159 (1996).
- Deirdre Fernandes, [\*What's Next for Harvard's Affirmative Action Case? It's Complicated\*](#), BOS. GLOBE (Nov. 24, 2018).

- Vinay Harpalani, [\*Defending the Constitutionality of Race-Conscious University Admissions\*](#), ACS ISSUE BRIEF (Oct. 2015).
- Anemona Hartocollis, [\*U.N.C. Admissions Lawsuit Brings Another Attack on Affirmative Action\*](#), N.Y. TIMES (Jan. 18, 2019).
- Anemona Hartocollis, [\*What's at Stake in the Harvard Lawsuit? Decades of Debate Over Race in Admissions\*](#), N.Y. TIMES (Oct. 13, 2018).
- Stacy Hawkins et al., [\*A Conversation on the Nature, Effects, and Future of Affirmative Action in Higher Education Admissions\*](#), 17 U. PA. J. CONST. L. 684 (2015).
- Charles Lam, [\*Harvard Announces High Admittance of Asian Americans as Judges Weighs Affirmative Action\*](#), NBC NEWS (Apr. 2, 2019).
- [\*Press Release\*](#), Lawyers Comm. for Civil Rights Under Law, Lawyers' Committee for Civil Rights Under Law Takes New Action to Defend Interests of Asian American Minority Students in Harvard Affirmative Action Lawsuit (Oct. 31, 2017).



**Name of Panel:** Toward a Progressive Vision of Religious Freedom

**Date | Time | Location:** June 7, 2019 | 2:30 p.m. to 4:00 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** Providing exemptions from neutral laws for religious objectors used to be at the forefront of the progressive agenda. In fact, the leading case in this area was *Sherbert v. Verner*, a decision authored by Justice Brennan. *Employment Division v. Smith*, the case that overturned *Sherbert*, was written by Justice Scalia. Conservatives have since picked up the mantle of advocating for religious exemptions both under the Religious Freedom of Restoration Act and the Free Exercise Clause. How should progressives respond to conservative efforts to reinvigorate what was once progressive doctrine? Should progressives consider using RFRA to advance their own causes, for example, to assert a right to assist undocumented immigrants or to make decisions about their intimate lives? What would a contemporary progressive view of free exercise look like?

**Panelists' Names and Bios:**

- *Jason DeSanto (Moderator)*
  - Northwestern University Pritzker School of Law
- *Katherine Franke*
  - Columbia Law School
- *Bill Marshall*
  - UNC School of Law
- *Melissa Rogers*
  - Brookings Institute
- *Sirine Shebaya*
  - Muslim Advocates

**Agenda of Panel:** 2:30 p.m. to 4:00 p.m. (1.5 hours of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (60 min)
- Q&A (20 min)

**Materials for Panel:**

- [Brief](#) of Americans United for Separation of Church and State, et al., as Amici Curiae, *California v. Azar*, No. 18-15155 (9th Cir. May 28, 2018).
- [Brief](#) of and By Professors of Religious Liberty as Amicus Curiae in Support of Defendant's Motion to Dismiss, *United States v. Warren*, No. CR-18-00223-001-TUC-RCC (D. Ariz. June 21, 2018).
- [Brief](#) of and By Professors Religious Liberty as Amici Curiae in Support of Neither Party on Defendant's Motion to Dismiss Under the Religious Liberty Restoration Act, *United States v. Hoffman*, NO. 4:19-CR-00693-RM (D. Ariz. Apr. 22, 2019).
- Caroline Mala Corbin, [Corporate Religious Liberty: Why Corporations Are Not Entitled to Religious Exemptions](#), ACS ISSUE BRIEF (Jan. 2014).
- [Emp't Div. v. Smith](#), 494 U.S. 872 (1990).
- RONALD B. FLOWERS, MELISSA ROGERS, & STEVEN K. GREEN, RELIGIOUS FREEDOM AND THE SUPREME Court (2008).

- William P. Marshall, [\*Bad Statutes Make Bad Law: Hobby Lobby v. Burwell\*](#), 2014 SUP. CT. REV. 71 (2015).
- William P. Marshall, [\*Smith, Christian Legal Society, and Speech-Based Claims for Religious Exemptions from Neutral Laws of General Applicability\*](#), 32 CARDOZO L. REV. 1937 (2011).
- Jeremy W. Peters, [\*Pete Buttigieg, Gay and Christian, Challenges Religious Right on Their Own Turf\*](#), N.Y. TIMES (Apr. 10, 2019).
- [\*Religious Freedom Restoration Act\*](#), 42 U.S.C. § 2000bb *et seq.*
- See [\*The Law, Rights, and Religion Project\*](#), COLUM. L. SCH. (last visited Apr. 24, 2019).
- [\*Sherbert v. Verner\*](#), 374 U.S. 398 (1963).

**Name of Panel:** Into the Breach: Relying on State Courts and Constitutions to Safeguard Rights

**Date | Time | Location:** June 7, 2019 | 4:15 p.m. to 6:00 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** Justice William J. Brennan, Jr., observing in 1977 that his more conservative Supreme Court colleagues were underenforcing the guarantees of the Bill of Rights and the 14th Amendment, urged state courts to “step into the breach” and to scrutinize constitutional claims vigorously because “[w]ith federal scrutiny diminished, state courts must respond by increasing their own.” Now, with the federal courts moving ever more to the right under the current administration, it may be increasingly important for progressive advocates to look to state courts and state constitutions to advance civil rights and protect individual liberty. Which types of rights might receive stronger protection under state constitutions? What might be at risk with such a strategy? Where the federal and state constitutions contain substantively the same text, is it legitimate for state courts to reach different conclusions than the U.S. Supreme Court about constitutional questions? As progressives look at an increasingly inhospitable federal judicial landscape, are state courts and constitutions the answer?

**Panelists’ Names and Bios:**

- *Mary Bonauto*  
– GLAD
- *Hon. Anita Earls*  
– Supreme Court of North Carolina
- *Caitlin Halligan*  
– Selendy & Gay PLLC
- *Hon. Goodwin Liu*  
– Supreme Court of California
- *Alice O’Brien*  
– National Education Association
- *Richard Schragger (Moderator)*  
– University of Virginia School of Law
- *Hon. Jeffrey Sutton*  
– U.S. Court of Appeals for the Sixth Circuit

**Agenda of Panel:** 4:15 p.m. to 6:00 p.m. (1.75 hours of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (75 min)
- Q&A (20 min)

**Materials for Panel:**

- Mary Bonauto, [\*Equality and the Impossible—State Constitutions and Marriage\*](#), 68 RUTGERS U. L. REV. 1482 (2016).
- William J. Brennan Jr., [\*State Constitutions and the Protection of Individual Rights\*](#), 90 HARV. L. REV. 489 (1977).

- Joshua A. Douglas, [\*The Right to Vote Under State Constitutions\*](#), 67 VANDERBILT L. REV. 89 (2014).
- Catherine L. Firsk & Martin H. Malin, [\*After Janus\*](#), 107 CAL. L. REV. (forthcoming 2019).
- Goodwin Liu, [\*State Constitutions and the Protection of Individual Rights: A Reappraisal\*](#), 92 N.Y.U. L. REV. 1307 (2017).
- Goodwin Lui, [\*State Courts and Constitutional Structure\*](#), 128 YALE L. J. 1304 (2019).
- Elizabeth Nash & Megan K. Donovan, [\*Ensuring Access to Abortion at the State Level: Selected Examples and Lessons\*](#), 22 GUTTMACHER POL'Y REV. 1 (2019).
- Jeffery S. Sutton, [\*A Response to Justice Goodwin Liu\*](#), YALE L. J. F. 936 (2019).
- Jeffrey S. Sutton, [\*What Does—and Does Not—Ail State Constitutional Law\*](#), 59 KAN. L. REV. 687 (2011).
- Jeffrey S. Sutton, [\*Why Teach—and Why Study—State Constitutional Law\*](#), 34 OKLA. CITY L. REV. 165 (2009).
- JEFFREY S. SUTTON, 51 IMPERFECT SOLUTIONS: STATES AND THE MAKING OF AMERICAN CONSTITUTIONAL LAW (2018); see [\*Recent Book\*](#), 132 HARV. L. REV. 811 (2019) (summarizing Judge Sutton's book).
- Aaron Tang, [\*Life After Janus\*](#), COLUM. L. REV. (forthcoming).

**Name of Panel:** After Trump: Reforming Government and Repairing  
Democracy

**Date | Time | Location:** June 8, 2019 | 9:15 a.m. to 11:00 a.m. | Capital Hilton 1001 16th  
St NW, Washington, DC 20036

**Brief Description:** The 1972 Watergate Scandal and all that it exposed taught Americans a set of painful lessons about the failures of our democracy that were then reflected in a set of “good government” reforms. More than four decades later, the White House and the Department of Justice have exhibited new and unexpected abuses of government authority. As we look to a post-Trump era, what reforms should we consider enacting to protect our democracy from corruption and unchecked executive power? Should we review – and perhaps rescind – statutes that give the president broad power in times of national emergencies? Should the Vacancies Reform Act be reformed? Should the framework of our anti-corruption laws be reworked? Does the Department of Justice, itself, need restructuring so that it can achieve its mission independent from political influence?

**Panelists’ Names and Bios:**

- *E.J. Dionne (Moderator)*  
– Washington Post
- *Stuart Gerson*  
– Epstein Becker Green
- *Anne Joseph O’Connell*  
– Stanford Law School
- *Walter Shaub*  
– Citizens for Responsibility and Ethics in Washington (CREW)
- *Ciara Torres-Spelliscy*  
– Stetson University College of Law
- *Elliot Williams*  
– The Raben Group
- *Shanlon Wu*  
– Wu/Grohovsky

**Agenda of Panel:** 9:15 a.m. to 11:00 a.m. (1.75 hours of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (75 min)
- Q&A (20 min)

**Materials for Panel:**

- Nicholas Fandos & Eric Lipton, [Walter Shaub’s Ethics Recommendations for the Government](#), N.Y. TIMES (July 17, 2017).
- Elizabeth Goitein, [The Alarming Scope of the President’s Emergency Powers](#), ATLANTIC (Jan. 2019).
- Neil K. Katyal & George T. Conway III, [Trump’s Appointment of the Acting Attorney General Is Unconstitutional](#), N.Y. TIMES (Nov. 8, 2018).

- [Letter](#) from Walter M. Shaub Jr., Senior Director, Campaign Legal Center, to House Committee on Oversight and Government Reform (Nov. 9, 2017) (providing thirteen recommendations for government ethics reform).
- Paul C. Light, [The Coming Showdown Over Government Reform](#), BROOKINGS INST. (Apr. 18, 2019).
- Adam Liptak, [Conservative Lawyers Say Trump Has Undermined the Rule of Law](#), N.Y. TIMES (Nov. 14, 2018).
- William P. Marshall, [Break Up the Presidency? Governors, State Attorneys General, and Lessons from the Divided Executive](#), 115 YALE L. J. 2446 (2006).
- Anne Joseph O’Connell, [After One Year in Office, Trump’s Behind on Staffing but Making Steady Progress](#), BROOKINGS INST. (Jan. 23, 2018).
- Anne Joseph O’Connell, [Shortening Agency and Judicial Vacancies Through Filibuster Reform? An Examination of Confirmation Rates and Delays from 1981 to 2014](#), 64 DUKE L. J. 1646 (2015).
- Ciara Torres-Spelliscy, [Luckily for the Trumps, Some Laws Are Hard to Break](#), ATLANTIC (Apr. 21, 2019).
- Steve Vladeck, [Trump is Abusing His Authority to Name “Acting Secretaries.” Here’s How Congress Can Stop Him](#), SLATE (Apr. 9, 2019).
- Elliot Williams, [The Consequences of Trump’s Immigration Court Quota](#), HILL (Apr. 18, 2018).

**Name of Workshop:** Expanding the Vote

**Date | Time | Location:** June 8, 2019 | 11:15 a.m. to 1:00 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** This interactive workshop will address a variety of opportunities through which participants can work to expand the vote. The Campaign Legal Center will cover felon re-enfranchisement efforts in states and how lawyers and law students can help restore voting rights. Workshop participants will also learn more about Election Day class cancellation, pre-registration, poll worker recruitment, and census volunteer opportunities.

**Speakers' Names and Bios:**

- *Danielle Lang*  
– Campaign Legal Center
- *Paul Smith*  
– Campaign Legal Center

**Agenda of Workshop:** 11:15 a.m. to 1:00 p.m. (1 hour of CLE)

- Substantive Presentation (60 min)
- Q&A / Interactive Exercise (45 min)

**Materials for Workshop:**

- AM. CIVIL LIBERTIES UNION, [OUT OF STEP WITH THE WORLD: AN ANALYSIS OF FELONY DISFRANCHISEMENT IN THE U.S. AND OTHER DEMOCRACIES](#) (2006).
- [Automatic Voter Registration](#), BRENNAN CTR. FOR JUSTICE (Nov. 7, 2018).
- Erwin Chemerinsky, [End Disenfranchisement of Felons](#), ORANGE CNTY. BAR ASSOC. (Oct. 2016).
- Jean Chung, [Felony Disenfranchisement: A Primer](#), SENTENCING PROJECT (July 17, 2018).
- Joshua A. Douglas, [Expanding Voting Rights Through Local Law](#), ACS ISSUE BRIEF (Oct. 2017).
- Joshua A. Douglas, [In Defense of Lowering the Voting Age](#), 165 U. PA. L. REV. ONLINE 63 (2017).
- Joshua A. Douglas, [To Protect the Right to Vote, Look to State Courts and State Constitutions](#), ACS ISSUE BRIEF (Aug. 2015).
- Gabby Deutch, [Florida Felons Want Their Voting Rights Restored](#), ATLANTIC (Sept. 13, 2018).
- Madeline Marshall, [Why America Needs Automatic Voter Registration](#), VOX (Nov. 7, 2018 11:50 AM).
- [Military Veteran Rodney Lofton on What Voting for the First Time Meant to Him](#), CAMPAIGN LEGAL CTR. (Jan. 7, 2019).
- Mo Pasternak, [Momentum to Restore Voting Rights Continues as More States Move Legislation Forward](#), CAMPAIGN LEGAL CTR. (Apr. 22, 2019).
- Devyn Rafols-Nunez, [Push to Lower the Voting Age Gains Traction Across the States](#), NBC NEWS (June 24, 2018, 7:31 PM).
- Avner Shapiro, [A Pragmatic Approach to Challenging Felon Disenfranchisement Laws](#), ACS ISSUE BRIEF (Jan. 2017).

**Name of Workshop:** An ACS #MeToo National Task Force Listening and Discussion Session

**Date | Time | Location:** June 8, 2019 | 11:15 a.m. to 1:00 p.m. | Capital Hilton 1001 16th St NW, Washington, DC 20036

**Brief Description:** As the #MeToo movement evolved, ACS found itself in the cross-section of the discussion with network members in academia, the judiciary (both as judges and law clerks), in public service, and in private practice. Following our 2018 Convention plenary panel on the topic, we formed the ACS #MeToo National Task Force in October 2018, with the goal of tracking trends and considering best practices for the legal community. Since the inception of the Task Force, ACS chapters have hosted listening sessions across the country, and several more are planned. This workshop will act as a national listening session and allow for a geographically diverse perspective on how to combat sexual assault and harassment. A short panel discussion featuring esteemed members of the National Task Force will be followed by small group roundtable discussions. Workshop attendees are encouraged to participate by sharing their perspectives, listening, and keeping shared experiences in the room.

### Speakers' Names and Bios:

- *Alexis Bates (Moderator)*
  - Jenner & Block
- *Kalpana Kotagal*
  - Cohen Milstein
- *Hon. Theodore McKee*
  - U.S. Court of Appeals for the Third Circuit

**Agenda of Workshop:** 11:15 a.m. to 1:00 p.m. (1 hour of CLE)

- Introductions / Opening Remarks (10 min)
- Panel Discussion (60 min)
- Group conversation in an effort to inform best practices around sexual harassment issues in the workplace (20 min)

### Materials for Workshop:

- Joanna L. Grossman & Deborah L. Rhode, [Understanding Your Legal Options If You've Been Sexually Harassed](#), HARV. BUS. REV. (June 22, 2017).
- Candice Jackson, [Dear Colleague Letter](#), U.S. DEP'T OF EDUC. (Sept. 22, 2017) (withdrawing previous Title IX guidance by the Obama administration).
- Kalpana Kotagal, [The 'Inclusion Rider' Should Be a Hollywood Standard](#), WASH. POST (Mar. 9, 2018).
- [Letter](#) from Coal. of Civil Rights Orgs., to Hon. Paul Ryan et al. (Jan. 16, 2018).
- Catherine E. Lhamon, [Questions and Answers on Title IX and Sexual Violence](#), U.S. DEP'T OF EDUC. OFF. CIV. RTS. (Apr. 29, 2014).
- Catharine A. MacKinnon, [Where #MeToo Came From, and Where It's Going](#), ATLANTIC (Mar. 24, 2019).
- Heather McLaughlin, Christopher Uggen, & Amy Blackstone, [The Economic and Career Effects of Sexual Harassment on Working Women](#), 31 GENDER & SOC'Y 333 (June 2017).



- MAYA RAGHU & JOANNA SURIANI, NAT'L WOMEN'S LAW CTR., [#METOOWHATNEXT: STRENGTHENING WORKPLACE SEXUAL HARASSMENT PROTECTIONS AND ACCOUNTABILITY](#) (2017).
- Emily Stewart, [Trump Wants "Due Process" For Abuse Allegations. I Asked 8 Legal Experts What That Means.](#), Vox (Feb. 12, 2018, 3:08 PM).
- Elizabeth C. Tippet, [The Legal Implications of the MeToo Movement](#), MINN. L. REV. (forthcoming).
- [Dear Colleague Letter](#), U.S. DEP'T OF EDUC. (Apr. 4, 2011).
- Lesley Wexler, Jennifer K. Robbennolt, & Colleen Murphy, [#MeToo, Time's Up, and Theories of Justice](#), 2019 U. ILL. L. REV. 45 (2019).

