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).
- Erwin Chemerinsky, 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).


- Alan Morrison, *Term Limits for Justices are the Best Way to Fix this Supreme Court Mess*, HILL (Oct. 5, 2018, 9:00 AM).


- 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).

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:


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).
- 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).
- Aziz Huq, Why You Shouldn’t Care Whether Kavanaugh is an ‘Originalist’, POLITICO (Aug. 9, 2018).
- Jedidiah Purdy, Scalia’s Contradictory Originalism, NEW YORKER (Feb. 16, 2016).
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
- **Hon. Aisha Braveboy**
  - Prince George’s County Maryland State’s Attorney Office
- **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:

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

Materials for Panel:

- Memorandum from Kathleen Jennings, Att’y General, Delaware, to Deputy Attorneys General and Staff (Feb. 15, 2019).
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:

- 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).
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).
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:

- Marty Lederman, *Contrary to Popular Belief, the Court Did Not Hold that the Travel Ban is Lawful — Anything But*, JUST SECURITY (July 2, 2018).
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:

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
- Bill Marshall
  – UNC School of Law
- Elizabeth Platt
  – Columbia Law School
- 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:

- See The Law, Rights, and Religion Project, COLUM. L. SCH. (last visited Apr. 24, 2019).
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:

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).
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).


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:**
- _Automatic Voter Registration_, BRENNAN CTR. FOR JUSTICE (Nov. 7, 2018).
- Jean Chung, _Felon Disenfranchisement: A Primer_, SENTENCING PROJECT (July 17, 2018).
- Devyn Rafols-Nunez, _Push to Lower the Voting Age Gains Traction Across the States_, NBC NEWS (June 24, 2018, 7:31 PM).
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:

- Candice Jackson, Dear Colleague Letter, U.S. DEP’T OF EDUC. (Sept. 22, 2017) (withdrawing previous Title IX guidance by the Obama administration).
- 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).