

THE ELECTION LAWYER



The Newsletter of the AALS Section on Election Law, Vol. 1, Issue 1 (Jan. 2021)

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MESSAGE FROM THE CHAIR

By Eugene D. Mazo

This has been quite a busy year for election law scholars. In the middle of a heated Democratic primary race, a global pandemic arrived that changed the rules of voting in nearly every state. Before March, the majority of Americans had voted in person. By November, most of the country was voting by mail. The result was a presidential election that saw unprecedented voter turnout. But the new rules of voting also led to new claims of voter fraud. Thus the 2020 general election was the most litigated election that we have ever witnessed as well. As we all gather at AALS this week, the contest is still not over.

*“In rejuvenating and invigorating our Section,
our goal all year has been to make election
law a more fun and dynamic field.”*

It’s been a very busy year for the Section on Election Law as well. After our Section was founded seven years ago, it has always put on an annual panel at AALS. This year, however, we decided we wanted to do more than that. In addition to holding a regular Section panel (this year’s panel, “Voting During a Pandemic: Lessons from 2020,” will take place on Wednesday, January 6, from 11:00 a.m. to 12:15 p.m.), the Section has also (1) created a new lifetime achievement award, the John Hart Ely Prize in the Law of Democracy, and (2) established a

new best paper prize, the Distinguished Scholarship Award in Election Law. We are also (3) hosting a new Section-wide networking event (on Thursday, January 7, from 12:15 to 1:15 p.m.) and (4) organizing our first-ever New Voices in Election Law Works-in-Progress Workshop (on Saturday, January 9, from 2:45 p.m. to 5:40 p.m.). In addition, we (5) started a new Section newsletter, *The Election Lawyer*, which you are reading, where we hope to profile both new and established scholars in our field and list everyone’s latest publications from now on. We decided to establish these new traditions for a reason. In rejuvenating and invigorating our Section, our goal all year has been to make election law a more fun and dynamic field. We hope you enjoy these changes. Feel free to drop us a line and let us know what you think.



Section on Election Law Officers for 2020-2021

Chair: Eugene D. Mazo

Chair-Elect: Michael T. Morley

Secretary: Derek T. Muller

Executive Committee:

Benjamin Plener Cover

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Franita Tolson

SECTION PROGRAM FOR 2021: “VOTING DURING A PANDEMIC: LESSONS FROM 2020”

WEDNESDAY, JANUARY 6, 11:00 A.M. TO 12:15 P.M.

The COVID-19 pandemic has posed an unprecedented threat to American democracy. In 2020, the pandemic affected every aspect of the American electoral system—from the way candidates run their campaigns, to the way states run their elections, to the way citizens cast their ballots. Our Section’s annual panel this year will discuss how the states and the federal government have navigated the challenges to democracy created by the COVID-19 pandemic to make sure that Americans could vote safely. The panelists will discuss new rules of voting that created during the pandemic, survey the election-related litigation that took place, and assess how the pandemic influenced the outcome of the presidential election in November.

Of course, the COVID-19 was not the only challenge American voters confronted in 2020. American voters were also subjected to a voter fraud narrative that was pushed by a sitting president refuses to concede the election and continues to litigate its outcome long after voters have gone home. The members of this panel will discuss these developments as well.

Our Section panel will take place on Wednesday, January 6, 2021, from 11:00 to 12:15 a.m. EST. Click [here](#) to log in through AALS’s presentation portal.

Our panelists this year include:

Moderator: Eugene D. Mazo (Louisville)

Panelists: Edward B. Foley (Ohio State)

Rebecca Green (William & Mary)

Justin Levitt (Loyola, Los Angeles)

Lisa Marshall Manheim (U. of Washington)

Michael T. Morley (Florida State)

Bertrall Ross (U. of California, Berkeley)

THE JOHN HART ELY PRIZE IN THE LAW OF DEMOCRACY IS AWARDED TO RICHARD BRIFFAULT OF COLUMBIA LAW SCHOOL

The Section on Election Law has established a new lifetime achievement award this year. This award will from now on be presented annually by the Section's executive committee to a senior scholar in our field for his or her "extraordinary lifetime contributions to the study of election law and the law of democracy in the United States." The Section has chosen to name its new lifetime achievement award the John Hart Ely Prize in the Law of Democracy.

After careful deliberation, the Section has chosen Richard Briffault, the Joseph P. Chamberlain Professor of Legislation at Columbia Law School, as the inaugural winner of the John Hart Ely Prize. Richard, who has been at Columbia since 1983, has taught election law longer than any other active scholar in the American legal academy. During the pandemic, the staff of the *The Election Lawyer* caught up with Richard to ask him about the history of our field and how he began teaching election law. "The first person I am aware to teach something like Election Law—e.g., by gathering the relevant materials on the First Amendment, the 14th and 15th Amendments, the VRA, and FECA—is Dan Lownstein," Richard told us. "I think he co-taught it with Andrew Schepard. Andy came to Columbia in 1980 from USC, and when I joined Columbia in 1983 Andy mentioned that he had co-taught the course with Dan in California," Richard said. "Andy and I were friends at Columbia. I think but am not certain that Andy taught the course solo before I got to Columbia but I am pretty sure we taught it at least once together, probably starting either in 1984 or 1985, using or at least working from the unpublished materials that Dan or Dan and Andy had put together." In 1987, Schepard moved to Hofstra, but Richard remained at Columbia and has taught election law there ever since.



During the course of his long career, Richard has authored more than 75 law review articles, many of which have profoundly influenced our understanding of public funding, campaign finance, and other topics in the law of democracy. He has authored influential work on super PACs and 527 organizations, disclosure, lobbying, the government funding of campaigns, balanced budget amendments, political parties, and the right to vote. Richard is also a leading scholar of local government law and the co-author of *STATE AND LOCAL GOVERNMENT LAW*, a leading casebook in that field.

Although Richard has held visiting positions at Harvard, Princeton, and NYU, Columbia has always been his true home. He has long been a pillar of the Columbia Law School community. He has served on countless committees and as a vice dean on three separate occasions over the course of his career at Columbia Law School. Richard will be announced as the winner of the John Hart Ely Prize at our regular Section panel on Wednesday, January 6, 2021, at 11:00 a.m. The prize will be presented to Richard individually at our Section's networking event on Thursday, January 7, 2021, at 12:15 p.m.

Many congratulations to Richard!

THE DISTINGUISHED SCHOLARSHIP AWARD IN ELECTION LAW IS AWARDED TO NICHOLAS STEPHANOPOULOS OF HARVARD LAW SCHOOL

The second professional prize created by the Section this year is the Distinguished Scholarship Award in Election Law. In 2017, the Section awarded a one-time Best Paper Prize to Professor Michael Kang of Northwestern. This year, the Section decided to make this award permanent to encourage excellence in scholarship in our field. The Distinguished Scholarship Award in Election Law will be awarded annually for “a single work that exemplifies excellence in the field and that is published within a given year.” The term “work” is defined broadly. Any book or article that was published in 2020 or 2019 was eligible for this year’s award.

This year, the Distinguished Scholarship Award Committee received many outstanding submissions. The committee thus decided not only to award a Distinguished Scholarship Award, but also to designate other work in the honorable mention category.

The Section on Election Law is pleased to announce Nicholas Stephanopoulos as the recipient of its 2020 Distinguished Scholarship Award in Election Law, as well Justin Levitt, Joshua Sellers, and Erin Scharff as the authors of scholarly work that has merited honorable mention. The author of the winning work and the honorable mention recipients will be announced at the Section’s panel on Wednesday, January 6, 2021, at 11:00 a.m., and recognized individually at the Section’s networking event on Thursday, January 7, at 12:15 p.m.



Winner:

Nicholas O. Stephanopoulos, *Disparate Impact, Unified Law*, 128 YALE LAW JOURNAL 1566 (2019).

From the judges:

“Professor Stephanopoulos’s provocative article suggests that courts should treat vote denial claims brought under Section 2 of the Voting Rights Act using the same disparate impact analysis that they use to resolve employment discrimination claims under Title VII of the Civil Rights Act and housing discrimination claims under the Fair Housing Act. This proposal cuts against recent developments in lower courts that find a Section 2 violation only when an electoral practice produces a disparate racial impact through its interaction with prior social and historical discrimination. While there is much to be said for the traditional approach normatively, Stephanopoulos highlights a series of complications and uncertainties in its application. Significantly, he emphasizes how it leads to decisions in which all election practices that produce a racially disparate impact are impermissible, a result, Stephanopoulos argues, that stands in tension with current constitutional doctrine. By contrast, employing a unified approach to disparate impact analysis across different statutory schemes would allow some practices to be upheld and others struck down by more modestly shifting the burden to the states to justify why their racially discriminatory practices are needed in the first place. Stephanopoulos makes his case for the unification of disparate impact law on both practical and normative grounds in a comprehensive, mature piece of scholarship that combines strong and insightful large-scale thinking with careful doctrinal analysis, and in the end offers a proposal that is both novel and elegant. The article is masterful in its breadth and was a pleasure to read.”



HONORABLE MENTION FOR THE DISTINGUISHED SCHOLARSHIP AWARD IN ELECTION LAW

Honorable Mention:

Justin Levitt. *Citizenship and the Census*, 119 COLUMBIA LAW REVIEW 1355 (2019).

From the judges:

“Professor Levitt’s article presents a clear-eyed view of the Census Bureau’s decision to request information about the citizenship status of Census respondents in 2020. This article was as careful as it was timely, as it was written not long before the Supreme Court validated Levitt’s observation that the rationale for adding a citizenship question to the Census was contrived. Levitt’s article lays out in detail why adding a citizenship question is unnecessary for VRA enforcement, explores how such a question might shift political representation and power in American politics, and outlines how it

could backfire in those states that most strongly support adding the citizenship question. Levitt’s careful analysis draws the reader’s attention to the various ways in which our technocratic statistical infrastructure has been weaponized in the fight for political representation. The result is a first-rate article that masterfully illustrates how the minutiae of bureaucratic protocol contributes to democratic backsliding.”

Honorable Mention:

Joshua S. Sellers & Erin A. Scharff, *Preempting Politics: State Power and Local Democracy*, 72 STANFORD LAW REVIEW 1361 (2020).

From the judges:

“Joshua Sellers and Erin Scharff’s article examines the scope that local authorities have to determine the structure of their local political institutions in the face of potentially preemptive state legislation. Such conflicts – concerning issues such as the size of local councils, whether certain officials are elected or appointed, over the timing of elections and whether they are held on a partisan or nonpartisan basis, and about campaign finance rules, voting methods, and voter eligibility – frequently arise and have significant implications for the working of local democracy. However, they have received relatively little scholarly treatment. Sellers and Scharff provide a careful and thoughtful analysis of the values that should be considered in these ‘structural preemption disputes’ and show how these values can be brought to bear in analyzing specific cases. Their treatment goes beyond assuming a preference for one level of government or the other and instead emphasizes the importance of focusing on the implications of the particular rule for political participation and democratic accountability. This thorough, well-written article contributes a great deal to our knowledge of preemption.”





PROFILE OF WILFRED U. CODRINGTON III, BROOKLYN LAW SCHOOL

Wilfred Codrington is an assistant professor at Brooklyn Law School and a non-resident fellow at the Brennan Center for Justice at NYU School of Law. His teaching and research focus on the areas of constitutional law and election law, and he has particular interests in constitutional reform and theory, voting rights, and antidiscrimination. Wilfred is the co-author of a forthcoming book, *THE PEOPLE'S CONSTITUTION: 200 YEARS, 27 AMENDMENTS, AND THE PROMISE OF A MORE PERFECT UNION* (The New Press 2021). The book offers a narrative history

of the constitutional amendments and examines the role of social movements and other factors in the progressive arc of constitutional change, and how they stand in tension with the conservative grip on the Constitution. Wilfred's recent articles include *So Goes the Nation: What the American West is Telling us about How We'll Choose the President in 2020*, 120 COLUMBIA LAW REVIEW FORUM 43 (2020) and *The Benefits of Equity in the Constitutional Quest for Equality*, 43 N.Y.U. REVIEW OF LAW & SOCIAL CHANGE 105 (The Harbinger) (2019). He has also authored opinion pieces in outlets such as *The Atlantic*, *American Prospect*, *Slate*, *The Hill*, and *U.S. News & World Report*.

Prior to joining the Brooklyn Law School faculty, Wilfred was the Bernard and Anne Spitzer Fellow at the Brennan Center for Justice and worked as counsel in the Center's Democracy Program. He has taught graduate and undergraduate courses as an adjunct professor at NYU's Wagner School of Public Service on law, public policy, and politics. He was also a supervisor for the Brennan Center advocacy clinic, a field clinic devoted to teaching public policy through real world legal reform campaigns. Previously, Wilfred was an associate in the New York office of DLA Piper in the firm's litigation, government investigations, and regulatory practices group, where he participated in a variety of pro bono projects. He clerked for Judge Deborah Anne Batts of the U.S. District Court for the Southern District of New York and served as a staffer for U.S. Congresswoman Eleanor Holmes Norton. Wilfred holds an undergraduate degree in philosophy from Brown University with honors, an M.P.A. from the University of Pennsylvania, and a J.D. from Stanford Law School.

With a passion for civil rights, progressive politics, public service, and the promotion of democracy, Wilfred is happy to have joined the academy, where he can combine his interest in scholarship, teaching, and mentoring. After a solid first semester teaching election law, he is looking forward to a short, productive break before the spring semester begins.

PROFILE OF TRAVIS CRUM, WASHINGTON UNIVERSITY ST. LOUIS SCHOOL OF LAW

Travis Crum became an associate professor of law at Washington University in St. Louis in 2020. Travis's current research focuses on the 2020 redistricting cycle and the Fifteenth Amendment as an independent constitutional provision. His prior work examined the Voting Rights Act's bail-in provision. Travis first became interested in election law while serving as a reader and research assistant to Judge David Tatel of the U.S. Court of Appeals for the D.C. Circuit when *Northwest Austin* was pending.

Travis received his B.A. from Johns Hopkins University, a master's degree from the London School of Economics, and his J.D. from Yale. He clerked for Justice Anthony Kennedy and Justice (Ret.) John Paul Stevens during the October 2014 Term, Judge David Tatel of the D.C. Circuit, and Judge Myron Thompson of the U.S. District Court for the Middle District of Alabama. Travis was a Bristow Fellow in the Solicitor General's Office and later worked as an associate at Mayer Brown LLP. He started his academic career as a Bigelow Fellow at the University of Chicago Law School.

On a more personal note, Travis grew up in Woodsboro, Maryland, a small town that is a stone's throw from Camp David. He was a first-generation college student and attended college on a full-tuition scholarship. After his father retired from the fire department, his parents opened a diner where Travis worked through middle and high school.

Aside from election law, Travis's passions include travel and hiking. Following his Supreme Court clerkship, Travis went on a five-and-a-half month backpacking trip, and he visited all seven continents during this time. In total, he has been to 47 states and more than 80 countries. Some of his favorite travel memories include backcountry camping in Gates of the Arctic National Park in Alaska, driving across Australia, staying at the Ice Hotel in Quebec, and eating all the street food he could find along the way. Travis is always happy to share travel stories and help brainstorm new itineraries.

Travis resides in University City, Missouri, with his wife Arin Smith and their cat, Kitty.





PROFILE OF LORI RINGHAND, UNIVERSITY OF GEORGIA SCHOOL OF LAW

By Benjamin Plener Cover

Lori A. Ringhand is J. Alton Hosch Professor of Law at the University of Georgia School of Law, where she currently serves as the interim director of the Dean Rusk International Law Center. She served as the law school's associate dean for academic affairs from 2015 to 2018. She has twice received the law school's highest teaching honor, the C. Ronald Ellington Award for Excellence in Teaching.

Lori has recently published two articles on comparative election law. She recently published *First Amendment (Un)Exceptionalism: A Comparative Taxonomy of Campaign Finance Reform Proposals in the United States and the United Kingdom* in the *OHIO STATE LAW JOURNAL*. She also published *Understanding the Elephant: Considering UK Electoral Reform in Light of the US Experience* in *PUBLIC LAW*, the leading constitutional law journal in the United Kingdom. These important contributions reflect research Lori undertook as the recipient of a Fulbright Distinguished Chair Award and as a visiting professor at the University of Aberdeen, in Scotland, during the spring semester of 2019. Lori also recently co-edited

(with Yasmin Dawood) a special edition of the *ELECTION LAW JOURNAL* that examined the response of six nations to foreign interference in domestic elections.

Lori is a nationally known Supreme Court scholar and the author (with Paul M. Collins, Jr.) of the book *SUPREME COURT CONFIRMATION HEARINGS AND CONSTITUTIONAL CHANGE*, which was published by Cambridge University Press in 2019. She also is the co-author of *CONSTITUTIONAL LAW: A CONTEXT AND PRACTICES CASEBOOK*, which is part of a series of casebooks dedicated to incorporating active teaching and learning methods into traditional law school casebooks.

Lori graduated from the University of Wisconsin Law School, where she served as articles editor for the *WISCONSIN LAW REVIEW*. She also received a Bachelor of Civil Law (B.C.L.), with distinction, from the University of Oxford. Before entering academia, Lori worked as an attorney for three years in the Litigation and Regulatory Departments at Foley & Lardner.

Lori lives in Athens, Georgia with her husband Dan. In early 2020, she renewed her interest in backcountry hiking, visiting several of our country's beautiful state and national parks.

NEW VOICES IN ELECTION LAW WORKS-IN-PROGRESS WORKSHOP

SATURDAY, JANUARY 9, 2021, 2:45 P.M. TO 5:40 P.M. EST

Our Section is holding a New Voices Works-in-Progress Workshop for the first time this year at AALS, and we hope to hold such an event every year at AALS from now on. More than 28 scholars in our field have signed up either to present a paper or comment on someone else's draft. If you will be attending AALS, please join us on Saturday, January 9, 2021, from 2:45 p.m. to 5:40 p.m. All sessions will be held on Zoom. For Sessions 1 and 2, we will use our own link. For Sessions 3 and 4, we will use AALS's Zoom link. If you want to attend, email Gene Mazo (eugene.mazo@louisville.edu).

Session 1: 2:24-3:25 p.m.

	Presenter	Topic
Room 1 (The <i>Reynolds</i> Room):	Jacob Eisler	"The Law of Freedom"
Room 2 (The <i>Ciafalo</i> Room):	Sarah Haan	"A Corporation's Political Purpose"
Room 3 (The <i>Purcell</i> Room):	Benji Cover	"Dual Distincting"
Room 4 (The <i>Evenwel</i> Room):	Michael Morley	Half-Baked Ideas Workshop

Session 2: 3:40-4:10 p.m.

	Presenter	Topic
Room 1 (The <i>Wesberry</i> Room):	Rebecca Green	"Redistricting Transparency"
Room 2 (The <i>Tashjian</i> Room):	Joshua Douglas	"How the Sausage Gets Made"
Room 3 (The <i>Harper</i> Room):	Robert Yablon	Half-Baked Ideas Workshop
Room 4 (The <i>Gingles</i> Room):	Joshua Sellers & Justin Weinstein-Tull	"A Constructive Right to Vote"

Session 3: 4:15-4:55 p.m.

	Presenter	Topic
Room 1 (The <i>Buckley</i> Room):	Travis Crum	"Deregulated Districting"
Room 2 (The <i>Crawford</i> Room):	Derek Muller	Half-Baked Ideas Workshop
Room 3 (The <i>Shelby County</i> Room):	Douglas Spencer	"Temporal Buffer Zones"
Room 4 (The <i>Rucho</i> Room):	Anthony Gaughan	"The Dynamics of Democratic Breakdown"

Session 4: 5:00-5:40 p.m.

	Presenter	Topic
Room 1 (The <i>Eu</i> Room):	Gene Mazo	Half-Baked Ideas Workshop
Room 2 (The <i>Burdick</i> Room):	Lisa Manheim	"Presidential Control of Elections"
Room 3 (The <i>Citizens United</i> Room):	Bertrall Ross	"Restoring Checks and Balances"
Room 4 (The <i>Williams-Yulee</i> Room):	Benji Cover	"Geographic Gerrymandering"

RECENT PUBLICATIONS

It is our hope that *The Election Lawyer* will continue feature new publications from scholars in our field when this newsletter is published every year in advance of the AALS Annual Meeting. This year, the editors decided to include everyone's scholarly publications from 2019 and 2020 – or at least as many as we could track down. We did not list publications that were forthcoming, although we may do that in the future. If we missed a publication for you, please email the section leadership and we will make sure to include it in our next issue.

Tabatha Abu El-Haj

Defining Nonviolence as a Matter of Law and Politics, in PROTEST AND DISSENT: NOMOS LXII (Melissa Schwartzberg, ed. 2020)

Making and Unmaking Citizens: Law and the Shaping of Civic Capacity, 53 UNIVERSITY OF MICHIGAN JOURNAL OF LAW REFORM 63 (2019)

The Possibilities for Responsive Party Government, 119 COLUMBIA LAW REVIEW ONLINE 123 (2019) (reply to Michael Kang)

Scott Bloomberg

Democracy, Deference, and Compromise: Understanding and Reforming Campaign Finance Jurisprudence, 53 LOYOLA LOS ANGELES LAW REVIEW 895 (2020)

Richard Briffault

A Better Financing System? The Death and Possible Rebirth of the Presidential Nomination Public Financing Program, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES (Eugene D. Mazo & Michael Dimino eds., 2020)

Constitutional Law and the Presidential Nomination Process, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES (Eugene D. Mazo & Michael Dimino eds., 2020)

COVID-19 and the Law: Elections, in LAW IN THE TIME OF COVID-19 (Katharina Pistor ed., 2020)

Election Law Localism in the Time of COVID-19, UNIVERSITY OF CHICAGO LAW REVIEW ONLINE (June 26, 2020)

THE NEW PREEMPTION READER: LEGISLATION, CASES AND COMMENTARY ON THE LEADING CHALLENGE IN TODAY'S STATE AND LOCAL GOVERNMENT LAW (West Academic Publishing 2019) (with Nestor Davidson and Laurie Reynolds)

PRINCIPLES OF HOME RULE FOR THE TWENTY-FIRST CENTURY (National League of Cities, Feb. 12, 2020) (with Nestor M. Davidson, Paul A. Diller, Sarah Fox, Laurie Reynolds, Erin A. Scharff, Richard Schragger & Rick Su)

"Sanctuary" and Local Government Law, DUKE CENTER FOR FIREARMS LAW (May 6, 2020)

The Single-Subject Rule: A State Constitutional Dilemma, 82 ALBANY LAW REVIEW 1629 (2019)

Guy-Uriel E. Charles

Dirty Thinking About Law and Democracy in Rucho v. Common Cause, 2018-2019 ACS SUPREME COURT REVIEW 293-317 (2019) (with Luis E. Fuentes-Rohwer)

Slouching Toward Universality: A Brief History of Race, Voting, and Political Participation, 62 HOWARD LAW JOURNAL 809 (2019) (with Luis E. Fuentes-Rohwer)

Wilfried U. Codrington III

The Benefits of Equity in the Constitutional Quest for Equality, 43 NEW YORK UNIVERSITY REVIEW OF LAW & SOCIAL CHANGE 105 (2019)

So Goes the Nation: The Constitution, the Compact, and What the American West Can Tell Us About How We'll Choose the President in 2020 and Beyond, 120 COLUMBIA LAW REVIEW FORUM 43 (2020)

Benjamin Plener Cover

Congressional Power to Guarantee State Democracy, JOTWELL (March 3, 2020) (reviewing Carolyn Shapiro, *Democracy, Federalism, and the Guarantee Clause*, 62 ARIZONA LAW REVIEW (2020))

Rucho for Minimalists, 71 MERCER L. REV. 695 (2020)

Travis Crum

Reconstructing Racially Polarized Voting, 70 DUKE LAW JOURNAL (2020)

The Superfluous Fifteenth Amendment?, 114 NORTHWESTERN UNIVERSITY LAW REVIEW 1549 (2020)

Gilda R. Daniels

UNCOUNTED: THE CRISIS OF VOTER SUPPRESSION IN AMERICA (NYU Press 2020)

Yasmin Dawood

Protecting Elections from Disinformation: A Multifaceted Public-Private Approach to Social Media and Democratic Speech, 16 OHIO STATE TECHNOLOGY LAW JOURNAL 639 (2020)

Michael R. Dimino

THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES (Eugene D. Mazo & Michael R. Dimino eds., Cambridge University Press 2020)

The Case for Standardizing Primary Voter Eligibility Rules, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES 126-144 (Eugene D. Mazo & Michael R. Dimino eds. 2020)

THE MUELLER INVESTIGATION AND BEYOND (Carolina Academic Press 2020) (with others)

VOTING RIGHTS AND ELECTION LAW (3d ed. Carolina Academic Press 2020) (with Bradley A. Smith and Michael E. Solimine)

You've Got (Political) Questions? We've Got No Answers, 71 MERCER L. REV. 719 (2020)

Joshua A. Douglas

The Case for Same-Day Voter Registration, THE JUSTICE COLLABORATIVE INSTITUTE (August 2020)

Congress Must Count the Votes: The Danger of Not Including a State's Electoral College Votes During a Disputed Presidential Election, 81 OHIO STATE LAW JOURNAL ONLINE 183 (2020)

Elections as Duels: "You Know What? We Can Change That! You Know Why? 'Cuz We Have the Support of Two-Thirds of Each House of Congress and Three Quarters of the States!", in THE LAW OF HAMILTON: AN AMERICAN MUSICAL (Cornell University Press 2020)

Lift Every Voice: The Urgency of Universal Civic Duty Voting, UNIVERSAL VOTING WORKING GROUP, BROOKINGS INSTITUTION AND THE ASH CENTER FOR DEMOCRATIC GOVERNANCE AND INNOVATION, HARVARD KENNEDY SCHOOL (2020) (with co-authors)

The Loch Ness Monster, Haggis, and a Lower Voting Age: What America Can Learn from Scotland, 69 AMERICAN UNIVERSITY LAW REVIEW 1433 (2020)

Lowering the Voting Age from the Ground Up: The United States' Experience in Allowing 16-Year-Olds to Vote, in LOWERING THE VOTING AGE TO 16 – LEARNING FROM REAL EXPERIENCES WORLDWIDE (Palgrave Macmillan 2020)

REPORT: Age Discrimination In Voting At Home, Coalition of Voting Rights Organizations (2020)

VOTE FOR US: HOW TO TAKE BACK OUR ELECTIONS AND CHANGE THE FUTURE OF VOTING (Prometheus Books 2019)

Jacob Eisler

Constitutional Formalities, Power Realities, and Comparative Anglophone Responses to Foreign Campaign Meddling, 19 ELECTION LAW JOURNAL 1 (2020)

Dissonant Referendum Design and Turmoil in Representation, PUBLIC LAW 622 (2019)

Federal Oversight of State Primaries: From Equal Protection to Association. 71 Mercer Law Review, 735 (2020)

Formalism and Realism in Campaign Finance Law: Case Note on R v MacKinlay. 78 CAMBRIDGE LAW JOURNAL 257 (2019)

The Limits and Promise of Instrumental Legal Analysis, 47 JOURNAL OF LAW AND SOCIETY 499 (2020)

Partisan Gerrymandering and the Constitutionalization of Statistics. 68 EMORY LAW JOURNAL 979 (2019)

Atiba Ellis

Voter Fraud as an Epistemic Crisis for the Right to Vote, 71 MERCER LAW REVIEW 757 (2020)

Christopher S. Elmendorf

Auctioning the Upzone, 70 CASE WESTERN LAW REVIEW 513 (2020) (with Darien Shanske)

Beyond the Double Veto: Housing Plans as Preemptive Intergovernmental Contracts, 71 HASTINGS LAW JOURNAL 79 (2019)

Racial or Spatial Voting? The Effects of Candidate Ethnicity and Ethnic Group Endorsements in Local Elections, 63 AMERICAN JOURNAL OF POLITICAL SCIENCE 5 (2019) (with Cheryl Boudreau & Scott Mackenzie)

Roadmaps to Representation: An Experimental Study of How Voter Education Tools Affect Citizen Decision Making, 41 POLITICAL BEHAVIOR 1001 (2019) (with Cheryl Boudreau and Scott MacKenzie)

Making It Work: Legal Foundations for Administrative Reform of California's Housing Framework, 46 ECOLOGY LAW QUARTERLY (2020) (with Eric Biber, Paavo Monkkonen & Moira O'Neill)

Joseph R. Fishkin

Evaluating Constitutional Hardball: Two Fallacies and a Research Agenda, 119 COLUMBIA LAW REVIEW 158 (2019) (with David E. Pozen)

Edward B. Foley

Assessing the Validity of an Election's Result: History, Theory, and Present Threats, 95 NEW YORK UNIVERSITY LAW REVIEW 171 (2020)

Preparing for a Disputed Presidential Election: An Exercise in Election Risk Assessment and Management, 51 Loyola Chicago Law Journal 309 (2019)

Winnowing and Endorsing: Separating the Two Distinct Functions of Party Primaries, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES 80-104 (Eugene Mazo & Michael Dimino eds., Cambridge University Press 2020)

Luis E. Fuentes-Rohwer

Dirty Thinking About Law and Democracy in Rucho v. Common Cause, 2018-2019 ACS Supreme Court Review 293 (2019) (with Guy-Uriel E. Charles)

Slouching Toward Universality: A Brief History of Race, Voting, and Political Participation, 62 HOWARD LAW JOURNAL 809-853 (2019) (with Guy-Uriel E. Charles)

James A. Gardner

Democratic Legitimacy under Conditions of Severely Depressed Voter Turnout, 87 UNIVERSITY OF CHICAGO LAW REVIEW ONLINE 24-34 (June 26, 2020)

El Misterioso Exito de una Democracia Federal, in DEMOCRACIA Y FORMA CONSTITUCIONAL (Pablo C. Riberi and Pedro Salazar, eds.) (Instituto de Investigaciones Juridicas, Universidad Nacional Autónoma de México 2020)

LEGAL ARGUMENT: THE STRUCTURE AND LANGUAGE OF EFFECTIVE ADVOCACY (3d. ed., Carolina Academic Press, 2020) (with Christine P. Bartholomew)

Presidential Selection: Historical, Institutional, and Democratic Perspectives, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES 10-35 (Eugene Mazo & Michael Dimino eds., Cambridge University Press 2020)

Anthony J. Gaughan

American Democracy Is Healthier Than It Appears, 100 BOSTON UNIVERSITY LAW REVIEW ONLINE 249 (2020)

Chester Arthur's Ghost: A Cautionary Tale of Campaign Finance Reform, 71 MERCER LAW REVIEW 779 (2020)

The Close Margins Problem: How Abolishing the Electoral College Could Create a Future Election Crisis, 56 IDAHO LAW REVIEW (2020)

The Influence of Technology on Presidential Primary Campaigns, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES 309-29 (Eugene D. Mazo & Michael R. Dimino eds. 2020)

James Madison, Citizens United, and the Constitutional Problem of Corruption, 69 AMERICAN UNIVERSITY LAW REVIEW 1485 (2020)

Notice, Due Process, and Voter Registration Purges, 67 CLEVELAND STATE LAW REVIEW 485 (2019)

Putin's Revenge: The Foreign Threat to American Campaign Finance Law, 62 HOWARD LAW JOURNAL 855 (2019)

Was the Democratic Nomination Rigged? A Reexamination of the Clinton-Sanders Presidential Race, 29 FLORIDA JOURNAL OF LAW AND PUBLIC POLICY 309 (2019)

Michael D. Gilbert

Insincere Evidence, 105 VIRGINIA LAW REVIEW 1115 (2019) (with Sean Sullivan)

The Law and Economics of Entrenchment, 54 GEORGIA LAW REVIEW 61 (2019)

Polling Place Quality and Access, in THE FUTURE OF ELECTION ADMINISTRATION 83-100 (Mitchell Brown, Kathleen Hale, & Bridgett A. King eds., Palgrave, 2019) (with co-authors)

Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study, POLITICAL RESEARCH QUARTERLY 1 (2019) (with coauthors)

Rebecca Green

Candidate Privacy, 95 WASHINGTON LAW REVIEW 205 (2020)

Counterfeit Campaign Speech, 70 HASTINGS LAW JOURNAL 103 (2019)

Digitized Election Administration, AMERICA VOTES (4th ed.) (2019) (with Margaret Hu)

Sarah Haan

- Bad Actors: Authenticity, Inauthenticity, Speech, and Capitalism*, 22 U. PA. J. CONST. L. 619 (2020)
- Board Governance For The Twenty-First Century*, 74 BUSINESS LAWYER 329 (2019) (with Faith Stevelman)
- Boards in Information Governance*, CLS BLUE SKY BLOG (April 10, 2020) (with Faith Stevelman)
- Civil Rights and Shareholder Activism: SEC v. Medical Committee for Human Rights*, 76 WASH. & LEE L. REV. 1167 (2019)
- Civil Rights and Shareholder Activism: SEC v. Medical Committee for Human Rights*, HARVARD LAW SCHOOL FORUM ON CORPORATE GOVERNANCE AND FINANCIAL REGULATION (November 12, 2019)
- Facebook's Alternative Facts*, 105 VA. L. REV. ONLINE 18 (2019)
- The Post-Truth First Amendment*, 94 IND. L. J. 1351 (2019)
- Profits v. Principles*, in THE PERILOUS PUBLIC SQUARE: STRUCTURAL THREATS TO FREE EXPRESSION TODAY (David Pozen, ed., Columbia University Press 2020)

Richard L. Hasen

- Deep Fakes, Bots, and Siloed Justices: American Election Law in a Post-Truth World*, 65 ST. LOUIS UNIVERSITY LAW REVIEW 539 (2020)
- Direct Democracy Denied: The Right to Initiative in a Pandemic*, UNIVERSITY OF CHICAGO LAW REVIEW ONLINE (2020)
- The Supreme Court's Pro-Partisanship Turn*, 109 GEORGETOWN LAW JOURNAL ONLINE 50 (2020)
- Thin and Thick Conceptions of the Nineteenth Amendment and Congress's Power to Enforce It*, 108 Georgetown Law Journal 27 (2020) (with Leah Litman)
- Three Pathologies of American Voting Rights Illuminated by the COVID-19 Pandemic, and How to Treat and Cur Them*, ELECTION LAW JOURNAL (2020)
- Polarization and the Judiciary*, 22 ANNUAL REVIEW OF POLITICAL SCIENCE 261 (2019)
- QV or Not QV? That is the Question: Some Skepticism About Radical Egalitarian Voting Markets*, 87 University of Chicago Law Review 67 (2019)

Deborah Hellman

- The Epistemic Function of Fusing Equal Protection and Due Process*, 28 WILLIAM & MARY BILL OF RIGHTS JOURNAL (2019)
- Measuring Algorithmic Fairness*, 106 VIRGINIA LAW REVIEW 811 (2020) (recipient of the AALS Section Prize in Jurisprudence at the 2021 Annual Meeting)
- Opioid Prescribing and the Ethical Duty to Do No Harm*, 46 AMERICAN JOURNAL OF LAW & MEDICINE 297 (2020) (with Kate Nicholson)
- Sex, Causation and Algorithms: How Equal Protection Prohibits Compounding Prior Injustice*, 98 WASHINGTON UNIVERSITY LAW REVIEW 481 (2020)
- Understanding Bribery*, in THE PALGRAVE HANDBOOK OF APPLIED ETHICS AND THE CRIMINAL LAW (Kimberly Kessler Ferzan & Larry Alexander eds., Palgrave MacMillan Press, 2019)

Anthony Johnstone

- A State Is a 'They,' Not an 'It': Intrastate Conflicts in Multistate Challenges to the Affordable Care Act*, 2019 BYU LAW REVIEW 1471 (2020)

Michael S. Kang

Campaign Finance Deregulation and the Hyperpolarization of Presidential Nominations in the Super PAC Era, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES 260-78 (Eugene D. Mazo & Michael R. Dimino eds. 2020)

Hyperpartisan Gerrymandering, 61 BOSTON COLLEGE LAW REVIEW 1380 (2020)

Pamela S. Karlan

Just Desserts?: Public Accommodations, Religious Accommodations, Racial Equality, and Gay Rights, 2019 SUPREME COURT REVIEW 145.

The Swing Justice: Reflections on the Career of Justice Anthony Kennedy, Panel 1: Abortion and Gay Rights, 35 GEORGIA STATE UNIVERSITY LAW REVIEW 871 (2019) (interview with Eric Segall, Jonathan Adler, Pamela Karlan & Mark Tushnet)

Justin Levitt

Citizenship and the Census, 119 COLUMBIA LAW REVIEW 1355 (2019)

Nonsensus: Pretext and the Decennial Enumeration, 3 ACS SUPREME COURT REVIEW 59 (2019)

Lisa Marshall Manheim

Reviewing Presidential Orders, 86 UNIVERSITY OF CHICAGO LAW REVIEW 1743 (2019) (with Kathryn Watts)

Lloyd Hitoshi Mayer

The Promises and Perils of Using Big Data to Regulate Nonprofits, 94 WASHINGTON LAW REVIEW 1281 (2019)

When Soft Law Meets Hard Politics: Taming the Wild West of Nonprofit Political Involvement, 45 JOURNAL OF LEGISLATION 194 (2019)

Eugene D. Mazo

THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES (Eugene D. Mazo & Michael R. Dimino eds., Cambridge University Press, 2020)

Our Campaign Finance Nationalism, 46 PEPPERDINE LAW REVIEW 759 (2019)

Primary Day: Why Presidential Nominees Should Be Chosen on a Single Day, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES (Eugene D. Mazo & Michael R. Dimino eds. 2020).

Voting During a Pandemic, 100 BOSTON UNIVERSITY LAW REVIEW ONLINE 283 (2020)

Michael T. Morley

Bush v. Gore's Uniformity Principle and the Equal Protection Right to Vote, 28 GEORGE MASON LAW REVIEW 229 (2020)

Disaggregating Nationwide Injunctions, 79 ALABAMA LAW REVIEW 1 (2020)

Floor Fight: Protecting the Nomination Party Conventions from Manipulation, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATIONS IN POLARIZED TIMES 203-34 (Eugene D. Mazo & Michael R. Dimino, eds., Cambridge Univ. Press 2020)

The Independent State Legislature Doctrine, Federal Elections, and State Constitutions, 55 GEORGIA LAW REVIEW 1 (2021)

Postponing Federal Elections Due to Election Emergencies, 77 WASHINGTON & LEE LAW REVIEW ONLINE 179 (2020)

Republicans and the Voting Rights Act, 54 TULSA LAW REVIEW 281 (2019)

Vertical Stare Decisis and Three-Judge District Courts, 108 GEORGETOWN LAW JOURNAL 699 (2020)

Derek T. Muller

Celebrating the Work of Professor Bob Cochran: An Introduction, 47 PEPPERDINE LAW REVIEW iii (2020)

Chameleon Congressional Districts, 64 ST. LOUIS UNIVERSITY LAW JOURNAL 673 (2020)

The Democracy Ratchet, 94 INDIANA LAW JOURNAL 451 (2019)

The High Cost of Lowering the Bar, 32 GEORGETOWN JOURNAL OF LAW & ETHICS 307 (2019) (with Robert Anderson IV)

Nonjudicial Solutions to Partisan Gerrymandering, 62 HOWARD UNIVERSITY LAW JOURNAL 791 (2019)

Restraining Judicial Application of the “Safe Harbor” Provision in the Electoral Count Act, 8 OHIO STATE LAW JOURNAL FURTHERMORE 221 (2020)

Simplifying Presidential Primaries, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES (Eugene D. Mazo & Michael R. Dimino eds. 2020)

Michael Parsons

Fighting for Attention: Democracy, Free Speech, and the Marketplace of Ideas, 104 MINNESOTA LAW REVIEW 2157 (2020)

Gerrymandering & Justiciability: The Political Question Doctrine After Rucho v. Common Cause, 95 INDIANA LAW JOURNAL 1295 (2020)

Justice Denied: Equity, Elections, and Remedial Redistricting Rules, 19 JOURNAL OF LAW AND SOCIETY 229 (2019)

Partisan Gerrymandering Under Federal and State Law, in AMERICA VOTES! CHALLENGES TO MODERN ELECTION LAW & VOTING RIGHTS 277 (Jack Young & Ben Griffith eds., 4th ed. 2019)

Platforms, Political Advertising, and Attentional Choice, 12 DREXEL LAW REVIEW 765 (2020)

Nathaniel Persily

SIGNATURE VERIFICATION AND MAIL BALLOTS: GUARANTEEING ACCESS WHILE PRESERVING INTEGRITY A CASE STUDY OF CALIFORNIA’S EVERY VOTE COUNTS ACT (2020) (with others)

SOCIAL MEDIA AND DEMOCRACY: THE STATE OF THE FIELD, PROSPECTS FOR REFORM (Nathaniel Persily and Joshua A. Tucker eds, Cambridge University Press 2020)

Richard H. Pildes

The Historical Development of the U.S. Presidential Nomination Process, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES 36-53 (Eugene Mazo & Michael Dimino eds., Cambridge University Press 2020)

How Outside Money Makes Governing More Difficult, 19 ELECTION LAW JOURNAL 486 (2020) (with Mike Norton)

How to Accommodate a Massive Surge in Absentee Voting, UNIVERSITY OF CHICAGO LAW REVIEW ONLINE (2020)

Participation and Polarization, 22 UNIVERSITY OF PENNSYLVANIA JOURNAL OF CONSTITUTIONAL LAW 341 (2020)

Small-Donor-Based Campaign Finance Reform and Political Polarization, 129 YALE LAW JOURNAL FORUM 149 (2019)

Michael J. Pitts

Rethinking Section 2 Vote Denial, 46 FLORIDA STATE UNIVERSITY LAW REVIEW 1 (2019)

D. Theodore Rave

It's Good to Have the "Haves" on Your Side: A Defense of Repeat Players in Multidistrict Litigation, 108 GEORGETOWN LAW JOURNAL 73 (2019) (with Andrew D. Bradt)

Texas MDL, 24 LEWIS & CLARK LAW REVIEW 367 (2020) (with Zachary D. Clopton).

Tort Claims as Property Rights, 69 DEPAUL LAW REVIEW 587 (2020)

Lori Ringhand

First Amendment (Un)Exceptionalism: A Comparative Taxonomy of Campaign Finance Reform Proposals in the United States and United Kingdom, 81 OHIO STATE LAW JOURNAL 405 (2020).

Understanding the Elephant: Considering UK Electoral Reform in Light of the US Experience, 2020 PUBLIC LAW 701 (2020)

Bertrall Ross

Administrative Constitutionalism as Popular Constitutionalism, 167 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1783 (2019)

Passive Voter Suppression: Campaign Mobilization and the Effective Disenfranchisement of the Poor, 114 NORTHWESTERN UNIVERSITY LAW REVIEW 633 (2019) (with Douglas M. Spencer)

Joshua Sellers

Election Law and White Identity Politics, 87 FORDHAM LAW REVIEW 1515 (2019)

Politics as Pretext, 62 HOWARD LAW JOURNAL 687 (2019)

Political Participation, Expressive Association, and Judicial Review 69 AMERICAN UNIVERSITY LAW REVIEW 1617 (2020)

Preempting Politics: State Power and Local Democracy, 72 STANFORD LAW REVIEW 1361 (2020) (with Erin A. Scharff)

Bradley A. Smith

Feckless: A Critique of Critiques of the Federal Election Commission, 27 GEORGE MASON LAW REVIEW 503 (2020)

Reforming the Presidential Nomination Process: A Curmudgeon's View, in THE BEST CANDIDATE: PRESIDENTIAL NOMINATION IN POLARIZED TIMES 386-404 (Eugene D. Mazo & Michael R. Dimino eds. 2020)

VOTING RIGHTS & ELECTION LAW (3d ed. Carolina Academic Press) (with Michael R. Dimino & Michael E. Solimine)

Douglas Spencer

The "Appearance of Corruption:" Linking Public Opinion and Campaign Finance Reform, 19 Election Law Journal 510 (2020) (with Alexander G. Theodoridis)

Passive Voter Suppression: Campaign Mobilization and the Effective Disenfranchisement of the Poor, 114 NORTHWESTERN UNIVERSITY LAW REVIEW 633 (2019) (with Bertrall L. Ross)

Nicholas O. Stephanopoulos

The Anti-Carolene Court, 2019 SUPREME COURT REVIEW 111
Disparate Impact, Unified Law, 128 YALE LAW JOURNAL 1566 (2019)
Election Litigation in the Time of the Pandemic, 87 UNIVERSITY OF CHICAGO LAW REVIEW ONLINE (2020)
The Dance of Partisanship and Districting, 13 HARVARD LAW & POLICY REVIEW 507 (2019)
The Impact of Partisan Gerrymandering on Political Parties, 45 LEGISLATIVE STUDIES QUARTERLY 609 (2020)
Quasi Campaign Finance, 70 DUKE LAW JOURNAL 333 (2020)

Daniel P. Tokaji

Comparative Advantage: The Ends and Means of Campaign Regulation – A Response to Professor Ringhand, 81 OHIO STATE LAW JOURNAL ONLINE 45 (2020)
Denying Systemic Equality: The Last Words of the Kennedy Court, 13 HARVARD LAW & POLICY REVIEW 539 (2019)
Truth, Democracy, and the Limits of Law, 64 ST. LOUIS UNIVERSITY LAW JOURNAL 569 (2020)
Voter Registration in a Pandemic, UNIVERSITY OF CHICAGO LAW REVIEW ONLINE (2020)

Franita Tolson

The Spectrum of Congressional Authority over Elections, 99 BOSTON UNIVERSITY LAW REVIEW 317 (2019)

Ciara Torres-Spelliscy

Deregulating Corruption, 13 HARVARD LAW & POLICY REVIEW 471 (2019)
Elegy for Anti-Corruption Law: How the Bridgegate Case Could Crush Corruption Prosecutions and Boost Liars, 69 AMERICAN UNIVERSITY LAW REVIEW 1689 (2020)
From a Mint on a Hotel Pillow to an Emolument, 70 MERCER LAW REVIEW 705 (2019)
POLITICAL BRANDS (Edward Elgar 2019)

Abby K. Wood

Facilitating Accountability for Online Political Advertisements. 16 OHIO STATE TECHNOLOGY LAW JOURNAL 520 (2020)
Fool Me Once: Regulating “Fake News” and Other Online Advertising, Randomized Experiments by Government Institutions and American Political Development, 185 PUBLIC CHOICE 401 (2019) (with Christian Grose)
Polling Place Quality and Access, in THE FUTURE OF ELECTION ADMINISTRATION (Kathleen Hale and Bridgett A. King eds., Palgrave, 2019) (with Robert Stein et al.)
Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-Jurisdictional Study, 73 POLITICAL RESEARCH QUARTERLY 439 (2019) (with Robert Stein et al.)

Robert Yablon

Political Advertising, Digital Platforms, and the Democratic Deficiencies of Self-Regulation, 104 MINNESOTA LAW REVIEW HEADNOTES 13 (2020)

Contact Us

Section on Election Law

<https://www.aals.org/sections/list/election-law/>
sectec@lists.aals.org