

MICAH SCHWARTZMAN

University of Virginia School of Law
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EMPLOYMENT

University of Virginia School of Law, Charlottesville, VA

Hardy Cross Dillard Professor of Law, 2019 – present

Martha Lubin Karsh and Bruce A. Karsh Bicentennial Professor of Law, 2019 – present (research chair)

Director, Karsh Center for Law & Democracy, 2018 – present

Joseph W. Dorn Research Professor of Law, 2017 – 2019 (research chair)

Edward F. Howrey Professor of Law, 2013 – 2016 (research chair)

Professor of Law, Aug. 2012 – 2019 (with tenure)

Associate Professor of Law, 2007 – 2012

Courses Taught: Constitutional Law; Constitutional Law II: Religious Liberty; Constitutional Theory; Advanced Topics in the First Amendment; Religion, Democracy, and Law; Legal Theory; Textualism & Its Critics; Corporate Rights; Seminar in Ethical Values

Carl McFarland Prize, 2013 (awarded to junior faculty member for outstanding research)

UCLA School of Law, Los Angeles, CA

Visiting Professor of Law, Jan. – May 2013

Society of Fellows in the Humanities, Columbia University, New York, NY

Postdoctoral Research Fellow, 2006 – 2007

The Honorable Paul V. Niemeyer, U.S. Court of Appeals for the Fourth Circuit, Baltimore, MD

Law Clerk, 2005 – 2006

EDUCATION

University of Virginia School of Law, Charlottesville, VA

J.D., May 2005

Margaret G. Hyde Award, highest award given to member of graduating class

Raven Award, highest award given by University honor society

Hardy Cross Dillard Scholar, full three-year merit scholarship

Daniel Rosenbloom Award, for assisting students in need

Virginia Law Review, Articles Development Editor

University of Oxford (Balliol College), Oxford, England

D.Phil., Politics, Jan. 2003

Rhodes Scholar

Dissertation: *Towards a Defense of Public Reason*

University of Virginia, Charlottesville, VA

B.A., Government and Foreign Affairs, with Highest Honors, May 1998

Truman Scholar

Phi Beta Kappa

John White Stevenson Prize for Best Honors Thesis

PUBLICATIONS

BOOKS

CONSTITUTIONAL LAW AND RELIGION (forthcoming West Publishing Company)
(with Frederick Mark Gedicks, Elizabeth Sepper, Nelson Tebbe, and Robert W. Tuttle)

THE RISE OF CORPORATE RELIGIOUS LIBERTY (with Chad Flanders and Zoë Robinson eds., Oxford University Press, 2016)

ARTICLES

Professor Fish – Why Are You Still Picking on Liberalism? 14 FIU LAW REVIEW (forthcoming 2020)

Re-Upping Appeasement: Religious Freedom and Judicial Politics in the 2019 Term, 2019-2020 ACS Supreme Court Review (forthcoming 2020)

Establishment Clause Appeasement, 2019 SUPREME COURT REVIEW 271 (2020) (with Nelson Tebbe)

Must Laws Be Motivated by Public Reason? PUBLIC REASON AND COURTS 45 (Silje Langvatn, et al. eds., Cambridge University Press, 2020)

Religious Antiliberalism and the First Amendment, 103 MINNESOTA LAW REVIEW 1341 (2020) (with Richard Schragger)

The Unreasonableness of Catholic Integralism, 57 SAN DIEGO LAW REVIEW 1039 (2019) (symposium) (with Jocelyn Wilson)

Establishment Clause Inversion and the Bladensburg Cross Case, 2018-19 ACS SUPREME COURT REVIEW 21 (Steven D. Schwinn ed., 2019) (with Richard Schragger)

Lying as a Political Wrong, 38 LAW & PHILOSOPHY 507 (2019) (peer review)

Liberal Modesty and Political Appeasement, 81 REVIEW OF POLITICS 648 (2019) (peer review)

Official Intentions and Political Legitimacy: The Case of the Travel Ban, in NOMOS LXI: POLITICAL LEGITIMACY 201 (Jack Knight & Melissa Schwartzberg eds., NYU Press, 2019)

Jews, Not Pagans, 56 SAN DIEGO LAW REV. 497 (2019) (symposium) (with Richard Schragger)

The Etiquette of Animus, 131 HARVARD LAW REVIEW 133 (2018) (with Leslie Kendrick)

The Costs of Conscience, 106 KENTUCKY LAW JOURNAL 811 (2018) (symposium) (with Richard Schragger and Nelson Tebbe)

When Do Religious Accommodations Burden Others?, in THE CONSCIENCE WARS: RETHINKING THE BALANCE BETWEEN RELIGION, IDENTITY, AND EQUALITY (Susanna Mancini & Michel Rosenfeld eds., Cambridge University Press, 2018) (with Nelson Tebbe and Richard Schragger)

How Much May Religious Accommodations Burden Others?, in *LAW, RELIGION, AND HEALTH IN THE UNITED STATES* 215 (Holly Fernandez Lynch, et al. eds., Cambridge University Press, 2017) (with Nelson Tebbe & Richard Schragger)

Morality, Ontology, and Corporate Rights, 11 *LAW & ETHICS OF HUMAN RIGHTS* 1 (2017) (peer review) (with Steven Walt)

Religion, Equality, and Anarchy, in *RELIGION IN LIBERAL POLITICAL PHILOSOPHY* 15 (Cécile Laborde & Aurélia Bardon eds., Oxford University Press, 2017)

Some Realism about Corporate Rights, in *THE RISE OF CORPORATE RELIGIOUS LIBERTY* 345 (Schwartzman et al. eds., 2016) (with Richard Schragger)

Introduction, in *THE RISE OF CORPORATE RELIGIOUS LIBERTY* xiii (Schwartzman et al. eds., Oxford University Press, 2016) (with Chad Flanders and Zoë Robinson)

Reasoning from Conjecture: A Reply to Three Objections, in *RAWLS AND RELIGION* 152 (Tom Bailey and Valentina Gentile eds., Columbia University Press, 2015)

Religion as a Legal Proxy, 51 *SAN DIEGO LAW REVIEW* 1085 (2014) (symposium)

Religion, Equality, and Public Reason, 94 *BOSTON UNIVERSITY LAW REVIEW* 1321 (2014) (symposium)

Lost in Translation: A Dilemma for Freedom of the Church, 21 *JOURNAL OF CONTEMPORARY LEGAL ISSUES* 15 (2013) (symposium) (with Richard Schragger)

Against Religious Institutionalism, 99 *VIRGINIA LAW REVIEW* 917 (2013) (with Richard Schragger)

Obligation, Anarchy, and Exemption, 28 *CONST. COMMENT.* 93 (2013) (reviewing ABNER S. GREENE, *AGAINST OBLIGATION: THE MULTIPLE SOURCES OF AUTHORITY IN A LIBERAL DEMOCRACY* (2012))

What If Religion Is Not Special? 79 *UNIVERSITY OF CHICAGO LAW REVIEW* 1351 (2012)

The Ethics of Reasoning from Conjecture, 9 *JOURNAL OF MORAL PHILOSOPHY* 521 (2012) (peer review)

Conscience, Speech, and Money, 97 *VIRGINIA LAW REV.* 317 (2011)

The Sincerity of Public Reason, 19 *JOURNAL OF POLITICAL PHILOSOPHY* 375 (2011) (peer review)

Judicial Sincerity, 94 *VIRGINIA LAW REV.* 987 (2008)

The Relevance of Locke's Religious Arguments for Toleration, 33 *POLITICAL THEORY* 678 (2005) (peer review)

The Completeness of Public Reason, 3 *POLITICS, PHILOSOPHY & ECONOMICS* 191 (2004) (peer review)
Reprinted in *JOHN RAWLS (INTERNATIONAL LIBRARY OF ESSAYS IN THE HISTORY OF SOCIAL AND POLITICAL THOUGHT)* 513 (David Reidy ed., 2008)

SELECTED SHORTER WORKS & ONLINE CONTRIBUTIONS

[*Judicial Compromise and Political Uncertainty \(or, What If You're Not Sugar Ray Robinson?\)*](#), BALKINIZATION (July 22, 2020)

[*The Separation of Church and States is Breaking Down Under Trump*](#), THE ATLANTIC (June 29, 2020) (with Nelson Tebbe and Richard Schragger)

[*The Quiet Demise of the Separation of Church and State*](#), N.Y. TIMES (June 8, 2020) (with Nelson Tebbe and Richard Schragger)

[*Churches have been hypocritical during the pandemic*](#), WASH. POST (May 13, 2020) (with Nelson Tebbe and Richard Schragger)

[*Against Establishment Clause Concession*](#), TAKE CARE (March 1, 2019) (with Nelson Tebbe)

[*The Bladensburg Peace Cross send the message that some citizens are less valued than others*](#), WASH. POST (Feb. 26, 2019) (with Nelson Tebbe and Richard Schragger)

[*The Costs of Conscience and the Trump Contraception Rules*](#), TAKE CARE (March 6, 2018) (with Nelson Tebbe and Richard Schragger)

[*Charlottesville's Monuments are Unconstitutional*](#), SLATE (Aug. 25, 2017) (with Nelson Tebbe)

[*Trump's Latest Affront to Women, and to the Constitution*](#), TAKE CARE (June 2, 2017) (with Nelson Tebbe and Richard Schragger)

[*How Trump Will Transform the Federal Courts: One Young Judge at a Time*](#), SLATE (MAY 9, 2017) (with Mark Joseph Stern)

[*Animus and the Travel Ban*](#), TAKE CARE Blog (May 8, 2017) (with Nelson Tebbe and Corey Brettschneider)

[*Mitch Landrien and the Anti-Denigration Constitution*](#), TAKE CARE (May 2, 2017) (with Richard Schragger and Nelson Tebbe)

[*Does Trump's New Travel Ban Violate the Establishment Clause?*](#) JUST SECURITY (March 7, 2017) (with Nelson Tebbe and Richard Schragger)

[*How Trump's Executive Order on Immigration Violates Religious Freedom Laws*](#), JUST SECURITY (Jan. 31, 2017) (with Nelson Tebbe and Richard Schragger)

[*Trump Wasn't Elected as a Culture Warrior – He May Govern as One*](#), VOX (Dec. 19, 2016) (with Nelson Tebbe and Richard Schragger)

[*Zubik and the Demands of Justice*](#), SCOTUSblog (May 16, 2016) (with Nelson Tebbe and Richard Schragger)

[*The Contraception Compromise*](#), SLATE (April 14, 2016) (with Richard Schragger and Nelson Tebbe)

[*Obergefell and the End of Religious Reasons for Lawmaking*](#), RELIGION & POLITICS (June 29, 2015) (with Richard Schragger and Nelson Tebbe),

[Indiana's New Law Allows Discrimination – That Was the Point](#), SLATE (March 30, 2015) (with Nelson Tebbe and Robert Tuttle)

[Utah “Compromise” to Protect LGBT Citizens from Discrimination Is No Model for the Nation](#), SLATE (March 18, 2015) (with Nelson Tebbe and Richard Schragger)

[WHAT DID RFRA RESTORE?](#) CORNERSTONE BLOG (Sept. 11, 2014)

[The New Law of Religion: Hobby Lobby rewrites religious-freedom law in ways that ignore everything that came before](#), SLATE (July 3, 2014) (with Richard Schragger and Nelson Tebbe)

[Hobby Lobby's dangerous precedent](#), N.Y. DAILY NEWS (July 1, 2014) (with Nelson Tebbe and Richard Schragger)

[The Evolution of Hobby Lobby: The Arguments that Matter and How They Were Developed](#), CORNERSTONE BLOG (June 12, 2014) (with Richard Schragger and Nelson Tebbe)

[A Prayer for Liberals: Why are some liberals conceding that it's their fault for objecting to legislative prayer?](#) SLATE (May 8, 2014) (with Nelson Tebbe)

[Obamacare and Religion and Arguing off the Wall: What the New York Times and the courts are missing in the birth control mandate fight](#), SLATE (Nov. 26, 2013) (with Nelson Tebbe)

[Symposium: The puzzle of Town of Greece v. Galloway](#), SCOTUSblog (Sep. 24, 2013) (with Nelson Tebbe)

[Not Getting Any Younger: President Obama's penchant for older judges scuttled Goodwin Liu](#), SLATE (May 26, 2011)

[Old World: Why isn't Obama appointing young judges to the circuit courts?](#) THE NEW REPUBLIC ONLINE (July 17, 2009) (with David Fontana)

SELECTED PRESENTATIONS

Religious Antiliberalism and the First Amendment

29th World Congress of International Association for the Philosophy Law and Social Philosophy, University of Lucerne, Switzerland (July 2019)

“Secularism, Separation, (Non-)Establishment,” University of Konstanz, Germany (June 2019)

Annual Law & Religion Roundtable, University of Toronto Faculty of Law (June 2019)

“The Travails of Liberal Democracy,” University of San Diego School of Law (May 2019)

Public Law Workshop, University of Minnesota Law School (Feb. 2019)

The Etiquette of Animus

Law and Religion Colloquium, St. John's University School of Law (Oct. 2018)

Faculty Workshop, Wayne State University Law School (Oct. 2018)

Jews, Not Pagans

Faculty Workshop, University of Virginia School of Law (July 2018)

“Pagans and Christians in the City,” University of San Diego School of Law (Dec. 2017)

The Costs of Conscience

“Religious Exemptions and Harms to Others,” University of Kentucky College of Law, (Nov. 2017)

Must Laws Be Motivated by Public Reason?

Annual Law & Religion Roundtable, Notre Dame Law School Chicago Faculty (June 2017)
“Courts and Public Reason in Global Public Law,” WZB Social Science Center, Berlin, Germany (July 2016)

Can Public Reason be Defended on Epistemic Grounds?

NOMOS, American Society for Political and Legal Philosophy, APA Central Division Meeting, Kansas City (March 2017)

Morality, Ontology, and Corporate Rights

Law and Public Affairs Program, Princeton (Dec. 2016)
Fordham Legal Theory Workshop (Oct. 2016)
Faculty Workshop, University of Virginia School of Law (April 2016)
“Human Rights & the Rights of Non-Humans,” College of Law & Business, Ramat Gan, Israel (Jan. 2016)

How Much May Religious Accommodations Burden Others?

Faculty Workshop, BYU Law (Sept. 2016)

The Wrong of Lying: Moral or Political?

“Speech Matters,” UCL Faculty of Laws, London, UK (May 2016)

When Do Religious Accommodations Burden Others?

“The Conscience Wars,” Cardozo Law School (Sept. 2015)
Annual Law & Religion Roundtable, Georgetown University (June 2015)
“Law, Religion, and Health in America,” Petrie-Flom Center, Harvard Law School (May 2015)

Religion, Equality, and Anarchy

“Religion in Liberal Political Philosophy,” UCL, London, UK (June 2015)

Some Realism about Corporate Rights

Law & Philosophy Program, University of Texas School of Law (March 2015)
Legal Studies and Business Ethics Department, Wharton School, University of Pennsylvania (Dec. 2015)
Politics, Philosophy, & Law Colloquium, University of Virginia (Oct. 2014)
Symposium, “The New Religious Institutionalism,” DePaul University College of Law (Sept. 2013)

What Did RFR A Restore?

2014 Southeast Association of Law Schools Annual Conference, Amelia Island, FL (Aug. 2014)

Religion as a Legal Proxy

“Secularism, Religion, and Liberal Neutrality,” APSA Annual Meeting, Washington, DC (Aug. 2014)
Annual Law and Religion Roundtable, Washington University (June 2014)
Institute for Law and Religion, University of San Diego School of Law (Feb. 2014)
“Religion, Democracy, and Equality,” ICLARS, Charlottesville, VA (Aug. 2013)

Against Religious Institutionalism

Faculty Workshop, UCLA School of Law (Feb. 2013)
Institute for Law and Religion, University of San Diego (Oct. 2012)
Annual Law and Religion Roundtable, Harvard Law School (June 2012)

What If Religion Is Not Special?

Virginia Center for the Study of Religion, University of Virginia (April 2012)
“Religious Legal Theory,” Pepperdine University School of Law (Feb. 2012)
Faculty Workshop, Brooklyn Law School (Feb. 2012)
Legal Studies Workshop, University of Pennsylvania Law School (Dec. 2011)

The Ethics of Reasoning from Conjecture

“Between Rawls and Religion,” LUISS and John Cabot University, Rome, Italy (Dec. 2010)
“Muslim Minorities in Liberal Democracies,” Michigan State University (April 2007)
Lecture Series, Columbia University Society of Fellows in the Humanities (April 2007)

Conscience, Speech, and Money

Faculty Workshop, George Washington University School of Law (Oct. 2010)
Faculty Workshop, University of Virginia School of Law (Aug. 2010)
Annual Law & Religion Roundtable, Brooklyn Law School (June 2010)

The Ethics of Argument

Philosophy Department, College of Charleston (Nov. 2009)
College Forum Series, Iowa Wesleyan College (April 2009)

Judicial Sincerity

Faculty Workshop, Georgetown University Law Center (Dec. 2007)
Legal Theory Workshop, UCLA School of Law (Nov. 2006)

The Sincerity of Public Reason

“Muslim Citizens in Non-Muslim Liberal Democracies,” Yale University (Dec. 2007)
Political Theory Colloquium, University of Virginia (April 2005)

SELECTED MEDIA

[Interview](#), *Common Law* (June 11, 2019) (podcast with Risa Goluboff and Leslie Kendrick discussing Supreme Court decisions on religious freedom)

[Interview](#), *The Public Morality* (July 10, 2018) (podcast with Byron Williams discussing Justice Kennedy’s retirement and the future of the Supreme Court)

[Interview](#), *Amicus: Animus Amicus*, SLATE (May 13, 2017) (podcast discussing President Trump’s travel ban)

[Interview](#), *Inside Charlottesville with Coy Barefoot* (radio broadcast June 30, 2014) (discussing *Hobby Lobby*)

[Panelist](#), Religious Liberty Practice Group, Federalist Society, *Hobby Lobby* and *McCullen v. Coakley: HHS Mandate and Abortion Clinic Buffer Zones – Podcast* (July 1, 2014)

[Panelist](#), “Everybody’s Business: The Legal, Economic, and Political Implications of Religious Freedom,” Berkley Center, Georgetown University

[Interview](#), *Inside Charlottesville with Coy Barefoot* (radio broadcast May 12, 2014) (discussing *Town of Greece*)

PARTICIPATION IN SELECTED AMICUS BRIEFS

- Pennsylvania v. Trump*, Brief of Church-State Scholars in Support of Plaintiffs-Appellees and Affirmance, 3d Cir. No. 17-Civ-4540 (March 25, 2019) (with Joshua Matz, et al.)
- Fulton v. City of Philadelphia*, Brief of Church-State Scholars in Support of Defendant-Appellees and Affirmance, E.D. Pa. No. 18-Civ-2075 (Oct. 4, 2018) (with Joshua Matz, et al.)
- Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 138 S. Ct. 1719 (2018) (No. 16-111) (with Joshua Matz, et al.)
- Trump v. Hawaii*, Brief of Constitutional Law Scholars as Amici Curiae in Support of Respondents, 138 S. Ct. 2392 (2018) (No. 17-965) (with Robbie Kaplan, Joshua Matz, et al.)
- International Refugee Assistance Project v. Trump*, Brief of Constitutional Law Scholars as Amici Curiae in Support of Plaintiffs-Appellees and Affirmance, 4th Cir. No. 8:17-cv-00361 (April 19, 2017) (with Joshua Matz, et al.)
- State of Hawaii v. Trump*, Brief of Constitutional Law Scholars as Amici Curiae in Support of Plaintiffs-Appellees and Affirmance, 9th Cir. No. 1:17-cv-00050 (April 20, 2017) (with Joshua Matz, et al.)
- Barber v. Bryant*, Brief of Church-State Scholars as Amici Curiae in Support of Plaintiffs-Appellees and Affirmance, 5th Cir. No. 16-60477 (Dec. 22, 2016) (with Joshua Matz, et al.)
- Sebelius v. Hobby Lobby*, Brief for Amicus Curiae Church-State Scholars, S.Ct. No. 13-354 (Jan. 27, 2014) (with Frederick Mark Gedicks, et al.)

ACADEMIC SERVICE

- Law School: Clerkships Committee, Chair (2017-present, 2014-16, 2010-13, 2008-09)
Appointments Committee, Member (2016-17, 2013-14)
Tenure Subcommittee (2019-20)
Legal Theory Workshop Committee, Chair (2019-20), Member (2015-16)
Academic Placement Committee, Member (2014-15)
Graduation Awards Committee, Member (2017-19, 2010-12)
Order of the Coif Committee, Chair (2007-08)
- University: Rhodes, Marshall, and Mitchell Scholarship Selection Committee (2007-present)
Brown College, Faculty Fellow (2009-present)
Democracy Initiative, Search Committee (2018-2019)
- Referee: *American Political Science Review*; *Australasian Journal of Philosophy*; *Australasian Journal of Legal Philosophy*; *Canadian Journal of Philosophy*; *Columbia Law Review*; *Contemporary Political Theory*; *Journal of Church & State*; *Journal of Ethics and Social Philosophy*; *Journal of Law & Religion*; *Journal of Moral Philosophy*; *Journal of Political Philosophy*; *Journal of Politics*; *Kennedy Institute of Ethics Journal*; *Law & Ethics of Human Rights*; *Law & Literature*; *Law & Philosophy*; *Legal Theory*; *Oxford Journal of Legal Studies*; *Philosophy & Public Issues*; *Political Research Quarterly*; *Political Studies*; *Political Theory*; *Politics, Philosophy & Economics*; *Representation*; *Res Publica*; *Review of Politics*; *Social Theory & Practice*, *Stanford Law Review*, *Yale Law Journal*
- Cambridge University Press, Oxford University Press, Princeton University Press

PROFESSIONAL AFFILIATIONS

Bar Admission: Maryland (inactive)
United States Court of Appeals for the Fourth Circuit
United States District Court for the District of Maryland

Judicial Conference of the Fourth Circuit, Permanent Member

America Society for Political and Legal Philosophy, Member

American Constitution Society, Board of Academic Advisors