

## Renée Lettow Lerner

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### EXPERIENCE

- 2017-present **George Washington University Law School**,  
Donald Phillip Rothschild Research Professor of Law
- Courses taught: legal history, criminal procedure, comparative law, and conflict of laws.
- 2014-2017 Professor of Law
- 1997-2014 Associate Professor of Law  
(on leave of absence 2003-2005)
- 2003-2005 **United States Department of Justice, Office of Legal Counsel**,  
Deputy Assistant Attorney General
- 1996-1997 **Justice Anthony M. Kennedy**, U.S. Supreme Court, law clerk
- 1995-1996 **Judge Stephen F. Williams**, U.S. Court of Appeals for the District of Columbia  
Circuit, law clerk
- 1994 **Kirkland & Ellis**, Washington, DC, summer associate
- 1993 **Judge Stephen F. Williams**, intern
- 1991-1992 **Magdalen College, Oxford University**, Oxford, U.K.  
Taught American history course to Oxford undergraduates.

### EDUCATION

- Yale Law School**, J.D., 1995  
*Yale Law Journal*, Articles Editor, 1994-95  
Joseph Parker Prize (best paper on legal history or Roman law), 1995  
Judge William E. Miller Prize (best paper on the Bill of Rights), 1994  
*Yale Journal on Regulation*, Submissions Editor, 1993-94; Lead Editor, 1993  
New Haven TRO Project for Battered Women

**Magdalen College, Oxford University**, M. Litt., Modern History, 1993 (Rhodes Scholar)  
Thesis: Codification and Consolidation of English Law in the Early Nineteenth Century

**Princeton University**, A.B., History, *summa cum laude*, 1990  
Phi Beta Kappa  
Class of 1883 English Prize, 1987  
William Koren, Jr. Memorial Prize in History, 1989  
Walter Phelps Hall Prize in European History (hon. men.), 1990

## BOOK

HISTORY OF THE COMMON LAW: THE DEVELOPMENT OF ANGLO-AMERICAN LEGAL INSTITUTIONS (with John H. Langbein and Bruce P. Smith) (Aspen Publishers 2009).

## OTHER PUBLICATIONS

The Surprising Views of Montesquieu and Tocqueville about Juries: Juries Empower Judges, 81 LOUISIANA LAW REVIEW 1 (2020).

Federalism in the United States, MANDINER 42 (Aug. 19, 2020) (translated into Hungarian with the title Arra intem az európai népeket, hogy legyenek résen).

Essay, The Second Amendment and the Spirit of the People, 43 HARVARD JOURNAL OF LAW & PUBLIC POLICY 319 (2020).

Book review, Amalia D. Kessler, *Inventing American Exceptionalism: The Origins of American Adversarial Legal Culture, 1800-1877*, 67 JOURNAL OF LEGAL EDUCATION 888 (2018).

How the Creation of Appellate Courts in England and the United States Limited Judicial Comment on Evidence to the Jury, 40 JOURNAL OF THE LEGAL PROFESSION 215 (2016).

A Family Tradition: Clerking at the U.S. Supreme Court (with Charles F. Lettow and Kristen Silverberg), in OF COURTIERS AND KINGS: MORE STORIES OF SUPREME COURT LAW CLERKS AND THEIR JUSTICES 360-365 (Todd C. Peppers and Clare Cushman eds., University of Virginia Press 2015).

The Troublesome Inheritance of Americans in Magna Carta and Trial by Jury, in MAGNA CARTA AND ITS MODERN LEGACY 77-98 (Robert Hazell and James Melton eds., Cambridge University Press 2015).

- The Failure of Originalism in Preserving Constitutional Rights to Civil Jury Trial, 22 WILLIAM & MARY BILL OF RIGHTS JOURNAL 811 (2014).
- The Rise of Directed Verdict: Jury Power in Civil Cases Before the Federal Rules of 1938, 81 GEORGE WASHINGTON LAW REVIEW 448 (2013).
- Enlightenment Economics and the Framing of the U.S. Constitution, 35 HARVARD JOURNAL OF LAW & PUBLIC POLICY 37 (2012).
- Thomas Nast's Crusading Legal Cartoons, THE GREEN BAG 2011 ALMANAC (2011).
- From Popular Control to Independence: Reform of the Elected Judiciary in Boss Tweed's New York, 15 GEORGE MASON LAW REVIEW 109 (2007).
- Unconstitutional Conditions, Germaneness, and Institutional Review Boards, 101 NORTHWESTERN UNIVERSITY LAW REVIEW 775 (2007).
- The Worldwide Popular Revolt Against Proportionality in Self-Defense Law, 2 JOURNAL OF LAW, ECONOMICS & POLICY 331 (2006).
- Judicial Review Before Marbury, Comment, 72 GEORGE WASHINGTON LAW REVIEW 45 (2003).
- The Intersection of Two Systems: An American on Trial for an American Murder in the French Cour d'Assises, 2001 UNIVERSITY OF ILLINOIS LAW REVIEW 791.
- International Pressure to Harmonize: The U.S. Civil Justice System in an Era of Global Trade, 2001 B.Y.U. LAW REVIEW 229.
- The Transformation of the American Civil Trial: The Silent Judge, 42 WILLIAM & MARY LAW REVIEW 195 (2000).
- Renée B. Lettow, New Trial for Verdict Against Law: Struggles Between Judges and Juries in Early Nineteenth-Century America, 71 NOTRE DAME LAW REVIEW 505 (1996).
- Akhil Reed Amar & Renée B. Lettow, Fifth Amendment First Principles: The Self-Incrimination Clause, 93 MICHIGAN LAW REVIEW 857 (1995).
- Renée B. Lettow, Note, Reviving Federal Grand Jury Presentments, 103 YALE LAW JOURNAL 1333 (1994).

WORKS IN PROGRESS

The Resilience of Substantive Rights and the False Hope of Procedural Rights: The Case of the Second Amendment and the Seventh Amendment, 116 NORTHWESTERN LAW REVIEW (forthcoming 2021).

The Jury: A Very Short Introduction, under contract with Oxford University Press, forthcoming 2021 (book).

Federalism in the United States, in A Constitutional Journey in the United States, ed. Lénárd Sándor (Mathias Corvinus Collegium Alapítvány forthcoming 2021).

The American Civil Jury (book).

The History of Voir Dire in the United States (article).

## ONLINE ACTIVITIES

“Magna Carta & Due Process of Law,” posted October 2020.

[https://www.youtube.com/watch?v=K6L\\_Jflr4vw](https://www.youtube.com/watch?v=K6L_Jflr4vw)

“The Seventh Amendment,” video for Khan Academy, posted October 2018.

<https://www.khanacademy.org/humanities/us-government-and-civics/us-gov-the-national-constitution-center/us-gov-the-bill-of-rights-ncc/v/the-seventh-amendment>

“The Seventh Amendment,” with Suja A. Thomas, National Constitution Center, Interactive Constitution, posted September 2015.

<http://constitutioncenter.org/interactive-constitution/amendments/amendment-vii>

“The Problem of the Seventh Amendment and Civil Jury Trial,” National Constitution Center, Interactive Constitution, posted September 2015.

<http://constitutioncenter.org/interactive-constitution/amendments/amendment-vii/the-problem-of-the-seventh-amendment-and-civil-jury-trial-renee-lettow-lern/interp/7>

“The Collapse of Jury Trial and What To Do About It,” The Jury Expert, a publication of The American Society of Trial Consultants, posted August 2015.

<http://www.thejuryexpert.com/2015/08/collapse-of-civil-jury-trial-and-what-to-do-about-it/>

“The Uncivil Jury,” guest blog series of five posts for The Volokh Conspiracy, posted May 26-29, 2015.

<http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/26/the-uncivil-jury-part-1-americans-misplaced-sentiment-about-the-civil-jury/>

<http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/27/the-uncivil-jury-part-2-the-unromantic-origins-of-the-jury-and-the-continuous-need-for-an-alternative/>

<http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/27/the-uncivil-jury-part-3-the-perils-of-jury-trial-efforts-to-control-juries-and-the-deceptive-allure-of-nullification/>

<http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/28/the-uncivil-jury-part-4-the-collapse-of-the-civil-jury/>

<http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/29/the-uncivil-jury-part-5-what-to-do-now-repeal-and-redesign/>

“The Troublesome Inheritance of Americans in Magna Carta and Trial by Jury,” guest blog for Concurring Opinions, posted April 16, 2015.

<http://concurringopinions.com/archives/2015/04/the-troublesome-inheritance-of-americans-in-magna-carta-and-trial-by-jury.html>

## SELECTED PRESENTATIONS

“The Civil Jury: Past, Present, and Future,” University of Kansas School of Law, online presentation, October 2020.

“The Second Amendment and the Seventh Amendment,” 2020 Symposium: The Second Amendment’s Next Chapter, Northwestern University Law Review, online symposium, October 2020.

Commentator: Philip Hamburger’s *Purchasing Submission*, Conference at Columbia Law School, New York, NY, March 2020.

“The Civil Jury,” Northwestern University, Pritzker School of Law, Chicago, IL, March 2020.

“Juries and Revolutionaries in America and France,” Symposium on We the Jury: Conversations on the American Jury’s Past, Present, and Future, Louisiana Law Review, Louisiana State University, Baton Rouge, LA, January 2020.

Commentator: Carlton F.W. Larson's *The Trials of Allegiance: Treason, Juries, and the American Revolution*, American Society for Legal History Annual Meeting, Boston, MA, November 2019.

Originalism, Populism, and the Second Amendment Right to Keep and Bear Arms, debate, National Lawyers Convention, Federalist Society, November 2019.

"The Civil Jury: Constitutional Liberty or Unhealthy Romance?", debate with Shanin Specter, Third Circuit Chapters Conference, Philadelphia, PA, October 2019.

"Tradeoffs in the History and Current Practice of Voir Dire," Academic Roundtable, The Civil Jury Project, New York University School of Law, New York, NY, April 2019.

"The Second Amendment and the Spirit of the People," keynote address, Conference on the Second Amendment in the New Supreme Court, National Press Club, Washington, DC, January 2019.

"The Disappearing Civil Jury Trial," 2018 Eighth Circuit Judicial Conference, U.S. Courts, Des Moines, IA, August 2018.

"The American Civil Jury 1850-1915: A Medieval Institution in the Age of Steam Engines," faculty workshop, Washington University Law School, St. Louis, MO, February 2018.

"The Past and Future of the Criminal and Civil Jury in America," debate with Suja Thomas, Georgetown University Law Center, Washington, DC, November 2017.

"Civil Law, Common Law, and U.S. Courts," Judicial Advisory Board of the American Society of International Law, Annual Meeting, Washington, DC, November 2017.

Commentator: "Patent Equity Lost," Conference on Perspectives on the PTAB: The New Role of the Administrative State in the Innovation Economy, Center for the Protection of Intellectual Property and Center for the Study of the Administrative State, Antonin Scalia Law School, George Mason University, Arlington, VA, November 2017.

Commentator: "Transatlantic Influences and the Reconfiguration of the European Legal Tradition under Totalitarianism," American Society for Legal History Annual Meeting, Las Vegas, NV, October 2017.

"Why Do Juries Matter?" debate with Suja Thomas, Antonin Scalia Law School, George Mason University, October 2017.

- “The Future of Jury Trial,” debate with Stephen D. Susman, plenary session, American Constitution Society National Convention, Washington, DC, June 2017.
- “Comparative Legal Systems: Civil Law in Comparative Perspective,” Rule of Law Collaborative, U.S. Department of State and Justice Sector Training, Research & Coordination Program (Justrac), Washington, DC, January 2017.
- “The Past and Future of the Criminal and Civil Jury,” American Association of Law Schools Annual Meeting/Federalist Society Annual Faculty Conference, San Francisco, CA, January 2017, available at [https://www.youtube.com/watch?v=fwshnN\\_\\_UMU&list=PLWwcngsYgoUXjU3zb\\_rcMveHdeoImpyEm&index=2](https://www.youtube.com/watch?v=fwshnN__UMU&list=PLWwcngsYgoUXjU3zb_rcMveHdeoImpyEm&index=2).
- “The Seventh Amendment and Jury Trials in Patent Litigation,” Conference on Jury Trials and Patent Litigation, The Civil Jury Project and The Engleberg Center on Innovation Law & Policy, New York University School of Law, New York, NY, September 2016.
- “The Disappearance of Civil Jury Trial Despite Constitutional Guarantees,” Conference on the Right to Trial by Jury, Missouri and Southern Illinois Chapter of the American Board of Trial Advocates, St. Louis, MO, April 2016.
- Commentator: “The History of the Courts and Individual Rights,” Conference on the History of the Federal Judiciary, Federal Judicial Center, Washington, DC, April 2016.
- “Legal Scholarship and Foreign Legal Systems,” Conference on the Fate of Scholarship in American Law Schools, University of Baltimore School of Law, Baltimore, MD, March 2016.
- “Comment on Evidence to Juries and the Power of Trial Judges,” University of Virginia Legal History Workshop, Charlottesville, VA, February 2016.
- “The Creation of Appellate Courts and the Effect on Trial Judges’ Comment on Evidence to Juries,” Stanford Law School, Law and Humanities Workshop, Stanford, CA, February 2016.
- “Magna Carta and Juries in England and America,” Panel: 800 Years of Comparative Constitutionalism: The Unique Legacy of Magna Carta, Legal History Section, Association of American Law Schools Annual Meeting, New York, NY, January 2016.
- “The Separation of Trial and Appellate Judges and Judicial Comment on Evidence in English and U.S. Federal Courts,” American Society for Legal History Annual Meeting, Washington, DC, October 2015.

- “Downsides of Civil Juries,” debate with Suja A. Thomas, sponsored by the Federalist Society, September 2015, podcast available at: <http://www.fed-soc.org/multimedia/detail/downsides-of-civil-juries-podcast>.
- “Preserved Where, Preserved How, Preserved Why,” inaugural conference: The State and Future of Civil Jury Trials, The Civil Jury Project, New York University School of Law, New York, NY, September 2015, available at: [https://www.youtube.com/watch?v=7PDMt\\_knNJE&index=1&list=PLJkLD\\_s9pYaZqu0jE3n1HUeYrqksyMAiL](https://www.youtube.com/watch?v=7PDMt_knNJE&index=1&list=PLJkLD_s9pYaZqu0jE3n1HUeYrqksyMAiL).
- “Ancient Liberties: Magna Carta and Trial by Jury in America,” keynote speech, 2015 Law Day celebration of the Albuquerque Bar Association, Albuquerque, NM, May 2015.
- “Originalism and Constitutional Rights to Civil Jury Trial,” University of San Diego School of Law and the Center for the Study of Constitutional Originalism, San Diego, CA, April 2015.
- “Magna Carta 800: A Discussion about the Great Charter,” New York University, Washington, DC, April 2015.
- “The Most Sacred Ancient Liberty: Magna Carta and Trial by Jury in the New Republic,” Symposium on Magna Carta: Muse and Mentor, Library of Congress, Washington, DC, December 2014.
- “The Magna Carta and Juries in the United States,” Workshop on the Influence of the Magna Carta, Political Studies Association of the United Kingdom, University College London, U.K., June 2014.
- “The Jury Trial Is Dying: Should We Mourn Its Demise?,” Center on Civil Justice, New York University, New York, NY, April 2014.
- “Interpretations of State and Federal Constitutional Rights to Civil Jury Trial,” American Society for Legal History Annual Meeting, Miami, FL, November 2013.
- “Novus Ordo Seclorum: Economics and the Framing of the U.S. Constitution,” University of Oregon School of Law, Eugene, OR, April 2013.
- “Oral Trials in the Common Law System,” U.S. Constitutional and Electoral Law Seminar for the Federal Electoral Court (Mexico), The Washington Center, Washington, DC, September 2010, April 2011, December 2011, and December 2012.
- “The U.S. Legal System in Comparative Perspective,” Inaugural Seminar, American and Saudi Arabian Dialogue Education Center, George Washington University, Washington, DC, June 2012.



- “Control of Prosecutorial Discretion in Common Law Legal Systems Compared With Continental European Systems,” Conference on Selective Enforcement of Criminal Law: Prosecutorial Discretion, University of Florence, Department of Comparative and Criminal Law, Florence, Italy, May 2012.
- “The Development of Due Process of Law,” Lectures on Magna Carta and the Constitution, National Archives, Washington, DC, February 2012.
- “Directed Verdict and the Search for Efficient Jury Control in the United States,” American Society for Legal History Annual Meeting, Atlanta, GA, November 2011.
- “The U.S. Legal System in Comparative Perspective,” Keynote Address, U.S. State Department, International Visitor Leadership Program, Washington, DC, August 2011.
- “Enlightenment Economics and the Framing of the U.S. Constitution,” Thirtieth Annual National Student Symposium, Federalist Society, Charlottesville, VA, February 2011.
- Discussant, The Role of the Legislature in Judicial Selection in England and the United States, Judges and Judging 2010 Workshop, American University, Washington College of Law, Washington, DC, September 2010.
- “Reform of Judicial Elections After the Civil War,” Washington Area Legal History Roundtable, American University Washington College of Law, Washington, DC, April 2010.
- Organizer and panel moderator, The George Washington Law Review Symposium on Judicial Review: Historical Debate, Modern Perspectives, and Comparative Approaches, Washington, DC, October 2009.
- Participant, Colloquium on *Law and Judicial Duty*, Chicago, IL, October 2009.
- “Differences Between Inquisitorial and Adversarial Systems of Criminal Procedure,” D.C. Court of Appeals Judicial Education Speaker Series, Washington, DC, March 2009.
- Discussant, panel on “Judicial Compensation: Contemporary and Historical Perspectives,” Washington Area Legal History Roundtable, Catholic University, Washington, DC, November 2007.
- “From Popular Control to Independence: Reform of the Elected Judiciary After the Civil War,” American Society for Legal History Annual Meeting, Tempe, AZ, October 2007.

- “Reform of the Elected Judiciary After the Civil War,” New York University Legal History Colloquium, New York, NY, October 2007.
- “Procédures inquisitoires ou accusatoires: le débat sur les politiques pénales aux Etats-Unis et en France,” Seminar, Institut d'études politiques de Paris (Sciences Po), Centre d'Etudes et de Recherches Internationales, Paris, May 2007.
- “American Judges, English Judges, and the Power to Comment on Evidence,” Law Faculty, Cambridge University, U.K., May 2007.
- “Comparative Law: Inquisitorial vs. Adversarial Systems,” D.C. Superior Court Judicial Training Conference, Washington, DC, May 2007.
- “Restriction of Judicial Comment on Evidence in the United States,” American Society for Legal History Annual Meeting, Baltimore, MD, November 2006.
- “Comparative Criminal Law and Procedure,” Seminar on Criminal Law for Judges, George Mason University Law and Economics Center, Captiva, FL, November 2006.
- “Recent Self-Defense Legislation in the United States,” Firearms Law and the Second Amendment Symposium, George Mason University, Arlington, VA, October 2006.
- “American Judges, English Judges, and the Power to Comment on Evidence,” Washington Area Legal History Roundtable, George Washington University Law School, Washington, DC, September 2006.
- “Unconstitutional Conditions, Germaneness, and Institutional Review Boards,” Conference on Censorship and Institutional Review Boards, Northwestern University School of Law, Chicago, IL, April 2006.
- Discussant, panel on “Judicial Review, Public Opinion, and Slavery,” American Society for Legal History Annual Meeting, Cincinnati, OH, November 2005.
- “The Worldwide Popular Revolt Against Proportionality in Self-Defense Law,” Bessie Jones Day Symposium—Modern Issues Involving the Law of Self-Defense, George Mason University School of Law, Arlington, VA, November 2005.
- “‘The Tastes and Habits of an Aristocracy’: The New York Bar and the Elected Judiciary in the Gilded Age,” American Society for Legal History Annual Meeting, Austin, TX, October 2004.
- “The Aristocratic Tendency in Late Nineteenth-Century Judicial Selection,” George Mason University School of Law, Arlington, VA, April 2004.

“The English Origins of Judicial Review,” symposium on Marbury v. Madison and its legacy sponsored by the George Washington Law Review, Washington, DC, April 2003.

“The New York Bar and Judicial Elections in the Gilded Age,” Yale Legal History Forum, New Haven, CT, April 2003.

“Changes in the U.S. Criminal Justice System in the Wake of the September 11 Attacks,” Inaugural Lecture in Honor of Professor Martin Devers, Distinguished Lecturer Series in Criminal Justice, York College, York, PA, April 2003.

“A Comparison of the U.S. Criminal Justice System with Those of Continental Europe,” Embassy of the Netherlands, Washington, DC, October 2002.

“Effective Briefs Opposing Certiorari Before the U.S. Supreme Court,” National Association of Attorneys General, Supreme Court Advocacy Seminar, Washington, DC, November 2000.

“How American Judges Lost the Power to Comment on Evidence,” University of Virginia Law School faculty, Charlottesville, VA, June 1999.

Expert testimony before the Cour d’Assises, Paris, in the murder trial of Thierry Gaitaud (testimony on the differences between American and French criminal procedure), June 1999.

“The Substantive Due Process and Tenth Amendment Jurisprudence of Justice Anthony Kennedy,” The Academy for State and Local Government, Annual Meeting, Washington, DC, October 1998.

## LAW SCHOOL AND UNIVERSITY COMMITTEE SERVICE

Appointments Committee (2019-2021; 2009-2011; 2005-2006).

Clerkship Committee (2012-present; 1997-2003).

Academic Integrity Committee (2015-2018).

Strategic Planning Committee (2015-2016).

Selection Committee, The Richard and Diane Cummins Legal History Research Grant (2011-2016).

Dean Search Committee, Vice Chair (2013-2014).

Intellectual Life Committee (formerly Works-in-Progress Committee) (2013-2014; 2006-2009).

University Committee to select the winner of the Oscar and Shoshana Trachtenberg Prize for Faculty Scholarship (2011).

Curriculum Committee (2008-2009).

Academic Scholarship Committee (2007-2009; 1997-2003).

Peer Review Committee, Chair (2006-2007).

University Committee on the Status of Women Faculty and Librarians (2000-2002).

Faculty Adviser, Van Vleck Moot Court Competition (1999-2000).

## SKILLS AND ACTIVITIES

Founder and organizer, D.C.-Area Legal History Roundtable. Founded in 2006 at George Washington, the roundtable meets twice a year and rotates among area law schools. Three meetings have occurred at George Washington.

Chair, Local Arrangements Committee, American Society for Legal History, 2015 Annual Meeting in Washington, DC.

Member, Cromwell Prize Committee, American Society for Legal History (2009-2012).

Fluent French; basic German.

Secretary, Rhodes Scholar Selection Committee of Virginia (2002-2004).

Member, Virginia State Bar; District of Columbia Bar.

Member of the Board of Trustees, The Potomac School, McLean, VA (2001-2007).