

DAVID FONTANA

George Washington University Law School
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ACADEMIC EXPERIENCE

George Washington University Law School

Professor of Law (joined faculty in 2006)

Courses: Constitutional Law, Comparative Constitutional Law, Criminal Procedure, Criminal Law, Comparative Law, Undergraduate Constitutional Law

Other Teaching

Short Courses for Yale Law School (with Steven Teles), the University of Georgia Law School and Loyola-LA Law School

PROFESSIONAL ACTIVITIES

Term Member, Council on Foreign Relations

Constitutional Assistance Project

Provided expertise to drafters and nonprofit leaders revising constitutions in Libya and Tunisia and have met with visiting drafters from dozens of countries on behalf of the Department of State

House and Senate Judiciary Committees

Regularly brief Senate and House members and staffers and testify on constitutional issues

Founder and Organizer, Annual Comparative Constitutional Law Roundtable

Created annual academic gathering to discuss comparative constitutional law, featuring participation by U.S. Supreme Court Justices and foreign constitutional court judges.

Reviewer/Referee

Serve as peer reviewer in the areas of law and political science for *Harvard Law Review*, *Yale Law Journal*, *University of Chicago Law Review*, *Stanford Law Review*, *Columbia Law Review*, *Virginia Law Review*, *American Political Science Review*, *American Journal of Political Science*, *Comparative Political Studies*, *Law & Social Inquiry*, *Law & Society Review*, *American Sociological Review*, as well as for Harvard University Press, Yale University Press, Oxford University Press and Cambridge University Press

United States Court of Appeals for the Ninth Circuit

Law Clerk to the Honorable Dorothy W. Nelson

PUBLICATIONS

My research focuses on two primary themes. First, my research focuses on the constitutional dimensions of geographical concentrations of power. Second, my research focuses on the implications of public opinion for constitutional issues.

Books

THE PLACE OF POWER: THE PROBLEM OF A SINGLE CAPITAL (under review with trade and academic presses) (expanding on law review article about history of and problems with placing much of the American federal government in one metropolitan area) (forthcoming 2019)

- Received coverage for article related to book in published or forthcoming stories in the *Washingtonian*, *The Washington Post*, *The Atlantic Monthly*, *The Rolling Stone*, and *The Los Angeles Times*
- Article cited by one Senator on the floor of the Senate as “the constitutional idea for our time”

THE PLACE WHERE POLITICS STILL WORKS (under review with trade presses) (expanding on law review article arguing that the domination of elections by a few metropolitan areas poses constitutional problems, told through a narrative history of the North Country in far upstate New York) (forthcoming 2019)

- Turned into an amicus brief in a pending case before the United States Court of Appeals for the Ninth Circuit
- Served as the basis of stories in *Buzzfeed*, *Slate* and *The New York Times*
- Working with public interest organizations based on this article to place initiatives on state ballots regulating out-of-state campaign contributions

CONSTITUTIONS WITHOUT REVOLUTIONS (preparing for submission based on Oxford dissertation) (forthcoming 2020)

Selected Articles (complete list available upon request)

The Sexed Pregnancy (with Naomi Schoenbaum), COLUMBIA LAW REVIEW (forthcoming 2018)

Federal Decentralization, 104 VIRGINIA LAW REVIEW 728 (2018)

- Served as the basis of my front-page story in *The Washington Post Magazine* which was one of their most viewed magazine stories ever and the subject of radio and television coverage
- Covered in *The New York Times*, *The Washington Post*, *The Los Angeles Times*, *The Atlantic Monthly*, *The Washingtonian*

Institutional Loyalties in Constitutional Law (with Aziz Z. Huq), 85 UNIVERSITY OF CHICAGO LAW REVIEW 1 (2017)

The Geography of Campaign Finance Law, 90 SOUTHERN CALIFORNIA LAW REVIEW 1247 (2016)

- Called by *Slate* as the idea that “could upend the campaign finance landscape”

Judicial Backlash or Just Backlash? Evidence From A National Experiment (with Donald Braman), 112 COLUMBIA LAW REVIEW 731 (2012)

- Published results for popular press in *John Roberts Says People Want the “Democratic Process” to Decide Gay Marriage. He’s Wrong*, THE WASHINGTON POST, April 29, 2015 and *Supreme Anxiety*, THE NEW REPUBLIC, Jan. 11, 2012
- Cited in several Supreme Court briefs, newspaper stories and judicial opinions, and featured on National Public Radio, *All Things Considered*
- Awarded George Washington University Policy Research Scholar and University Facilitating Fund grants to complete experiments to apply for National Science Foundation funding

The Rise and Fall of Comparative Constitutional Law in the Post-War Era, 36 YALE JOURNAL OF INTERNATIONAL LAW 1 (2011)

- Translated into French and German
- Reprinted in COMPARATIVE CONSTITUTIONAL LAW (Mark Tushnet ed., forthcoming).

The Permanent and Presidential Transition Models of Political Party Policy Leadership, 103 NORTHWESTERN UNIVERSITY LAW REVIEW 1993 (2010)

Government in Opposition, 119 YALE LAW JOURNAL 548 (2009)

The Second American Revolution in the Separation of Powers, 87 TEXAS LAW REVIEW 1409 (2009)

The Current Generation of Constitutional Law, 93 GEORGETOWN LAW JOURNAL 1061 (2005)

Thomas Jefferson Counts Himself Into the Presidency (with Bruce Ackerman), 90 VIRGINIA LAW REVIEW 551 (2004)

- Published for popular press in *How Jefferson Counted Himself In*, THE ATLANTIC MONTHLY, March 2004

Refined Comparativism in Constitutional Law, 49 UCLA LAW REVIEW 539 (2001)

Selected Invited Essays and Book Chapters (complete list available upon request)

Unbundling Populism, UCLA LAW REVIEW (symposium) (forthcoming 2018)

How Do People Think About the Supreme Court When They Care? 93 NYU LAW REVIEW ONLINE 50 (2018) (symposium hosted at NYU Law School on the Trump Administration)

The Promise of Experimental Constitutional Law, in HANDBOOK ON RESEARCH METHODS IN CONSTITUTIONAL LAW (Malcolm Langford and David Law, eds.) (forthcoming 2018)

The Second Nature Moment for Originalism, in DIRITTO PUBBLICO COMPARATO ED EUROPEO (Italian public law journal) (part of dialogue on originalism with Lawrence Solum) (forthcoming 2018)

Nominations Accommodationism, 2017 WISCONSIN LAW REVIEW 285 (symposium on legacy of Obama Administration)

The Administrative Difference of Powers, 116 COLUMBIA LAW REVIEW SIDEBAR 81 (2016) (invited reply to article by Jon Michaels)

Placing the Government in Fragile Democracies, 50 WAKE FOREST LAW REVIEW 985 (2015) (symposium on constitution-drafting)

The Narrowing of Federal Power by the American Political Capital, 23 WILLIAM & MARY BILL OF RIGHTS JOURNAL 733 (2015) (symposium)

The People's Justice, 123 YALE LAW JOURNAL ONLINE 447 (2014) (symposium covering the jurisprudence of Justice Sonia Sotomayor and featuring Justice Sotomayor)

- Featured in *Sotomayor Finds Her Voice Among the Justices*, NEW YORK TIMES, May 6, 2014; *The People's Justice*, WALL ST. J., April 1, 2014; *This Week With George Stephanopoulos*, June 22, 2014

Executive Branch Legalties, 124 HARVARD LAW REVIEW FORUM 21 (2012) (invited essay exchange with Bruce Ackerman and Trevor Morrison)

The Comparative Constitutional Politics of Unenumerated Rights, in ISRAELI CONSTITUTIONAL LAW IN THE MAKING (Israeli Justices Aharon Barak and Daphna Barak-Erez, ed., 2013) (invited essay to book featuring contributions from Constitutional Court Justices and scholars)

Relational Federalism: An Essay In Honor of Heather Gerken, 48 TULSA LAW REVIEW 503 (2012) (symposium contribution honoring Heather Gerken)

Comparative Originalism, TEXAS LAW REVIEW SEE ALSO (2010) (invited reply to article by Jamal Greene)

Docket Control and the Success of Constitutional Courts, in HANDBOOK OF COMPARATIVE CONSTITUTIONAL LAW (2010) (Tom Ginsburg and Rosalind Dixon, editors)

Works-in-Progress

The Networked Separation of Powers

Testing the Countermajoritarian Difficulty (with Brandon Bartels)

- Previewed arguments in *The Justices' Justice*, SLATE, June 29, 2015

Holistic Constitutional Interpretation (with Aziz Huq)

A Qualified Case Against Backlash (with Douglas NeJaime)

Selected Popular Press (complete list available upon request)

Approximately one hundred and fifty essays for popular press, including formerly as contributing writer for *The New Republic* and currently contributing writer for *Slate*, *The Washington Post*, and *The Huffington Post*.

Washington is Now A Cool City. That's Terrible News for American Democracy, WASHINGTON POST MAGAZINE, Cover Story, May 13, 2018

The Case for a Liberal Scalia, SLATE, Feb. 17, 2016 (with former White House Associate Counsel Ian Bassin)

John Roberts Says People Want the “Democratic Process” to Decide Gay Marriage. He’s Wrong, THE WASHINGTON POST, April 29, 2015

The Big Money Politics Problems We Need To Talk About, THE HUFFINGTON POST, June 27, 2014

- One of most viewed essays on politics in THE HUFFINGTON POST in the second half of 2014
- Abridged version reprinted in several newspapers

Obama’s Shocking Success On Judges Overtorns Conventional Wisdom, THE DAILY BEAST, June 9, 2014

- Featured in *Politico’s The Playbook* as “What The West Wing is Reading”

The Warren Court Generation is Dying: Who Is Taking Their Place?, SLATE, June 5, 2014

Obama Has Started Making Major Progress on Nominating Judges, and This Might Be His Most Important One Yet, THE NEW REPUBLIC ONLINE, May 13, 2014

- Discussed by Senator Charles Grassley (R-IA) during Senate Judiciary Committee hearings on June 24, 2014

Another Arab Spring Moment That Matters, THE HUFFINGTON POST, Aug. 1, 2013 (with Duncan Pickard)

- Translated into Arabic and reprinted in newspapers in Egypt, Libya and Tunisia

Sonia Sotomayor: How She Became the Public Face of the Supreme Court’s Liberal Wing, THE NEW REPUBLIC ONLINE, June 29, 2011

- Featured on National Public Radio, *All Things Considered*

Making Democracy Work, THE WASHINGTON POST, Oct. 3, 2010

Elizabeth Warren for the Supreme Court, SLATE, Apr. 7, 2010 (with Seth Grossman)

Old World, THE NEW REPUBLIC ONLINE, July 17, 2009 (with Micah Schwartzman)

Whose Prisoners Are They, Anyway?, SLATE, Apr. 7, 2010 (with Justin Florence)

PRESENTATIONS (complete list available upon request)

I have presented my scholarship to faculty workshops at forty-nine law schools, thirteen political science departments and five sociology departments. I have also presented my scholarship to universities in Australia, Canada, China, Germany, Israel, Libya, Norway, Spain, Tunisia, Taiwan, and the United Kingdom. I am a regular participant in events at the American Constitution Society, the Brennan Center, and the Federalist Society.