

## **ANDREW KOPPELMAN**

John Paul Stevens Professor of Law  
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### **Professional Experience:**

Northwestern University, John Paul Stevens Professor of Law and Professor of Political Science, since 2007. Affiliated faculty, Philosophy Dept., since 2012.

Constitutional Court of Republic of Georgia, Summer School on Constitutional and Human Rights Law, taught short course, 2018.

Korea Advanced Institute of Science and Technology/Northwestern University, taught short course, 2016; 2018; 2019.

Tel Aviv University, taught short course, winter, 2012.

University of Illinois, taught short course, winter, 2010.

Northwestern University, Professor of Law and Political Science, 2003-2007. Ranked twelfth (450 citations) in “50 most cited faculty who entered teaching since 1992,” 2002 Educational Quality Ranking of U.S. Law Schools, [http://www.leiterrankings.com/faculty/2002faculty\\_impact\\_newprofs.shtml](http://www.leiterrankings.com/faculty/2002faculty_impact_newprofs.shtml). Tied for #35 (87 citations per year) in “50 most cited faculty per year of law teaching, 2003-04,” [http://www.leiterrankings.com/faculty/2003faculty\\_impact\\_citesyear.shtml](http://www.leiterrankings.com/faculty/2003faculty_impact_citesyear.shtml).

University of Chicago, Visiting Professor of Law, spring, 2007.

Northwestern University, George C. Dix Professor of Constitutional Law, 2002-03.

Northwestern University, Associate Professor of Law and Political Science, 2000-03.

Northwestern University, Assistant Professor of Law and Political Science, 1997-2000.

University of Texas at Austin School of Law, Visiting Assistant Professor, spring, 1997.

Princeton University, Assistant Professor of Politics, 1992-97.

Chief Justice Ellen A. Peters, Connecticut Supreme Court, law clerk, 1991-92.

U.S. Senate Commerce Committee, Subcommittee on the Consumer, professional staff member specializing in product liability reform, January, 1986 - January, 1987.

U.S. Rep. William Patman, staff aide, summer 1984.

**Education:**

University of Chicago, A.B, Humanities, 1979.

General academic honors

Special honors for outstanding bachelor's thesis

First prize in McLaughlin competition for best undergraduate paper, 1977

Yale University, M.A., Political Science, 1986.

Yale Law School, J.D., 1989.

Finalist, Cardozo briefwriting prize, Moot Court, Spring 1989

Senior Editor, Yale Law Journal

John M. Olin Fellow in Law, Economics, and Public Policy, 1986-89

Yale University, Ph.D., Political Science, 1991.

Dissertation: "The Antidiscrimination Project: Foundations, Scope, Limits"

Edward S. Corwin Award for best dissertation in public law, American Political Science Association, 1993

Prize for year's best paper by a graduate student, organized section on law, American Political Science Association, 1990

**Fellowships and honors:**

Association of American Law Schools Section on Jurisprudence Hart-Dworkin Award in Legal Philosophy, 2019.

Annual Law & Religion lecture, Brigham Young University Law School, 2019.

Northwestern University, Martin E. & Gertrude G. Walder Award for Research Excellence, 2015.

Miami University of Ohio, O'Hara Lecturer, 2011.

University of Arizona, Sabbatical Visitors Program, 2009.

DePaul University College of Law, Enlund Distinguished Scholar in Residence, 2008.

Harvard University, Program in Ethics and the Professions, fellow, 1994-95.

National Endowment for the Humanities Summer Research Stipend, 1993.

Center for Studies in Law, Economics, and Public Policy, Yale Law School, summer research fellow, 1991, 1990, 1988.

## **Publications (by field):**

### **Constitutional Theory**

[\*A Right to Discriminate? How the Case of \*Boy Scouts of America v. James Dale\* Warped the Law of Free Association\*](#) (with Tobias Barrington Wolff), Yale University Press, 2009.

[\*The Tough Luck Constitution and the Assault on Health Care Reform\*](#), Oxford University Press, 2013.

[\*Forced Labor: A Thirteenth Amendment Defense of Abortion\*](#), 84 Northwestern U. L. Rev. 480 (1990). Cited as year's best graduate student paper, organized section on law, American Political Science Association.

*Talking to the Boss: On Robert Bennett and the Countermajoritarian Difficulty*, 95 Northwestern U. L. Rev. 955 (2001).

*The Right to Privacy?*, 2002 U. of Chicago Legal Forum 105.

[\*Signs of the Times: Dale v. Boy Scouts of America and the Changing Meaning of Nondiscrimination\*](#), 23 Cardozo L. Rev. 1819 (2002).

[\*How "Decentralization" Rationalizes Oligarchy: John McGinnis and the Rehnquist Court\*](#), 20 Constitutional Commentary 11 (2003).

[\*Expressive Association and the Ideal of the University in the Solomon Amendment Litigation\*](#) (with Tobias Barrington Wolff), 25 Soc. Phil. & Pol'y 92 (2008). Reprinted in Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul, eds., *Freedom of Association*, Cambridge University Press, 2008.

[\*Forced Labor, Revisited: The Thirteenth Amendment and Abortion\*](#), in Alexander Tsesis, ed., *The Promises of Liberty: The History and Contemporary Relevance of the Thirteenth Amendment*, Columbia University Press, 2010.

[\*Why Jack Balkin is Disgusting\*](#), 27 Constitutional Commentary 177 (2010).

[\*Bad News for Mail Robbers: The Obvious Constitutionality of Health Care Reform\*](#), 121 Yale L.J. Online 1 (2011). Most visited article in the history of the Yale Law Journal Online (more than 100,000 hits in first month).

[\*Bad News for Everybody: Lawson and Kopel on Health Care Reform and Originalism\*](#), 121 Yale L.J. Online 515 (2012).

[\*Respect and Contempt in Constitutional Law, Or, Is Jack Balkin Heartbreaking?\*](#), 71 Md. L. Rev. 1126 (2012).

[\*Originalism, Abortion, and the Thirteenth Amendment\*](#), 112 Colum. L. Rev. 1917 (2012).

[\*'Necessary,' 'Proper,' and Health Care Reform\*](#), in Nathaniel Persily, Gillian Metzger, and Trevor Morrison, eds., [\*The Health Care Case: The Supreme Court's Decision and Its Implications\*](#), Oxford University Press, 2013.

[\*How the Obamacare Case Defined Deviancy Down\*](#), 92 Tex. L. Rev. 1617 (2014).

[\*Passive Aggressive: Scalia and Garner on Interpretation\*](#), 41 Boundary 2: an international journal of literature and culture 227 (Summer 2014).

[\*Left-Evangelicalism and the Constitution\*](#), review of John W. Compton, [\*The Evangelical Origins of the Living Constitution\*](#), 128 Harv. L. Rev. Forum 1 (2014).

[\*Did the Law Professors Blow It in the Health Care Case?\*](#), 2014 U. of Illinois L. Rev. 1273.

[\*Six Overrulings\*](#), review of John Paul Stevens, [\*Six Amendments\*](#), 113 Mich. L. Rev. 1043 (2015).

*The Commerce Clause* (with Randy Barnett), National Constitution Center Interactive Constitution (2016), <http://constitutioncenter.org/interactive-constitution/articles/article-i/section8-commerce/clause/21>.

[\*Sex and the Civitas\*](#), review of Geoffrey Stone, [\*Sex and the Constitution\*](#), New Rambler (2017).

*Tebbe and Reflective Equilibrium*, 31 J. Civ. R. & Econ. Dev. 125 (2018).

## **Theory of Discrimination Law**

[\*Antidiscrimination Law and Social Equality\*](#), Yale University Press, 1996. Winner of 1997 Myers Center Award for outstanding work on intolerance in North America

*Feminism and Libertarianism: A Response to Richard Epstein*, 1999 U. of Chicago Legal Forum 115.

*On the moral foundations of legal expressivism*, 60 Maryland L. Rev. 777 (2001).

*Justice for Large Earlobes! A comment on Richard Arneson's 'What is Wrongful Discrimination?'*, 43 San Diego L. Rev. 809 (2006).

[\*On Affirmative Action and 'Truly Individualized Consideration'\*](#) (with Donald Rebstock), 101 Northwestern U. L. Rev. 1469 (2007); 101 Nw. U. L. Rev. Colloquy 49 (2006).

## Free Speech

[\*First Amendment Stories\*](#), editor (with Richard Garnett), Foundation Press, 2012.

[\*Does Obscenity Cause Moral Harm?\*](#), 105 Columbia L. Rev. 1635 (2005). Reprinted in Rodney Smolla, ed., [\*First Amendment Handbook 2005-2006\*](#) (Thomson/West 2005).

[\*Reading Lolita at Guantanamo\*](#), 53 Dissent 64 (Spring, 2006). Reprinted in Utne Reader, Sept./Oct. 2006, and 57 Syracuse L. Rev. 209 (2007).

[\*Eros, Civilization, and Harry Clor\*](#), 31 N.Y.U. Rev. of Law & Social Change 855 (2007).

*Free Speech and Pornography: A Response to James Weinstein*, 31 N.Y.U. Rev. of Law & Social Change 899 (2007).

[\*Why Phyllis Schlafly is Right \(But Wrong\) About Pornography\*](#), 31 Harvard J. Law & Public Policy 105 (2008).

[\*Is Pornography 'Speech'?\*](#), 14 Legal Theory 71 (2008).

[\*Madisonian Pornography or, The Importance of Jeffrey Sherman\*](#), 84 Chicago-Kent L. Rev. 597 (2009).

[\*Waldron, Responsibility-Rights, and Hate Speech\*](#), 43 Ariz. St. L. Rev. 1201 (2012).

[\*Veil of Ignorance: Tunnel Constructivism in Free Speech Theory\*](#), 107 Northwestern U. L. Rev. 647 (2013).

Review of Ishani Maitra & Mary Kate McGowan, eds. [\*Speech and Harm: Controversies Over Free Speech\*](#), 123 Ethics 768 (2013).

[\*You're All Individuals: Brettschneider on Free Speech\*](#), 79 Brooklyn L. Rev. 1023 (2014).

[\*Revenge Pornography and First Amendment Exceptions\*](#), 65 Emory L. J. 661 (2016).

[\*A Free Speech Response to the Gay Rights/Religious Liberty Conflict\*](#), 110 Northwestern U. L. Rev. 1125 (2016).

*The Moral Demands of Commercial Speech*, 25 Wm. & Mary Bill of Rights J. 761 (2017).

[\*Entertaining Satan: Why We Tolerate Terrorist Incitement\*](#), 86 Fordham L. Rev. 535 (2017).

## Freedom of Religion

[Defending American Religious Neutrality](#), Harvard University Press, 2013.

*Akhil Amar and the Establishment Clause*, 33 Univ. of Richmond L. Rev. 393 (1999).

*Measured Endorsement* (with Shari Diamond), 60 Maryland L. Rev. 713 (2001).

[Secular Purpose](#), 88 Va. L. Rev. 87 (2002).

*No Expressly Religious Orthodoxy: A response to Steven D. Smith*, 78 Chi.-Kent L. Rev. 729 (2003).

*Is it Fair to Give Religion Special Treatment?*, 2006 U. of Illinois L. Rev. 571.

*You Can't Hurry Love: Why Antidiscrimination Protections for Gay People Should Have Religious Exemptions*, 72 Brooklyn L. Rev. 125 (2006).

[Religious Establishment and Autonomy](#), 25 Constitutional Commentary 291 (2008).

[Naked Strong Evaluation](#), review of Charles Taylor, *A Secular Age*, 56 Dissent 105 (Winter 2009).

*The Troublesome Religious Roots of Religious Neutrality*, 84 Notre Dame L. Rev. 865 (2009).

[Corruption of Religion and the Establishment Clause](#), 50 Wm. & Mary L. Rev. 1831 (2009).

[Conscience, Volitional Necessity, and Religious Exemptions](#), 15 Legal Theory 215 (2009).

[Phony Originalism and the Establishment Clause](#), 103 Northwestern U. L. Rev. 727 (2009).

*The Nonproblem of Fundamentalism*, 18 Wm. & Mary Bill of Rights J. 915 (2010).

[How Shall I Praise Thee? Brian Leiter on Respect for Religion](#), 47 San Diego L. Rev. 961 (2010).

[The New U.S. Civil Religion: Lessons for Italy](#), 41 George Washington Int'l L. Rev. 861 (2010).

[Introduction: The Many Paths to Neutrality](#), (with Richard Garnett) in [First Amendment Stories](#), above.

[The Story of Welsh v. United States: Elliott Welsh's Two Religious Tests](#), in [First Amendment Stories](#), above.

[Justice Stevens, Religious Enthusiast](#), 106 Northwestern U. L. Rev. 567 (2012).

[\*And I Don't Care What It Is: Religious Neutrality in American Law\*](#), 39 Pepperdine L. Rev. 115 (2013).

[\*Religion's Specialized Specialness\*](#), 79 U. Chi. L. Rev. Dialogue 71 (2013).

[\*Endorsing the Endorsement Test\*](#), 7 Charleston L. Rev. 719 (2013).

[\*Keep It Vague: The Many Meanings of Religious Freedom\*](#), 140 Commonweal, Nov. 15, 2013.

[\*"Freedom of the Church" and the Authority of the State\*](#), 21 J. Contemp. Leg. Iss. 145 (2013).

[\*Invisible Women: Why an Exemption for Hobby Lobby Would Violate the Establishment Clause\*](#) (with Frederick Mark Gedicks), 67 Vanderbilt L. Rev. En Banc 51 (2014).

[\*The Costs of the Public Good of Religion Should be Borne by the Public\*](#), (with Frederick Mark Gedicks), 67 Vanderbilt L. Rev. En Banc 185 (2014).

[\*"Religion" as a Bundle of Legal Proxies: Reply to Micah Schwartzman\*](#), 51 San Diego L. Rev. 1079 (2014).

[\*Theorists, Get Over Yourselves: A Response to Steven D. Smith\*](#), 41 Pepperdine L. Rev. 937 (2014).

[\*Nonexistent and Irreplaceable: Keep the Religion in Religious Freedom\*](#), 142 Commonweal, Apr. 10, 2015.

[\*The piety of my negative Judaism\*](#), 16 Rutgers J. L. & Religion 303 (2015).

[\*Gay Rights, Religious Accommodations, and the Purposes of Antidiscrimination Law\*](#), 88 S. Cal. L. Rev. 619 (2015).

[\*Is Hobby Lobby Worse for Religious Liberty Than Smith?\*](#) (with Frederick Mark Gedicks), 9 St. Thomas Journal of Law & Public Policy 223 (2015).

[\*Lupu, Tuttle, and singling out religion\*](#), 111 Nw. U. L. Rev. Online 41 (2016).

[\*Greenawalt and the Place of Religion\*](#), 93 U. of Detroit Mercy L. Rev. 369 (2016).

[\*Kent Greenawalt, Defender of the Faith\*](#), review of Kent Greenawalt, [\*Exemptions: Necessary, Justified, or Misguided?\*](#), 95 Tex. L. Rev. 821 (2017).

[Review](#) of Kathleen Brady, [\*The Distinctiveness of Religion in American Law\*](#), 97 J. of Religion 548 (2017).

[\*What Kind of Human Right is Religious Liberty?\*](#), in [\*Research Handbook on Law and Religion\*](#) (Rex Ahdar ed., Edward Elgar 2018).

[How Could Religious Liberty Be a Human Right?](#), 16 Int. J. Const. Law 985 (2018).

*How Could Religious Liberty Be a Human Right?: A Rejoinder to Gita Stopler*, 16 Int. J. Const. Law 1016 (2018).

## **Gay Rights**

[The Gay Rights Question in Contemporary American Law](#), University of Chicago Press, 2002.

[Same Sex, Different States: When Same-Sex Marriages Cross State Lines](#), Yale University Press, 2006. Honorable mention, 2007 Myers Center Award.

*The Miscegenation Analogy: Sodomy Law as Sex Discrimination*, 98 Yale L. J. 145 (1988).

Review of Harvard Law Review Editors, [Sexual Orientation and the Law](#), Federal Bar News & Journal, Jan./Feb. 1991.

[Why Discrimination Against Lesbians and Gay Men is Sex Discrimination](#), 69 N.Y.U. L. Rev. 197 (1994). Cited as one of the 25 most influential articles ever published in the N.Y.U. Law Review. See 75 N.Y.U. L. Rev. 1561 (2000) (commentary by David Richards).

*Gaze in the Military: A Response to Professor Woodruff*, 64 U. of Missouri-Kansas City L. Rev. 179 (1995).

*Same-sex Marriage and Public Policy: The Miscegenation Precedents*, in symposium, "Federalism Revisited: Extraterritorial Recognition of Same-Sex Marriage," 16 Quinnipiac L. Rev. 105 (1996).

*The Miscegenation Precedents*, in Andrew Sullivan, ed., [Same-Sex Marriage, Pro and Con: A Reader](#), Vintage Books (1997). Reprinted in second edition (2004).

*Three Arguments for Gay Rights*, review of Robert Wintemute, [Sexual Orientation and Human Rights](#), in 1997 Survey of Books Relating to the Law, 95 Michigan L. Rev. 1636 (1997).

*Homosexual Conduct: A Reply to the New Natural Lawyers*, in John Corvino, ed., [Same Sex: Debating the Ethics, Science and Culture of Homosexuality](#), Rowman and Littlefield (1997). Translated into Croatian in Igor Primorac, ed., [Suvremena Filozofija Seksualnosti](#), KruZak (2003).

*Romer v. Evans and Invidious Intent*, lead article in symposium on [Romer v. Evans](#), 6 Wm. & Mary Bill of Rights J. 89 (1997).

*Dumb and DOMA: Why the Defense of Marriage Act is Unconstitutional*, 83 Iowa L. Rev. 1 (1997).



*Is Marriage Inherently Heterosexual?*, 42 Am. J. of Jurisprudence 51 (1997).

*Same-Sex Marriage, Choice of Law, and Public Policy*, 76 Texas L. Rev. 921 (1998).

*Sexual and Religious Pluralism*, in Martha Nussbaum and Saul Olyan, eds., Sexual Orientation and Human Rights in American Religious Discourse, Oxford U. Press (1998).

*Why Gay Legal History Matters*, review of William N. Eskridge, Jr., Gaylaw, 113 Harv. L. Rev. 2035 (2000).

*The Miscegenation Analogy in Europe, or Lisa Grant meets Adolf Hitler*, in Robert Wintemute and Mads Andenaes, eds., Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law, Hart Publishing, 2001.

[\*Defending the Sex Discrimination Argument for Lesbian and Gay Rights: A Reply to Edward Stein\*](#), 49 U.C.L.A. L. Rev. 519 (2001). Reprinted in 1 The Dukeminier Awards: Best Sexual Orientation Law Review Articles of 2001 49 (2001).

*Discrimination Against Gays is Sex Discrimination and Reply to Richard Wilkins*, both in Lynn D. Wardle et al., eds. Marriage and Same-Sex Unions: A Debate (Praeger 2003).

*Lawrence's Penumbra*, 88 Minnesota L. Rev. 1171 (2004).

*Civil Conflict and Same-Sex Civil Unions*, 14 The Responsive Community 20 (Spring/Summer 2004).

*Interstate recognition of same-sex civil unions after Lawrence v. Texas*, 65 Ohio State Law Journal 1265 (2004).

[\*Interstate recognition of same-sex marriages and civil unions: a handbook for judges\*](#), 153 U. Pa. L. Rev. 2143 (2005). Reprinted in 2 Minn. Fam. L. J. (Nov./Dec. 2006).

*The Decline and Fall of the Case Against Same-Sex Marriage*, 2 U. of St. Thomas L. J. 5 (2005).

*Against Blanket Interstate Nonrecognition of Same-Sex Marriage*, 17 Yale J. L. & Feminism 205 (2005).

*The Rule of Lawrence*, in Harry Hirsch, ed., The Future of Gay Rights in America (Routledge 2005).

*Natural Law (New)*, in Alan Soble, ed., Sex from Plato to Paglia: A Philosophical Encyclopedia (Greenwood 2006).

*The Defense of Marriage Act: Federal Level*, in Mark Strasser, ed., Defending Same-Sex Marriage, v. 1: "Separate but Equal" No More, Praeger, 2007.

*The Difference the Mini-DOMAs Make*, 38 Loyola L. Rev. 265 (2007).

*Homosexuality and Infertility*, in Alan Soble & Nicholas Power, eds., Philosophy of Sex: Contemporary Readings, 5<sup>th</sup> ed., Rowman & Littlefield, 2007; also 6<sup>th</sup> ed. 2012.

[\*The Limits of Strategic Litigation\*](#), 17 L. & Sexuality 1 (2008).

[\*DOMA, Romer, and Rationality\*](#), 58 Drake L. Rev. 923 (2010).

*Salvaging Perry*, 125 Harv. L. Rev. Forum 69 (2012),  
[http://www.harvardlawreview.org/issues/125/march12/forum\\_848.php](http://www.harvardlawreview.org/issues/125/march12/forum_848.php).

[\*Sexual Disorientation\*](#), 100 Georgetown L. J. 1083 (2012).

[\*More Intuition than Argument\*](#), review of Sherif Girgis, Ryan T. Anderson, & Robert P. George, *What is Marriage? Man and Woman: A Defense*, 140 Commonweal, May 3, 2013, 23.

[\*Why Scalia should have voted to overturn DOMA\*](#), 108 Nw. U. L. Rev. Colloquy 131 (2013).

[\*Judging the Case Against Same-Sex Marriage\*](#), 2014 U. of Illinois L. Rev. 431.

[\*Beyond Levels of Scrutiny: Windsor and "Bare Desire to Harm"\*](#), 64 Case Western Reserve L. Rev. 1045 (2014).

[\*A Marriage By Any Other Name: Why Civil Unions Should Receive Federal Recognition\*](#) (with Deborah A. Widiss), 3 Indiana J. of L. & Soc. Equality 56 (2015).

[\*The Elane Photography Cert Denial: A Zombie in the Supreme Court\*](#), 7 Alabama Civ. Rights & Civ. Liberties L. Rev. 77 (2015).

*The Joys of Mutual Contempt*, in Religious Freedom, LGBT Rights, and the Prospects for Common Ground (William Eskridge, Jr. and Robin Fretwell Wilson, eds., Cambridge University Press 2019).

## **Political Philosophy**

*Sex Equality and/or the Family: From Bloom vs. Okin to Rousseau vs. Hegel*, 4 Yale J. L. & Humanities 399 (1992).

[\*The Fluidity of Neutrality\*](#), 66 Rev. of Politics 633 (2004).

*Should Noncommercial Associations Have an Absolute Right to Discriminate?*, 67 Law and Contemporary Problems 27 (Autumn 2004).

*Are the Boy Scouts being as bad as racists? Judging the Scouts' antigay policy*, 18 Public Affairs Quarterly 363 (2004).

*Drug Policy and the Liberal Self*, 100 Northwestern U. L. Rev. 279 (2006).

[\*The Limits of Constructivism: Can Rawls Condemn Female Genital Mutilation?\*](#), 71 Rev. of Politics 459 (2009).

Review of Robert Audi, *Democratic Authority and the Separation of Church and State*, Notre Dame Philosophical Reviews (2012), <http://ndpr.nd.edu/news/29609-democratic-authority-and-the-separation-of-church-and-state/>.

Review of John Tomasi, *Free Market Fairness*, Notre Dame Philosophical Reviews (2012), <http://ndpr.nd.edu/news/30638-free-market-fairness/>.

[\*Another Solipsism: Rae Langton on Sexual Fantasy\*](#), 5 Wash. U. Jurisp. Rev. 163 (2013).

[\*Darwall, Habermas, and the Fluidity of Respect\*](#), 26 Ratio Juris 523 (2013).

[\*Ronald Dworkin, Religion, and Neutrality\*](#), 94 B.U. L. Rev. 1241 (2014).

[Review](#) of Benjamin Gregg, *Human Rights as Social Construction*, 13 Contemp. Pol. Theory 380 (2014).

Review of Sonu Bedi, *Beyond Race, Sex, and Sexual Orientation*, 13 Perspectives on Politics 174 (2015).

[\*Does Respect Require Antiperfectionism? Gaus on Liberal Neutrality\*](#), 22 Harv. Rev. of Phil 53 (2015).

*Marriage*, in *Philosophy of Sex and Love* 199 (Arthur Zucker and James Petrik, eds., Macmillan Interdisciplinary 2016).

[\*If Liberals Knew Themselves Better, Conservatives Might Like Them Better\*](#), 20 Lewis & Clark L. Rev. 1201 (2017).

*A Rawlsian Defence of Special Treatment for Religion*, in *Religion in Liberal Political Philosophy* (Cécile Laborde & Aurelia Bardon, eds., Oxford University Press 2017).

[\*Unparadoxical Liberalism\*](#), 54 San Diego L. Rev. 257 (2017).

*Why Rawls Can't Support Liberal Neutrality: The Case of Special Treatment for Religion*, 79 Rev. of Politics 287 (2017).

*Neutrality and the Religion Analogy*, in *Religious Exemptions* (Kevin Vallier and Michael Weber, eds., Oxford University Press 2018).

*American Evil: A Response to Kleinfeld on Punishment*, 50 Ariz. St. L. Rev. 179 (2018).

**Short pieces:**

*No Fantasy Island*, New Republic, Aug. 7, 1995.

Book note on Mark Strasser, Legally Wed: Same-Sex Marriage and the Constitution, 109 Ethics 224 (1998).

*Full faith and credit*, in Roger K. Newman, ed., The Constitution and Its Amendments, v. 2, pp. 51-52 (Macmillan Reference, 1999).

*Symposium: Should the Government Recognize Same-Sex Marriage?*, 7 U. Chi. Law Sch. Roundtable 1 (2000)(transcript of panel discussion).

*Baehr v. Miike*, in Leonard W. Levy and Kenneth L. Karst, eds., Encyclopedia of the American Constitution, v. 1, p. 147 (Macmillan Reference, 2d ed. 2000).

*Let Seats Go Empty*, Fort Lauderdale Sun-Sentinel, Dec. 18, 2000.

*To the Bag: Politicians or Experts?*, 5 Green Bag 2d 309 (Spring 2002).

Book review of William N. Eskridge, Jr., Gaylaw, Federal Lawyer, Feb. 2003.

*Distorting the same-sex marriage decision*, Chicago Tribune, Nov. 23, 2003. Reprinted in San Francisco Chronicle and Fort Lauderdale Sun-Sentinel.

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*Special Report: The Legal Debate over Same-Sex Marriages*, 2005 Encyclopedia Britannica Book of The Year, 206-07.

[Darwin inherits Galileo's Detractors](#), Chicago Tribune, Aug. 21, 2005.

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*States will have to recognize same-sex relationships*, Chicago Sun-Times, Nov. 18, 2006. Reprinted in Fort Lauderdale Sun-Sentinel.

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[\*The jerk on the Pace bus: It's the bus company itself\*](#), Chicago Tribune, April 10, 2007.

*The next attorney general? How about our man from Northwestern*, Chicago Sun-Times, Sept. 2, 2007 (with Steven Lubet).

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[\*Power in the Facts\*](#), New York Times Room for Debate, Aug. 4, 2010.

*Destructive health care decision*, Chicago Tribune, Dec. 16, 2010.

[\*Why the Supreme Court Will Strike Down DOMA\*](#), SCOTUSblog, Aug. 19, 2011.

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[\*Richard Epstein's Imperfect Understanding of Antidiscrimination Law\*](#), Law and Liberty Forum, Jan. 12, 2016.

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Frequent contributions to Balkinization blog, <http://www.balkin.blogspot.com/>.

**Forthcoming:**

*Andrew Koppelman Concurring in the Judgment*, in What Obergefell v. Hodges Should Have Said (Jack Balkin ed., Yale University Press 2019).

*Hobby Lobby is Dangerous for Religious Liberty* (with Frederick Mark Gedicks), in Law, Religion, and Freedom: Conceptualizing a Common Right (W. Cole Durham, Jr. & Donlu Thayer, eds., Oxford University Press 2019).

*This Isn't About You: A Comment on Smith's Pagans and Christians in the City*, San Diego L. Rev. (2019).

*Gay Rights and Religious Accommodations*, in Ethics in Practice: An Anthology (Hugh LaFollette ed., Wiley 5<sup>th</sup> ed. 2020).

### **In progress:**

The Unnecessary Conflict Between Gay Rights and Religious Liberty

The Corruption of Libertarianism: How a Philosophy of Freedom was Betrayed by Delusion and Greed

Pornography and Liberal Education

### **Bar Membership:**

Connecticut, admitted 1990

New York, admitted 1991

### **Press appearances:**

Quoted in New York Times (more than 20 times; [Quotation of the Day](#) Feb. 15 2014), Washington Post, Wall Street Journal, Chicago Tribune, USA Today, Boston Globe, International Herald Tribune, New Republic, Christian Science Monitor, and many others. Appeared on CNN Situation Room, NBC Today Show, Chicago Tonight, Fox Chicago Perspective, WBEZ Odyssey, NPR All Things Considered, NPR Morning Edition, NPR To The Point, NPR On the Media, Against the Grain, At Issue, The Diane Rehm Show, Jerry Springer on the Radio, and many others.

### **Editorial responsibilities:**

Referee for Harvard University Press, Yale University Press, Princeton University Press, the University of Chicago Press, Columbia University Press, Oxford University Press, Cambridge University Press, Cornell University Press, Routledge Press, New York University Press, *Review of Politics*, *Law and Social Inquiry*, *Ethics*, *Political Theory*, *Public Affairs Quarterly*, *Polity*, *Law and Philosophy*, *Journal of Social Philosophy*, *Hypatia*, *Journal of Law and Religion*, *American Journal of Legal History*, *Journal of Homosexuality*, *Journal of Politics*, *Ethical*



*Theory and Moral Practice, International Review of Law, Moral Philosophy and Politics*, and the National Endowment for the Humanities.

**Other activities:**

Expert consultant, *Zappone v. Revenue Commissioners (Ireland)*, Oct. 2006.

Member, John Evans Study Committee, Northwestern University, 2013-14. Report (May, 2014) at [www.northwestern.edu/provost/committees/john-evans-study/study-committee-report.pdf](http://www.northwestern.edu/provost/committees/john-evans-study/study-committee-report.pdf).

Author (with Ilya Somin), [Brief amicus curiae of legal scholars](#), *Obergefell v. Hodges* (U.S. Supreme Court, 2015), 2015 WL 1048436.

President, Board of Directors, [Piccolo Theatre](#), Evanston, Illinois, 2016-2018 (Vice President, 2016; Treasurer, 2015-16; Secretary, 2013-14).