

STEPHANIE HALL BARCLAY

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ACADEMIC EXPERIENCE AND AFFILIATIONS

Georgetown Law School; Professor of Law; July 2024–Present

- Faculty Co-Director, Georgetown Center for the Constitution (July 2024–Present)

Stanford Law School; Affiliate, Constitutional Law Center; Aug. 2020–Present

Notre Dame Law School; Professor of Law

- Professor of Law (July 2023–July 2024)
- Associate Professor of Law (July 2020– July 2023)
- Founding Faculty Director, Notre Dame Religious Liberty Initiative (July 2020– July 2024)

J. Reuben Clark Law School; Associate Professor of Law; July 2018–June 2020

- Awards: Twice Voted Professor of the Year by the 2L/3L Students at BYU Law

Courses Taught: Con Law I, Con Law II, Law and Religion, First Amendment, Fourteenth Amendment, and Jurisprudence

EDUCATION

University of Oxford; D.Phil (Law), expected 2026

- Clarendon Scholarship (full tuition plus stipend awarded for outstanding academic merit)
- Tang Scholar of Balliol College (awarded to support research related to the rule of law)

J. Reuben Clark Law School, Brigham Young University; J.D., 2011

- *Summa cum laude*; GPA: 3.92, elected to the Order of the Coif
- Constitutional Scholar Award (awarded to the top constitutional law student)
- J. Reuben Clark Award (selected by BYU Law faculty and peers)

JUDICIAL CLERKSHIPS

Supreme Court of the United States; Aug. 2021–Jul. 2022

- Law clerk to Justice Neil M. Gorsuch

United States Court of Appeals for the Ninth Circuit; Aug. 2011–Sept. 2012

- Law clerk to the Honorable N. Randy Smith

SELECT AND FORTHCOMING PUBLICATIONS

- CONSTITUTIONAL RIGHTS IN A DEMOCRACY, OXFORD UNIVERSITY PRESS (forthcoming 2027)
- COLLECTIVE ACTION AND RESPONSIBILITY IN LAW, CAMBRIDGE UNIVERSITY PRESS (forthcoming 2027), editor with Veronica Rodriguez-Blanco and John Hasnas
- *Normativity and Discretion*, VIRGINIA LAW REVIEW (forthcoming 2027)

- *Making Laws for the Human Mind*, CORNELL LAW REVIEW (forthcoming 2026)
- *Laycock's Defense of Strict Scrutiny*, JOURNAL OF LAW AND RELIGION (Cambridge Press) (forthcoming 2026)
- *The Untold Story of the Proto-Smith Era: Justice O'Connor's Papers and the Court's Free Exercise Revolution*, UNIVERSITY OF PENNSYLVANIA LAW REVIEW (2026), coauthored with Matthew Krauter
 - Highly recommended on the [Legal Theory Blog](#).
- *Constitutional Rights as Protected Reasons*, 92 THE UNIVERSITY OF CHICAGO LAW REVIEW 1179 (2025)
 - Highly recommended on the [Legal Theory Blog](#)
 - Selected for presentation at the UChicago Constitutional Law Conference
 - Selected for presentation at the Women in Legal Philosophy Conference at Villanova
- *Constructing Constitutional Rights*, 138 HARVARD LAW REVIEW FORUM 140 (2025) (invited paper)
- *The Democratic Deficit of Living Originalism*, 173 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1965 (2025) (invited paper)
- *A Crust of Bread: Religious Resistance and the Fourteenth Amendment*, 78 VANDERBILT LAW REVIEW 1203, (2025), coauthored with Professor Kurt Lash
 - Selected for presentation at the annual Originalism Works-in-Progress Conference at the University of San Diego Law School
 - Highly recommended on the [Legal Theory Blog](#)
- *Tension Between Constitutional Meaning and Constitutional Construction*, 47 HARVARD JOURNAL OF LAW & PUBLIC POLICY 613 (2024) (invited paper)
- *Replacing Smith*, YALE LAW JOURNAL FORUM (2023)
 - Highly recommended on the [Legal Theory Blog](#) and listed as one of the [top 10 downloads](#) of 2023
- *Strict Scrutiny, Religious Liberty, and the Common Good*, 46 HARVARD JOURNAL OF LAW & PUBLIC POLICY 937 (2023) (invited paper)
- *The Religion Clauses after Kennedy v. Bremerton School Dist.*, 108 IOWA LAW REVIEW 2097 (July 2023) (invited paper)
 - Highly recommended on the [Legal Theory Blog](#)
- *Rethinking Protections for Indigenous Sacred Sites*, 134 HARVARD LAW REVIEW 1294 (2021), coauthored with Professor Michalyn Steele
 - Highly recommended on the [Legal Theory Blog](#)
 - Highlighted on [Turtle Talk](#)
 - Cited by the Ninth Circuit Court of Appeals
- *An Economic Approach to Religious Exemptions*, 72 FLORIDA LAW REVIEW 1211 (2021)
 - Selected for presentation at the Harvard/Stanford/Yale Junior Faculty Forum

- *The Historical Origins of Judicial Religious Exemptions*, 96 NOTRE DAME LAW REVIEW 55 (2020)
 - Highly recommended on the [Legal Theory Blog](#)
 - Cited in a U.S. Supreme Court opinion and in a Virginia Supreme Court opinion
- *Untangling Entanglement*, 97 WASHINGTON UNIVERSITY LAW REVIEW 1701 (2020) (invited paper)
- *First Amendment “Harms,”* 95 INDIANA LAW JOURNAL 331 (2020)
 - Highly recommended on the [Legal Theory Blog](#)
- *Original Meaning and the Establishment Clause: A Corpus Linguistics Analysis*, 61 ARIZONA LAW REVIEW 505 (2019), coauthored with Brady Earley and Annika Boone
 - Cited by the Ninth and Eleventh Circuit Courts of Appeals
- *Constitutional Anomalies or As-applied Challenges? A Defense of Religious Exemptions*, 59 BOSTON COLLEGE LAW REVIEW 1595 (2018), coauthored with Professor Mark Rienzi
 - Cited in a U.S. Supreme Court opinion

OTHER PUBLICATIONS

- *The Harm Threshold: How Competing Philosophies of Risk Shape Standing Doctrine*, in PHILOSOPHICAL FOUNDATIONS OF STANDING IN LAW (Oxford Univ. Press, forthcoming 2027/2028).
- *The Textual Argument for Overruling Smith*, BYU LAW REVIEW (forthcoming 2026) (endowed Law and Religion Lecture)
- *A Better Question for the Declaration*, NOTRE DAME LAW REVIEW (forthcoming 2026) (invited symposium piece)
- *Taking Justification Seriously: Proportionality, Strict Scrutiny, and the Substance of Religious Liberty*, 63 BOSTON COLLEGE LAW REVIEW 453 (2022), coauthored with Professor Justin Collings
- *A Dialogue about Religious Beliefs and Third-Party Harms in Family Law*, A Book Review of The Contested Place of Religion in Family Law, 52 FAMILY LAW QUARTERLY 413 (2019)
- *Retained by The People: Federalism, the Ultimate Sovereign, and Natural Limits on Government Power*, 23 WILLIAM & MARY BILL OF RIGHTS LAW JOURNAL 257 (2014)
- *Fair Trade and Child Labor*, 43 COLUMBIA HUMAN RIGHTS LAW REVIEW 1 (2011), coauthored with Professor Shima Baradaran Baughman
 - Cited in the New York Times

ACADEMIC PRESENTATIONS AND ORGANIZED CONFERENCES

- Presenter, *Normativity and Discretion*, Oxford University, Public Law Discussion Group (May 2026)

- Presenter, *Constitutional Rights as Protected Reasons*, University of Edinburgh Legal Theory Research Group (Apr. 2026)
- Presenter, *Constitutional Rights in a Democracy*, Florida State University Faculty Works-in-Progress, Apr. 2026)
- Presenter, *Normativity and Discretion*, University of Surrey, Surrey Centre for Law and Philosophy (Mar. 2026)
- Presenter, *Normativity and Discretion*, UC San Fran Law School Faculty Workshop (Feb. 2026)
- Annual Endowed Law and Religion Lecture, *The Religion Clauses at the Supreme Court*, BYU Law School (Dec. 2025)
- Panelist, NLC Showcase Panel: Immigration & Originalism, Federalist Society National Lawyers Convention (Nov. 2025)
- Panelist, Church Autonomy, Federalist Society National Lawyers Convention (Nov. 2025)
- Presenter, *Freedom of Thought and Religious Exercise*, Cornell Law Review Symposium (Nov. 2025)
- Presenter, *Religious Exercise After Mahmoud*, First Amendment Law Review Symposium at UNC School of Law (Nov. 2025)
- Organizer, Book Conference for William Treanor, Georgetown Center for the Constitution (Nov. 2025)
- Annual Endowed McElroy Lecturer on Law and Religion, *Church Autonomy: A Guide for the Perplexed*, Detroit Mercy Law School (Oct. 2025)
- Speaker, *Constitutional Rights and History and Tradition*, UVA Federalist Society (Oct. 2025)
- Presenter, *The Scalar Nature of Law*, The Collective: Women in Legal Philosophy (Oct. 2025)
- Organizer and Interviewer, Book Event for Justice Amy Coney Barrett, Georgetown Center for the Constitution (Oct. 2025)
- Organizer, Research Fellows Conference, Georgetown Center for the Constitution (Oct. 2025)
- Organizer, Marc DiGirolami Book Workshop, Georgetown Center for the Constitution (Oct. 2025)
- Organizer, Women in Legal Philosophy Retreat, Oxford University (Oct. 2025)
- Co-Sponsor and Commentator, Texas A&M Constitutional Law Conference (Sep. 2025)
- Debate, The Future of the Tiers of Scrutiny, Catholic University Law School Federalist Society (Sep. 2025)

- Speaker, *The Roberts Court at 20: Looking Back and Looking Forward*, National Press Club and the Federalist Society (Sep. 2025)
- Organizer, Ilan Wurman Book Workshop, Georgetown Center for the Constitution (Sep. 2025)
- Speaker, *Religious Rights for Religious Minorities at the Supreme Court*, Psychedelic Bootcamp, Harvard Law School (Jul. 2025)
- Presenter, *Constitutional Rights as Protected Reasons*, University of Oxford Pembroke College, Quill Conference (Jul. 2025)
- Speaker, *The Role of History and Tradition in Constitutional Interpretation*, ADF Summit (Jul. 2025)
- Presenter, *The Scalar Nature of Law*, Legal Philosophy Workshop at University of Amsterdam (Jul. 2025)
- Witness, The Original Meaning of the Religion Clauses, White House Religious Liberty Commission (June 2025)
- Presenter, *Constitutional Rights as Protected Reasons*, University of Chicago Constitutional Law Conference (May 2025)
- Presenter, *Constitutional Rights as Protected Reasons*, University of Chicago Federalist Society (Apr. 2025)
- Presenter, *Constitutional Rights as Protected Reasons*, Northwestern Law School Faculty Works-in Progress (Apr. 2025)
- Organizer and Commentator, Legal Philosophy and Constitutional Theory Junior Scholars Conference, Georgetown Law School (Mar. 2025)
- Presenter, *The Untold Story of the Proto-Smith Era: Justice O'Connor's Papers and the Court's Free Exercise Revolution*, Faculty Works-in-Progress, Florida State University College of Law (Mar. 2025)
- Commentator, Annual Originalism Works-in-Progress Conference, University of San Diego Law School (Feb. 2025)
- Presenter, *Religious Exemptions and Abortion Laws*, In Search of Common Ground: Religion and Secularism in a Liberal Democratic Society Symposium, Chicago-Kent Law Review (Feb. 2025)
- Presenter, *Constructing Constitutional Rights*, Stanford Law School (Jan. 2025)
- Organizer, 12th Annual Salmon P. Chase Colloquium, The Enforceability of Natural Law and Natural Rights, Georgetown Law School (Jan. 2025)
- Panelist, *The Establishment Clause after Kennedy v. Bremerton School District*, AALS Law and Religion Section (Jan. 2025)

- Organizer, Research Fellows Conference, Georgetown Center for the Constitution, Georgetown Law School (Nov. 2024)
- Presenter, *Constitutional Rights as Protected Reasons*, Oxford Public Law Discussion Group, Oxford University (Nov. 2024)
- Presenter, *The Democratic Deficit of Living Originalism*, The Uses and Misuses of History Symposium, University of Penn Law School (Nov. 2024)
- Presenter, *Constitutional Rights as Protected Reasons*, Stanford Law School (Oct. 2024)
- Presenter, *A Crust of Bread: Religious Resistance and the Fourteenth Amendment*, Pepperdine Law School (Oct. 2024)
- Debate, Should the Court Overturn Smith? Georgetown Federalist Society Daniel Webster Debate Series (Sep. 2024)
- Presenter, *Doug Laycock's Work Defending and Theorizing Strict Scrutiny*, University of Texas Law School (Sept. 2024)
- Presenter, *Natural Law, Constitutional Rights, and Religious Liberty*, Natural Law for Real Life Problems, Ludovika University of Public Service and at the Mathias Corvinas Collegium (Sept. 2024)
- Presenter, *Democratic Principles and Good Governance*, Fortescue Gathering at the Oxford Canterbury Institute (Jul. 2024)
- Presenter, *Decreasing the Gap Between Interpretation and Construction*, Harvard Law School (Feb. 2024)
- Presenter, *A Crust of Bread: Religious Resistance and the Fourteenth Amendment* (with Kurt Lash), Annual Originalism Works-in-Progress Conference, University of San Diego Law School (Feb. 2024)
- Presenter, *Constitutional Rights as Protected Reasons*, Constitutional Law Center at Stanford Law School (Jan. 2024)
- Presenter, *Constitutional Rights as Protected Reasons*, AALS FedSoc 2024 Young Legal Scholars Paper Competition (Jan. 2024)
- Speaker, *75th Anniversary Commemoration: Freedom of Religion or Belief Going Forward*, House of Commons, United Kingdom Parliament (Dec. 2023)
- Speaker, *Rethinking Protections for Indigenous Sacred Sites*, Federalist Society, Georgetown Law School (Nov. 2023)
- Organizer and Commentor, Inaugural Law & Religion Junior Faculty Conference, University of Notre Dame's Chicago Campus (Oct. 2023)

- Presenter, *Constitutional Rights as Protected Reasons*, Faculty Works-in-Progress, University of Minnesota Law School (Sep. 2023)
- Presenter, *Constitutional Rights as Protected Reasons*, Women in Legal Philosophy, Villanova Law School (Sep. 2023)
- Speaker, *In Defense of Strict Scrutiny*, Federalist Society, University of Michigan Law School (Sep. 2023)
- Co-Organizer and Speaker, *Civilizational Perspectives on Human Dignity for Everyone Everywhere*, Oxford (Jul. 2023)
- Organizer and Speaker, *Religious Liberty Summit*, Notre Dame Religious Liberty Initiative, Inner Temple, London (Jul. 2023)
- Co-Organizer, *The Judiciary and Religious Literacy*, Balliol College, Oxford University (Jun. 2023)
- Panelist, *Text and (What Kind of) History?*, Stanford Law School (May. 2023)
- Presenter, *The Nature of Constitutional Rights*, Georgetown Law School (March 2023)
- Presenter, *The Nature of Constitutional Rights*, Constitutional Law Center at Stanford Law School (Feb. 2023)
- Panelist, [*The Developing Doctrine Under the Free Exercise Clause*](#), Hastings Law Journal Symposium (Feb. 2023)
- Keynote Address, *Making Constitutional Adjudication Safe for Democracy*, Law and Freedom Conference, Toronto University (Jan. 2023)
- Presenter, *Scrutiny Without Balancing*, Common Good Constitutionalism Symposium, Harvard Law School (Oct. 2022)
- Presenter, *The Religion Clauses after Kennedy v. Bremerton School Dist*, The Future of Religious Freedom Symposium, The University of Iowa College of Law (Oct. 2022)
- Presenter, *Rule of Law in a Democracy*, Pembroke College, Oxford University (Jul. 2022)
- Presenter, *Liberalism's Limits: Religious Exemptions and Hate Speech*, LUMSA University, Rome (Jul. 2022)
- Keynote Address, UK Parliament's International Ministerial on Freedom of Religion or Belief, London (Jul. 2022)
- Presenter, *An Economic Approach to Religious Exemptions*, Yale Free Exercise Speaker Series, Yale Law School (Mar. 2021)
- Presenter, *Proportionality, Strict Scrutiny, and the Substance of Religious Liberty*, National Conference of Constitutional Law Scholars at the University of Arizona (Mar. 2021)

- Panelist, *Pandemics, Federalism and Individual Liberty*, Federal Bar Association (Mar. 2021)
- Presenter, *Proportionality, Strict Scrutiny, and the Substance of Religious Liberty*, Constitutional Law Center at Stanford Law School (Feb. 2021)
- Panelist, *Religious Freedom 2021: Too Much or Not Enough?*, Federal Bar Council (Feb. 2021)
- Panelist, [*COVID-19 and Religious Freedom*](#), AALS Hot Topic Program, 2021 Annual Meeting (Jan. 2021)
- Presenter, *An Economic Approach to Religious Exemptions*, University of Virginia Law School (Jan. 2021)
- Presenter, *Rethinking Protections for Indigenous Sacred Sites*, South Texas College of Law (Jan. 2021)
- Panelist, [*Church-State Separation: What Does the Constitution Really Say?*](#), National Constitution Center (Nov. 2020)
- Presenter, *An Economic Approach to Religious Exemptions*, St. John's Law School Law and Religion Colloquium (Nov. 2020)
- Featured Lecturer, [*Religious Liberty at the Supreme Court*](#), McCullen Center for Law, Religion and Public Policy at Villanova University (Nov. 2020)
- Panelist, [*The Revival of the Free Exercise Clause?*](#), ABA Section of Civil Rights and Social Justice (Oct. 2020)
- Panelist, *Supreme Court Preview*, Co-Hosted by the Harvard Law School Chapter of the American Constitution Society and the Harvard Law School Federalist Society (Oct. 2020)
- Presenter, *Rethinking Protections for Indigenous Sacred Sites*, Nootbar Institute for Law, Religion, & Ethics at Pepperdine University (Sept. 2020)
- Presenter, *Rethinking Protections for Indigenous Sacred Sites*, Constitutional Law Center at Stanford Law School (Sept. 2020)
- Featured Lecturer, [*The Historical Origins of Judicial Religious Exemptions*](#), Georgetown Center for the Constitution (Sep. 2020)
- Panelist, [*Balancing Religious Freedoms in a Pluralistic Society*](#), Chicago Lawyers Chapter of The Federalist Society (Sep. 2020)
- Presenter, *An Economic Approach to Religious Exemptions*, 2020 Stanford/Harvard/Yale Junior Faculty Forum, Stanford Law School (Aug. 2020)
- Presenter, *The Historical Origins of Judicial Religious Exemptions*, Annual Law and Religion Roundtable, Pepperdine Caruso School of Law (Jun. 2020)

- Presenter, *The Historical Origins of Judicial Religious Exemptions*, 2020 Federalist Society Junior Scholars Colloquium in Annapolis, MD (Jun. 2020)
- Presenter, *The Historical Origins of Judicial Religious Exemptions*, Annual Originalism Works-in-Progress Conference, University of San Diego School of Law (Feb. 2020)
- Panelist, *Originalism and the Religion Clauses*, Originalism and Precedent Federalist Society Conference, University of Virginia School of Law (Feb. 2020)
- Presenter, *Original Meaning and the Establishment Clause: A Corpus Linguistics Analysis*, Arizona Law Review Speaker Series, University of Arizona College of Law (Feb. 2020)
- Presenter, *The Historical Origins of Judicial Religious Exemptions*, Notre Dame Colloquium on Church, State & Society (Jan. 2020)
- Presenter, *Untangling Entanglement*, Law and Religion Symposium, Washington University School of Law (Jan. 2020)
- Presenter, *Rethinking Protections for Indigenous Sacred Sites*, University of Utah S.J. Quinney College of Law (Jan. 2020)
- Moderator, *The Future of the Establishment Clause, and the Court's Shadow Docket*, AALS Law and Religion Section (Jan. 2020)
- Presenter, *An Economic Approach to Religious Liberty*, Rocky Mountain Junior Scholars Forum (Nov. 2019)
- Speaker, *Religious Liberty and The Founding*, Pembroke College, Oxford University (Oct. 2019)
- Panelist, *Religious Persecution in the World Today*, Christ Church College, Oxford University (Aug. 2019)
- Presenter, *An Economic Approach to Religious Exemptions*, Annual Law and Religion Roundtable, University of Toronto Law School (Jun. 2019)
- Presenter, *An Economic Approach to Religious Exemptions*, International Society of Family Law, co-hosted by the Notre Dame Law School & University of Illinois College of Law (Jun. 2019)
- Presenter, *First Amendment "Harms,"* 2019 Federalist Society Junior Scholars Colloquium in Annapolis, MD (Jun. 2019)
- Panelist, *Externalities, Religious Exemptions, and Faith-based Adoption Agencies*, ABA National Conference on Access to Justice for Children and Families (Apr. 2019)
- Panelist, *The Future of the Supreme Court's First Amendment Jurisprudence*, Annual FedSoc Midwest Regional Conference, University of Chicago (Feb. 2019)
- Panelist, *Religious Exemptions and Harm to Third Parties*, AALS Hot Topics Program (Jan. 2019)
- Presenter, *Externalities and Religious Exemptions in Adoption*, Silent Victims: Foster Care and Foster Care Adoption in America, Duke Law School Conference (Nov. 2018)

- Presenter, *First Amendment “Harms,”* Rocky Mountain Junior Scholars Forum, University of Utah Law School (Oct. 2018)
- Presenter, *First Amendment “Harms,”* Women in Law Teaching Works-in-Progress Workshop, University of Minnesota Law School (Jul. 2018).

OTHER FELLOWSHIPS AND SERVICE

- Secretary and Member of the Executive Committee for the AALS Constitutional Law Section (2025–Present)
- Chair for the AALS Law and Religion Section (2021, 2025–2026)
- Nootbar Fellow; Nootbar Institute for Law, Religion, & Ethics; Pepperdine University Caruso School of Law (2020–Present)
- Member of the Board of Advisors for the University of Texas Law School Bech-Loughlin First Amendment Center
- Member of the Steering Committee for the Quill Project at Pembroke College (2020–Present)
- Member, Religious Liberty Executive Committee, Federalist Society (2019–Present)
- Leadership, NextGen FedSoc Group, (2024–Present)

OTHER PROFESSIONAL EXPERIENCE

The Becket Fund for Religious Liberty

Of Counsel; Jul. 2018–Sep. 2020

Legal Counsel; Feb. 2015–Jul. 2018

- Argued multiple hearings in federal court and assisted with briefing and oral argument preparation in numerous appellate victories, including before the U.S. Supreme Court

Associate; Covington & Burling LLP; Oct. 2012–Jan. 2015

- Lead counsel in successful appeals before the Ninth Circuit Court of Appeals and the D.C. Court of Appeals, and principal brief-writer in multiple U.S. Supreme Court amicus briefs

BAR ADMISSIONS

- United States Supreme Court
- District of Columbia
- Second Circuit Court of Appeals
- Third Circuit Court of Appeals
- Fifth Circuit Court of Appeals
- Sixth Circuit Court of Appeals
- Ninth Circuit Court of Appeals