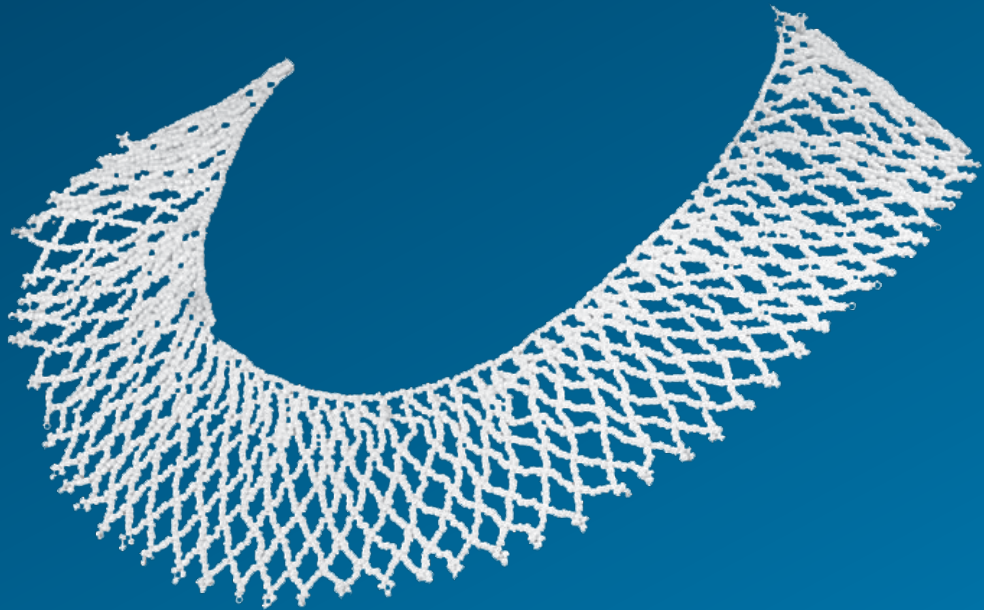


GW | LAW



The George Washington Law Review
Virtual Symposium 2022

The Legacy of Justice Ruth Bader Ginsburg



February 24-25, 2022
The George Washington University
Washington, D.C.

The Legacy of Justice Ruth Bader Ginsburg

Justice Ruth Bader Ginsburg was, by any estimation, one of the towering legal figures of the 20th and early 21st centuries. Justice Ginsburg's life and work as a scholar, advocate, judge, and justice meaningfully changed the law, and her iconic presence and personal life path inspired generations of lawyers and activists around the world. Best known for her path-marking work on issues of gender equality, Justice Ginsburg also made significant contributions to jurisprudence in civil procedure, conflict of laws, administrative law, international law, and many other fields.

The George Washington Law Review is pleased and honored to host the first comprehensive legal academic consideration of Justice Ginsburg's contributions since her death in 2020. A group of leading legal scholars and sitting judges, all of whom clerked for Justice Ginsburg, will provide analyses of various aspects of her scholarship and jurisprudence, as well as personal reflections on her ongoing influence on the lives of those she hired as clerks. Justice Stephen G. Breyer will offer opening remarks and answer questions about Justice Ginsburg as a colleague and friend.

Together, the essays and remarks collected in this symposium issue provide a taste of Justice Ginsburg's extraordinary legacy and a thoughtful consideration of her jurisprudence.

Schedule of Events

Thursday, February 24, 2022

3:30 p.m. Introductions and Opening Remarks

The Honorable Stephen Breyer, Associate Justice, Supreme Court of the United States

Dayna Bowen Matthew, Dean and Harold H. Greene Professor of Law, George Washington University Law School

Soohyun Stephanie Hahn, Editor-in-Chief, *The George Washington Law Review*

4 p.m. Judicial Panel

Moderator: **Bradford R. Clark**, William Cranch Research Professor of Law, GW Law

Speakers: **The Honorable Goodwin H. Liu**, Associate Justice, Supreme Court of California

The Honorable John B. Owens, Judge, U.S. Court of Appeals for the Ninth Circuit

The Honorable Paul Watford, Judge, U.S. Court of Appeals for the Ninth Circuit

Friday, February 25, 2022

9:45 a.m. First Panel

Moderator: **Maeva Marcus**, Research Professor of Law and Director, Institute for Constitutional Studies, GW Law

Speakers: **Rachel Bayefsky**, Associate Professor of Law, University of Virginia School of Law

Paul Schiff Berman, Walter S. Cox Professor of Law, GW Law

Daphna Renan, Peter B. Munroe and Mary J. Munroe Professor of Law, Harvard Law School

1:15 p.m. Second Panel

Moderator: **Laura A. Dickinson**, Oswald Symister Colclough Research Professor of Law, GW Law

Speakers: **Abbe R. Gluck**, Alfred M. Rankin Professor of Law and Founding Faculty Director, Solomon Center for Health Law and Policy, Yale Law School

Aziz Z. Huq, Frank and Bernice J. Greenberg Professor of Law, University of Chicago Law School

Anne Joseph O'Connell, Adelbert H. Sweet Professor of Law, Stanford Law School

Amanda Tyler, Shannon C. Turner Professor of Law, UC Berkeley School of Law

3:15 p.m. Closing Remarks

PARTICIPANTS

Rachel Bayefsky



Rachel Bayefsky is an Associate Professor of Law at the University of Virginia School of Law. She writes about constitutional law, federal courts, civil procedure, and legal theory. Prior to entering academia, Professor Bayefsky clerked for Justice Ruth Bader Ginsburg of the U.S. Supreme Court, Chief Judge Robert A. Katzmann of the U.S. Court of Appeals for the Second Circuit, and Judge Jed S. Rakoff of the U.S. District Court for the Southern District of New York. Professor Bayefsky also taught at Harvard Law School as a Climenko Fellow and Lecturer on Law and worked as a litigator in Washington, D.C. She earned a JD from Yale Law School, where she was Editor-in-Chief of the *Yale Law Journal*, and a D.Phil. from the University of Oxford, where she studied as a Rhodes Scholar.

Paul Schiff Berman



Paul Schiff Berman, the Walter S. Cox Professor of Law at the George Washington University Law School, is one of the world's foremost theorists on the interactions among legal systems. He is the author of over 60 scholarly works, including *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders* (Cambridge University Press, 2012) and the *Oxford Handbook of Global Legal Pluralism* (Oxford University Press, 2020). He was also among the first legal scholars to focus on legal issues regarding online activity, and he is co-author of one of the leading casebooks in the field.

In addition to his scholarly work, Professor Berman has extensive experience in university and law school administration, having served at the George Washington University as Vice Provost for Online Education and Academic Innovation and as Dean of GW Law. Previously, he was and Dean of the Sandra Day O'Connor College of Law at Arizona State University.

Professor Berman graduated summa cum laude from Princeton University in 1988 and earned a law degree from New York University in 1995. During law school, he served as Managing Editor of the *NYU Law Review* and received the University Graduation Prize for the graduating law student with the highest cumulative grade point average. He later clerked for Chief Judge Harry T. Edwards of the U.S. Court of Appeals for the District of Columbia Circuit and for Justice Ruth Bader Ginsburg of the Supreme Court of the United States.

Bradford R. Clark



Bradford R. Clark, William Cranch Research Professor of Law at the George Washington University Law School, teaches and writes in the areas of civil procedure, constitutional structure, federal courts, and foreign relations law. His scholarship has appeared in leading journals, and his book *The Law of Nations and the United States Constitution* (with Anthony J. Bellia Jr.) was published by Oxford University Press in 2017 and was the subject of a symposium published by *Georgetown Law Journal* in 2018. Professor Clark served as an Adviser to the Restatement of the Law Fourth, The Foreign Relations Law of the United States. He also served as a special master appointed by the Supreme Court to assist in the resolution of an original action between states, and the Court adopted his recommendations in *Alabama v. North Carolina*, 560 U.S. 330 (2010). Before joining the faculty, Professor Clark practiced trial and appellate litigation in the Washington, D.C., office of Gibson, Dunn & Crutcher. He was also an attorney adviser in the Department of Justice's Office of Legal Counsel, where he provided legal advice to the President, the Attorney General, and the heads of executive departments. Professor Clark served as a law clerk to the Honorable Antonin Scalia of the Supreme Court of the United States and to the Honorable Robert H. Bork of the U.S. Court of Appeals for the D.C. Circuit.

Laura A. Dickinson



Laura A. Dickinson is the Oswald Symister Colclough Research Professor of Law and Professor of Law at the George Washington University Law School. Her work focuses on national security, human rights, the law of armed conflict, and foreign affairs privatization. She is the author of numerous articles and book chapters. She also contributes regularly to the national security blog, *Just Security*. Professor Dickinson's prizewinning book, *Outsourcing War and Peace*, published by Yale University Press, examines the increasing outsourcing of military and security functions, considers the impact of this trend on core public values, and outlines mechanisms for protecting these values in an era of privatization.

In addition to her scholarly activities, Professor Dickinson has a distinguished record of government service. She was Special Counsel to the General Counsel of the U.S. Department of Defense (2016-17) and was awarded the Secretary of Defense Medal for Exceptional Public Service for her work there. She has also served as a senior policy adviser to Harold Hongju Koh, Assistant Secretary of State for Democracy, Human Rights, and Labor at the U.S. Department of State, and she is a former law

clerk to U.S. Supreme Court Justices Harry A. Blackmun and Stephen G. Breyer, and to Judge Dorothy Nelson of the U.S. Court of Appeals for the Ninth Circuit. Professor Dickinson is a graduate of Harvard College and Yale Law School.

Abbe R. Gluck



Abbe R. Gluck is the Alfred M. Rankin Professor of Law and the Founding Faculty Director of the Solomon Center for Health Law and Policy at Yale Law School. She is also Professor of Internal Medicine (General Medicine) at Yale School of Medicine and a Professor in the Institution for Social and Policy Studies at Yale. From 2020-2021, she served in the Biden-Harris transition team on the Covid-19 response; as Special Counsel in the Office of White House Counsel, working on health law and policy; and as Special Counsel to the White House Covid-19 Response Team. She is an expert on Congress and the political process, federalism, civil procedure, and health law, and she has extensive experience working as a lawyer in all levels of government, including as the Special Counsel and Senior Advisor to the New Jersey Attorney General in the administration of Governor Jon Corzine; in the administration of New York City Mayor Michael Bloomberg, as Chief of Staff and Counsel to the Deputy Mayor for Health and Human Services, Senior Counsel in the New York City Office of Legal Counsel, and Deputy Special Counsel to the New York City Charter Revision Commission; and as a special assistant to U.S. Senator Paul S. Sarbanes of Maryland. She earned a BA and JD from Yale University. She clerked for then-Chief Judge Ralph K. Winter on the U.S. Court of Appeals for the Second Circuit and for U.S. Supreme Court Justice Ruth Bader Ginsburg.

Aziz Z. Huq



Aziz Z. Huq, Frank and Bernice J. Greenberg Professor of Law at the University of Chicago Law School, is a scholar of U.S. and comparative constitutional law. He works on topics ranging from democratic backsliding to regulating AI. His award-winning scholarly work is published as several books and in leading law reviews, social science, and political science journals. He has also written for *The Washington Post*, *The New York Times*, and many other non-specialist publications. In 2015, he received the Graduating Students Award for Teaching Excellence. He has an active pro bono practice and is on the board of the American Constitution Society, the New Press, and the ACLU of Illinois.

Before joining the University of Chicago Law faculty, Professor Huq worked as counsel and then director of the Brennan Center's Liberty and National Security Project, litigating cases

in both the U.S. Courts of Appeals and the Supreme Court. As a Senior Consultant Analyst for the International Crisis Group, he researched and wrote on constitutional design and implementation in Pakistan, Nepal, Afghanistan, and Sri Lanka. He was a law clerk for Judge Robert D. Sack of the U.S. Court of Appeals for the Second Circuit and then for Justice Ruth Bader Ginsburg of the Supreme Court of the United States. He is also a 1996 summa cum laude graduate of the University of North Carolina at Chapel Hill and a 2001 graduate of Columbia Law School, where he was awarded the John Ordronaux Prize (for the student graduating first in their class).

The Honorable Goodwin H. Liu



Justice Goodwin Liu is an Associate Justice of the Supreme Court of California. Nominated by Governor Jerry Brown, Justice Liu was unanimously confirmed by the Commission on Judicial Appointments and sworn into office on September 1, 2011. He was retained by the electorate in 2014. Before joining the state's highest court, Justice Liu was Professor of Law and Associate Dean at the UC Berkeley School of Law. His primary areas of expertise are constitutional law, education law and policy, and diversity in the legal profession.

The son of Taiwanese immigrants, Justice Liu grew up in Sacramento, where he attended public schools. He earned a bachelor's degree in biology from Stanford University and earned a master's degree in philosophy and physiology at Oxford University on a Rhodes Scholarship. Upon returning to the United States, he went to Washington, D.C. to help launch the AmeriCorps national service program.

Justice Liu graduated from Yale Law School in 1998, becoming the first in his family to earn a law degree. He clerked for Judge David Tatel on the U.S. Court of Appeals for the D.C. Circuit and then worked as Special Assistant to the Deputy Secretary of the U.S. Department of Education. He went on to clerk at the U.S. Supreme Court for Justice Ruth Bader Ginsburg during the October 2000 Term. From 2001 to 2003, he worked in the litigation practice of O'Melveny & Myers in Washington, D.C. Justice Liu continues to teach constitutional law as a visiting professor at Harvard Law School.

Maeva Marcus



Maeva Marcus is currently Director of the Institute for Constitutional Studies and Research Professor of Law at the George Washington University Law School. Previously, she directed and edited *The Documentary History of the Supreme Court of the United States, 1789-1800*, a project that ended in 2006 with the

publication of the eighth and final volume of the series. Her publications include *Truman and the Steel Seizure Case* (Columbia University Press, 1977; paperback 1979; reissued by Duke University Press 1994); *Origins of the Federal Judiciary: Essays on the Judiciary Act of 1789* (editor and contributor, Oxford University Press, 1992); “Louis D. Brandeis and the Laboratories of Democracy” in *Federalism and the Judicial Mind* (Harry N. Scheiber, ed. 1992); “Judicial Review in the Early Republic” in *Launching the “Extended Republic”: The Federal Era* (University Press of Virginia, 1996); and many others published in the United States and abroad. With Mark Tushnet, Melvin Urofsky, and Keith Whittington, she edits a series at Cambridge University Press titled “Cambridge Studies on the American Constitution.” A member of the Permanent Committee for the Oliver Wendell Holmes Devise (2001-2009), she was appointed by the Librarian of Congress, in 2015, General Editor of the *Oliver Wendell Holmes Devise History of the Supreme Court of the United States*. She is a former President of the American Society for Legal History.

Dayna Bowen Matthew



Dayna Bowen Matthew, JD, PhD, is the Dean and Harold H. Greene Professor of Law at the George Washington University Law School. Dean Matthew is a leader in public health and civil rights law who focuses on racial disparities in health care. She joined the UVA Law faculty in 2017 and is the author of the book *Just Medicine: A Cure for Racial Inequality in American Health Care*. At UVA, she served as Co-Founder and Inaugural Director of The Equity Center, a transdisciplinary research center that seeks to build better relationships between UVA and the Charlottesville community through community engaged scholarship that tangibly redresses racial and socioeconomic inequality.

Dean Matthew previously served on the University of Colorado law faculty as a Professor, Vice Dean, and Associate Dean of Academic Affairs. She was a member of the Center for Bioethics and Humanities on the Anschutz Medical Campus and held a joint appointment at the Colorado School of Public Health. In 2015, she served as the Senior Adviser to the Director of the Office of Civil Rights for the U.S. Environmental Protection Agency, where she expedited cases on behalf of historically vulnerable communities besieged by pollution. She then became a member of the health policy team for U.S. Senator Debbie Stabenow of Michigan. During 2015-16, she was a Robert Wood Johnson Foundation Health Policy Fellow in Residence. Before entering academia, Dean Matthew practiced as a civil litigator.

Dean Matthew received an AB in economics from Harvard-Radcliffe and obtained a JD from the University of Virginia. While studying at Virginia, Dean Matthew served as an Editor of the *Virginia Law Review*, won the law school’s William Minor Lile Moot Court Competition, and taught as a Hardy Dillard Writing Fellow. Following graduation, she clerked for Justice John Charles Thomas, the first African American justice to sit on the Virginia Supreme Court. She received a PhD in health and behavioral sciences from the University of Colorado at Denver.

Anne Joseph O’Connell



Anne Joseph O’Connell is the Adelbert H. Sweet Professor of Law at Stanford University. She is also a contributor to the Center on Regulation and Markets at the Brookings Institution and an appointed Senior Fellow of the Administrative Conference of the United States. Professor O’Connell frequently consults with congressional staff, nonprofit organizations, and others, and she has testified in front of Congress. She is an elected fellow of the American Academy of Arts and Sciences and the National Academy of Public Administration.

Professor O’Connell is a two-time recipient of the American Bar Association’s Scholarship Award in Administrative Law for the best article or book published in the preceding year and a two-time winner of the Richard D. Cudahy Writing Competition on Regulatory and Administrative Law from the American Constitution Society. She is currently working on a book, *Stand-Ins*, on temporary leadership in government, business, and religion.

Professor O’Connell clerked for Justice Ruth Bader Ginsburg during the Supreme Court’s October 2003 term and for Judge Stephen F. Williams of the U.S. Court of Appeals for the D.C. Circuit from 2000 to 2001. In between, she was a trial attorney for the Federal Programs Branch of the U.S. Department of Justice’s Civil Division.

The Honorable John B. Owens



The Honorable John B. Owens serves on the U.S. Court of Appeals for the Ninth Circuit. Prior to becoming a federal judge in 2014, he was a partner at Munger, Tolles & Olson LLP, where he focused on white collar investigations and appellate matters, and a federal prosecutor for more than 11 years in Washington D.C., Los Angeles, and San Diego. He served as the Chief of the Criminal Division in the U.S. Attorney’s Office for the Southern District of California and received two Director’s Awards for his work there. The television show *American Greed* featured two of his

prosecutions, and he obtained the longest sentence for a white-collar defendant in the history of the Southern District of California in *United States v. Cao*.

Judge Owens graduated first in his class from Stanford Law School in 1996, where he was an Executive Editor on the *Stanford Law Review*. After graduation, he served as a law clerk for the Honorable J. Clifford Wallace of the U.S. Court of Appeals for the Ninth Circuit and for the Honorable Ruth Bader Ginsburg of the Supreme Court of the United States. His written work has appeared in the *California Law Review*, *UCLA Law Review*, *Northwestern Law Review*, and other law reviews. Judge Owens and his family live in San Diego.

Daphna Renan



Daphna Renan is the Peter B. Munroe and Mary J. Munroe Professor of Law at Harvard Law School. Her writing, which has appeared in the *Columbia Law Review*, *Harvard Law Review*, *Stanford Law Review*, and *Virginia Law Review* (among others), illuminates the presidency as both a producer and a product of American public law, taking account of the legal, political, institutional, and cultural dimensions of presidential power. Her work investigates presidential practice—in the sense of unwritten norms and informal institutions internal to the presidency—as a part of American public law, and the role of public law in constituting the presidency.

From 2009 to 2012, Professor Renan served in the U.S. Department of Justice as a Counsel to the Deputy Attorney General and then as an Attorney Advisor in the Office of Legal Counsel. She also served as a member of President-Elect Obama's Justice Department transition team. Professor Renan clerked for Justice Ruth Bader Ginsburg of the U.S. Supreme Court and Judge Harry T. Edwards of the U.S. Court of Appeals for the D.C. Circuit. She received a JD from Yale Law School, where she served as an Articles Editor of the *Yale Law Journal*. She received a BA, graduating *summa cum laude*, from Yale College. Her recent publication can be found here: https://columbialawreview.org/wp-content/uploads/2020/07/Renan-The_Presidents_Two_Bodies.pdf

Amanda Tyler



Amanda L. Tyler is the Shannon Cecil Turner Professor of Law at the University of California, Berkeley School of Law. She is the co-author, with the Honorable Ruth Bader Ginsburg, of Justice, Justice Thou Shalt Pursue: A Life's Work Fighting for a More Perfect Union, which the University of California Press published in early 2021 (www.ucpress.edu/book/9780520381926/justice-justice-thou-shalt-pursue). The book is an outgrowth of Justice Ginsburg's 2019 visit to Berkeley Law when she and Professor Tyler sat down for a conversation about Justice Ginsburg's life. Professor Tyler is also the author of *Habeas Corpus in Wartime: From the Tower of London to Guantanamo Bay* (Oxford University Press, 2017) and *Habeas Corpus: A Very Short Introduction* (Oxford University Press, 2021). She has contributed to many books and published with *The Atlantic*, the Lawfare Blog, other media outlets, and numerous law journals.

Prior to joining the Berkeley Law faculty in 2012, Professor Tyler served on the faculty of the George Washington University Law School and was a visiting professor at Harvard Law School, New York University School of Law, and the University of Virginia School of Law. In 2017, she was a Visiting Senior Fellow in the Law Department of the London School of Economics and the Order of the Coif Distinguished Visitor. She received a JD from Harvard Law School and a BA from Stanford University.

The Honorable Paul J. Watford



Judge Paul J. Watford serves as a Circuit Judge on the U.S. Court of Appeals for the Ninth Circuit, with chambers in Pasadena, California. He was nominated by President Barack Obama on October 17, 2011, and confirmed by the U.S. Senate on May 21, 2012.

Judge Watford received an undergraduate degree from the University of California, Berkeley, in 1989 and a law degree from the UCLA School of Law in 1994. From 1994 to 1995, Judge Watford served as a law clerk to Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit, and from 1995 to 1996, he served as a law clerk to Justice Ruth Bader Ginsburg of the U.S. Supreme Court.

From 1997 to 2000, Judge Watford served as an Assistant U.S. Attorney in Los Angeles, and from 2001 until his appointment to the federal bench, he was in private practice at Munger, Tolles & Olson in Los Angeles, where his practice focused primarily on appellate litigation.

About Us

Established in 1932, *The George Washington Law Review* is edited and published by students at the George Washington University Law School. The journal examines legal issues of national significance, publishing six issues each year containing scholarly articles, essays, and student notes. In addition to publishing a special *Annual Review of Administrative Law*, the *Law Review* runs an online companion journal, *Arguendo*, and a Supreme Court coverage platform, *On the Docket*.

More information about the *Law Review*, including past symposia coverage, can be found at www.gwlr.org.



About GW Law

Since enrolling its first class in 1865, the George Washington University Law School has produced some of the finest minds across the spectrum of legal scholarship. At GW Law, our students learn both inside and outside the classroom. With a campus in the heart of nation's capital, GW Law places students at the center of the most dynamic legal and policy activity in the country. Our students combine theoretical learning with hands-on experience through clinics, skills competitions, and field placement positions with the leading policy-making and legal institutions that surround GW Law. This combination of location and expertise helps our students gain a competitive advantage both in their law school and professional careers. Accredited by the American Bar Association and a charter member of the Association of American Law Schools, GW Law was the first law school in the District of Columbia.

