

SUSAN N. HERMAN
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Current Employment (1980 to present)

Ruth Bader Ginsburg Professor of Law
Brooklyn Law School
250 Joralemon Street
Brooklyn, New York 11201

Courses: Criminal Procedure, Constitutional Law, Law and Literature, Terrorism and Civil Liberties Seminar, Current Issues in Constitutional Law Seminar, COVID-19 and the Constitution Seminar

Visiting Professor of Law
Columbia University School of Law, Criminal Law (Spring 1994)

President Emeritus, American Civil Liberties Union (President, 2008-2021)

Past Legal Employment

Associate Director, 1978-1980; staff attorney, 1976-78
Prisoners' Legal Services of New York

Pro Se Law Clerk, 1974-76
United States Court of Appeals for the Second Circuit

Education

New York University School of Law, J.D. *cum laude*, June 1974
New York University Law Review, Note and Comment Editor

Barnard College, B.A., June 1968
Major: Philosophy

Admitted to practice, New York 1975 (First Department)

Writings and Publications

Books

ADVANCED INTRODUCTION TO U.S. CIVIL LIBERTIES (Elgar Press, forthcoming)

TAKING LIBERTIES: THE WAR ON TERROR AND THE EROSION OF AMERICAN DEMOCRACY (Oxford Univ. Press 2011), expanded paperback edition (2014), winner of the Roy C. Palmer Prize for civil liberties books

TERRORISM, GOVERNMENT, AND LAW: NATIONAL AUTHORITY AND LOCAL AUTONOMY IN THE WAR ON TERROR, editor and co-author, with Paul Finkelman (Praeger Security International 2008)

THE SIXTH AMENDMENT RIGHT TO A SPEEDY AND PUBLIC TRIAL (Praeger Press 2006) (series on the Constitution)

Selected Sections of Books

Biographical Introduction, [JUDITH KAYE IN HER OWN WORDS](#) (2019)

Embattled Paradigms: The “War on Terror” and the Criminal Justice System, in THE CONSTITUTION AND THE FUTURE OF CRIMINAL JUSTICE IN AMERICA (John Parry & Song Richardson, eds.) (Cambridge 2012)

Reading between the Lines: Judicial Protection for Socioeconomic Rights Under the South African and United States Constitutions, in COMPARATIVE CONSTITUTIONALISM AND RIGHTS: GLOBAL PERSPECTIVES (Penny Andrews & Susan Bazilli, eds.) (Vandeplas 2008)

Philadelphia: *Law in the City of Brotherly Love*, in SCREENING JUSTICE (2006) (essays on films on law)

The USA Patriot Act and the US Department of Justice: Losing Our Balances?, in Sara Constantakis, HISTORY OF ISSUES: CRIME (Gale 2006); also reprinted in Dennis Okerstrom, PEACE, WAR, AND TERRORISM 103 (Pearson Longman 2004); James Jandrowitz & Jay L. Spaulding, 9-11 AND BEYOND 237 (Kendall/Hunt 2003).

Selected Law Review Articles

[Getting There: On Strategies for Implementing Criminal Justice Reform](#), BERKELEY J. OF CRIM. L. (2018)

[Liberty, Equality, Fraternity: Reconciling National Values and Human Rights](#), HUMAN RIGHTS L. REV. (2018)

[Ab\(ju\)dication: How Procedure Defeats Civil Liberties in the “War on Terror,”](#) 50 SUFFOLK UNIV. L. REV. 79 (2017)

The USA Patriot Act and the Submajoritarian Fourth Amendment, 41 HARV. CIV. RTS.-CIV. LIBS. L. REV. 67 (2006)

Balancing the Five Hundred Hats: On Being a Legal Educator/Scholar/Activist, 41 TULSA L. REV. 637 (2006) (symposium issue)

Our New Federalism? National Authority and Local Autonomy in the War on Terror, 69 BKLYN L. REV. 1201 (2004) (symposium issue)

Slashing and Burning Prisoners’ Rights: Congress and the Supreme Court in Dialogue, 77 OR. L. REV. 1229 (1998)

Reconstructing the Bill of Rights: A Reply to Amar and Marcus’s Triple Play on Double Jeopardy, 95 COLUM. L. REV. 1090 (1995)

Double Jeopardy All Over Again: Dual Sovereignty, Rodney King, and the ACLU, 41 UCLA L. REV. 609 (1994) (symposium)

Why the Court Loves Batson: Representation-Reinforcement, Colorblindness, and the Jury, 67 TULANE L. REV. 1807 (1993) (symposium on race and crime)

Thelma and Louise and Bonnie and Jean: Images of Women as Criminals, 2 S. CAL. REV. OF LAW & WOMEN’S STUDIES 53 (1992) (symposium on women and crime)

The Tail That Wagged the Dog: Bifurcated Factfinding under the Federal Sentencing Guidelines and the Limits of Due Process, 60 S. CAL. L. REV. 289 (1992) (symposium on the Guidelines)

Beyond Parity: Section 1983 and the State Courts, 54 BKLYN. L. REV. 1057 (1989); excerpts reprinted in A SECTION 1983 CIVIL RIGHTS ANTHOLOGY (Anderson Publishing Co. 1993) (Sheldon H. Nahmod, ed.)

The New Liberty: The Procedural Due Process Rights of Prisoners and Others under the Burger Court, 59 N.Y.U.L. REV. 482 (1984)

Selected Periodicals

[Rosika Schwimmer, *Woman Without A Country*](#), ACLU 100 series, November 20, 2020

[Crystal Eastman, *the ACLU’s Founding Mother*](#), ACLU 100 series, July 12, 2019

[*A teacher stands trial for giving shelter to migrants. The U.S. could learn something from France*](#) (Op-Ed), WASHINGTON POST, November 11, 2019

[*Can We Fire the Electoral College? Probably Not, But We Can Put It Under New Management*](#), HUFFINGTON POST, December 19, 2016

People v. Gillette and Theodore Dreiser's *An American Tragedy*: Law v. Literature, JUDICIAL NOTICE, Issue 11, 2016

JURIST columns: [*Five Years Later: Law and the Fog of 9/11*](#), THE JURIST (September 2006); [*PATRIOT Games: Terrorism Law and Executive Power*](#), THE JURIST (January 2006); *The USA Patriot Act and the USA Department of Justice: Losing Our Balances?*, THE JURIST (Dec. 4, 2001), reprinted in Sara Constantakis, HISTORY OF ISSUES: CRIME (Gale 2006); Dennis Okerstrom, PEACE, WAR, AND TERRORISM 103 (Pearson Longman 2004); James Jandrowitz & Jay L. Spaulding, 9-11 AND BEYOND 237 (Kendall/Hunt 2003).

Columns for Newsday/New York Newsday (1986-2005)

Selected Professional Activities and Speeches

President, American Civil Liberties Union (2008-2021); Member, National Board of Directors (1988-2021); Member, Executive Committee (1992-2021); General Counsel (1998-2008)

Kahn Humanities Lecture, Brooklyn Public Library (October 13, 2020) ("[COVID and the Constitution](#)")

"A Democrat and a Republican Walk Into a Bar . . . : Civil Liberties and Nonpartisanship," Central Arkansas Library, Clinton School Speaker Series (October 25, 2019)

Keynote, "How A Leader Is Born," Girl Up, New York Summit (April 2018)

Keynote, [*The ACLU and Times of War*](#), Princeton University Woodrow Wilson School of Public & International Affairs Civil Liberties in Times of War Conference (September 19, 2014)

TV Interview, [OPEN MIND](#), WNET, recorded July 29, 2014 (aired September 13, 2014)

Wallenberg Lecture, McGill Law School, [*Taking Liberties: The War on Terror, Civil Liberties, and the American Courts*](#) (March 22, 2012)

Speaker, *Portrait of a Judge*, Unveiling of Judith Kaye portrait at New York State Court of Appeals, Albany, NY (October 2011)

Panelist, William & Mary Institute of Bill of Rights Law Supreme Court Preview (1999, 2000, 2003) (including appellant's moot court argument in *Ferguson v. City of Charleston*) (programs broadcast on C-SPAN)

Interview with Justice Sandra Day O'Connor and New York Chief Judge Judith Kaye, National Association of Women Judges dinner (October 2001), broadcast on C-SPAN (Nov. 12, 2001)

Co-Convener and Participant, "The Jury in the Twenty-First Century: An Interdisciplinary Conference," Brooklyn Law School (Oct. 6, 2000)

Legal Consultant, NBC *Today in New York* show (1995) (O.J. Simpson trial commentary)

Speaker, Law schools: Albany, Brigham Young, Brooklyn, Cardozo, Chicago, Cleveland-Marshall, Columbia, Cornell, Cumberland, Fordham, George Washington, Harvard, IIT-Chicago-Kent, Florida State, Franklin Pierce, Maine, Miami, Minnesota State, Nebraska, Pace, Samford, Seattle, Toledo, University of California at Irvine, University of Chicago, University of Nevada at Las Vegas, University of Texas, University of Washington, Yale (2009-20); Colleges: Berkeley, Cal Tech, Clark University, College of Charleston, Harvard, Stanford, University of California at Santa Barbara, University of Illinois at Chicago, U.S. Army War College (2009, 2010, 2011, 2013).

Speaker, Collision Conference (2019, 2020) ("[Civil Liberties During Protests and Pandemic](#)"); Web Summit (2017); [Wikimania](#) (2017); Brussels Forum (2015), Irish Department of Foreign Affairs and Trade (2018), Oxford Student Union (2019), Polish Helsinki Foundation for Human Rights/Open Society Justice Initiative (2018), Queen Mary's College - London (2017), Trinity College - Dublin (2019), University of KwaZulu Natal (Durban, South Africa) (2005); Birmingham Kiwanis Club, Cato Institute, Clinton Global Initiative University, Federal Judicial Center programs (2000-2017), Grace Cathedral (San Francisco), Heritage Society, International Students for Liberty, RAND Corporation.

ACLU speeches: Alabama, Arkansas, D.C., Florida, Georgia, Illinois, Hawaii, Kansas, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Mexico, North Carolina, Ohio, Oregon, Rhode Island, Texas, Utah, Virginia; Roger Baldwin Medal of Liberty presentations to Regina Kelly, Edie Windsor and Constance McMillen, United We Dream, Alabama abortion providers, Standing Rock and Lakota Sioux leaders (2009-2019); Advocate, Senate Democratic Caucus Roundtable Discussions on Voting Rights, LGBT Rights, Criminal Justice Reform, Women and Economic Justice, Reproductive Freedom, Immigrants' Rights (2014-2017).

Amicus Curiae Briefs

[Riley v. California](#), 573 U.S. 373 (2014) (on warrantless searches of cell phones incident to arrest)

Virginia v. Moore, 553 U.S. 164 (2008) (on the applicability of the search incident to arrest doctrine to arrests illegal under state law)

[*Atwater v. City of Lago Vista*](#), 532 U.S. 318 (2001) (on constitutional limits on custodial arrests)

Knowles v. Iowa, 525 U.S. 113 (1998) (co-author) (on search incident to arrest in automobiles)

Ricci v. Village of Arlington Heights, 116 F.3d 288 (7th Cir. 1997), *cert. dismissed as improvidently granted*, 523 U.S. 613 (1998) (on constitutional limitations on custodial arrest)

United States v. Ursery, 518 U.S. 267 (1996) (co-author) (double jeopardy and forfeiture)

Whren v. United States, 517 U.S. 806 (1996) (co-author) (pretext stops)

Nichols v. United States, 511 U.S. 738 (1994) (sentence enhancement for uncounseled misdemeanor conviction)

Godinez v. Moran, 509 U.S. 389 (1993) (co-author) (competency to plead guilty)

State v. Rhoades, Nos. 17521 & 18285 (Idaho Sup. Ct. 1991) (constitutionality of abolition of insanity defense)

Awards

[2021 Law Women Alumna of the Year](#), NYU School of Law (April 2021)

Women's e-News, 21 Leaders for the 21st Century Award (October 2020)

Inspiration Award, Coalition of Women's Initiatives in Law (November 2019)

Praeses Elit Award, Trinity College Dublin Law Society (October 2019)

Crain's 50 Most Powerful Women in New York, Crain's New York Business (2017, 2019)

Distinguished Alumna Award, Barnard 50th Reunion Awards (2018)

Faculty Award for Excellence in Public Service, Brooklyn Law School Public Service Awards (2018)

Distinguished Leadership Award, Japanese American Bar Association (2017)

Community Leadership Award, Theatre of the Oppressed NYC (2015)

Honoree, Salute to Brooklyn Law School Icons (2015)

Roy C. Palmer Civil Liberties Prize for TAKING LIBERTIES, IIT Chicago-Kent College of Law (2013)

Honoree, UNITED SIKHS Sikh Summit (2013)