

Ofer Raban

University of Oregon School of Law, 1515 Agate Street, Eugene, OR 97403-1221
ofer@uoregon.edu, Tel. (541) 346-1578

EDUCATION

- 2003 D.Phil. (Legal Theory), *Oxford University*, England.
 - Oxford University Law Faculty Award.
 - British Government Overseas Research Award.
- 2001 Visiting Doctoral Candidate, *École normale supérieure*, Paris, France.
- 1999 J.D., *Harvard Law School*.
- 1994 B.A. (Philosophy), *City College of New York*.
 - *Summa Cum Laude*
 - Ford Foundation Fellow.

WORK

- 2016-Present *Professor of Law, Elmer Sahlstrom Senior Fellow in Trial Law*, University of Oregon School of Law. COURSES: Criminal Law, Criminal Procedure, Constitutional Law, Jurisprudence, LLM Seminar.
- 2018, 2020 *Visiting Professor of Law*, Interdisciplinary Center Herzliya, Israel.
- 2010-2016 *Associate Professor of Law*, University of Oregon School of Law.
- 2008-2010 *Assistant Professor of Law*, University of Oregon School of Law.
- 2007-2008 *Visiting Professor of Law*, University of Utah S.J. Quinney College of Law.
- 2005-2007 *Assistant Professor of Law*, University of Detroit Mercy School of Law.
- 2003-2005 *Assistant District Attorney*, Westchester County District Attorney, NY.
- 2003 *Visiting Professor of Law*, University of Puerto Rico School of Law.
- 2000-2001 *Lecturer*, Oxford University, Harris-Manchester College, England.

Ofer Raban

SELECTED PUBLICATIONS

- 2020 *It's still a conservative Supreme Court, even after recent liberal decisions – here's why* (The Conversation, September 20).
- 2020 *The ethical case for allowing medical trials that deliberately infect humans with COVID-19* (with Professor Yuval Dor) (The Conversation, August 17).
- 2020 *Human Challenge Trials for COVID-19* (with Professor Yuval Dor) (op-ed, Haaretz, August 4; TheMarker, August 8; Maariv August 1).
- 2020 *A fraying of humanity amid the coronavirus pandemic* (op-ed, The Oregonian, March 4).
- 2020 THE SILENT PROLOGUE: HOW JUDICIAL PHILOSOPHIES SHAPE OUR CONSTITUTIONAL RIGHTS (George Mason University Press) (Monograph).
- 2020 *Invalidation versus Interpretation, A Comment* (Federal Law Review, AU, Vol. 48(2) 301) (peer-reviewed) (solicited).
- 2019 *Assange's new indictment: Espionage and the First Amendment* (The Conversation, May 25).
- 2019 *Is the Assange indictment a threat to the First Amendment?* (The Conversation/Salon.com, May 1).
- 2019 *The Wider Scandal Suggested by the Trump Investigations* (The Conversation/Salon.com, January 24).
- 2018 *Kavanaugh's impact on the Supreme Court and the country may not be as profound as predicted* (The Conversation/Salon.com, November 20).
- 2018 *Some Observations on the First Amendment and the War on Terror* (53 Tulsa Law Review 141).
- 2017 *Constitutional but Legally Invalid* (The Theory and Practice of Legislation Vol. 5, Iss. 2) (peer-reviewed) (solicited).
- 2017 *The Slants and the meaning of liberty* (The Oregonian, July 7).
- 2017 *For constitutional decisions, does it matter who is president?* (op-ed, The Oregonian, March 4).

Ofer Raban

- 2016 *Is Textualism Required by Constitutional Separation of Powers?*, 49 Loyola L.A. Law Review 421.
- 2016 *Supreme Court Progress Report: More Harm than Good?*, 7.2 Alabama Civil Rights & Civil Liberties Law Review 219.
- 2016 *A setback for free speech at University of Oregon* (op-ed, The Oregonian, December 31)
- 2016 *A teachable moment on practicing what we preach* (op-ed, The Oregonian, November 14).
- 2016 *The Supreme Court and Official Corruption* (op-ed, The Oregonian, July 6).
- 2015 *The Rationalization of Policy: On the Relation Between Democracy and the Rule of Law*, 18 N.Y.U. Journal of Legislation & Public Policy 45.
- (2015) Translated into Polish and reprinted in the Ruch Prawniczy, Ekonomiczny i Socjologiczny (Journal of Law, Economics and Sociology) (peer-reviewed), Adam Mickiewicz University in Poznan and Poznan University of Economics.
- 2015 *Supreme Court Gets It Right on Judicial Elections* (op-ed, The Oregonian, May 9).
- 2014 *Between Formalism and Conservatism: On the Resurgent Legal Formalism of the Roberts Court*, 8 N.Y.U. Journal of Law & Liberty 342.
- 2014 *The Supreme Court's Endorsement of a Politicized Judiciary: A Philosophical Critique*, (Translated into Korean and Reprinted) Soongsil Law Review, Vol. 31 (2014).
- 2014 *A frivolous challenge to the Affordable Care Act* (op-ed, The Oregonian, December 20).
- 2014 *Supreme Court can't control the consequences of its decisions* (op-ed, The Oregonian, July 4).
- 2014 *Another Blow to Democracy* (op-ed, The Oregonian, April 13).
- 2013 *Judicial Fundamentalism, the Fourth Amendment, and Ashcroft v. al-Kidd*, 1 Virginia. Journal of Criminal Law 446.
- 2013 *Unpacking the court's decision on NSA surveillance* (op-ed, The Oregonian, Dec. 21).
- 2013 *The dignity of the states v. the dignity of the people* (op-ed, The Oregonian, June 30).
- 2013 *Let's not rush to judgment on surveillance leaker* (op-ed, The Register Guard, June 17).
- 2013 *Judicial oversight of targeted assassinations* (op-ed, The Oregonian, Feb 12).

Ofer Raban

- 2012 *Capitalism, Liberalism, and the Right to Privacy*, 86 *Tulane Law Review* 1243.
- 2012 *Conflicts of Rights: When the Federal Constitution Restricts Civil Liberties*, 64 *Rutgers Law Review* 381.
- 2011 *Constitutionalizing Corruption: Citizens United, Its Conceptions of Political Corruption, and the Implications for Judicial Elections Campaigns*, 46 *University of San Francisco Law Review* 359 (solicited).
- 2011 *The Benefits and Dangers of Dual Constitutional Systems of Civil Rights Protections*, in *Rethinking the Philosophy of Law* (Maltepe University Press) (solicited).
- 2011 *The Supreme Court Continues to dismantle campaign finance reform* (op-ed, *The Oregonian*, July 8).
- 2011 *Supreme Court's ruling in religion case makes little sense* (op-ed, *The Register Guard*, April 12).
- 2011 *A modest decision about child pornography* (op-ed, *The Oregonian*, January 14).
- 2010 *The Fallacy of Legal Certainty: Why Vague Legal Standards May Be Better for Capitalism and Liberalism*, 19 *Boston University Public Interest Law Journal* 175.
- 2010 *On Necessary and Suggestive Identification Procedures*, 37 *American Journal of Criminal Law* 53.
- 2010 *Cloak of national security obscures logic of ruling* (op-ed, *The Oregonian*, September 12).
- 2010 *High court's support of 'free speech' comes at a steep price* (op-ed, *Register Guard*, May 3).
- 2010 *State's high court uses hazy reasoning in medical pot ruling* (op-ed, *Register Guard*, April 25).
- 2009 *A Ratchet That Can Get Stuck: On the Relationship Between the Federal and States' Constitutions*, in *BETWEEN COMPLEXITY OF LAW AND LACK OF ORDER: PHILOSOPHY OF LAW IN ERA OF GLOBALIZATION* (eds. M. Zirk-Sadowski, B. Wojciechowski, M. Golecki) (2009) (solicited book chapter).
- 2009 *The Relationship Between the Federal and States' Constitutions*, 3 *Journal of Jurisprudence* 177.
- 2009 *Court within its rights in ruling on mandatory sentencing* (op-ed, *Register Guard*, Oct. 5).

Ofer Raban

- 2009 *'Actual innocence' as a constitutional right* (op-ed, The Oregonian, August 28).
- 2009 *Dissecting the torture memos* (op-ed, The Oregonian, April 28) (extended version published on SSRN).
- 2009 *Nude dancers' expression should be protected by state constitution* (op-ed, Register Guard, March 30).
- 2009 *Weighing the rule of law* (op-ed, The Oregonian, March 12).
- 2008 *Real and Imagined Threats to the Rule of Law*, 15 Virginia Journal of Social Policy & the Law 478.
- 2008 *Law and the Common Good*, 4 Socio-Legal Review 9 (solicited).
- 2008 *Gerrymandering*, in ENCYCLOPEDIA OF THE SUPREME COURT (Macmillan Reference, USA) (solicited encyclopedia entry).
- 2008 *Free-speech ruling may add to friction* (op-ed, The Oregonian, August 22).
- 2008 *Bring constitution into the 21st Century* (op-ed, Register Guard, June 26).
- 2008 *Law and moral reasons* (proceedings of The International Congress on the Philosophy of Law, Bar Association of Ankara and the Philosophical Society of Turkey).
- 2007 *Be They Fish Or Not Fish: The Fishy Registration of Nonsexual Offenders*, 16 William & Mary Bill of Rights Journal 497.
- 2007 *The Supreme Court's Endorsement of a Politicized Judiciary: A Philosophical Critique*, 8 Journal of Law in Society 114.
- 2007 *An improper claim of executive privilege* (Detroit Legal News, March).
- 2006 *The Embarrassing Saga of New York's Derivative Right to Counsel*, 80 St. John's Law Review 389.
- 2006 *Legislation, Adjudication, and Public Justification*, Schriften zur Rechtstheorie, Volume 215/II (2006).
- 2005 *Why Harriet Miers should not be confirmed* (Detroit Legal News, October).
- 2004 *Judicial Impartiality and the Regulation of Judicial Election Campaigns*, 15 University of Florida Journal of Law and Public Policy 205.

Ofer Raban

- 2003 MODERN LEGAL THEORY AND JUDICIAL IMPARTIALITY (Routledge-Cavendish, London) (monograph).
- 2003 *Dworkin's 'Best Light' Requirement and the Proper Methodology of Legal Theory*, 23 Oxford Journal of Legal Studies 243.
- 2000 *Content-Based, Secondary Effects, and Expressive Conduct: What in the World Do They Mean (and What Do They Mean to the U.S. Supreme Court)?*, 30 Seton Hall Law Review 551.

SELECTED TRANSLATED WORKS

- 2020 *Some Observations on the First Amendment and the War on Terror*, 8 BIT Law Review 335 (World Affairs Press).
- 2015 *The Rationalization of Policy: On the Relation Between Democracy and the Rule of Law*, Translated into Polish and reprinted in *Ruch Prawniczy, Ekonomiczny i Socjologiczny* (Journal of Law, Economics and Sociology) (peer-reviewed), Adam Mickiewicz University in Poznan and Poznan University of Economics.
- 2013 *The Fallacy of Legal Certainty: Why Vague Legal Standards May Be Better for Capitalism and Liberalism* (Translated into Polish and reprinted in *Journal of Public Philosophy & Democratic Education* (peer-reviewed) (Institute of Philosophy at AMU).
- 2011 *The Fallacy of Legal Certainty: Why Vague Legal Standards May Be Better for Capitalism and Liberalism* (Translated into Chinese and reprinted IN), *Archives for Legal Philosophy and Sociology of Law* (Peking University Press) (2011).

SELECTED PRESENTATIONS

- 2020 *The Silent Prologue*, book launch event, Fairleigh Dickinson University, NJ (forthcoming).
- 2020 *The Silent Prologue*, book launch event, George Mason University Press, VA (forthcoming).
- 2020 *Presidential Nuclear War Powers: A Commentary* (with Professor Jane Cramer), University of Oregon School of Law, American Constitution Society Event.
- 2020 *The Judicial Confirmation Process: A Debate* (with Professor Josh Blackman of South Texas College of Law), University of Oregon School of Law, Federalist Society event.
- 2019 *The Constitutional Right Not to be Executed if Innocent*, Beijing Institute of Technology, China.

Ofer Raban

- 2019 *Constitutional Protections of suspects in custodial Interrogations*, Agriculture University Law School, Beijing, China.
- 2019 *Constitutional Protections of suspects in custodial Interrogations*, Technology and Business University Law School, Beijing, China.
- 2019 *How Judicial Philosophies Shape the Right to Free Speech*, Beijing International Studies University School of Law.
- 2019 *A Historical Assessment of the U.S. Supreme Court and Its Implications for Judicial Review*, University of Oregon School of Law, Constitution Day lecture.
- 2019 *Political Liberalism as a Paradigm of Substantive Due Process*, University of Nevada in Las Vegas, Symposium: Substantive Due Process.
- 2019 *Originalism: A Debate* (with Professor Ilan Wurman of Arizona State University), University of Oregon School of Law, Federalist Society event.
- 2018 *Police Interrogations and the Development of the Miranda Doctrine*, Public Security University of China.
- 2018 *The War on Terror and the Freedom of Speech*, Beijing Technology and Business University Law School.
- 2018 *The Right to Counsel in Police Interrogations*, China University of Petroleum-Beijing Law School.
- 2018 *The Fallacy of Legal Certainty*, Beijing International Studies University School of Law.
- 2018 *Judicial Review and the U.S. Supreme Court*, Beijing International Studies University Diplomatic School.
- 2018 *The War on Terror and the Freedom of the Press in the Trump Era*, School of Journalism and Communication Research Seminar Series, University of Oregon.
- 2018 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.
- 2018 *Free Speech on Campus*, A debate, University of Oregon School of Law, Federalist Society event.
- 2018 *More Harm than Good? On Erwin Chemerinsky's Critical Review of the U.S. Supreme Court*, University of Oregon School of Law, Lectures & Awards.

Ofer Raban

- 2018 *The Freedom of Speech at the Dawn of the Trump Administration*, Resistance in the Courts and in the Streets: Legal and Activist Responses to a Year of Living Dangerously, American Constitution Society CLE event, Portland, Oregon.
- 2017 *Government Leakers, Secret Surveillance, and Terror-Related Speech*, Lane County Bar Association CLE (guest lecture), Eugene Oregon.
- 2017 *The First Amendment and the War on Terror*, University of Oregon School of Law, Constitution Day lecture.
- 2017 *Between Conservatism and Formalism*, XXVIII World Congress of the International Association for the Philosophy of Law and Social Philosophy, Lisbon, Portugal.
- 2016 *Textualism and the Theory of Separation of Powers*, Pacific North West Political Science Association, Portland, Oregon.
- 2016 *Campaign Finance*. A debate with William Maurer of the Institute for Justice, University of Oregon School of Law, Federalist Society Event.
- 2016 *The War on Terror and the Freedom of Speech in the Internet Era*, Legal and Policy Dimensions of Cybersecurity, George Washington University, Washington D.C.
- 2016 *Some Observations Regarding the First Amendment and the War on Terror*, Korean Constitutional Court (Guest Lecturer), Seoul, Korea.
- 2016 *Some Observations Regarding the First Amendment and the War on Terror*, Freedom of Expression Conference, Chung-Ang Law School, Seoul, Korea.
- 2016 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.
- 2016 *Abortion: Past, Present, and Future*. A debate with Mary Rice Hasson, Director, Catholic Women's Forum, University of Oregon School of Law, Federalist Society event.
- 2016 *Is Textualism Required by Constitutional Separation of Powers?* Willamette University College of Law (Faculty Forum Guest Lecturer), Salem, Oregon.
- 2016 *Is Textualism Required by Constitutional Separation of Powers?*, University of Oregon School of Law, Lectures & Awards.
- 2015 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.

Ofer Raban

- 2015 *Textualism and Separation of Powers*, Loyola Constitutional Law Colloquium, Chicago, Illinois.
- 2015 *When the Federal Constitution Limits Civil Rights and Liberties*, University of Oregon School of Law, Constitution Day lecture.
- 2014 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.
- 2014 *The Rule of Law, Democracy, and Rationality*, PNW Political Science Association, Bend, Oregon.
- 2014 *The First Amendment in the 2014-15 Supreme Court Docket*, Lane County Bar Association, Eugene, Oregon.
- 2014 *Judicial Activism, Judicial Engagement, and Judicial Restraint: What They Are and What They Are Not*. A debate with Clark Neily of the Institute of Justice, University of Oregon School of Law, Federalist Society event.
- 2014 *The Rationalization of Policy: On the Relation Between Democracy and the Rule of Law* (Guest Lecturer), University of Warsaw Faculty of Law, Warsaw, Poland.
- 2014 *The Rationalization of Policy: On the Relation Between Democracy and the Rule of Law* (Guest Lecturer) Adam Mickiewicz University, Faculty of Law and Administration, Poznan, Poland.
- 2014 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.
- 2013 *Judicial Elections, Legal Positivism, and the U.S. Supreme Court*, Seoul National University (Foreign Lecturer Series), Seoul, South Korea.
- 2013 *Capitalism, Liberalism, and the American Constitution*, Kodang International Conference, Soongsil University, Seoul, South Korea.
- 2013 *The Roberts Court's Formalism*, Loyola Constitutional Law Colloquium, Chicago, Illinois.
- 2013 *Political Liberalism and the Constitutional Right to Privacy*, PNW Political Science Association Annual Meeting, Vancouver BC, Canada.
- 2013 *The Constitution and Homelessness*, Eugene City Club (broadcasted on KLCC Public Radio), Eugene, Oregon.

Ofer Raban

- 2013 *National Security and the Constitution: Recent Developments*, University of Oregon School of Law, Constitution Day lecture.
- 2013 *On the Relation Between Democracy and the Rule of Law*, 26th World Congress of Philosophy of Law and Social Philosophy, Belo Horizonte, Brazil.
- 2013 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.
- 2013 *Conflict of Rights*, University of Oregon School of Law, Lectures & Awards.
- 2012 *Supreme Court Review/Preview*, a discussion with Dean Erwin Chemerinsky and Professor Paula Abrams, Oregon Bar Association, Constitution Law Section, Oregon Bar, Portland, Oregon.
- 2012 *Judicial Fundamentalism, the Fourth Amendment, and Ashcroft v. al-Kidd*, Constitutional Law Colloquium, Loyola Univ. School of Law, Chicago, Illinois
- 2012 “*Is Citizens United Good for Democracy?*”, a debate with Professor Bradley Smith, former Chair of the Federal Elections Commission, University of Oregon School of Law.
- 2012 *The Constitution and the War on Terror*, a debate with Professor Stephen F. Knott, Linfield College (Constitution Day event), Linfield, Oregon.
- 2012 *Constitution Day Presentation* (commentary on a lecture by David Frohnmayer), University of Oregon School of Law.
- 2012 *Citizens United’s Vision of Democracy*, O’Connell Conference, “First Amendment Protections Now: ‘Speech’ ‘Press’ and ‘Assembly’,” Portland, Oregon.
- 2012 *Constitutionalizing Corruption*, University of Oregon School of Law, Lectures & Awards.
- 2012 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.
- 2012 *The Fallacy of Legal Certainty*, University of Warsaw (guest lecturer), Warsaw, Poland. University of Lodz, Polish Judges Association, Poland).
- 2012 *The Fallacy of Legal Certainty*, University of Lodz (guest lecturer), Lodz, Poland.
- 2012 *The Fallacy of Legal Certainty*, Polish Judges Association (guest lecturer), Lodz, Poland.
- 2012 *Legal Positivism and Textualism* (guest lecturer) University of Warsaw, Warsaw, Poland.

Ofer Raban

- 2011 *U.S. Supreme Court Preview/Review*, Oregon Bar Association, Portland, Oregon.
- 2011 *U.S. Supreme Court Preview/Review*, University of Oregon School of Law, American Constitution Society event.
- 2011 *Capitalism, Liberalism, and Substantive Due Process*, Constitutional Law Colloquium, Loyola University School of Law, Chicago, Illinois.
- 2011 *The Legal Principle of Public Justification*, XXIII World Congress of Philosophy of Law and Social Philosophy, Frankfurt, Germany.
- 2011 *Political Liberalism and the Constitutional Right to Privacy*, XXIII World Congress of Philosophy of Law and Social Philosophy, Frankfurt, Germany.
- 2011 *Citizens United and Judicial Elections, Democracy, Inc?*, Law Review Symposium, University of San Francisco, San Francisco, California.
- 2011 *Capitalism, Liberalism, and the Right to Privacy*, University of Oregon School of Law, Lectures & Awards.
- 2010 *The Federal Constitution As a Ceiling, Not Just a Floor*, Constitutional Law Colloquium, Loyola University School of Law, Chicago, Illinois.
- 2010 *Federal Constitutional Limitations on State Constitutional Right*, O'Connell Conference for Appellate Judges, Portland, Oregon.
- 2010 *The Gun Debate*, A debate with Supreme Court litigator Alan Gura, University of Oregon School of Law.
- 2010 *On Suggestive and Necessary Identification Procedures*, Public Defenders Services of Lane County, Eugene, Oregon.
- 2009 *Supreme Court Review/Preview*, American Constitution Society event, University of Oregon School of Law.
- 2009 *On Bright-Line Rules and Vague Standards*, Wayne Morse Center Politics and Policy Colloquium, University of Oregon School of Law.
- 2009 *Capitalism, Liberalism, Democracy, and Legal Certainty*, XXIV IVR World Congress, Beijing, China.
- 2009 *Dual Systems of Civil rights Protection*, Symposium: Rethinking the Philosophy of Law: Legal Theory, Human Rights and Constitutions, Istanbul, Turkey.

Ofer Raban

- 2009 *Democracy and the Rule of Law*, Midwest Political Science Association Annual Conference, Chicago, Illinois.
- 2009 *The Natural Law Foundations of the Constitution: Antiquated or More Needed than Ever?*, A debate with Dr. Roger Pilon, Vice President of the Cato Institute, University of Oregon School of Law.
- 2008 *Who Cares About Legal Theory, and Why?*, International Law Society University of Oregon School of Law.
- 2008 *On the Relation between Law and Politics*, a debate with Professor Mark Graber of the University of Maryland, University of Oregon School of Law.
- 2008 *Judicial elections and the Supreme Court's Misguided Legal Theory*, O'Connell Conference, University of Oregon School of Law.
- 2008 *Law and Moral Reasons*, International Congress on the Philosophy of Law, Bar Association of Ankara and the Philosophical Society of Turkey, Ankara, Turkey.
- 2007 *Politicized Legal Interpretation*, XXIII World Congress of Philosophy of Law and Social Philosophy, Krakow, Poland.
- 2007 *What is Legal Theory?*, International Law Society, University of Detroit, Mercy School of Law, Detroit, Michigan.
- 2006 *Is President Bush's Surveillance Program Constitutional?*, Constitution Day lecture, University of Detroit, Mercy School of Law, Detroit, Michigan.
- 2006 *The U.S. Supreme Court and the Notion of Judicial Impartiality*, Association for Legal and Social Philosophy, Annual Conference, Dublin, Ireland.
- 2006 *Textualism and Judicial Independence*, American Constitution Society event, Symposium on Judicial Independence, University of Detroit, Mercy School of Law, Detroit, Michigan.
- 2003 *Reason and Legislative Intent*, Oxford Jurisprudence Colloquium, Oxford University, Oxford, England.
- 2002 *Law and Justification*, 2nd Euro-conference in Legal Philosophy: The Judiciary and the European Construction Process, Gerona, Spain.