

Robert J. Delahunty

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ACADEMIC POSITIONS

Washington Fellow, Claremont Institute, Center for the American Way of Life
(2021- present)

2004-2020

University of St. Thomas School of Law, Minneapolis, MN

Laurence and Jean Le Jeune Distinguished Chair (2015 – retired 2020)

Professor/Associate Professor of Law

Courses taught: Constitutional Law; Torts; International Law;
Conflict of Laws; International Human Rights Law; Law of Genocide (seminar)

2014 (Summer term):

University of International Business and Economics, Beijing, China

Visiting lecturer

Course taught: International Law

2007 (Spring term):

University of Minnesota School of Law

Adjunct Professor

Course taught: Constitutional Law

1999-2000:

Columbus School of Law, Catholic University of America,
Washington, DC

Visiting Associate Professor (on leave from U.S. Dep't of Justice)

Courses taught: Separation of Powers, Property

1977-1980:

Durham University, Durham, England

Lecturer in Philosophy (tenured)

Courses taught: History of Philosophy, Aristotle's Philosophy of Mind, Political
Philosophy

1974-1977:

Oriel College, Oxford University, Oxford, England

Lecturer in Philosophy (untenured)

Courses taught: Tutoring in Greek philosophy, Logic, Ethics; university lectures
on Spinoza

LEGAL PRACTICE

2002-03:

Deputy General Counsel, White House Office of Homeland Security

1989-2004 (with intervals):

Counsel, later Special Counsel, Office of Legal Counsel, U.S. Department of Justice; Member, Senior Executive Service (1992-2004)

1991-92:

Special Counsel to the Solicitor of Labor, U.S. Department of Labor

1986-1989:

Attorney, Appellate Section, Civil Rights Division, U.S. Department of Justice

1983-1986:

Associate, Litigating Division, Sullivan & Cromwell, New York City, NY

OTHER LEGAL HONORS AND EXPERIENCE

2023:

Expert witness on the law testifying on behalf of Donald J. Trump in *Anderson v. Griswold*, [11_17_2023 Final Order.pdf](#) (later *Trump v. Anderson*, 601 U.S. – (2024); [Testimony on 14th Amendment continues on final day of Colorado Trump trial • Colorado Newsline](#)

2015, 2010:

Professor of the Year, Univ. of St. Thomas School of Law (awarded by graduating class)

1995-96:

Atlantic Fellowship, Refugee Studies Centre, Oxford University, England (awarded on nomination of Attorney General Janet Reno to pursue ten months' research on British and European asylum practices and law)

Summer 1982:

Summer Associate, Litigating Division, Sullivan & Cromwell, New York City, NY

Summer 1981:

Research Assistant to Prof. Philip Heymann, Harvard Law School, Cambridge, MA

EDUCATION

1980-83:

Harvard Law School, Cambridge, MA: Juris doctor, *cum laude*, 1983

1973-1974:

Robinson Senior Scholar, Oriel College, Oxford University, England

1970-1972:

Senior Scholar, Keble College, Oxford University, England (1972); B.Phil., Oxford University (1972)

1968-70:

Oriel College, Oxford University, England; B.A., *First class honours*, *Literae humaniores* (1970)

1964-68:

Columbia University, New York City, N.Y.; B.A., *summa cum laude* (1968); Kellett Fellowship for study at Oxford University (1968-70; renewed 1970-72)

PUBLICATIONS AND WORKS IN PROGRESS

Isabella's Choices: The Catholic Question in Shakespeare's Measure for Measure (work in progress)

The Politically Incorrect Guide to the Supreme Court (with John Yoo) (Regnery 2023)

Deconstructing the Deep State in Arthur Milikh (ed.), *Up from Conservatism: Revitalizing the Right after a Generation of Decay* (Encounter Books 2023)

Birthright Citizenship, with John C. Yoo (summer 2025), National Affairs

The Limits of Precedent, with John C. Yoo (Winter 2024), National Affairs

The Major-questions Doctrine and the Administrative State, with John C. Yoo (Summer 2023), [Author | National Affairs](#)

[Robert Delahunty, Author at The American Way of Life](#)

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[Robert Delahunty | Civitas Institute](#)

[Robert Delahunty, Author at The Federalist](#)

[Willis L. Krumholz and Robert Delahunty, Author at The Federalist](#)

[John Yoo and Robert Delahunty, Author at The Federalist](#)

[Robert Delahunty and Joe Popularis, Author at The Federalist](#)

[Robert J. Delahunty](#) (Fox News)

[Robert J. Delahunty | National Review](#)

[Robert Delahunty, Author at Law & Liberty](#)

[Robert J. Delahunty, Author at Law & Liberty](#)

Robert Delahunty, Author at The American Mind, [You searched for delahunty - The American Mind](#)

[What Happens if No One Wins? - The American Mind](#)

[Robert J. Delahunty, Author at LAW AND RELIGION FORUM](#)

[The Proper Response to the Crisis in the Catholic Church: Give the Laity a Role in the Appointment and Removal of Diocesan Bishops - LAW AND RELIGION FORUM](#)

[Robert J. Delahunty - ERLC](#)

[The Synod on the Family and the Developing World - LAW AND RELIGION FORUM](#)

The Presidential Immunity Decision (with John C. Yoo), Harvard J. L. & Pub. Pol'y (2024), [Delahunty-Yoo-The-Presidential-Immunity-Decision-vf.pdf](#)

Who Counts? The 12th Amendment, the Vice President and the Electoral Count (with John Yoo), 73 Case Western L. Rev. 27 (2022)

Commonwealth and Commodity: Shakespeare's King John, 57 J. Cath. Legal Stud. 129 (2019), <https://scholarship.law.stjohns.edu/jcls/vol57/iss1/11/>

An Epitaph for ISIS? The Idea of a Caliphate and the Westphalian Legal Order, 35 Ariz. J. Int'l & Comp. L. 1 (2018).

Is the Uniform Faithful Presidential Elector Law Constitutional? In de novo (Cardozo Law School on-line publication 2016), http://www.cardozolawreview.com/content/denovo/DELAHUNTY_2016_129.pdf.

Towards a Concert of Asia? (accepted for publication in 11 East Asia L. Rev. - (2017). The issue has not been published.).

The Crimean Crisis, 9 U. St. Thomas J. L. & Pub. Pol'y 125 (2015) (symposium).

Legal and Ethical Issues in the Use of Weaponized Drones (summer 2015) (research paper prepared for Caritas in Veritate Foundation), <http://www.fciv.org/publications> .

Saving Originalism, with John C. Yoo, 113 Mich. L. Rev. 1081 (2015).

The Conscience of a King: Law, Religion and Just War in Shakespeare's "King Henry V," 53 The Journal of Catholic Legal Studies 129 (2015).

Does Animal Welfare Trump Religious Liberty? The Danish Ban on Kosher and Halal Butchering, 16 San Diego J. of Int'l L. 341 (2015).

The Returning Warrior and the Limits of Just War Doctrine, 15 Rutgers Journal of Law & Religion 219 (2014). This article received Honorable Mention in the Kevin J. Barry Award competition sponsored by the National Institute of Military Justice.

Robert Jackson's Opinion on the Destroyer Deal and the Question of Presidential Prerogative, 38 Vt. L. Rev. 65 (2013) (symposium).

The Obama Administration, The DREAM Act, and the Take Care Clause, with John C. Yoo, 91 Texas L. Rev. 781 (2013).

From Just War to False Peace (with John C. Yoo), 13 Chi. J. Int'l L. 1 (2012).

Trade, War and Terror: A Reply to Bhala, 9 U. St. Thomas L. J. 161 (2012).

Nationalism, Statism and Cosmopolitanism, 5 Northwestern Interdisciplinary Law Review 79 (2012).

International Human Rights Law and the War on Terror, with John C. Yoo, in Thomas Cushman (ed.), ***Routledge International Handbook of Human Rights*** (2011).

Originalism and Legitimacy: A Reply to Professor Powell, 6 U. St. Thomas L. J. 281 (2010).

What is the Role of International Human Rights Law in the War on Terror?, with John C. Yoo, 59 DePaul L. Rev. 301 (2010) (symposium).

Kant, Habermas and Democratic Peace, with John C. Yoo, 10 Chi. J. Int'l L. 437 (2010) (symposium).

Herbert Butterfield, Christianity, and International Law, 86 U. Det. Mercy L. Rev. 615 (2009) (symposium).

Great Power Security, with John C. Yoo, 10 Chi. J. Int'l L. 35 (2009) (symposium).

The Bush Doctrine: Can Preventive War Be Justified?, with John C. Yoo, 32 Harv. J. L. & Pub. Pol'y 843 (2009) (symposium).

Latin America: Economic Development and Social Justice, 5 U. St. Thomas L. J. 617 (2009) (symposium introduction).

The Kosovo Crisis: A Dostoevskian Dialogue on International Law, Statecraft, and Soulcraft, with Antonio F. Perez, 42 Vanderbilt Journal of Transnational Law 15 (2009).

Changing Hearts, Changing Minds: A New Evangelical Politics, 47 J. Cath. Leg. Stud. 271 (2008) (symposium).

"Constitutional Justice" or "Constitutional Peace"? The Supreme Court and Affirmative Action, 65 Wash. & Lee L. Rev. 11 (2008).

The Anatomy of a Failure: The Pursuit of Peace Through International Law, with John C. Yoo, 106 Mich. L. Rev. 923 (2008).

Making War, with John C. Yoo, 93 Cornell L. Rev. 123 (2007).

Paper Charter: Self-Defense and the Failure of the United Nations Collective Security System, 56 Cath. U. L. Rev. 871 (2007) (symposium).

Is the Geneva POW Convention "Quaint"?, 33 Wm. Mitchell L. Rev. 1637 (2007).

"Varied Carols:" Legislative Prayer in a Pluralist Polity, 40 Creighton L. Rev. 1635 (2007).

Federalism and Polarization, 1 St. Thomas J. L. & Pub. Pol'y 63 (2007).

The Battle of Mars and Venus: Why Do American and European Attitudes Toward International Law Differ?, 4 Loyola U. Chicago Int'l L. Rev. 11 (2006).

Executive Power versus International Law, with John C. Yoo, 30 Harvard Journal of Law & Public Policy 73 (2006).

Presidential Power and International Law in a Time of Terror, 4 Regent Journal of International Law 175 (2006) (symposium).

The CINC Authority and the Laws of War, 99 American Journal of International Law Proc. 190 (2005).

Against Foreign Law, with John C. Yoo, 29 Harvard Journal of Law & Public Policy 291 (2005).

Moral Communities or a Market State?, with Antonio F. Perez, 42 Houston Law Review 637 (2005).

Emoluments Clause, The Heritage Guide to the Constitution (David F. Forte ed. 2005).

Statehood and the Third Geneva Convention, with John C. Yoo, 46 Virginia Journal of International Law 131 (2005).

Thinking About Presidents, with John C. Yoo, 90 Cornell Law Review 1153 (2005).

Structuralism and the War Powers: The Army, Navy and Militia Clauses, 19 Georgia State Law Review 1021 (2003)(symposium).

The President's Constitutional Authority to Conduct Military Operations Against Terrorist Organizations and The Nations That Harbor or Support Them, with John C. Yoo, 25 Harvard Journal of Law and Public Policy 488 (2002).

Federalism Beyond the Water's Edge: State Procurement Sanctions and Foreign Affairs, 27 Stanford Journal of International Law 1 (2001).

Perspectives on Within-Group Scoring, 33 Journal of Vocational Behavior 463 (1988).

Descartes' Cosmological Argument, 30 Philosophical Quarterly 34 (1980).

Shorter on-line law review articles and occasional writings on-line or in print media:

Pushing Back on Cancel Culture, with John C. Yoo, City Journal (June 26, 2020), <https://www.city-journal.org/pushing-back-cancel-culture>

Domestic Military Use is Lawful but not yet Prudent, with John C. Yoo, Newsweek (June 6, 2020), <https://www.newsweek.com/domestic-military-use-lawful-not-yet-prudent-opinion-1508262>

A 'WHO for Democracies', with John C. Yoo, Hoover Institution (May 30, 2020), <https://www.hoover.org/research/who-democracies>

Taiwan, with John C. Yoo, Hoover Institution (May 29, 2020), <https://www.hoover.org/research/taiwan>

In Helping Hong Kong, Follow the Cold War Model, with John C. Yoo, Newsweek (May 26, 2020), <https://www.newsweek.com/helping-hong-kong-follow-cold-war-model-opinion-1506520>

The World Health Organization is Not Salvageable, with John C. Yoo, Newsweek (May 14, 2020), <https://www.newsweek.com/world-health-organization-not-salvageable-opinion-1504084>

How to Make China Pay for Covid-19, with John C. Yoo, Hoover Institution (April 26, 2020), <https://www.hoover.org/research/how-make-china-pay-covid-19>

How China Can Exploit the Coronavirus to Defeat the USA, with Chad Bayse, The American Thinker (April 15, 2020), https://www.americanthinker.com/articles/2020/04/how_china_can_exploit_the_coronavirus_to_defeat_the_usa.html

How the Coronavirus Could Destabilize the Chinese Government and the World, with Willis Krumholz, The Federalist (Jan. 28, 2020), <https://thefederalist.com/2020/01/28/how-the-coronavirus-could-destabilize-the-chinese-government-and-world/>

President Trump and the Forever Wars, Law & Liberty (Jan. 27, 2020), <https://old.lawliberty.org/tag/the-trump-administration-and-international-law/> (review of Harold Koh, *The Trump Administration and International Law*)

Only Voters Can Stop the Impeachment Cycle from Further Escalating, with Willis Krumholz, The Federalist (Oct. 15, 2019), <https://thefederalist.com/2019/10/15/only-voters-can-stop-the-impeachment-cycle-from-further-escalating/>

Why Trump will Win his Challenge to California's Tax Return Law, with John C. Yoo, The LA Times (Aug. 19, 2019), <https://www.latimes.com/opinion/story/2019-08-08/california-law-trump-tax-returns-lawsuit>

Why Mass Illegal Immigration Probably Costs More Than You've Been Told, with Willis Krumholz, The Federalist (Aug. 13, 2019), <https://thefederalist.com/2019/08/13/mass-illegal-immigration-probably-costs-youve-told/>

Posts in Fox News, with John C. Yoo, including <http://www.foxnews.com/opinion/2018/07/19/democrats-are-absolutely-desperate-to-keep-kavanaugh-off-supreme-court-and-it-s-hurting-our-country.html>; <http://www.foxnews.com/opinion/2018/07/03/john-yoo-and-robert-delahunty-trump-s-supreme-court-pick-and-what-it-means-for-2020.html>; <http://www.foxnews.com/opinion/2018/07/11/john-yoo-robert-delahunty-schumer-booker-others-are-lying-about-kavanaugh-to-keep-him-off-court.html> ; <http://www.foxnews.com/opinion/2018/07/09/trumps-supreme-court-pick-democrats-will-fight-hard-to-stop-kavanaugh-but-has-few-vulnerabilities.html>; <http://www.foxnews.com/opinion/2018/06/27/supreme-court-travel-ban-decision-moves-lefts-fight-with-trump-from-courts-to-ballot-box.html>

Numerous posts in The Center for Law & Religion Forum, collected at <http://clrforum.org/author/delahunty/>

Book reviews at Law & Liberty, [Robert J. Delahunty, Author at Law & Liberty \(lawliberty.org\)](#)

The Foolish Court-Packing Craze, with John C. Yoo, in National Review Online (July 19, 2018), <https://www.nationalreview.com/2018/07/court-packing-ideas-threaten-judicial-independence/>

How to Reform Federal Intelligence and Law Enforcement Agencies, with Willis Krumholz, in The Federalist (Feb. 27, 2018), <https://thefederalist.com/2018/02/27/reform-federal-intelligence-law-enforcement-agencies/>

For US Attorney in Minnesota: A free-range Republican, with A. John Radsan, in The Pioneer Press (Oct. 19, 2017), <http://www.twincities.com/2017/10/19/delahunty-radsan-for-u-s-attorney-in-minnesota-a-free-range-republican/>

The Hurricanes of September, with A. John Radsan, in The Jurist (Oct.4, 2017), available at <http://www.jurist.org/forum/2017/10/radsan-delahunty-hurricanes-trump.php>

Trump's Down, But Not Out for the Re-Election Count. Here's His Game Plan, in The Federalist (Aug. 24, 2017), available at <http://thefederalist.com/2017/08/24/trumps-not-re-election-count-heres-game-plan/>.

The UK Election Means Voters Want Moderation, Not Socialism, in The Federalist (June 12, 2017), available at <http://thefederalist.com/2017/06/13/uk-election-means-voters-want-moderation-not-socialism/>

Mueller investigation will prolong, not halt, controversy over Russia (with John C. Yoo), in Fox News: Opinion (May 17, 2017), available at <http://www.foxnews.com/opinion/2017/05/18/mueller-investigation-will-prolong-not-halt-political-controversy-over-russia.html>

The Comey Aftermath: Appointing a respected FBI director is crucial (with John C. Yoo), in The National Review On-line (May 12, 2017), available at <http://www.nationalreview.com/article/447573/>

The South Korean Election: What Happens Next? (with Charles J. Reid), in Facts and Arts (5/9/17), available at <http://www.factsandarts.com/essays/the-south-korean-election-what-happens-next/>

The Persian Gambit (with A. John Radsan), in The Jerusalem Post (3/20/17), available at <http://www.jpost.com/Opinion/The-Persian-Gambit-484718>

The Ugly News at St. Thomas, in *Power Line* (3/20/17), available at <http://www.powerlineblog.com/archives/2017/03/the-ugly-news-at-st-thomas.php>

Trump Does What Every President Does With US Attorneys, Left Goes Into Hysterics (with A. John Radsan), in *The Federalist* (3/17/17), available at <https://thefederalist.com/2017/03/17/trump-every-president-u-s-attorneys-left-goes-hysterics/>

Trumping the Courts: Why Critique is Good (with A. John Radsan) (Mar. 13, 2017), in *National Law Journal*, available at <http://www.nationallawjournal.com/commentary>.

A Memo for Attorney General Jeff Sessions (with John Yoo) (Nov. 28, 2016), in *National Review On Line*, <http://www.nationalreview.com/article/442493/jeff-sessions-and-donald-trump-restore-public-confidence-law>

Brexit, Democracy, and Peace (with John Yoo) (June 28, 2016), available at <http://www.nationalreview.com/article/437240/brexit-world-peace-prosperity-not-threatened>

Why Obama must defer to Congress on Gitmo (with John Yoo) (Dec. 21, 2015), available at: <http://www.nationalreview.com/article/428826/obama-guantanamo-bay-defying-congress-he-crosses-constitutional-red-line>

Congress Can Release the Blocked Abortion Videos (with Willis Krumholz) (Aug. 13, 2015), available at: <http://thefederalist.com/2015/08/13/congress-can-release-the-blocked-abortion-videos/>

How to check the President (with John Yoo) (Nov. 21, 2014), <http://www.nationalreview.com/article/393215/how-check-president-john-yoo-robert-delahunty>.

The Truth is Marching On (Sept. 26, 2014), <http://www.libertylawsite.org/2014/09/26/the-truth-is-marching-on/>

John Kerry and the Iraqi Genocide (Sept. 3, 2014), <http://thefederalist.com/2014/09/03/john-kerry-and-the-iraqi-genocide/>

Three Reasons Douthat is Right (and Posner is Wrong) on Impeachment (Aug. 5, 2014), <http://thefederalist.com/2014/08/05/three-reasons-douthat-is-right-and-posner-is-wrong-on-impeachment/>

From Babylon to Denmark (Mar. 28, 2014), available at <http://www.canonandculture.com/from-babylon-to-denmark/>

Eric Holder, Our Contemptuous Attorney General, Must Reign, with John C. Yoo, Fox News/Opinion (July 18, 2013), available at <http://www.foxnews.com/opinion/2013/07/18/our-contemptuous-attorney-general-eric-holder-must-resign>

The Constitution defines, but does not owe, freedom, in *The Minneapolis Star Tribune* (Sept. 4, 2012)

Killing Al-Awlaki, with Christopher D. Motz, -- Idaho Journal of Law & Public Policy -- (2012), U. of St. Thomas Legal Studies Research Paper No. 11-38 (online)

Of Charters and Compacts: Comments on Fallone, Wake Forest L. Rev. Online (Dec. 2011), available at http://www.wakeforestlawreview.com/wp.content/uploads/2011/12/Delahunty_Forum.pdf.

The Obama Administration's Decisions To Enforce, But Not Defend, DOMA Section 3, Northwestern L. Rev.: Colloquy (Oct. 10, 2011), available at <http://colloquy.law.northwestern.edu/main/author-delahunty-robert-j/>.

War Powers Irresolution: The Obama Administration and the Libyan Intervention, 12 Engage 121 (August 2011).

Obama is flouting the War Powers Resolution, with John C. Yoo. The National Caller on-line (June 20, 2011), available at <http://dailycaller.com/2011/06/20/obama-is-flouting-the-war-powers-resolution/>.

Mission Not Accomplished, with John C. Yoo, Foreign Policy on-line (Mar. 30, 2011), available at http://www.foreignpolicy.com/articles/2011/03/29/mission_not_accomplished.

Obama's War Law, 11 Engage 74 (2010).

The Two Faces of the United Nations, The St. Thomas Lawyer 21 (2010).

The Fourth Amendment Goes to War, 10 Engage 69 (October 2009).

Lines in the Sand, with John C. Yoo, The National Interest (2007).

Books:

Isabella's Choices: Shakespeare's Measure for Measure and the Catholic Question (in progress)

The Politically Incorrect Guide to the Supreme Court (with John C. Yoo)
(Regnery 2023).

War: Law, International Relations, and Just War Theory (with Antonio F. Perez) (Vandeplas Pub. 2017)

Spinoza (Routledge & Kegan Paul, 1985) (a book in the "Arguments of the Philosophers" series, published by Routledge & Kegan Paul).