

# STEPHANIE HALL BARCLAY

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## ACADEMIC EXPERIENCE AND AFFILIATIONS

### **Notre Dame Law School; Professor of Law**

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

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

- Teach an annual workshop on a First Amendment topic, and mentor academic fellows

### **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:* Structures of the Constitution, Religious Freedom, First Amendment, Fourteenth Amendment, and Family Law

## EDUCATION

### **University of Oxford; D.Phil (Law), expected 2025**

- 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)

### **Brigham Young University–Idaho; B.S. in Finance, Minor in English, 2008**

- *Summa cum laude*; GPA: 3.99

## 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

## WORKS IN PROGRESS

- *The Nature of Constitutional Rights*
  - Selected for presentation at the Women in Legal Philosophy Conference
  - Selected for presentation at the Young Legal Scholars Panel at the 2024 FedSoc Annual Faculty Conference at AALS
- *A Crust of Bread: Religious Resistance and the Fourteenth Amendment* (with Kurt Lash)
  - Selected for presentation at the annual Originalism Works-in-Progress Conference at the University of San Diego Law School

## PUBLICATIONS AND PAPERS

- *Replacing Smith*, YALE LAW JOURNAL FORUM (forthcoming 2023) (invited essay)
- *Doctrine and History*, HARVARD JOURNAL OF LAW & PUBLIC POLICY (forthcoming 2024) (invited symposium paper)
- *Scrutiny and the Common Good*, HARVARD JOURNAL OF LAW & PUBLIC POLICY (forthcoming 2023) (invited symposium paper)
- *The Religion Clauses after Kennedy v. Bremerton School Dist.*, 108 IOWA LAW REVIEW 2097 (July 2023) (invited symposium paper)
- *Taking Justification Seriously: Proportionality, Strict Scrutiny, and the Substance of Religious Liberty*, 63 BOSTON COLLEGE LAW REVIEW 453 (2022), coauthored with Professor Justin Collings
- *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
- *Untangling Entanglement*, 97 WASHINGTON UNIVERSITY LAW REVIEW 1701 (2020)
- *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
- *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)
- *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
- *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

- Note, *Defamation and John Does: Increased Protections and Relaxed Standing Requirements for Anonymous Internet Speech*, 2010 BYU LAW REVIEW 1309 (2010)
- Note, *Passive Acknowledgement or Active Promotion of Religion? Neutrality and the Ten Commandments in Green v. Haskell*

## ACADEMIC PRESENTATIONS AND ORGANIZED CONFERENCES

- Speaker, *Rethinking Protections for Indigenous Sacred Sites*, Federalist Society, Georgetown Law School (Oct. 2023)
- Organizer, Inaugural Law & Religion Junior Faculty Conference, University of Notre Dame's Chicago Campus (Oct. 2023)
- Presenter, *The Nature of Constitutional Rights*, Faculty Works-in-Progress, University of Minnesota Law School (Sep. 2023)
- Presenter, *The Nature of Constitutional Rights*, 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, *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**

- Member of the Board of Advisors for the University of Texas Law School Bech-Loughlin First Amendment Center
- Research Associate for the Centre for Constitutional Law and Legal Studies at the University of British Columbia (2022–Present)
- Member of the Steering Committee for the Quill Project at Pembroke College (2020–Present)
- Board Member for the UVU Center for Constitutional Studies (2019–2023)
- Nootbar Fellow; Nootbar Institute for Law, Religion, & Ethics; Pepperdine University Caruso School of Law; Aug. 2020–Present
- Chair for the AALS Law and Religion Section (2021)
- Board Member for Bellwether International (2022–Present)
- Distinguished Wheatley Fellow (2023–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