

## **HERMAN SCHWARTZ**

**September 1994 - date**

### **Activities and Awards**

Panelist National Security and Liberty: Lessons from Israel and the United States, January 31, 2007, Washington, DC

Consultation with USAID – Kosovo on a constitution for Kosovo (telephone, February 2007)

Panelist, The Future of Military Commissions, February 19, 2007, Washington, DC

Awarded the 2006 Champion of Justice Award by the Alliance for Justice (May 16, 2006)

Lecture on Lustration in the West Balkans, Conference on Aftermath of Balkan Wars, sponsored by UNDP, June 2006

Member, Panel of expert advisers to Israeli Knesset Committee on revising the Israeli Constitution, July 31, 2005 - date

Panel lecturer on constitutional courts to Iraqi women, ABA, Washington, D.C. July 22, 2005

Meeting with Palestinian lawyers on constitutional court and related issues, Jerusalem, July 16, 2005

Moderator, Panel on Reporters Privilege at InterAmerican Press Association Conference, Washington, DC, April 13, 2005

Speeches before the Woman's Nat'l Democratic Club, Columbia, Brooklyn and University of Iowa Law Schools on Courts and the Election and before the American Constitution Society, Des Moines Iowa, October 2004

Draft of letter on nomination of Alberto O. Gonzales to be Attorney General of the US for Alliance of Justice and signature by several hundred lawyers, judges, and professors, Dec. 2004

Draft and revision of proposed amendments to Constitution of the Republic of Georgia, October-November 2004

Debate on the Courts and the Election, Association of the Bar of the City of New York, Oct. 12, 2004

Speaker on The Courts and the Election, Cosmos Club, Sept. 9, 2004; Int'l Ass'n of Jewish Lawyers and Judges, Washington D.C. 9/28/04

Analysis and drafting of additional Amendments to Georgian Constitution, Sept.-November 2004

Analysis of proposed Bhutan constitution for Bhutan Crown Prince, May 2004

Comments on transitional regimes at State Department conference on Serbia for new Serbian Ambassador, April 8, 2004, Washington, D.C.

Honored for creation of human rights training program for Israeli lawyers, New Israel Fund dinner, May 10, 2004

Free Speech in the United States, address to conference on Turkey and Human Rights, Ankara, Turkey Feb. 20, 2004

Analysis of proposed Amendments to Georgian Constitution, February. 2004

Interview on FBI, Los Angeles public radio, December 21, 2003

Consultation with State Department on contents of constitutional law journal, Washington, D.C. December 9, 2003; invited to contribute article to journal, Jan. 28, 2004

Jewish Lawyers in American Life, panelist at Cosmos Club, Nov. 4, 2003

The "New Federalism", address at Cosmos Club, Oct. 14, 2003

The Future of Civil Liberties, Harvard College 50<sup>th</sup> Reunion Symposium, June 4, 2003 Cambridge, Mass.

Analysis for World Bank of draft constitution of Kenya and of Ministry of Justice Strategic Plan for Improving Judicial Integrity, May 2003

The Rehnquist Court, addresses to American Constitution Society at Univ. Penn. and Temple Law Schools, April 10, 2003, Philadelphia, Pa.

Justice and Capital Punishment, address at Cosmos Club Symposium on Justice, March 29, 2003

Memos on legislative immunity and "floor crossing" in Republic of Georgia for AID for AID, March 2003

Memo on a constitutional court for Afghanistan for Center on Int'l Cooperation, NYU, February, 2003

Panelist, How Big Is the Constitutional Universe: Discrete National or Global Order, American Association of Law Schools Convention, Jan. 5, 2003

Analysis of proposed amendments to Republic of Kyrgyzstan constitution for National Democratic Institute, December 2002

Lectures on free speech to Turkish Ministry of Justice and law professors on behalf of U.S. State Dept, Istanbul, Nov. 5, 7, 8, 2002.

Lecture on socio-economic rights for World Bank legal staff, Oct. 23, 2002, Washington, D.C.

Co-Chair, Salzburg Seminar Session on Human Rights: The Economic and Social Dimension (forthcoming August) 2003

Analysis of Republic of Kyrgyzstan constitution for National Democratic Institute, September 2002

Memorandum to U.S. Senate Judiciary Committee, The Senate's Right to See Internal Solicitor General Memoranda, June 10, 2002

Analysis of proposed amendments to Republic of Georgia constitution, June 2002 for USAID.

Executive Committee, Board of directors, Open Society Institute legal institute, May 16, 2002- -date

Commencement Speaker, State of NY University at Buffalo Law School, SUNY, May 11, 2002

Fulbright Senior Specialist Lecturer on American law, comparative constitutional law and human rights at South African Law Schools (Cape Town, Western Cape, Stellenbosch, Witwatersrand) as Fulbright Senior Specialist, April 15-30, 2002

Lectures on human rights at Belgrade Human Rights Center seminars for future judges, Belgrade, Serbia March 23,24, 2002

Workshop with Chief Justice, Taiwanese Constitutional Court, Feb. 1, 2002.

Address to the Ron Brown Fellowship Program Washington Workshop on "American Identity and Values after September 11," Jan. 25, 2002.

Numerous public discussions of military tribunals, October 2001 - date.

Presentation on Civil Liberties in Wartime at Woman's National Democratic Club, October 30, 2001, Washington, D.C.

Delivery of paper on forms of judicial review at meeting of constitutional experts in Madrid, Spain, October 19-20, 2001 preparatory to conference of present and former Heads of State and Government.

Vice Chair, Salzburg Seminar Session 390, "International Perspectives on Human Rights", Salzburg, Austria, Aug. 1-9, 2001

Member, Working Group on Constitution Making, Peace Building and National Reconciliation, U.S. Institute of Peace, workshop on Eritrea, May 14, 2001

Preparation of paper for Ford Foundation conference on human rights aspects of democratic transition in Africa and Eastern Europe, Warsaw May 2001

Analysis of proposed amendments to Armenian constitution, March-April 2001

Analysis of proposed amendments to Republic of Georgia constitution, March 2001

Elected Chair, National Law Center on Homelessness and Poverty, January 2001

Appearance on Today show, Oct. 24, 2000 to discuss Supreme Court

Address to World Bank legal staff on constitutional courts in post-Communist Europe since 1989, Washington, Oct. 4, 2000.

Panel member on Rule of Law, Workshop on Central and Eastern Europe: Democracy and Its Alternatives, sponsored by Johns Hopkins University SAIS for State Dept and CIA, Meridian Int'l Center, Washington D.C., Sept. 29, 2000.

Address to Woodrow Wilson Memorial Center on constitutional courts in post-Communist Europe since 1989, Washington, Sept. 14, 2000.

Address and participation in workshop celebrating 5<sup>th</sup> anniversary of Georgian Constitution, Tbilisi Georgia, August 23-25, 2000

- ◆ Advice to Turkish human rights group on legality of detention of members for conspiracy under Turkish law and European Convention of Human Rights. July 26, 2000.
- Pro bono assistance to Oregon Legal Service Fund and to Farm Workers Justice Fund on migrant worker cases including preparation of amicus curiae brief supporting Mexico's appeal from dismissal from law suit challenging discrimination against Mexican farm workers, May 2000, brief filed May 11, 2000.
- Meeting with Indonesian parliamentary leaders at the National Democratic Institute to advise with respect to constitutional amendments, May 5, 2000.
- Analysis of Concept Framework for Amendments to Armenian Constitution, April, 2000.
- Visit to Riga, Latvia to advise on reform of constitutional provisions relating to Constitutional Court of Latvia on behalf of OSCE-ODIHR and the Venice Commission, February 25-26, 2000.
- Address, Cosmos Club, Constitutionalism in Post-Communist Europe, Feb. 22, 2000.
- Presenter on defamation laws and the fight against corruption at Experts' Roundtable: A Hemispheric Approach to Combating Corruption, Washington College of Law, Nov.11, 1999.
- Organization of consortium of Montgomery County community organizations working with the poor, and with Montgomery County Bar Ass'n to provide pro bono legal assistance by WCL students and others.

## **Books**

Right Wing Justice: The Conservative Campaign to Take Over the Courts  
May 2004, Nation Books

Editor and contributor, The Rehnquist Court: Activism on the Right, December 2002,  
Hill and Wang

The Struggle for Constitutional Justice in Post-Communist Europe, June 2000, Univ. of  
Chicago Press.

Editor and Contributor, The Burger Court, 1987 Viking

Packing the Courts, 1988 Scribners

## **Articles**

Potemkin Justice, Legal Times, Nov. 20, 2006

Book Review of misc. books on constitutional law, The Nation, Oct. 30, 2006

Contributions to the *Encyclopedia of American Civil Liberties* on The Burger Court, Rosenberger v. University of Virginia, Saxbe v. Washington Post, 2006

“Cannabis Interruptus,” The Nation Online, posted July 17, 2005

“A Deeply Rooted Revolution,” Legal Times July 11, 2005

“Nuclear Whiner,” American Prospect Online, March 24, 2005

“Welcome Democratic Speech,” Legal Times and Influence, March 7, 2005

“Security and Liberty in an Age of Terrorism,” Cosmos 2004 (January 2005)

“Keep Hurdles for Judges High”, Balt. Sun, May 18, 2005

“Security and Liberty in an Age of Terrorism,” Cosmos Club Magazine (2005)

“Judgeship Nominees - Twisting the Law on Interrogating Detainees,”  
Newsday, Aug. 18, 2004

“Looking for His Next Job? - Recess appointments create judges who  
are still dependent on the political branches,” Legal Times, July 19,  
2004

“Out with Gerrymanders,” The Nation online, July 19, 2004

“Building Blocks for a Constitution,” in Constitutionalism and Emerging Democracies, Issues of Democracy, March 2004 (US Dept of State on-line journal.)

“Lady Day,” Book Review of Sandra Day O’Connor, The Majesty of the Law, The Nation, Aug. 4/11/ 2003

2003 “Internationalizing Constitutional Law,” Human Rights Brief, Winter

“Are The Democrats Treating President Bush’s Judicial Nominees Unfairly No”, Insight Magazine, March 31, 2003

“Out of Jail And Out of Food,” New York Times, March 21, 2002

"Tribunal Injustice," The Nation, Jan. 21, 2002

"These Secret Tribunals Ignore Due Process," Insight on the News, Jan. 28, 2002

“Social Welfare Rights Should Be Constitutional Rights”, in Festschrift for Helmut Steinberger, December 2001

“The Wisdom and Enforceability of Welfare Rights as Constitutional Rights,”  
Human Rights Brief, Winter 2001

“The Supreme Court’s Federalism: Fig Leaf for Conservatives,” in The Supreme Court’s Federalism: Real or Imagined? (ed. Frank Goodman), The Annals of the American Academy of Political Science (March 2001)

“An Out-of-Control Court”, The Nation, March 26, 2001

“The God That Failed,” The Nation, Jan. 1, 2001

Organizer, Guest Editor and contributor, Symposium Issue, "Up for Grabs - the Supreme Court and the Election", The Nation, Oct. 9, 2000

“Food From Their Mouths,” The Nation, July 10, 2000

- “Assault on Federalism Swipes at Women,” Los Angeles Times, May 21, 2000.
- “A Force For Civil Rights Now Fights Them,” Los Angeles Times, March 26, 2000.

- “Why Losing Food Stamps is Now Part of The War on Drugs,” Los Angeles Times, June 6, 1999.
- “Prosecutors: Unleashing the Unstoppable,” Los Angeles Times, March 7, 1999.
- “A Brief History of Judicial Review,” and “Surprising Success: The New East European Constitutional Courts”, in Andreas Schedler, Larry Diamond and Marc Plattner, eds., The Self-Restraining State, 145, 195 (Lynne Rienner 1999).
- “Lustration in Eastern Europe”, in Spanish language law review by University of Navarre, April 1999.
- “General Principles and Human Rights,” 4 Parker Sch. J.E.Eur.L. 357 (1997) (pub. Oct. 1998).
- “East Europe’s Constitutional Courts,” Journal of Democracy, Oct. 1998.
- “The Truth about High Crimes and Misdemeanors,” LA Times, Sept. 27, 1998.
- “O’Connor as a ‘Centrist’? Not When Minorities Are Involved”, L.A. Times, April 12, 1998.
- “The GOP’s Judicial Delays and the Cost to Minorities,” LA Times, February 15, 1998.
- Editor and contributor, “The Judiciary and the Press”, Freedom House (Fall 1997) (published in Russian).
- “One Man’s Activist . . .,” Washington Monthly, November 1997.
- “Should War Criminals Be Tried *In Absentia*? Yes.”, Transitions, October 1997.
- “Going Right By Using States Rights,” LA Times, Oct. 5, 1997.
- “Defending the Defenders of Democracy,” Transitions, July 1997.
- “The War Against Judicial Independence”, L.A. Times, May 11, 1997.
- “Legalizing the Power of One,” Transition, Dec. 13, 1996.
- “Defamation and Democracy”, 3 Parker School J. E.E’pean L. 217 (1996).

- Report on Judicial Independence for ODIHR-CSCE (September 1996).
- "Same Old States' Rights Song," *The Nation*, October 14, 1996.
- "Try Them in Absentia," (with Lloyd Cutler), *Washington Post*, (Aug. 27, 1996) reprinted *Int'l Herald Tribune* (Aug. 29, 1996)
- "The Continuing Struggle of Civil Rights On the High Court", *LA Times*, (June 23, 1996)
- "Access to the Courts" in *Essays in Honor of Justice William J. Brennan* (Spring 1997).
- "Supreme Court Opens New Round in Federal-State Fight", *LA Times* (April 7, 1996).
- "Do Economic and Social Rights Belong In a Constitution?", *10 Am. U. J. Int'l L. & Pol.* 1233 (Summer 1995).
- "Judgment Days", *The Nation*, October 23, 1995.
- "States' Rights Gospel is an Unholy Notion", *Newsday*, June 21, 1995.
- "The Blind Spot in Strict Scrutiny", *LA Times*, June 18, 1995.
- "Lustration in Eastern Europe", *1 Parker School Journal of East European Law* 141 (1994).
- "The Czech Constitutional Court Decision on the Illegitimacy of the Communist Regime", *1 Parker School Journal of East European Law*, 392 (1994).
- "The Constitutional Issue Behind Proposition 187", *Los Angeles Times*, October 9, 1994, Part M, p. 1, revised and reprinted in *At Issue*, *ABA Journal*, March 1995.
- ABA Update--Law-Related Education: Federalism--What Is It, Where Might It Take Us, "Federalism: Importance of the National Government" (Fall 1995).

## **PROFESSIONAL AND EDUCATIONAL BACKGROUND**



January 1, 1982, to date: Professor of Law, Washington College of Law, The American University, specializing in Constitutional Law, Civil Rights, Comparative Constitutional Law, and Economic Regulation (Antitrust and Utility Regulation).

January 1981 to December 31, 1981: Chief Minority Counsel, U.S. Senate Subcommittee on Agency Administration, Judiciary Committee.

September 1979 to December 1980: Chief Counsel and Staff Director, U.S. Senate Subcommittee on Antitrust, Monopoly, and Business Rights, Judiciary Committee.

March 1978 to August 1979: Chief Counsel for Revenue Sharing, Department of the Treasury.

1977-1978: Lecturer on Selected Constitutional Issues, Antioch Law School.

June 1977 to March 1978: Chief Counsel, U.S. Senate Subcommittee on Citizens and Shareholders Rights and Remedies, Judiciary Committee.

August 1975 to May 1976: Chairman, New York State Commission of Correction.

September 1966 to June 1977: Professor of Law, State University of New York at Buffalo School of Law.

1968-1969: Visiting Professor, University of Michigan Law School

Summer 1967: Assistant District Attorney, Erie County, New York.

September 1963 to August 1966: Associate Professor of Law, State University of New York at Buffalo School of Law.

October 15, 1961 to August 1963: Assistant Counsel, United States Senate Subcommittee on Antitrust and Monopoly.

December 28, 1959 to October 15, 1961: Associated with Javits, Moore and Trubin, 375 Park Avenue, New York City.

September 1957 to December 1959: Associated with Kaye, Scholer, Fierman, Hays and Handler, 435 Park Avenue, New York City. (Trade regulation and litigation before the Federal Trade Commission).

September 1956 to September 1957: Law Clerk to Hon. J. Edward Lumbard, U.S. Court of Appeals for the Second Circuit.

Summer, 1956: Edited "Antitrust and Foreign Commerce" by Kingman Brewster, Jr. (McGraw-Hill, 1958).

### **EDUCATION**

HARVARD LAW SCHOOL, LL.B., 1956, magna cum laude

Editor, Harvard Law Review, 1954-56

HARVARD COLLEGE, A.B., 1953, magna cum laude