

**TABATHA ARIANNE ABU EL-HAJ**

- Academic Positions**    Drexel University, Thomas R. Kline School of Law, Philadelphia, PA  
Professor of Law (2020 to present)  
Associate Professor of Law (2012–2020) (tenure awarded 2015)  
Assistant Professor of Law (2009–2012)  
Courses: Constitutional Law, Administrative Law, Legislation & Regulation,  
Law of Democracy
- Awards:  
    Dean’s Research Fellow (2021-2023)  
    Dean Roger J. Dennis Distinction in Teaching Award (2019)
- University of Michigan Law School, Ann Arbor, MI  
Visiting Professor of Law (Fall 2023)  
Courses: Administrative Law, Right of Assembly
- University of Pennsylvania Carey Law School, Philadelphia, PA  
Visiting Professor of Law (Spring 2023)  
Courses: Constitutional Law
- Haverford College, Haverford, PA  
Associate Visiting Professor, Politics Department (Spring 2018)  
Courses: Constitutional Law
- Judicial Clerkships**    The Honorable Harry T. Edwards, United States Court of Appeals for the D.C. Circuit  
Washington, D.C. (2005–2006)
- Education**                New York University, New York, NY  
J.D., *magna cum laude*, January 2004  
PhD, Law and Society, September 2008  
Dissertation: *Changing the People: Transformations in American Democracy (1880–1930)*  
    (Committee: Lewis Kornhauser, William Forbath, Richard H. Pildes)
- Honors:  
    *Order of the Coif*  
    Henry Mitchell MacCracken Fellowship (competitive selection)
- Haverford College, Haverford, PA  
B.A. in Philosophy, *magna cum laude*, May 1994  
Honors: *Phi Beta Kappa* (junior year) and Departmental Honors in Philosophy

**Fellowships**

New York University School of Law, New York, NY

Furman Fellow (Spring 2005, 2008–2009)

Georgetown University Law Center, Washington, DC

Future Law Professor Fellow (2006–2008)

**Publications:**

*Associational Party-Building: A Path to Rebuilding Democracy*, 122 COLUM. L. REV. FORUM 127 (2022) (co-authored with Didi Kuo, Stanford University).

*How the Liberal First Amendment Under Protects Democracy*, 107 MINN. L. REV. 529 (2022)

*Recipient of the 2023 Distinguished Scholarship Award in Election Law by the AALS Section on Election Law*

*Breathing Room for the Right of Assembly*, 28 WM. MARY J. RACE, GENDER & SOC. JUST. 29 (2021)

*Defining Nonviolence as a Matter of Law and Politics*, in PROTEST AND DISSENT: NOMOS LXII (Melissa Schwartzberg, ed. 2020)

*Honored as Downloads of the Year 2019*, Larry Solum, Legal Theory Blog (Jan. 1, 2020)

*Making and Unmaking Citizens: Law and the Shaping of Civic Capacity*, 53 U. MICH. J. L. REFORM 63 (2019)

*The Possibilities for Responsive Party Government*, 119 COLUM. L. REV. FORUM 123 (2019) (reply to Michael Kang)

*Networking the Party: First Amendment Rights & the Pursuit of Responsive Party Government*, 118 COLUM. L. REV. 1225 (2018).

*Response by Michael Kang, The Problem of Irresponsible Party Government*, 119 COLUM. L. REV. FORUM 1 (2019)

*Public Unions Under First Amendment Fire*, 95 WASH. U. L. REV. 1291 (2018)

*“Live Free or Die” — Liberty and the First Amendment*, 78 OHIO ST. L.J. 917 (2017)

*Beyond Campaign Finance Reform*, 57 B.C. L. REV. 1127 (2016)

*Wholly Native to the First Amendment: The Positive Liberty of Self-Government*, 164 U. PA. L. REV. ONLINE 1 (2016)

*Defining Peaceably: Policing the Line Between Constitutionally Protected Protest and Unlawful Assembly*, 80 MO. L. REV. 961 (2015)

*All Assemble: Order and Disorder in Law, Politics, and Culture*, 16 U. PA. J. CONST. L. 949 (2014)

*Friends, Associates, and Associations: Theoretically and Empirically Grounding the Freedom of Association*, 56 ARIZ. L. REV. 53 (2014)

*Linking the Questions: Judicial Supremacy as a Matter of Constitutional Interpretation*, 89 WASH. U. L. REV. 1309 (2012)

*Changing the People: Legal Regulation and American Democracy*, 86 NYU L. REV. 1 (2011).

*Reviewed by Roman Hoyos, On Becoming Relevant: The Role of Legal History in Legal Scholarship* (at

Jotwell)

*The Neglected Right of Assembly*, 56 UCLA L. REV. 543 (2009)

*Cited by* Supreme Judicial Court of Massachusetts in Barron v. Kolenda, 203 N.E. 1125 (March 7, 2023)

*Reprinted in part in* FREEDOM OF ASSEMBLY AND PETITION: ITS CONSTITUTIONAL HISTORY AND THE CONTEMPORARY DEBATE (Margaret M. Russell, ed. 2010)

### Amicus Briefs

Co-Author, Brief of First Amendment Scholars as *Amicus Curiae* in Support of Petitioner, No. 19-1108, *McKesson v. Doe* (2019) (filed April 2020)

Brief of Amicus Curiae Professor Tabatha Abu El-Haj, Superior Court of New Jersey Appellate Division, No. A-3443-21T2, *In re Malinowski* (filed August 2023)

### Executive Appointments

Pennsylvania Redistricting Advisory Council  
Member Sept. 2021–Dec. 2021 (appointed by Governor Wolf)

### Works In Progress

Tabatha Abu El-Haj, Michael Hamilton, Thomas Probert, Sharath Srinivasan (eds.), THE OXFORD HANDBOOK OF PEACEFUL ASSEMBLY (Oxford University Press) (forthcoming 2024).

*Assembly as Political Practice* in THE OXFORD HANDBOOK OF PEACEFUL ASSEMBLY (Tabatha Abu El-Haj, Michael Hamilton, Thomas Probert & Sharath Srinivasan, eds.) (forthcoming 2024).

*Associational Rights of Political Parties* in THE OXFORD HANDBOOK OF AMERICAN ELECTION LAW (Eugene Mazo, ed.) (forthcoming 2023).

*Party-Haters and the Origins of Election Administration in the United States* for DECIPHERING DEMOCRACY: INSTITUTIONAL CHANGE AND POLITICAL PRACTICE IN THE NINETEENTH-CENTURY UNITED STATES (Maggie Blackhawk, Laura Edwards, & Naomi Lamoreaux, eds.) (a historical project supported by the Tobin Project).

### Selected Conferences & Workshops

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|----------------|--|
| January 2024   | Panelist on <i>Legislation, Governance, and Democratic Fragility</i> at the AALS 2024 Annual Meeting, Defending Democracy, January 3–6, 2024. Washington, D.C.                               |
| September 2023 | Panelist on <i>Structural Constraints</i> at the A Convening: Race, Reform, and Multiracial Democracy, Charles Hamilton Houston Institute for Race and Social Justice at Harvard Law School. |
| June 2023      | Participant in the <i>Public Law in the States Conference</i> , State Democracy Research Initiative, University of Wisconsin Law School.   |
| May 2023       | Panelist on <i>Election Law in Transition: A Discussion on Fairness, Integrity, and What's Next</i> at the Third Circuit Bench and Bar Conference. Philadelphia, PA                          |
| May 2023       | Panelist on <i>Countering the Roberts Court's Weaponizing of the First Amendment</i> at the American   |

Constitution Society National Convention 2023, May 18–20, 2023. Washington, D.C.

- April 2023 *Revisiting Timmons v. Twin Cities Area New Party from an Associational Party Perspective* invited paper presented at ‘More Parties, Better Parties’: Building a Stronger Democracy in America, Stanford University’s Center on Democracy, Development, and the Rule of Law (in concert with the Center for Ballot Freedom, New America, Protect Democracy, and Lyceum Labs).
- December 2022–  
January 2023 Co-convenor, Workshops for Oxford Handbook of Peaceful Assembly (five virtual assemblies of international contributors to the Handbook)
- May 2022 Panelists on *Judicial Federalism* at The Pennsylvania Supreme Court at 300: Past, Present and Future. Philadelphia, PA
- February 2022 *Breathing Room for the Right of Assembly*, William & Mary Journal of Race, Gender, and Social Justice Symposium: “The Largest Social Movement: Legal Lessons from the Black Lives Matter Movement.”
- February 2022 *First Amendment Rights in a Changing America*, 2022 Randolph W. Thrower Symposium: First Amendment: Gateway to Social Justice, Emory Law Journal
- November 2021 *How the Liberal First Amendment Under Protects Democracy*, Faculty Workshop, Northwestern Pritzker School of Law.
- October 2021 *Entry Points to Political Empowerment*, Entrenchment and Health Policy, Watson Institute for International and Public Affairs, Brown University (sponsored by the Robert Wood Johnson Foundation).
- October 2021 *Law Enforcement Accountability*, “Protesters’ Rights,” Access & Accountability Conference 2012: Seize the Day, Abrams Institute, Yale Law School, in collaboration with the Media, Freedom & Information Access Clinic, Northwestern Pritzker School of Law.
- April 2021 *How the Liberal First Amendment Under Protects Democracy*, Freedom of Expression Scholars Conference (Ninth Annual), The Information Society Project, Yale Law School.
- March 2021 *How the Liberal First Amendment Under Protects Democracy*, Faculty Workshop, UVA Law School.
- February 2021 *The Law of Protests and the Right to Assembly*, UNC Festival of Legal Learning.
- July 2020 *McKesson v. Doe - A Threat to Free Speech and the Right to Protest?* American Constitution Society, Chicago Chapter.
- June 2020 *After George Floyd: Racism, Human Rights, and Protest in America*, Drexel University, Kline School of Law.
- May 2020 *Politics in the COVID-19 Age: How to Make Democracy Work during the Pandemic*, Civic Dialogue with Amitai Etzioni, sponsored by Institute for Communitarian Policy Studies, George Washington University and the Arena Stage.
- February 2020 *Money and Elections*, COMPAS Conference: Money and American Politics, Center for Ethics and Human Values, Ohio State University.
- February 2020 *Social Activism and the Law*, Annual BLSA Symposium, William and Mary Law School.

- November 2019 Principal organizer, Drexel University Law Review Symposium: “Not Your Father’s First Amendment.”  
*The First Amendment and the Roberts Court’s Retreat from Deference to Legislative Policy Judgments*, Drexel University Law Review Symposium: ”Not Your Father’s First Amendment.”
- March 2019 Invited Discussant, *Political Identity and Campaign Finance*, 13<sup>th</sup> Annual Election Law Symposium, William and Mary Law School.
- February 2019 *Making and Unmaking Citizens: Law and the Shaping of Civic Capacity*, Public Law Workshop, University of Michigan School of Law.
- January 2019 *State of the Two Parties*, Scholars Strategy Network, National Leadership Meeting, January 17–18, 2019, Washington, D.C.
- November 2018 *Law and the Shaping of Civic and Political Capacity*, Faculty Workshop, New York Law School.
- October 2018 *Supreme Court Review*, American Constitution Society, University of Pennsylvania School of Law.
- July 2018 *The Fight Against Partisan Gerrymandering: What’s Next*, Brennan Center for Justice at New York University School of Law.
- March 2018 Invited Paper, *Networking the Party: First Amendment Rights & the Pursuit of Responsive Party Government*, Inaugural National Conference of Constitutional Law Scholars, William H. Rehnquist Center on the Constitutional Structures of Government, University of Arizona James E. Rogers College of Law.
- January 2018 *Public Unions Under First Amendment Fire*, Washington University Law Review Symposium: “The Roberts Court’s First Amendment.”
- October 2017 Author-Meets-Readers, Edward Foley’s *Ballot Battles: The History of Disputed Elections in the United States*, American Society for Legal History, Annual Meeting, Las Vegas, Nevada.
- October 2017 *Networking the Party: First Amendment Rights & the Pursuit of Responsive Party Government*, Faculty Workshop, Rutgers School of Law—Camden.
- August 2017 Commentator, *Competing Theories of Nonviolent Politics* (Karuna Mantena), American Society for Political and Legal Philosophy (NOMOS), Annual Symposium: “Protest and Dissent,” American Political Science Association, San Francisco.  
Special Roundtable: “The Future of Money in Politics Research,” co-sponsored by Demos and the APSA Class and Inequality Section, American Political Science Association, San Francisco.
- April 2017 “Live Free or Die”—*Liberty and the First Amendment*, Freedom of Expression Scholars Conference (Fifth Annual), The Information Society Project, Yale Law School.
- April 2017 *Counterbalancing Elite Interests: Law and the Revitalization of Civic Associations*, Public Law Workshop, Columbia School of Law.
- November 2016 “Live Free or Die”—*Liberty and the First Amendment*, Ohio State Law Journal Symposium: “The Expanding First Amendment.”
- November 2016 *Beyond Campaign Finance Reform*, Haverford College (guest of President’s Office)
- November 2016 *Party Animals: Donkeys vs. Elephants: Is it Time to “Break Up” with America’s Two-Party System?* Pennoni Honors College, Drexel University.
- June 2016 *The Political Value of Cash: Hard to Prove, Harder to Solve*, “Purchasing Power? The Next

- Generation of Research on Money and Politics,” Ford Foundation Convening, New York City.
- May 2016 Invited Facilitator, *Money in Politics Legal Convening*, Co-sponsored by Demos and University of Pennsylvania Law School.
- May 2016 Discussant, *Government Employee Speech vs. Government Employee Religion: A Comparison* (Caroline Mala Corbin), Freedom of Expression Scholars Conference (Fourth Annual), The Information Society Project, Yale Law School.
- April 2016 *Party by Association: Reevaluating the First Amendment Interests of Political Parties in the Context of Campaign Finance*, “Money and the First Amendment,” Keller Center for the Study of the First Amendment and the Byron R. White Center for the Study of American Constitutional Law, University of Colorado, Boulder Law School.
- February 2016 Discussant, *Voting Rights*, Stanford Law Review Symposium: “The Law of Democracy.”
- February 2016 “Wholly Foreign to the First Amendment’?: Political Inequality Forty Years After *Buckley v. Valeo*,” University of Pennsylvania Law School.
- May 2015 Plenary Paper, *Having a Different Conversation about Money and Politics*, Freedom of Expression Scholars Conference (Third Annual), The Information Society Project, Yale Law School.
- April 2015 *Having a Different Conversation about Money and Politics*, Faculty Workshop, Villanova University School of Law.
- February 2015 *Protesting – Responsive and Responsible Expression*, University of Missouri Law Review Symposium: “Policing, Protesting and Perceptions: A Critical Examination of the Events in Ferguson.”
- February 2015 “The Police, The People and Legal Reform,” Africana Studies Program, Drexel University.
- June 2014 Expert Testimony, “Roundtable on Freedom of Peaceable Assembly: Challenges and Good Practice,” Office for Democratic Institutions and Human Rights, Organization for Security and Co-operation in Europe, George Washington University Law School.
- May 2014 Discussant, *Re-Assembling Labor* (Marion Crain and John Inazu), Freedom of Expression Scholars Conference (Second Annual), The Information Society Project, Yale Law School.
- January 2014 “Freedom of Assembly and Religious Liberty,” Liberty Fund Colloquium, Federalist Society, Dallas, Texas.
- May 2013 “Governing Protest,” Law and Society Association Meeting (roundtable).
- Chair, “History of Libel and Privacy in American Law,” Law and Society Association Meeting.
- Chair, “Between Policy and Jurisprudence: The Elements of Judicial Reasoning,” Law and Society Association Meeting.
- May 2013 *Friend Me: Linking the Freedom of Association to the Social Sciences*, First Freedom of Expression Scholars Conference, The Information Society Project, Yale Law School.
- April 2013 *Friend Me: Linking the Freedom of Association to the Social Sciences*, Faculty Workshop, Loyola Law School, Los Angeles.
- February 2013 *Friend Me: Linking the Freedom of Association to the Social Sciences*, Faculty Workshop, Washington College of Law, American University.
- March 2012 *Occupying Public Space: Reclaiming the Constitutional Right to Assemble*, Left Forum Conference, Pace University.

- February 2012 *Friend Me: Linking the First Amendment to the Social Sciences*, Faculty Workshop, Rutgers School of Law—Camden.
- February 2012 *Friend Me: Linking the First Amendment to the Social Sciences*, Faculty Workshop, Suffolk University Law School.
- October 2010 “*Citizens United* and the Changing Political Role of the Corporation,” The Wharton School, University of Pennsylvania.
- September 2010 Constitution Day Symposium, Villanova University School of Law.
- April 2009 Invited Paper, *The Neglected Right of Assembly*, Fourth Annual Constitutional Theory Conference, USC Gould School of Law.

### Publications and Podcasts for Public Audiences:

[\*The Endangered Right to Assemble on Campus\*](#), INSIDE HIGHER ED. (Dec. 14, 2023)

[\*How does the law define political parties?\*](#) POLITICS IN QUESTION? (Lee Drutman, host) (Apr. 14, 2023).

Episode 5.1: [\*How the Liberal First Amendment Under-Protects Democracy with Professor Abu El-Haj\*](#), EXPERTO CREDE (Apr. 2023)

[\*Our Endangered Right to Protest\*](#), WASHINGTON MONTHLY (June 11, 2021).

[\*McKesson v. Doe - Searching for Clarity on Protestors' Rights\*](#), BALKINIZATION.COM (Aug. 10, 2020).

[\*Our Best Bet - Legislating a Robust Right to Peaceably Assemble\*](#), BALKINIZATION.COM (Aug. 11, 2020).

*What Does the Constitutional Right of Assembly Protect? What Counts as “Peaceable”? And Who Should Decide?* JUST SECURITY (June 9, 2020).

*Too Little Hope, Not Enough Gloom*, Symposium on Richard L. Hasen, Election Meltdown: Dirty Tricks, Distrust, and the Threat to American Democracy BALKINIZATION.COM (Mar. 3, 2020).

*Why Strengthening Citizen Ties—Not Unleashing Big Donors—Is the Way to Revitalize U.S. Political Parties*, SCHOLARS STRATEGY NETWORK (Sept. 28, 2018).

[\*How to Empower Non-Wealthy Americans Without Going to Court\*](#), Purchasing Power, Brennan Center for Justice at New York University School of Law (July 18, 2018).

[\*It is not the money. It is what it does.\*](#) Purchasing Power, Brennan Center for Justice at New York University School of Law (June 11, 2018).

*Episode 72: Power in Politics*, SCHOLARS STRATEGY NETWORK: NO JARGON PODCAST (Feb. 22, 2017).

*Just Show Up*, DEMOCRACY: A JOURNAL OF IDEAS (Jan. 31, 2017) (with David Cohen).

[\*The Inevitable Limits of Campaign Finance Reform\*](#), Scholars Strategy Network, Key Findings Brief (September 28, 2016).

*The RNC Will Be a First Amendment Disaster*, SLATE MAGAZINE (July 15, 2016).

*Inconvenient Protests Are the Price of Liberty*, PHILADELPHIA INQUIRER (July 14, 2016).

*Roberts' Court on Path to Do Still More Damage to Our Democracy*, THE HILL, CONGRESS BLOG (Jan. 12, 2016).

*Withdrawal of McConnell's Campaign Finance Rider Only Short-Term Reprieve*, THE HILL, CONGRESS BLOG (Dec. 18, 2015).

*By Undermining Unions, The Roberts Court Will Do Still More Damage to Our Democracy*, BALKINIZATION.COM (Dec. 15, 2015).

*Fundamental Right to Disrupt*, PHILADELPHIA INQUIRER (Aug. 28, 2014).

#### **Book Reviews and Earlier Works:**

*Book Review: The Making of Tocqueville's America: Law and Association in the Early United States*, 103 AM. J. LEGAL HIST. 749 (2016).

*Book Review: The Calligraphic State: Conceptualizing the Study of Society Through Law*, 16 INT'L J. SEMIOTICS L. 443 (2003).

*Armed Conflict: The Protection of Children Under International Law*, 5 INT'L J. CHILD. RTS. 1 (1997) (with Carolyn Hamilton).

#### **Professional Service:**

##### Election Law Blog

Contributor, 2021 to present

##### AALS Election Law Section

Chair 2023

Chair-Elect 2022

Secretary of the Executive Board, 2021

##### AALS Legislation and the Law of the Political Process Section

Chair 2023

Chair-Elect 2022

Member of the Executive Board, 2021

##### Scholars Strategy Network

Member 2016 to present

##### National Lawyers Guild

Member 2011 to present