Michael D. Gilbert

Vice Dean and Perre Bowen Professor of Law University of Virginia 580 Massie Rd. Charlottesville, VA 22903 434-243-8551 | mgilbert@law.virginia.edu

ACADEMIC APPOINTMENTS

University of Virginia School of Law

Vice Dean Perre Bowen Professor of Law Martha Lubin Karsh and Bruce A. Karsh Bicentennial 2021 – present 2024 – present

Professor of Law (three-year research chair)

2023 – present, 2019 – 2022

Sullivan & Cromwell Professor of Law (three-year research chair)

2015 – 2018

Professor of Law 2014 – present

Associate Professor of Law 2009 – 2014

- Courses: Building the Rule of Law, Constitutional Law and Economics, Cryptocurrency Law and Policy, Direct Democracy, Judicial Decision-Making, Law of Corruption, Law and Economics I (private law), Law and Economics II (public law), Legislation, Regulation of the Political Process
- UVA Research Achievement Award (2022); All-University Teaching Award (2020); UVA Student Council Distinguished Teaching Award (2015)

EDUCATION

University of California, Berkeley

Berkeley, CA

Ph.D., Jurisprudence and Social Policy, 2008

- Dissertation: An Economic Analysis of Direct Democracy and the Single Subject Rule
- Committee: Robert Cooter (Chair), Daniel Farber, Rui de Figueiredo, Daniel Rubinfeld
- National Science Foundation Doctoral Dissertation Grant
- Other honors: Chancellor's Dissertation Fellowship, Dean's Normative Time Fellowship, Jurisprudence and Social Policy Fellowship, John M. Olin Fellowship

J.D., 2005

- Order of the Coif (graduated first in law school class)
- Articles Editor, California Law Review
- Riesenfeld Fellow

Tulane University New Orleans, LA

B.S., Economics and Political Science

1999

Graduated summa cum laude, Phi Beta Kappa

J. Ernest Tanner Award, Senior Scholar in Economics

PROFESSIONAL EXPERIENCE

U.S. Court of Appeals for the Ninth Circuit San Francisco, CA Law Clerk, Judge William A. Fletcher 2008 - 2009

World Bank Group Washington, DC Consultant, Doing Business Project 2005

Skadden, Arps, Slate, Meagher & Flom (UK) LLP London, England Summer Associate 2005

Clifford Chance LLP San Francisco, CA Summer Associate

Board of Governors of the Federal Reserve System Washington, DC 1999 - 2002Research Assistant, International Finance Division

Central Intelligence Agency Langley, VA Intern (paid), Directorate of Intelligence 1998

RESEARCH

Rational Gridlock (draft, coauthor: Scott Baker)

Law and Economics for Empaths (draft, coauthor: Andrew T. Hayashi)

Bargaining with Empathy (draft, coauthor: Andrew T. Hayashi)

Enforcement Signals Under Rules and Standards (draft, coauthors: Nicholas Almendares and Rebecca Kerley)

Guardians at the Gates: Poll Worker Retention in a Challenging Election Environment, Election Law Journal (forthcoming 2025) (with coauthors).

<u>Political Corruption</u>, in Oxford Handbook of American Election Law (Eugene D. Mazo ed., Oxford University Press, forthcoming 2024) (coauthor: Deborah Hellman)

<u>Constitutional Law and Economics</u>, Forthcoming in Research Methods in Constitutional Law: A Handbook (Malcolm Langford & David S. Law eds., Edward Elgar) (coauthor: Robert D. Cooter)

• Spanish translation: <u>Derecho Constitucional y Economía</u>, 10 Revista Facultad de Jurisprudencia 294 (2021)

Acuerdos para La Verdad, in *Derecho y Economía: Debates Contemporáneos, 3rd edition* (Rubén C. B. Méndez Reátegui ed., Tirant Lo Blanch, 2024)

<u>Truth Bounties: A Market Solution to Fake News</u>, 102 North Carolina Law Review 509 (2024) (coauthor: Yonathan Arbel)

• Featured on Kimberly Krawiec's Taboo Trades Podcast, July 10, 2023

PUBLIC LAW & ECONOMICS, Oxford University Press, 2022 (coauthor: Robert D. Cooter)

• Featured on unSILOed Podcast with Greg LaBlanc 421

Conflicts Among Rights: An Economic Approach, 9 Revista Facultad de Jurisprudencia 67 (2021)

• Spanish translation: Un enfoque económico de los conflictos de Derechos, in *Derecho y Economía: Debates Contemporáneos* (María Alexandra Ortiz Cabrera & Rodrigo Barcia Lehmann eds., Tirant Lo Blanch, 2022)

Constitutional Locks, 19 International Journal of Constitutional Law 865 (2021) (coauthors: Mauricio Guim and Michael Weisbuch)

• Special Mention Prize for an outstanding article published in volume 19 of the *International Journal of Constitutional Law*

<u>Do Good Citizens Need Good Laws? Economics and the Expressive Function</u>, 22 *Theoretical Inquiries in Law* 153 (2021) (coauthor: Andrew T. Hayashi)

Spanish translation: Teoría General del Derecho Economía y Función Expresiva, in *Derecho y Economía: Debates Contemporáneos*, 2nd edition, Vol. III (Rubén C. B. Méndez Reátegui ed., Tirant Lo Blanch, 2024)

Conflict Avoidance in Constitutional Law, 107 Virginia Law Review 1 (2021) (coauthor: Charles Barzun)

Active Virtues, 98 Washington University Law Review 857 (2021) (coauthor: Mauricio Guim)

Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study, 73 *Political Research Quarterly* 439 (2020) (with coauthors)

Polling Place Quality and Access, in *The Future of Election Administration* 83-100 (Mitchell Brown, Kathleen Hale, & Bridgett A. King eds., Palgrave, 2019) (with coauthors)

The Law and Economics of Entrenchment, 54 Georgia Law Review 61 (2019)

Insincere Evidence, 105 Virginia Law Review 1115 (2019) (coauthor: Sean Sullivan)

Transparency and Corruption: A General Analysis, 2018 University of Chicago Legal Forum 117 (2018)

Pedagogical Value of Polling-Place Observation by Students, 51 *PS: Political Science & Politics* 831 (2018) (with coauthors)

Contributions and Corruption: Restoring Aggregate Limits in the States, in Democracy by the People: Reforming Campaign Finance in America 328-343 (Timothy K. Kuhner & Eugene D. Mazo eds., Cambridge University Press, 2018)

Entrenchment, Incrementalism, and Constitutional Collapse, 103 Virginia Law Review 631 (2017)

Aggregate Corruption, 104 Kentucky Law Journal 651 (2016) (coauthor: Emily Reeder)

 Prepared for symposium entitled Issues in the 2016 Election, March 25, 2016, University of Kentucky

The Coordination Fallacy, 43 Florida State University Law Review 399 (2016) (coauthor: Brian Barnes)

 Prepared for symposium symposium entitled The Law of Democracy at a Crossroads: Reflecting on Fifty Years of Voting Rights and the Judicial Regulation of the Political Thicket, Mar. 27-28, 2015, Florida State University

<u>Insincere Rules</u>, 101 Virginia Law Review 2185 (2015)

The Problem of Voter Fraud, 115 Columbia Law Review 739 (2015)

- Reprinted in Civil Rights Litigation and Attorney Fees Annual Handbook (Steven Saltzman ed., Vol. 31, 2016)
- Featured in Dahlia Lithwick, <u>Voter ID Laws May Worsen Voter Fraud</u>, Slate (September 11, 2014)

Disclosure and Corruption, 14 Election Law Journal 148 (2015) (coauthor: Benjamin Aiken)

Judicial Independence and Social Welfare, 112 Michigan Law Review 575 (2014)

Campaign Finance Disclosure and the Information Tradeoff, 98 Iona Law Review 1847 (2013)

<u>Interpreting Initiatives</u>, 97 Minnesota Law Review 1621 (2013)

• Prepared for symposium entitled A More Perfect Union? Democracy in the Age of Ballot Initiatives, Oct. 26, 2012, University of Minnesota

Disclosure, Credibility, and Speech, 27 Journal of Law and Politics 627 (2012)

 Prepared for symposium entitled Disclosure, Anonymity, and the First Amendment, Oct. 29, 2011, University of Virginia

<u>Does Law Matter?</u> Theory and Evidence from Single Subject Adjudication, 40 Journal of Legal Studies 333 (2011)

Direct Democracy, Courts, and Majority Will, 9 Election Law Journal 211 (2010)

• Book review of Kenneth P. Miller, Direct Democracy and the Courts (2009)

Reply to Hasen and Matsusaka, 110 Columbia Law Review Sidebar 59 (2010) (coauthor: Robert Cooter)

A Theory of Direct Democracy and the Single Subject Rule, 110 Columbia Law Review 687 (2010) (coauthor: Robert Cooter)

<u>Less Can Be More: Conflicting Ballot Proposals and the Highest Vote Rule</u>, 38 *Journal of Legal Studies* 383 (2009) (coauthor: Joshua Levine)

Single Subject Rules and the Legislative Process, 67 University of Pittsburgh Law Review 803 (2006)

ADDITIONAL WRITING

What Election Law Can Learn From Law & Economics, Election Law Blog (May 25, 2023)

Forward to Rubén Méndez Reátegui and Óscar Sumar Albujar, Regulatory Countertrend (Tirant Humanidades, 2022)

The Redistricting Amendment Will Strengthen Democracy in Virginia, Richmond Times-Dispatch 17A (January 30, 2020) (with Rebecca Green and Alex Keena)

For Campaign Finance Violators, Crime Pays, Take Care (April 24, 2019) (with Samir Sheth)

<u>Super PACs and the Market for Data</u>, Harvard Law Review Blog (November 2, 2018) (with Samir Sheth)

Disclosure Can Encourage Political Speech, The Hill (October 21, 2016) (with Abby K. Wood)

Why Proof of Citizenship Won't Improve Election Integrity, JURIST – Forum (October 3, 2016)

ADDITIONAL TEACHING

Diplomado Internacional en Derecho Público y Economía

2024

Organized by Universidad Católica de Cuenca, Universidad Javeriana de Colombia, Universidad Autónoma de Chile, and the Latin American and Caribbean Law and Economics Association (ALACDE)

Paris 2 Panthéon-Assas University

Visiting Professor of Law

2024, 2022

Roadmap Scholars Program

University of Virginia

2023, 2022

Universidad Torcuato di Tella

Visiting Professor of Law

2022, 2021, 2020

University of Nevada, Reno

Visiting Professor of Law, Judicial Studies Program

2021, 2016

Young African Leader Initiative

James Madison's Montpelier

2017

University of Münster, Germany

Visiting Professor of Law

2015

University of California, Berkeley

Graduate Student Instructor

2003 - 2006

Outstanding Graduate Student Instructor Award

PROFESSIONAL SERVICE

Referee

American Law and Economics Review, American Politics Research, California Law Review, Cambridge University Press, Columbia Law Review, Constitutional Political Economy, Election Law Journal, Harvard Law Review, Journal of Empirical Legal Studies, Journal of Law and Courts, Journal of Politics, Law & Social Inquiry, Regulation and Governance, University of Chicago Law Review, Virginia Law Review, Yale Law Journal

University of Virginia Law School

Vice Dean (2021 – present)

Academic and Professional Standards Committee (Chair, 2021 – present)

Ad Hoc Committee on Generative AI (Chair, 2023 – 2024)

Appointments Committee (2020 – present; Chair, 2020 – 2021; 2016 – 2017; 2014 – 2015)

Clinical Search Committee (Chair, 2022 – 2023; chair, 2019)

Center for Public Law and Political Economy (Director, 2020 – 2022)

Tenure Committee (2022 – 2023; 2019 – 2020; 2017 – 2018)

Faculty Retreat and Workshops Committee (Chair 2018 – 2019; 2010 – 2011)

Law & Economics Committee (Co-Chair, 2017 – 2019)

Ad Hoc Committee on Centers (2018)

Ad Hoc Teaching Load Committee (2015 – 2017)

Curriculum Committee (2015 – 2016)

Graduate Program Committee (2015 – 2016)

Admissions Committee (2014 – 2015)

Empirical Legal Studies Committee (2010 – 2011; 2012 – 2014)

Academic Placement Committee (2011 – 2012)

Graduation Writing Awards Committee (2011)

Order of the Coif Committee (2009 – 2010)

University of Virginia

Committee on Evaluating Teaching (2022 – 2023)

Data Analytics Working Group (2022 – 2023)

Interfolio Faculty Focus Group (2023)

Strategic Research Infrastructure Initiative (Co-Chair, Communication Working Group, 2022 – 2023)

CLEAR: UVA Corruption Lab on Ethics, Accountability, and the Rule of Law (2018 – 2022)

Research Computing Working Group (2021)

Institute of Democracy's Post-Election "War Room" (2020)

Leadership in Academic Matters (2016)

Other Service

Member, Convergencia Network, Universidad Autonoma de Chile (2023 – present)

Member, Academic Committee, <u>El Instituto de Análisis Económico del Derecho</u>, Universidad de Palermo (2023 – present)

Member, Dissertation Committee of Dean Manuel García-Mansilla, Universidad Austral (2023)

External Researcher, Research Group on Economic Law, Institutional Competitiveness, Innovation, Development, Jurimetrics and Public Policies (GIDE PUCE), Pontificia Universidad Católica del Ecuador (2021 – 2022)

Election Officer, City of Charlottesville (2020 – present)

SELECTED PRESENTATIONS

2024

"Law and Economics with Empathetic Agents"

- Harvard Law School (Oct.)
- Stanford Law School (Oct.)
- Berkeley Law School (Apr.)
- Université Paris-Panthéon-Assas (Mar.)

"Public Law and Economics"

- Grupo de Investigación Convergencia, Universidad Autónoma de Chile (June, remote)
- Latin American and Caribbean Law and Economics Association (ALACDE), Universidad Católica de Santiago de Guayaquil (June, remote)

Speaker on panel to celebrate Professor Robert Cooter

• Economics and Politics Research Group and Graduate Program in Economics, University of Brasilia (June, remote)

"Truth Bounties: A Market Solution to Fake News"

• Law and Technology Colloquium, UVA Law School (Feb.)

2023

"Public Law and Economics"

- Latin American Workshop in Law and Economics, University of Brasilia (Nov., remote)
- Universidad Austral (Oct.)
- Peking University Law School (May, remote)

"Law and Economics for Empaths"

- American Law & Economics Association, Boston University (June)
- ComplianceNet Conference, American University (June)

"Truth Bounties: A Market Solution to Fake News"

• Latin American and Caribbean Law and Economics Association (ALACDE), Pontificia Universidad Javeriana de Colombia (Oct.)

"Transparency, Corruption, and Electoral Systems"

• Universidad Austral (Oct.)

Commentator on Thomas Bennett, "Breaking Kayfabe"

Judicial Decision-Making: A Symposium, Washington University School of Law (Sept.)

"Enforcement Signals Under Rules and Standards"

• Max Planck Institute for Research on Collective Goods (June, remote)

"Do Good Citizens Need Law?"

VII Congreso Internacional de Regulación y Consumo, Universidad Autónoma de Chile (May, remote)

2022

"Truth Bounties: A Market Solution to Fake News"

- Université Paris-Panthéon-Assas (Nov.)
- Midwest Law and Economics Association, University of Chicago (Oct.)
- Maryland Carey Law Virtual Constitutional Law and Economics Workshop (Sept.)

Commentator on Yonathan Arbel, "The Credibility Effect: Defamation Law and Audiences"

• Conference on Empirical Legal Studies, University of Virginia (Nov.)

Speaker on panel titled The Importance of Constitutional Emotions for a Democratic Polity,

• International Association of Constitutional Law, Córdoba, Argentina (Aug.)

"Political Corruption"

Workshop for the Oxford Handbook of American Election Law (Aug., remote)

"Conflict Avoidance in Constitutional Law"

• Conference on Judging Hard Cases, University of Virginia School of Law (May)

"Justice, Constitutional Courts, and Economics"

• GIDE-PUCE, Pontificia Universidad Católica del Ecuador (May, remote)

"Law for Angels"

Maryland Carey Law Virtual Constitutional Law & Economics Workshop (Apr.)

2021

"Information and Compliance"

• Pontificia Universidad Católica del Ecuador (Dec., remote)

"Law for Angels"

• Keynote, Latin American and Caribbean Law and Economics Association (ALACDE) (Oct., remote)

"Enforcing Rules versus Enforcing Standards"

• ComplianceNet Conference (June, remote)

"Conflicts Among Rights: An Economic Approach"

• GIDE-PUCE/BeLatin Seminar, Universidad Científica del Sur (June, remote)

2020

"Conflict Avoidance in Constitutional Law"

- Workshop in Law, Economy, and Regulation, Universidad Torcuato di Tella (Oct., remote)
- Maryland Carey Law Virtual Workshop in Constitutional Law and Economics (May)

"Election 2020: The Aftermath" (with William Antholis, Melody Barnes, Sidney Milkis, and Janet Napolitano)

• Miller Center, University of Virginia (Nov., remote)

"Do Good Citizens Need Good Laws? Economics and the Expressive Function"

• Symposium entitled How Law Changes What You Want: Positive and Normative Effects of Law on Values and Preferences, Berkeley Law School (Feb.)

2019

"Public Law & Economics"

 Latin American Workshop on Law and Economics, Instituto Tecnológico Autónomo de México (Nov.)

"Corruption and Anti-Corruption 101: An Open Discussion with the CLEAR Lab Faculty"

• Miller Center, University of Virginia (Nov.)

"Impeachment, Bribery, and Corruption" (with Deborah Hellman)

• University of Virginia (Oct.)

"Insincere Evidence"

- Political Economy and Public Law Conference, Princeton University (June)
- American Law & Economics Association, NYU (May)
- University of Chicago Law School (Feb.)
- Duke Law School (Jan.)

"Promoting Transparency and Accountability in Government"

• Center for the Constitution, James Madison's Montpelier (Mar.)

2018

"Insincere Evidence"

- University of Michigan Law School (Nov., remote)
- Law & Society Association, Toronto, Canada (June)

Commentator on Ronald Krotoszynski, "Do Words Matter?: The Limited Relevance of Constitutional Text to Securing the Freedom of Speech"

• Comparative Constitutional Law Roundtable, James Madison's Montpelier (Oct.)

"Active Justices: A Portfolio Theory of Supreme Court Power"

- ICON-S Conference, Hong Kong (June)
- UVA Law School (June)

• Constitutional Law Colloquium, University of Illinois Champaign-Urbana (Apr.)

"Optimal Entrenchment of Legal Rules"

• American Law & Economics Association, Boston University (May)

Commentator on Jeffrey K. Staton et al., "Appointment Rules and Gender Diversity on High Courts"

• Comparative Constitutional Law Roundtable, George Washington University (Mar.)

2017

"Optimal Entrenchment of Legal Rules"

- Comparative Constitutional Law Roundtable, James Madison's Montpelier (Oct.)
- University of San Diego Law School (Sept.)
- George Mason University (Apr.)
- Berkeley Law School (Feb.)

"Public Law and Economics"

- Universidad Espiritu Santo, Guayaquil, Ecuador (Nov.)
- Universidad San Francisco, Quito, Ecuador (Nov.)

"Law and Business"

 Congreso Internacional de Ciencias de la Empresa, Universidad Espiritu Santo, Guayaquil, Ecuador (Nov.)

"Transparency and Corruption: A General Analysis"

• University of Chicago Legal Forum (Nov.)

"Elections in America"

• University of Virginia (June)

2016

"Optimal Entrenchment of Legal Rules"

- Political Economy and Public Law Conference, Cornell Law School (June)
- UVA Law School (June)

Speaker on panel titled "Legislative Privilege"

• Virginia Coalition for Open Government, James Madison's Montpelier (Dec.)

"Entrenchment, Incrementalism, and Constitutional Collapse"

• UVA Law School (June)

Commentator at symposium entitled "Democracy By the People: Reforming Campaign Finance in America Today"

• Seton Hall Law School (Apr.)

"Aggregate Corruption"

• Symposium entitled Issues in the 2016 Election, University of Kentucky (Mar.)

2015

"The Coordination Fallacy"

• Symposium entitled The Law of Democracy at a Crossroads: Reflecting on Fifty Years of Voting Rights and the Judicial Regulation of the Political Thicket, Florida State University (Mar.)

2014

"Insincere Rules"

- UVA Law School (Nov.)
- American Law & Economics Association, University of Chicago (May)
- Berkeley Law School (Feb.)

"The Problem of Voter Fraud"

- American Constitution Society Scholars' Schmooze, Washington, DC (June)
- Midwest Political Science Association, Chicago, IL (Apr.)
- Constitutional Law Schmooze, University of Maryland (Feb.)
- Symposium entitled The Voting Wars: Elections and the Law from Registration to Inauguration, University of Virginia (Mar.)

Commentator on Lynda W. Powell, *The Influence of Campaign Contributions in the Legislative Process*, and Raymond La Raja, "Campaign Finance and Partisan Polarization"

• Symposium entitled The Future of Campaign Finance Reform, Duke Law School (Feb.)

2013

"Campaign Finance Disclosure and the Information Tradeoff"

• American Law & Economics Association, Vanderbilt University (May)

Speaker on panel entitled "Disclosure—What Should Be Disclosed, When, By Whom?"

• Conference sponsored by the Center for the Constitution at Montpelier entitled Can Campaign Finance Be Reformed? (May)

"Judicial Independence and Social Welfare"

• Georgetown Law Center (Apr.)

2012

"Judicial Independence and Social Welfare"

• Tel Aviv University School of Law (Dec.)

Commentator on Brandice Canes-Wrone, Jason Kelly, and Tom Clark, "Judicial Selection and Death Penalty Decisions"

• Conference on Empirical Legal Studies, Stanford University (Nov.)

"Campaign Finance Disclosure and the Information Tradeoff"

- Midwest Law & Economics Association, Washington University (Oct.)
- UVA Law School (Sept.)

"Interpreting Initiatives"

• Symposium entitled A More Perfect Union? Democracy in the Age of Ballot Initiatives, University of Minnesota (Oct.)

Commentator on Douglas Spencer and Abby Wood, "Citizens United, States Divided: Evidence of Elasticity in Independent Expenditures"

• Political Economy and Public Law Conference, University of Virginia (May)

Commentator on David S. Law and Mila Versteeg, "Sham Constitutions"

• UVA Law School (Jan.)

2011

"Disclosure, Credibility, and Speech"

• Symposium entitled Disclosure, Anonymity and the First Amendment, UVA Law School (Oct.)

"Judicial Independence and Social Welfare"

- Political Economy and Public Law Conference, Harvard Law School (June)
- American Law & Economics Association, Columbia Law School (May)
- UVA Law School (Mar.)

2010

"Does Law Matter? Theory and Evidence from Single Subject Adjudication"

- Georgetown Law Center (Nov.)
- JSP Dissertation Colloquium, Berkeley Law School (Oct.)
- American Law & Economics Association, Princeton University (May)

Commentator on Robert Cooter and Neil S. Siegel, "Taxes, Regulations, and Health Care: Part II of Collective Action Federalism"

 Rational Choice and Constitutional Law Conference, University of Chicago School of Law, (Sept.)

Commentator on Thomas J. Miles, "Racial Disparities in the Allocation of Wiretap Applications across Federal Judges"

• Law and Economics of Criminal Law, University of Virginia (Mar.)

2008 - 2009

Presentation on Congressional redistricting

• Miller Center of Public Centers, University of Virginia (Oct.)

"Does Law Matter? Theory and Evidence from Single Subject Adjudication"

 Between October 2008 and February 2009, I presented this paper at workshops at Berkeley, Boston University, University of Chicago, Duke University, Hastings College of the Law, New York University, University of Pennsylvania, University of Southern California, University of Virginia, and Washington University.

2007

"Less Can Be More: Conflicting Ballot Proposals and the Highest Vote Rule"

- American Law & Economics Association, Harvard Law School (May)
- Western Political Science Association, Las Vegas, NV (Mar.)

2006

Speaker on panel entitled Judges Overruling the Electorate?: The Single Subject Rule

• Federalist Society's National Lawyers Convention, Washington, DC (Nov.)

"Political Questions in International Law"

• Law & Society Association, Baltimore, MD (July)

"Chaos, Direct Democracy, and the Single Subject Rule"

- American Law & Economics Association, U.C. Berkeley (May)
- Law & Economics Workshop, Berkeley Law School (Feb.)

2005

"Single Subject Rules and Public Choice Theory"

• Workshop on Strategic Theory of the U.S. Constitution, Berkeley Law School (Aug.)