



AMERICAN
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On October 7, 2005, The American Constitution Society's *The Constitution in the 21st Century* project hosted "[War, Terrorism, and Torture: Limits on Presidential Power in the 21st Century](#)," a symposium at Indiana University School of Law. The event was the inaugural symposium for the project's Separation of Powers and Federalism issue group and will be the subject of an issue of the *Indiana Law Review* in Spring 2006. Speakers included a number of leading academics and practitioners, including:

- **Harold Koh**, Dean, Yale Law School;
- **Louis Fisher**, Congressional Research Service;
- **Dawn Johnsen**, Indiana University School of Law;
- **Neil Kinkopf**, Georgia State University College of Law;
- **Martin Lederman**, Georgetown University Law Center;
- **Catherine Powell**, Fordham University School of Law;
- **Deborah Pearlstein**, Human Rights First;
- **Nina Pillard**, Georgetown University Law Center;
- **Saikrishna Prakash**, University of San Diego School of Law; and
- **Christopher Schroeder**, Duke University School of Law

Addressing a standing room-only crowd, Dean Koh offered a powerful keynote asking whether the Commander-in-Chief can be the "Torturer-in-Chief." Earlier in the day, in a major substantive address, Professor Kinkopf contrasted the unitary executive theory maintained by the Bush administration with the vision of collaboration among the branches of government articulated by Justice Jackson in *the Steel Seizures* cases. Panelists also questioned in depth the legality of the administration's interrogation and detention policies since 9/11. [Streaming video has been made available online for each of the symposium's various events.](#)

Going forward, *The Constitution in the 21st Century* project is already planning major symposia for some of its other issue groups, including a symposium for the Criminal Law issue group at Harvard Law School in Spring 2006; a symposium on Access to Justice sponsored by the issue group of the same name; a conference at Vanderbilt University Law School in Fall 2006 focused on the use of history in constitutional interpretation and sponsored by the Constitutional Interpretation and Change issue group; and a symposium on federalism at Duke Law School in Fall 2006 sponsored by the Separation of Powers and Federalism issue group.

In addition, ACS has distributed several substantive white papers in recent months, including:

- In "[The Merits of the Proposed Journalist-Source Privilege](#)," Professor Geoffrey Stone argues that federal legislation establishing a journalist-source privilege is essential to a robust, free press and a democratic society. Professor Stone discusses the reasons for legal privileges generally, assesses state laws that provide qualified and absolute journalist-source privileges, and addresses difficult questions about how exactly to frame such a privilege.
- Professor Erwin Chemerinsky wrote "[John Roberts and the Establishment Clause and the Role of the Religious Test Clause in the Confirmation Process](#)," in which he argues that the Chief Justice's writings as a lawyer in the Reagan administration reflected the views of a previously four-Justice minority who would "radically change the law of the establishment clause of the First Amendment." He also refutes the suggestion that considering Roberts' views during the confirmation process would represent an unconstitutional religious test for public office.
- In "[The Confirmation Hearings of Justice Ruth Bader Ginsburg: Answering Questions While Maintaining Judicial Impartiality](#)," Kristina Silja Bennard offers an insight into the precedent offered by Justice Ginsburg's testimony for Senators preparing for Supreme Court confirmation hearings. The report examines the extent to which then-nominee Ginsburg provided substantive answers to Senators' questions exploring her judicial philosophy. While some pundits have claimed that Senators are not authorized to inquire about a nominee's judicial philosophy, the Ginsburg hearings suggest otherwise. Bennard establishes, for example, that Justice Ginsburg answered questions about current and controversial legal issues with candor, including questions about her personal views on contentious social issues, her judicial methodology and her approach to constitutional and statutory interpretation.

Finally, ACS received favorable media attention from several outlets in 2005, including: [The Boston Globe](#); [The Pittsburgh Post-Gazette](#); [The American Prospect](#); [Media Matters for America](#); and [National Public Radio](#).