

June 2025

**DAVID B. FROOMKIN**

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**ACADEMIC APPOINTMENTS**

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**University of Houston Law Center**, Assistant Professor of Law, 2024-  
Affiliated Faculty, Department of Political Science.

**EDUCATION**

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**Yale University**, Ph.D. (Political Science), 2024.  
Dissertation: “Structuring Democracy”  
Committee: Ian Shapiro (chair), Hélène Landemore, Seyla Benhabib  
Awarded Departmental Distinction and University Distinction  
Fields: Political Theory, American Politics, Political Economy

**Yale Law School**, J.D., 2022.

**Yale University**, M.A., M.Phil. (Political Science), 2019.

**Columbia University**, B.A. (History), *cum laude*, 2015.  
John Jay Scholar

**HONORS**

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Leonard D. White Award, American Political Science Association, 2025. Awarded for the best doctoral dissertation in the field of public administration.

**TEACHING**

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Current: Elections and the Law of Democracy (Fall 2024), Criminal Law (Spring 2025),  
Constitutional Design (Spring 2025)

Additional: Administrative Law, Constitutional Law, Legislation, Separation of Powers

**PUBLICATIONS**

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Loper Bright’s *Disingenuity* (with Cary Coglianese), 174 UNIVERSITY OF PENNSYLVANIA LAW  
REVIEW \_\_\_\_ (forthcoming, 2025).

*Taking Stock of Property Essentialism*, 67 ARIZONA LAW REVIEW \_\_\_\_ (forthcoming, 2025),  
available at <https://papers.ssrn.com/abstract=4708880>.

*The Second Coming of the Second Section: The Fourteenth Amendment and Presidential Elections* (with Eric Eisner), 56 ARIZONA STATE LAW JOURNAL 127 (2024), available at [https://arizonastatelawjournal.org/wp-content/uploads/2024/05/Froomkin\\_Pub.pdf](https://arizonastatelawjournal.org/wp-content/uploads/2024/05/Froomkin_Pub.pdf).

*Saving Democracy from the Senate* (with A. Michael Froomkin), 2024 UTAH LAW REVIEW 397 (2024), available at <https://dc.law.utah.edu/ulr/vol2024/iss2/5/>.

*The Nondelegation Doctrine and the Structure of the Executive*, 41 YALE JOURNAL ON REGULATION 60 (2024), available at <https://www.yalejreg.com/print/the-nondelegation-doctrine-and-the-structure-of-the-executive/>.

Selected as an Administrative State Lunch Club reading, Mar. 7, 2022.

*The New Authoritarianism in Public Choice* (with Ian Shapiro), 71 POLITICAL STUDIES 776 (2023), available at <https://doi.org/10.1177/00323217211041893>.

Reprinted in UNCOMMON SENSE (Ian Shapiro ed., 2024).

*Democracy* (with Robert A. Dahl and Ian Shapiro), ENCYCLOPEDIA BRITANNICA (June 30, 2023), <https://www.britannica.com/topic/democracy>.

*Algorithmic Accountability: The Need for a New Approach to Transparency and Accountability when Government Functions Are Performed by Algorithms* (with Chloe Francis, Eli Pales, Karen Sung, and Kataeya Wooten) (January 18, 2022), available at [https://law.yale.edu/sites/default/files/area/center/mfia/document/algorithmic\\_accountability\\_report.pdf](https://law.yale.edu/sites/default/files/area/center/mfia/document/algorithmic_accountability_report.pdf).

Received Mitchell W. Pearlman Freedom of Information Award from the Connecticut Foundation for Open Government.

## BOOK MANUSCRIPT

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**Title:** *Madison's Mistake: Restoring the Separation of Powers*

**Abstract:** This book develops a theory of the separation of powers as distinct from—and indeed antithetical to—the traditional idea of checks and balances. I argue that the principle of separation of powers requires legislative supremacy, such that the legislature must have adequate control over the subordinate branches in order to prevent separation of powers from devolving into checks and balances. I also argue that the separation of powers enables a synthesis of competitive democracy and deliberative democracy, because the site of competitive democracy is the legislature while the appropriate site of deliberation is the administrative process. I theorize deliberative procedure as a distinctive mechanism of accountability, and I argue that constitutional due process contributes to this form of accountability—indeed, that due process contributes to accountability more effectively than current innovations in constitutional law that have focused on strengthening presidential control of administration. In the course of developing these arguments, I engage with the legacy of Madison (to some extent as mediated by Robert Dahl) in democratic theory. The analysis has implications for important current debates in democratic theory and institutional design, concerning the separation of powers, presidential power, and the scope of judicial review.

## WORKING PAPERS

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*The Vesting Clauses and the Presidential Veto*, available at <https://papers.ssrn.com/abstract=4242238>.

*The Death of Administrative Law*, available at <https://papers.ssrn.com/abstract=4466397>.

*Officers* (with Eric Eisner), available at <https://papers.ssrn.com/abstract=5029416>.

*The President's Duty to Commission Officers*, available at <https://papers.ssrn.com/abstract=5041401>.

*The Substitution Clause* (with Eric Eisner), available at <https://papers.ssrn.com/abstract=5083505>.

*Presidency Exceptionalism*, available at <https://papers.ssrn.com/abstract=5223409>.

*"Any Office or Public Trust under the United States": The Scope of the No Religious Test Clause* (with Eric Eisner).

*Due Process and Democratic Process: Elysian Administrative Law*.

## POPULAR WRITING

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"The Constitution Does Not Speak for Itself" (with Eric Eisner), HISTORY NEWS NETWORK (Apr. 1, 2025), <https://www.hnn.us/article/the-constitution-does-not-speak-for-itself>.

"Textual Tensions in the Vesting Thesis," THE REGULATORY REVIEW (Oct. 21, 2024), <https://www.theregreview.org/2024/10/21/froomkin-textual-tensions-in-the-vesting-thesis/>.

"How the 14th Amendment Prevents State Legislatures from Subverting Popular Presidential Elections" (with Eric Eisner), THE CONVERSATION (Aug. 29, 2024), <https://theconversation.com/how-the-14th-amendment-prevents-state-legislatures-from-subverting-popular-presidential-elections-232970>.

## PRESENTATIONS

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"Presidency Exceptionalism," Theories of Administrative Law Workshop, University of Cincinnati College of Law, June 14, 2025.

"The President's Duty to Commission Officers," 2025 National Conference of Constitutional Law Scholars, University of Arizona College of Law, Mar. 28, 2025.

"Presidency Exceptionalism," Global Summit on Constitutionalism, University of Texas School of Law, Mar. 21, 2025.

“The Death of Administrative Law,” Touro Law Center Colloquium, Feb. 12, 2025.

“The Death of Administrative Law,” Association of American Law Schools Section on Administrative Law 2025 New Voices Panel, Jan. 11, 2025.

“The President’s Duty to Commission Officers,” Association of American Law Schools Section on Constitutional Law 2025 New Voices Panel, Jan. 8, 2025.

“Officers” (with Eric Eisner), Fifteenth Annual Constitutional Law Colloquium, Florida State University College of Law, Nov. 16, 2024.

“The President’s Duty to Commission Officers,” University of Houston Law Center Faculty Workshop, Sept. 13, 2024.

“Deliberative Administration,” American Political Science Association 2024 Annual Meeting, Sept. 5, 2024.

“Due Process and Democratic Process,” International Association on Regulation & Governance Inaugural Conference, University of Pennsylvania Carey Law School, June 17, 2024.

“Due Process and Democratic Process,” ABA Section on Administrative Law and Regulatory Practice 2024 Spring Conference, May 9, 2024.

“Due Process and Democratic Process,” Yale Political Theory Workshop, May 3, 2024.

“Structure and Democracy,” Yale Political Theory Workshop, Nov. 1, 2023.

“Structure and Democracy,” New England Political Science Association 2023 Annual Meeting, Apr. 21, 2023.

“The Site of Deliberation,” Yale Political Theory Workshop, Apr. 14, 2023.

“Commodification and Redistribution,” Philosophy, Politics, and Economics Society 2022 Annual Meeting, Nov. 4, 2022.

“The New Authoritarianism in Public Choice,” Philosophy of Science for the Study of Politics Seminar, Yale University, Oct. 26, 2022 (invited talk).

“Fixing the Senate” (with A. Michael Froomkin), University of Miami Legal Theory Workshop, Oct. 3, 2022.

“Hobbesian Libertarianism,” Yale Political Theory Workshop, Feb. 1, 2022.

“The New Authoritarianism in Public Choice,” Philosophy of Science for the Study of Politics Seminar, Yale University, Nov. 17, 2021 (invited talk).

“The Most-Affected Principle,” American Political Science Association 2021 Annual Meeting, Oct. 3, 2021.

“The Constitution’s Inadequate Protection of One Person, One Vote,” Graduate Student Constitution Day Discussion, Yale University, Sept. 21, 2021 (invited talk).

“The Site of Deliberation,” New England Political Science Association 2021 Annual Meeting, Apr. 24, 2021.

“Democratic Accountability and the Legal Process,” New England Political Science Association 2021 Annual Meeting, Apr. 23, 2021.

“Fixing the Senate: A User’s Guide” (with A. Michael Froomkin), American Constitution Society Constitutional Law Scholars Forum, Mar. 26, 2021.

“Democracy and Epistemic Free-Riding,” Political Theory Student Workshop, Yale University, Oct. 29, 2020.

“Democratic Accountability and the Legal Process,” American Political Science Association 2020 Annual Meeting, Sept. 10, 2020.

“Democratic Accountability and the Legal Process,” Political Theory Workshop, Yale University, Apr. 14, 2020.

“The New Authoritarianism in Politics and Public Choice” (with Ian Shapiro), American Political Science Association 2018 Annual Meeting, Aug. 30, 2018.

“The New Authoritarianism in Public Choice” (with Ian Shapiro), Yale Political Theory Workshop, Feb. 14, 2018.

“Ideology as Epistemic Free-Riding,” New England Political Science Association 2017 Annual Meeting, Apr. 22, 2017.

“The New Authoritarianism in Public Choice” (with Ian Shapiro), Midwest Political Science Association 2017 Annual Meeting, Apr. 8, 2017.

## **EXPERIENCE**

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Admitted to the New York Bar, July 3, 2024.

Teaching Fellow, PLSC 214: Politics of American Public Policy, Yale University, Spring 2024.  
Guest lecture: “Election Law and Electoral Reform,” Apr. 22, 2024.

Instructor (with Ian Shapiro), PLSC 383: Designing and Reforming Democracy, Yale University, Fall 2023 (syllabus of my own design).

Teaching Fellow, PLSC 118: Moral Foundations of Politics, Yale University, Fall 2021.

Teaching Fellow, PLSC 254: Political Parties in the American System, Yale University, Fall 2020.

Teaching Fellow, PLSC 118: Moral Foundations of Politics, Yale University, Spring 2020.

Teaching Fellow, PLSC 114: Introduction to Political Philosophy, Yale University, Fall 2019.  
Guest lecture: “Hobbes’s Libertarianism,” Oct. 14, 2019.

Summer Associate, Morrison & Foerster, Washington, DC, 2019.

Grader, PLSC 343: Equality, Yale University, Spring 2017.

Research Assistant, Professor Hélène Landemore, Department of Political Science, Yale University, 2016-2017.

Research Assistant, Professor Seyla Benhabib, Department of Political Science, Yale University, 2016.

Research Assistant, Professor Samuel Moyn, Department of History, Columbia University, 2014.

## **AFFILIATIONS**

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Research Fellow, Center for Private Law, Yale Law School, 2022-2024.

Fellow, Information Society Project, Yale Law School, 2018, 2021.

## **SERVICE**

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Reviewer, PERSP. ON POL., 2024; AM. J. POL. SCI., 2020, 2021, 2022; EUR. POL. SCI. REV., 2017.

Convener, Jon Elster Reading Group, 2022; Jeremy Waldron Reading Group, 2019; Jon Elster Reading Group, 2017-2018; Political Theory Student Workshop, 2017.

Conference Organizer, “The Crisis of Democracy,” Yale University, Jan. 25-26, 2018;  
“Rethinking Democracy for the 21<sup>st</sup> Century,” Yale University, Mar. 31, 2017.

Workshop Coordinator, Political Theory Workshop, Yale Department of Political Science, 2017-2018; Center for Historical Enquiry in the Social Sciences (CHESS) Workshop, Yale University, 2016-2017.

JD Student, Media Freedom and Information Access Clinic, Yale Law School, 2018, 2021.

Student Liaison, Hiring Committee, Yale Department of Political Science, 2019.