

Stephen J. Schnably

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Legal Employment

1988- Professor of Law, University of Miami School of Law
date: Professor since 1994; Associate Professor, 1988-1994

Courses taught: U.S. Constitutional Law I & II, Property, International Human Rights Law, Comparative Constitutional Law, Advanced International Human Rights Practice, International Law

Significant Law School Committee and Other Administrative Service: Chair, Appointments Committee, 2016-17; Chair, Promotion & Tenure Committee, 2014-15; Member, ABA Self-Study Committee, 2013-14; Member, Promotion & Tenure Committee, 2012-13; Chair, Laterals Committee, 2010-11; Promotion, Tenure & Review Reporter, 2005-09, 2011-14, 2016-17; Budget and Enrollment Modeling for Dean and Provost, Summer 2008; Member, Ad Hoc Strategic Planning Committee, 2007-08; Member, Ad Hoc Building Committee, 2007-08; drafted law school self-study for ABA site visits, 2000, 2007; Member, Law School Goals Committee, 1995-96

University Service: Faculty Senator, 2015-2018, 2008-09, 1999-2000; Faculty Senate Committees: General Welfare Committee (2017-18), Committee on Rank, Salary, and Conditions of Employment (2015-18), Committee on Professional Conduct (2009-15), Ad Hoc Committee on Privacy (2012-18), Chair, Ad Hoc Committee on Professional Conduct Committee Procedures (2011), Ad Hoc Committee on Post-Tenure Review (2002-03); Law School Dean Search Committee, 2008-09; University Information Technology Advisory Committee, 2000-05

Current Student Service: Faculty Advisor to International Law Society, Disability and Mental Health Law Society

2000- Associate Dean, University of Miami School of Law

2005: Responsible for academic functions, including curriculum and course schedule, faculty teaching and research support, adjunct faculty. Oversaw Registrar and Dean of Students Offices, graduate programs, and summer abroad programs. Worked with student government on general student concerns. Served on all faculty committees.

Supervised administrative departments including budget, information technology, facilities, admissions and recruiting, personnel, financial aid, career planning, and CLE.

Liaison with University departments including General Counsel's Office, Business Services, Facilities Administration, Human Resources, and Physical Plant.

Represented Law School at alumni, student, and community events; advised Dean on Law School and University matters; acted as needed in Dean's absence.

1984- Associate, Wilmer, Cutler & Pickering, Washington, D.C. (now Wilmer Cutler Pickering Hale and Dorr LLP)
1988:

Primarily engaged in general commercial litigation, international arbitration and transactions, foreign relations law, federal consumer credit law, and human rights law, including *Spadafora v. Panama*, Resolution No. 25/97, Case 9726 (Int.-Am. CHR)

1981- Chambers of Hon. Leonard I. Garth, United States Circuit Judge

1982: United States Court of Appeals for the Third Circuit. Law clerk to Judge Garth.

Education

Fellowship: Frank Knox Memorial Fellowship, 1982-1983
Awarded by Harvard University for study at University College, Oxford

Legal: Harvard Law School, Cambridge, Massachusetts
J.D. *magna cum laude*, 1981
Activities: Harvard Law Review; Note Editor, Vols. 91 and 94

College: Harvard College, Cambridge, Massachusetts
A.B. *cum laude*, 1976 (economics)

Publications

The Transformation of Human Rights Litigation: The Alien Tort Statute, the Anti-Terrorism Act, and JASTA, 24 U. MIAMI INT. & COMP. L. REV. (forthcoming 2017)

Going Rogue: *Stop the Beach Renourishment* as an Object of Morbid Fascination (with Mary Doyle), 64 HASTINGS L.J. 83 (2012)

Comment: The Lessons of International Human Rights Law for the Protection of Foreign Investors, 42 U. MIAMI INT.-AM. L. REV. 275 (2011)

Emerging International Law Constraints on Constitutional Structure and Revision: A Preliminary Appraisal, 62 U. MIAMI L. REV. 417 (2008)

The OAS and Constitutionalism: Lessons from Recent West African Experience, 33 SYRACUSE J. INT'L LAW & COMMERCE 263 (2005)

“Constitutionalism and Democratic Government in the Inter-American System,” in Brad R. Roth and Gregory Fox, eds., *DEMOCRATIC GOVERNANCE AND INTERNATIONAL LAW* 155-98 (Cambridge University Press, 2000)

Alejandro v. The Republic of Cuba, 92 AMER. J. INT'L L. 768 (1998)

Francisco Forrest Martin, Stephen J. Schnably, et al., *INTERNATIONAL HUMAN RIGHTS LAW & PRACTICE: CASES, TREATIES AND MATERIALS* (1997; 2d ed. 2005)

Rights of Access and the Right to Exclude: The Case of Homelessness, in *PROPERTY LAW ON THE THRESHOLD OF THE 21ST CENTURY* 553-72 (G.E. van Maanen & A.J. van der Walt, eds., Institute for Transnational Research, 1996)

The Santiago Commitment as a Call to Democracy in the United States: Evaluating the OAS Role in Haiti, Peru, and Guatemala, 25 U. MIAMI INT.-AM. L. REV. 393 (1994)

The Santiago Commitment and the New World Order, in *SISTEMA INTER-AMERICANO PARA LA PROTECCIÓN DE LOS DERECHOS HUMANOS: APORTES PARA UNA EVALUACIÓN* 248-263 (Instituto Latinoamericano de Servicios Legales Alternativos 1994)

The Judicial Process in Context, in *TRANSITION TO DEMOCRACY IN LATIN AMERICA: THE ROLE OF THE JUDICIARY 175-183* (Irwin P. Stotzky ed., 1993)

Schnably, *Property and Pragmatism: A Critique of Radin's Theory of Property and Personhood*, 45 *STAN. L. REV.* 347 (1993)

Beyond Griswold: Foucauldian and Republican Approaches to Privacy, 23 *CONN. L. REV.* 861 (1991)

The First ICSID Conciliation: Tesoro Petroleum Corporation v. Trinidad and Tobago, 1 *ICSID REVIEW: FOREIGN INVESTMENT L.J.* 340 (1986) (with Lester Nurick); *reprinted in 2 ICSID REPORTS* (Rosemary Rayfuse, ed., and E. Lauterpacht, consulting ed., 1994)

Normative Judgment, Social Change, and Legal Reasoning in the Context of Abortion and Privacy, 13 *N.Y.U. REV. OF LAW & SOCIAL CHANGE* 715 (1984-1985)

Comment, *Federal Courts' Supervisory Powers to Exclude Evidence Unlawfully Seized from Third Parties: United States v. Payner*, 94 *HARV. L. REV.* 187 (1980)

Note, *Defendant Class Actions*, 91 *HARV. L. REV.* 630 (1978)

In Progress

Immodest Deference: The Supreme Court and Extraordinary Legislation

The Temporal Problem in Declarations of Non-Self-Execution: A New Approach to Judicial Enforcement of the International Covenant on Civil and Political Rights in Juvenile Justice Cases

External Construction of Constitutions: Lessons from Honduras and the Ivory Coast

Non-Legal Publications

Schnably, *How the Lottery Educates Us*, *Miami Herald*, April 8, 1990, at 6C

Schnably, *Among States, Florida to Play Key Role in Shaping Abortion Laws*, *Miami Review*, July 31, 1989, at 6

Schnably and Bocalandro, *A Murder and What It Says About Panama*, *Miami Herald*, August 2, 1987, at 1C

Conferences and Other Presentations

Moderator, *The Boundaries of Free Speech/Beyond the Borders: An International Evaluation of Free Speech*, University of Miami International & Comparative Law Review & International Law Society, Feb. 26, 2015

"International Human Rights Law in the U.S.," Presentation, "Human Rights Advocacy in the U.S.: A Training for Attorneys, Organizers and Other Public Interest Practitioners in the

Greater Miami Area” (Joint Project of American University Center for Human Rights and & Humanitarian Law and University of Miami Human Rights Clinic), Aug. 16, 2013

“Hate Crimes: A Global Perspective,” Panel Discussion, “Modern Hate Crimes: Sikh Temple Tragedy and Beyond,” University of Miami School of Law, April 8, 2013

“What Is It About Judicial Conservatives and Beaches? The Effort to Expand Takings Law after *Lingle v. Chevron USA*,” Faculty Legal Theory Workshop, University of Miami School of Law, November 9, 2011 (with Mary Doyle)

“Relativism and the Rule of Law in BITs” (Commentary), *The Human Element: The Impact of Regional Trade Agreements on Human Rights and the Rule of Law* (University of Miami Inter-American Law Review Symposium), Coral Gables, Florida, February 26, 2011

“The Temporal Problem in Declarations of Non-Self-Execution: A New Approach to Judicial Enforcement of the International Covenant on Civil and Political Rights in Juvenile Justice Cases,” ASIL International Law in Domestic Courts Interest Group Annual Workshop, U “Genealogies and Activism: The Significance of the History of Human Rights for Lawyers and Activists” (Presentation at roundtable presented jointly by University of Miami History Department and Law School), Coral Gables, Florida, April 6, 2009

Moderator, “The Inter-American Commission on Human Rights” (University of Miami Inter-American Law Review Symposium on “Righting Wrongs? The Inter-American System of Human Rights after 50 Years”), Coral Gables, Florida, March 3, 2009

“International Law and Executive Power: A View from Togo and Nicaragua,” (University of Miami Law Review Symposium on “Article II: The Uses and Abuses of Executive Power”), Coral Gables, Florida, February 2007

“The OAS and Constitutionalism,” American Society of International Law (panel on “Democratic Norms and Regional Stability: Global Challenges and Responses in the Americas”), Washington, D.C., April 1, 2005

“Three Paths to Legitimacy: The WTO Dispute Settlement Process & Human Rights” (Commentary), Presentation for the Ariel F. Sallows International Human Rights Conference, University of Saskatchewan School of Law, November 3, 2001

“Incorporating International and Comparative Law into First-Year Property Courses,” Presentation for panel sponsored by Innovations in Teaching International Law Interest Group, American Society of International Law, Washington, D.C., March 25, 1999 (remarks summarized in Proceedings of the 93rd Annual Meeting of the American Society of International Law 359 (1999))

“The Role of Property Concepts in Institutional Reform Litigation,” Presentation at the AALS Annual Meeting, Property Section, New Orleans, January 9, 1999

“Using International Human Rights Law in Death Penalty Cases,” Presentation to the Florida Public Defender’s Office for CLE Credit, December 6, 1996

“Rights of Access and the Right to Exclude” (paper presented at an International Colloquium on Property Law on the Threshold of the 21st Century, University of Limburg, Maastricht, Aug. 30, 1995)

“Safe Zones and Invisibility in *Pottinger v. City of Miami*” (paper presented at Law and Society Association, Toronto, June 2, 1995)

“The Brady Bill and the Tenth Amendment” (speech to Daughters of the American Revolution, Miami, FL, Sept. 17, 1994)

“Author Meets Reader: Margaret Jane Radin, Reinterpreting Property” (paper presented at Law and Society Association, Phoenix, June 16, 1994)

Speaker, “Regional Collective Action: The OAS and the Haitian Problem” (paper presented at St. Thomas University School of Law, Miami, FL, April 19, 1993)

“Open Door v. Ireland” (brief summary and analysis of European Court of Human Rights decision on right to information about abortion under the European human rights convention, Women in International Law Interest Group, American Society of International Law, Newsletter, January 1993)

Commentator, “The Judicial Process in Context” (paper presented at the conference on “Transition to Democracy in Latin America: The Role of the Judiciary,” University of Miami, March 19-22, 1992)

Speaker, “The Santiago Commitment and the New World Order: Preliminary Thoughts on Their Significance for Democracy and Human Rights in the Americas” (paper presented at the Workshop on the Evaluation of the Inter-American System of Human Rights, sponsored by the Instituto Latinoamericano de Servicios Legales Alternativos (ILSA), Bogota, Colombia, Oct. 19-22, 1991)

Consulting and Pro-Bono Matters

Cooperating Attorney, ACLU, in *Pottinger v. City of Miami*, 810 F. Supp. 1551 (S.D. Fla. 1992), regarding City of Miami’s effort to modify the 1998 consent decree in the case (2013-present)

Consultant to Scenic Miami regarding land use and municipal code issues, 2012-2013

Affidavit on International Human Rights Law, *United States v. K.* (United States District Court for the District of Columbia), Misc. No. 10-404 (HHK), August 2010. Submitted affidavit on international human rights law in case challenging “direct transfer” statute permitting trial of juvenile as adult at prosecutor’s sole discretion

Comments of the University of Miami School of Law Center for the Study of Human Rights in Support of the Proposed Amendment to Rule 8.100, Florida Rules of Juvenile Procedure (submitted in *In Re: Amendments to the Florida Rules of Juvenile Procedure (Three-Year Cycle)*, Case No. SC09-141, April 1, 2009)

Consultant to New Orleans Public Defenders, *State of Louisiana v. Reggie Douglas*, 2009. Advising Office on international human rights law issues relating to state “direct file” provision enabling trial of juveniles as adults and to the imposition on juveniles of sentences of life imprisonment without possibility of parole

Consultant to Public Defender’s Office for Miami-Dade County, *In Re: Reassignment and Consolidation of Public Defender’s Motions to Appoint Other Counsel in Unappointed Non-capital Felony Cases*, 11th Judicial Circuit, Case No. 08-1, Nov.-Dec. 2008. Advising Office on international human rights law issues relating to the effect of under funding of the Office on the provision of adequate representation to indigent defendants

Consultant to Public Defender’s Office for Miami-Dade County, *State of Florida v. Hernandez*, 2008-2009. Advising Office on international human rights law issues relating to the imposition on a juvenile of a sentence of life imprisonment without possibility of parole

Consultant to Public Defender’s Office for Miami-Dade County, *State of Florida v. Chaddock* (11th Judicial Circuit, Criminal No. B07-2219), Feb.-Aug. 2008. Advised Office on constitutional issues relating to challenge to Miami-Dade County ordinance restricting residence of registered sex offenders

Affidavit on International Human Rights Law, *United States v. Hernan Melendez* (Superior Court of the District of Columbia, Criminal No. 2007 CF1 2478), August 2007. Submitted affidavit on international human rights law in case challenging “direct transfer” statute permitting trial of juvenile as adult at prosecutor’s sole discretion

Expert Witness on International Human Rights Law, *State of New Mexico v. David Garcia* (Third Judicial District Court, CR 2005-422), April 2007. Testified as expert witness on international human rights law in case challenging “direct transfer” statute permitting trial of juvenile as adult at prosecutor’s sole discretion

Consultant for Public Defenders Offices for Miami-Dade County, Broward County, West Palm Beach, Florida, and Las Cruces, New Mexico on International Human Rights Law Aspects of the Practice of Routinely Shackling Juveniles for Pre-trial Court Appearances, 2006-2007. Submitted affidavits in motions challenging the practice

Cooperating Attorney, ACLU, 1994-2000, in *Pottinger v. City of Miami*, 810 F. Supp. 1551 (S.D. Fla. 1992), settled after appeal, Oct. 1, 1998. Co-operating attorney for ACLU in case raising issues under the Fourth, Fifth, and Eighth Amendments, the right to travel, and other constitutional provisions. District Court’s order required City to refrain from deliberately harassing homeless people, and to set aside “safe zones” where homeless people would be protected from arbitrary arrest and other harassment. Settlement Agreement creates police protocol limiting power to arrest homeless people for misdemeanor offenses arising from innocent, life-sustaining conduct (*e.g.*, eating, sleeping) that homeless people must carry on in public, establishes an Advisory Committee to monitor compliance, and provides for awards of up to \$1,500 per person to each homeless person who was wrongly arrested or had property destroyed

Expert Witness on International Human Rights Law, *Alejandro v. Republic of Cuba*, 996 F. Supp. 1239 (S.D. Fla. 1997). Testified as expert witness on international human rights law in case seeking damages against Cuba for shooting down two civilian aircraft over international waters, killing four people

Of Counsel, *Alliance of Descendants of Texas Land Grants v. United States*, 27 Fed. Cl. 837 (1993), *aff'd*, 37 F.3d 1478 (Fed. Cir. 1994) (Fed. Cir. 1994). Advised plaintiffs' lawyers in Washington, D.C., and Corpus Christi, Texas, on the relationship between the Fifth Amendment and international law governing claims settlement; case stemmed from the United States' taking of Texas lands granted to plaintiffs' ancestors by the Mexican and Spanish governments, and its subsequent attempt to settle the land takings claims by means of treaty with Mexico in 1941

Counsel to International Human Rights Law Group, Washington, D.C., December 1991-January 1992. Advised Law Group on possible lawsuit against Gen. Antonio Noriega under the federal Alien Tort Claims Statute; visited Panama to meet with special prosecutor investigating murder of Hugo Spadafora on Noriega's orders, and with head of the Panamanian government agency in charge of recovering Noriega's assets

Counsel to International Human Rights Law Clinic, Washington College of Law, American University, Fall 1991. Advised Law Clinic on presentation of Case No. 10,026 to the Inter-American Commission on Human Rights; case concerned the Noriega regime's firing of judges in Panama in violation of the American Convention on Human Rights

Counsel to Panamanian Law Firm, Fall 1990. Advice on the applicability to the U.S. invasion of Panama of Fourth Geneva Convention on the Treatment of Civilians in Time of War, U.S. War Powers Resolution, and other legal provisions

Professional Affiliations and Memberships

Member, American Bar Association; Affiliate Member, Florida Bar

Admitted to practice, District of Columbia, 1981; U.S. Courts of Appeals for the Third, Eleventh, and Federal Circuits; U.S. District Court for the District of Columbia; U.S. Court of Federal Claims