

We the People

150TH ANNIVERSARY OF THE 14TH AMENDMENT

CONFERENCE PROGRAM
APRIL 23RD, 2018

LDF
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NATIONAL CONSTITUTION CENTER



Presented in Partnership by:

The Thurgood Marshall Institute of the
NAACP Legal Defense and Educational Fund, Inc.
&
The National Constitution Center

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Agenda

- 1:00 p.m. – 2:00 p.m.** **Introductory remarks**
Provided by James Cadogan, Sherrilyn Ifill, and Jeffrey Rosen
- Panel #1: The Story of the 14th Amendment and America’s “Second Founding”**
Speakers: Allen Guelzo, Martha Jones, Kurt Lash, and Darrell Miller
Moderator: Jeffrey Rosen
- 2:00 p.m. – 2:05 p.m.** BRIEF BREAK
- 2:05 p.m. – 3:05 p.m.** **Panel #2: Reconstruction, America’s “Second Founding,” and Public Memory**
- Speakers: Eric Foner, Kate Masur, and Thavolia Glymph
Moderator: Sherrilyn Ifill
- 3:05 p.m. – 3:15 p.m.** BRIEF BREAK
- 3:15p.m. – 4:30 p.m.** **Panel #3: *150 and Beyond* – Debating the 14th Amendment**
- Speakers: Randy Barnett, Garrett Epps, Earl Maltz, Janai Nelson and Kimberly West-Faulcon
Moderator: Laura Ulrich
- 4:30 p.m. – 5:00 p.m.** BRIEF BREAK
- 5:00 p.m. – 6:00 p.m.** **Keynote: *The 14th Amendment at 150* – A Conversation with Eric H. Holder, Jr.**
Speakers: Eric H. Holder Jr., Sherrilyn Ifill, Jeffrey Rosen



Amendment XIV to the U.S. Constitution

SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

SECTION 3

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.



Introductory Remarks

SHERRILYN IFILL

NAACP Legal Defense Fund



Sherrilyn Ifill, President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (LDF), began her legal career first as a fellow at the American Civil Liberties Union and became an assistant counsel in LDF's New York office, where she litigated voting rights cases. In 1993, Ifill joined the faculty of the University of Maryland School of Law, where, in addition to teaching Civil Procedure, Constitutional Law and a variety of seminars, she continued to litigate and consult on a broad and diverse range of civil rights cases.

From her base in Baltimore, Ifill emerged as a highly regarded national civil rights strategist and public intellectual whose writings, speeches, and media appearances enrich public debate about a range of political and civil rights issues. Ifill is the immediate past Chair of the Board of U.S. Programs at the Open Society Institute, one of the largest philanthropic supporters of civil rights and social justice organizations in the country. She is a graduate of Vassar College and received her J.D. from New York University School of Law.

JEFFREY ROSEN

National Constitution Center



Jeffrey Rosen is the President and Chief Executive Officer of the National Constitution Center. Rosen became President and CEO in 2013 and has developed the Center's acclaimed Interactive Constitution, which brings together the top conservative and liberal legal scholars in America to discuss areas of agreement and disagreement about every clause of the Constitution.

Rosen is also professor at The George Washington University Law School and a contributing editor of *The Atlantic*. He is the author of six books including, most recently, a biography of William Howard Taft, published as part of the American Presidents Series. Rosen is a graduate of Harvard College; Oxford University, where he was a Marshall Scholar; and Yale Law School.

**JAMES A. A. CADOGAN***Thurgood Marshall Institute, LDF*

James A. A. Cadogan is the Director of the Thurgood Marshall Institute (TMI), the research and advocacy arm of the NAACP Legal Defense and Educational Fund, Inc. (LDF). At TMI, he oversees a team of lawyers, organizers, archivists, and fellows in support of LDF's racial justice mission.

Before joining LDF, Cadogan served eight years in the Obama Administration, most recently at the U.S. Department of Justice as Counselor to Attorney General Loretta Lynch.

Previously, Cadogan held positions as Senior Counselor and Director of Policy and Planning in the DOJ's Civil Rights Division; and as Counsel to the Assistant Attorney General in the DOJ's Civil Division. Cadogan began his career in 2006 as a litigation associate at Cravath, Swaine & Moore LLP. He received an A.B. from Princeton University and a J.D. from Columbia Law School.

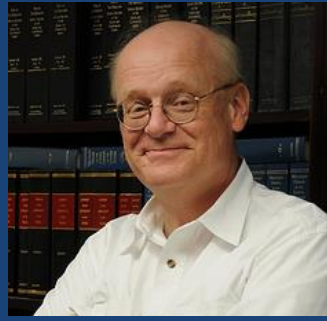


Panel 1: The Story of the 14th Amendment and America's "Second Founding"

Leading legal scholars and historians, **Allen Guelzo**, **Martha Jones**, **Kurt Lash**, and **Darrell Miller**, discuss the story of Reconstruction, with a focus on the intellectual origins, drafting, ratification, and original understanding of the 14th Amendment; the "forgotten Founders" who fought for its ratification and sought to make its promise a reality; and why this key period can be thought of as America's "Second Founding." **Jeffrey Rosen**, President and CEO of the National Constitution Center, moderates.

ALLEN C. GUELZO

Gettysburg College



Allen C. Guelzo is the Henry R. Luce Professor of the Civil War Era, and Director of Civil War Era Studies at Gettysburg College. He is the author of *Abraham Lincoln: Redeemer President*, which won the Lincoln Prize for 2000, *Lincoln's Emancipation Proclamation: The End of Slavery in America*, which won the Lincoln Prize for 2005, and *Lincoln and Douglas: The Debates That Defined America*, which won the Abraham Lincoln Institute Prize for 2008.

In September 2005, he was nominated by President Bush to the National Council on the Humanities, and in December, was awarded the Medal of Honor of the National Society of the Daughters of the American Revolution. He is a Non-Resident Fellow of the W.E.B. DuBois Institute at

Harvard University and a Research Scholar at the McNeil Center for Early American Studies at the University of Pennsylvania.

MARTHA JONES

John Hopkins University



Professor Martha S. Jones is the Society of Black Alumni Presidential Professor and Professor of History at Johns Hopkins University. She was a founding director of the Michigan Law School Program in Race, Law & History and a senior fellow in the Michigan Society of Fellows.

Jones is a legal and cultural historian whose interests include the study of race, law, citizenship, slavery, and the rights of women. She holds a Ph.D. in history from Columbia University and a J.D. from the CUNY School of Law. Prior to joining the Michigan faculty, she was a public interest litigator in New York City and a Charles H. Revson Fellow on the Future of the City of New York at Columbia University. Her work has been supported by the American Council of Learned Societies, the National

Humanities Center, the National Constitution Center, and the Gilder-Lehrman Institute of American History.

**KURT LASH**

*Richmond Program on the
American Constitution*



Professor Kurt Lash teaches and writes about constitutional law. Founder and director of the Richmond Program on the American Constitution, Professor Lash has published widely on the subjects of constitutional law and constitutional history, including *The Fourteenth Amendment and the Privileges or Immunities of American Citizenship* (Cambridge University Press, 2014), *The Lost History of the Ninth Amendment* (Oxford University Press, 2009), and *The American First Amendment in the Twenty-first Century: Cases and Materials* (with William W. Van Alstyne) (5th ed., Foundation Press, 2014). An elected member of the American Law Institute, his work has appeared in numerous legal journals including the *Stanford Law Journal*, *Georgetown Law Journal*, *Virginia Law Review*, and *Notre Dame Law Review*. He has been a visiting professor at Northwestern University School of Law and is the former director of the University of Illinois College of Law Program in Constitutional Theory, History, and Law.

DARRELL MILLER

*Duke University School of
Law*



Darrell Miller writes and teaches at Duke University School of Law in the areas of civil rights, constitutional law, civil procedure, state and local government law, and legal history. His scholarship on the Second and Thirteenth Amendments has been published in leading law reviews such as *Yale Law Journal*, *University of Chicago Law Review*, and the *Columbia Law Review*, and has been cited by the Supreme Court of the United States, the United States Courts of Appeals, the United States District Courts, and in congressional testimony and legal briefs.

Before coming to Duke, he taught at the University of Cincinnati College of Law where he twice received the Goldman Award for Excellence in Teaching. Prior to joining the academy, he practiced complex and appellate litigation in Columbus, Ohio. He is a former clerk to Chief Judge R. Guy Cole, Jr. of the United States Court of Appeals for the Sixth Circuit.

Miller graduated cum laude from Harvard Law School and served as an editor of the *Harvard Law Review*. In addition to his law degree, Miller holds degrees from Oxford University, where he studied as a Marshall Scholar, and from Anderson University.



Panel 2: Reconstruction, America's "Second Founding," and Public Memory

Eric Foner, **Kate Masur**, and **Thavolia Glymph** discuss the struggle over Reconstruction in American public memory, including the battle over how best to memorialize our nation's past through landmarks, monuments, and historic sites. **Sherrilyn Ifill**, President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc., moderates.

ERIC FONER

Columbia University



Eric Foner, DeWitt Clinton Professor of History, specializes in the Civil War and Reconstruction, slavery, and 19th-century America. He is one of only two persons to serve as President of the Organization of American Historians, American Historical Association, and Society of American Historians. He has also been the curator of several museum exhibitions, including the prize-winning "A House Divided: America in the Age of Lincoln," at the Chicago Historical Society. His book, *The Fiery Trial: Abraham Lincoln and American Slavery* won the Pulitzer, Bancroft, and Lincoln prizes for 2011. His latest book is *Gateway to Freedom: The Hidden History of the Underground Railroad*.

KATE MASUR

Northwestern University



Kate Masur is an historian of the United States. Examining the intersections of law, politics, and everyday life, her scholarship explores how Americans grappled with questions of race and equality after the abolition of slavery in both the North and South. She is author of *An Example for All the Land: Emancipation and the Struggle over Equality in Washington, D.C.* (2010) and numerous articles on emancipation and black politics during and after the Civil War. With Gregory P. Downs, she recently co-edited *The World the Civil War Made* (2015), a collection of essays that charts new directions in the study of the post-Civil War Era.

She has also worked with the National Park Service (NPS) on projects related to the era of Reconstruction. She was part of the editorial team that created *Reconstruction: The Official National Park Service Handbook*, and she and Downs co-authored *The Era of Reconstruction, 1861-1900, a National Historic Landmark Theme Study*. They also wrote about their NPS work in *The Atlantic Online* and *The New York Times*.

**THAVOLIA GLYMPH***Duke University*

Thavolia Glymph is professor of Southern and nineteenth-century history at Duke University and the John Hope Franklin Visiting Professor of American Legal History at Duke Law School. She also holds appointments as a Faculty Research Scholar in the Duke Population Research Institute (DuPRI) and a Faculty Affiliate in the Program in Gender, Sexuality, and Feminist Studies. Her book *Out of the House of Bondage: The Transformation of the Plantation Household* (Cambridge University Press), won the Philip Taft Book Prize and was a finalist for the Frederick Douglass Book Prize. In 2015, it was named one of the ten best books on slavery in *Politico*. Glymph is also co-editor of two volumes of the prize-winning Freedmen and Southern Society Project

documentary series: *Freedom: A Documentary History of Emancipation, 1861-1867: Ser. 1, Vol. 1. The Destruction of Slavery*, and *Freedom: A Documentary History of Emancipation, 1861-1867: Ser. 1, Vol. 3, The Wartime Genesis of Free Labor: The Lower South*. Her published articles and essays include “Rose’s War and the Gendered Politics of a Slave Insurgency in the Civil War” which won the George and Ann Richards Prize for the best article published in *The Journal of the Civil War Era* in 2013. She is the author of the forthcoming book, *Women at War: Race Gender and Power in the Civil War* to be published by the University of North Carolina Press and currently completing a book manuscript entitled, *African American Women and Children Refugees: A History of War and the Making of Freedom in the Civil War* which has received research funding support from the National Institutes of Health (NIH).

Glymph is an Organization of American Historians Distinguished Lecturer and an elected fellow of the American Antiquarian Society. She received an “Award for Outstanding Scholarship Commemorating the 150th Anniversary of the Civil War” from the National Park Service. At Duke, she received the 2017-18 Thomas Langford Lectureship Award from the Office of the Provost at Duke University. She lectures widely nationally and internationally and has held visiting lectureships at Northwestern University and the University of Wisconsin. Her work has been featured on NPR, BBC, and PBS in the *New York Times*. She was recently nominated to serve as the 86th president of the Southern Historical Association for 2020.



Panel 3: *150 and Beyond* – Debating the 14th Amendment

Leading scholars, including **Randy Barnett**, **Garrett Epps**, **Earl Maltz**, **Janai Nelson** and **Kimberly West-Faulcon** debate what the 14th Amendment means today (and may mean tomorrow), covering some of the most important topics in constitutional law today. **Lana Ulrich**, Counsel at the National Constitution Center, moderates.

RANDY BARNETT

*Georgetown University
Law Center*



Randy E. Barnett is the Carmack Waterhouse Professor of Legal Theory at the Georgetown University Law Center, where he teaches constitutional law and contracts, and is Director of the Georgetown Center for the Constitution. After graduating from Northwestern University and Harvard Law School, he tried many felony cases as a prosecutor in the Cook County States' Attorney's Office in Chicago. A recipient of a Guggenheim Fellowship in Constitutional Studies and the Bradley Prize, Barnett has been a visiting professor at Penn, Northwestern and Harvard Law School. Barnett's publications include twelve books, more than one hundred articles and reviews, as well as numerous op-eds. His latest book, *Our Republican Constitution: Securing*

the Liberty and Sovereignty of We the People was published by HarperCollins and was featured in a program at the National Constitution Center. In 2004, he argued the medical marijuana case of *Gonzalez v. Raich* before the U.S. Supreme Court. In 2012, he was one of the lawyers representing the National Federation of Independent Business in its constitutional challenge to the Affordable Care Act.

GARNETT EPPS

University of Baltimore



Garrett Epps, a former reporter for *The Washington Post*, is professor of law at the University of Baltimore. He is also legal correspondent for *The Atlantic Online*, covering the Supreme Court and constitutional issues. He has taught Constitutional Law at American University, Boston College Law School, Duke University, and the University of Oregon. Before attending Duke Law School, he was staff writer for *The Washington Post*. His legal analysis has appeared in *The New York Times*, *The Washington Post*, *The Nation*, and *The Atlantic*. He is the author of *Democracy Reborn: The Fourteenth Amendment and the Fight For Equal Rights In Post-Civil War America*, a narrative account of the framing and adoption of the Fourteenth Amendment. He has written four other books of legal non-

fiction and is also the author of two novels.

**EARL MALTZ***Rutgers University
School of Law*

Earl Maltz is a Distinguished Professor at Rutgers University School of Law in Camden, Jersey. He is the author of many articles and nine books dealing with constitutional law and constitutional history. His latest book, *The Coming of the Nixon Court: The 1972 Term of the Supreme Court and the Transformation of Constitutional Law*, was published by the University Press of Kansas in 2016.

JANAI NELSON*NAACP Legal Defense Fund*

Janai Nelson is the seventh Associate Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (LDF), and a Visiting Professor of Clinical Law at New York University School of Law. Nelson works with the President and Director-Counsel of LDF to determine and execute its strategic vision and oversee the operation of its programs. She is also one of the lead counsel in *Veasey v. Abbott*, a federal challenge to Texas's voter ID law. Prior to joining LDF, Nelson was Associate Dean for Faculty Scholarship and Associate Director of the Ronald H. Brown Center for Civil Rights and Economic Development at St. John's University School of Law, where she was also a full professor of law.

Nelson received the 2013 Derrick A. Bell Award from the American Association of Law Schools (AALS) Section on Minority Groups and was named one of Lawyers of Color's 50 Under 50 minority professors making an impact in legal education. Prior to joining St. John's faculty, she was a Fulbright Scholar at the Legal Resources Center in Accra, Ghana. She began practicing law as the 1998 recipient of the NAACP LDF/Fried Frank Fellowship, following federal district and appellate court clerkships. Nelson later became Director of LDF's Political Participation Group, overseeing all voting related litigation and matters, litigating voting rights and redistricting cases, and working on criminal justice issues. Nelson has appeared in various media as an expert on race, civil rights, constitutional law and election law, and regularly speaks at conferences and symposia nationwide.

**KIMBERLY WEST-
FAULCON***Loyola Law School*

Kimberly West-Faulcon is the James P. Bradley Chair in Constitutional Law at Loyola Law School. She has taught courses in constitutional law and employment discrimination. She researches the legal implications of theories of intelligence and fair and proper use of standardized tests, antidiscrimination and constitutional law. Her work seeks to expose the theoretical and legal implications of modern research from the fields of psychology, statistics, and psychometrics and bridges science and law to offer new insights into the study of intelligence. Her academic articles, which have been the subject of scholarly responses, news articles and opinion commentary, appear in highly regarded law journals, including the *Journal of Constitutional Law*, *University of Pennsylvania Law Review*, *UCLA Law Review*, *Wake Forest Law Review* and *Yale Law Journal*.

UCLA Law Review, Wake Forest Law Review and Yale Law Journal.

West-Faulcon graduated from Yale Law School where she was a senior editor of the *Yale Law Journal*. After law school, she clerked for the Honorable Stephen R. Reinhardt on the Ninth Circuit U.S. Court of Appeals and was one of 25 law students selected annually from across the nation by the law firm Skadden, Arps, Slate, Meagher & Flom, LLP to pursue a social justice legal project in the organization of her choice. Beginning as a Skadden Fellow in the New York office of the NAACP Legal Defense and Educational Fund, Inc. (LDF) in 1996, she went on to direct the Los Angeles office of LDF from 1998 until 2005 as Western Regional Counsel and Director.

MODERATOR**LANA ULRICH***National Constitution
Center*

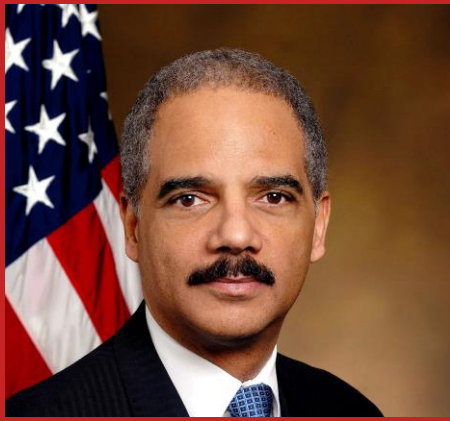
Lana Ulrich is In-House Counsel at the National Constitution Center (NCC), where she assists in managing the NCC's constitutional content and programming. She also assists with any legal matters relating to the NCC's operations and directs the Continuing Legal Education program. She holds a B.A. with honors from Pennsylvania State University and a J.D. with honors from the George Washington University Law School.



Keynote: *The 14th Amendment at 150* – A Conversation with Eric H. Holder, Jr.

ERIC H. HOLDER, JR.

*82nd Attorney General of the
United States of America*



Eric H. Holder, Jr. is the 82nd Attorney General of the United States, serving in the administration of President Barack Obama from February 2009 to April 2015. As the third longest serving Attorney General in U.S. history and the first African American to hold that office, Mr. Holder is an internationally recognized leader across a broad range of regulatory enforcement, criminal justice, and national security issues. After serving six years in the administration, Mr. Holder rejoined Covington & Burlington LLP, where he was previously a partner from 2001-2009. He advises clients on complex investigations and litigation matters, including those that are international in scope and involve significant regulatory enforcement issues and substantial reputational concerns.

Before his service as Attorney General, Mr. Holder maintained a wide-ranging investigations and litigation practice at Covington. Among numerous significant engagements, he led the firm's representation of a major multi-national agricultural company in related civil, criminal, and investigative matters; acted as counsel to a special investigative committee of the board of directors of a Fortune 50 technology company; successfully tried a complex discrimination lawsuit on behalf of a leading financial services company; and represented several life sciences companies in litigation and investigations.

Including his tenure as Attorney General, Mr. Holder has served in government for more than thirty years, having been appointed to various positions requiring U.S. Senate confirmation by Presidents Obama, Clinton and Reagan. He also serves on the Board of Directors of the NAACP Legal Defense and Educational Fund, Inc.

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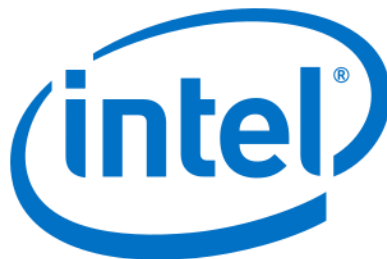
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