

# RUSSELL A. MILLER

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## PROFESSIONAL PROFILE

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A scholar and author with deep expertise in German law and legal culture. Extensive experience as a professor teaching courses on public law and comparative law subjects. Founder and manager of successful knowledge initiatives, including two decades leading the *German Law Journal* and more than a dozen scholarly symposia and conferences. Internationally sought-after lecturer and visiting researcher with affiliations at the American Institute for Contemporary German Studies, the Heidelberg Max Planck Institute, and a number of German universities.

## SELECTED PROFESSIONAL EXPERIENCE

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**Professor of Law**, Washington & Lee University School of Law, Lexington, VA (2008 to Present)

- Teach and research in areas of public law, including constitutional law, public international law, comparative law theory and method, and German law and legal culture.
- Awarded J.B. Stombock Chaired Professorship, 2017; Full Professor, 2012; Tenure 2008.
- Contribute to administration of law school through service on faculty governance committees.

**Founder and Editor-in-Chief**, *German Law Journal*, Frankfurt am Main, Germany (1999 to Present)

- Founded successful English-language law journal publishing scholarship on developments in German, European, International and Comparative jurisprudence.
- Responsible for all facets of the enterprise, including maintenance of the budget and fundraising.
- Curate and edit content on bimonthly publication schedule producing more than 1,000 pages per year.
- Manage the *Journal's* staff, including a board of peer editors and a team of student editors.
- Impact Factor and Readership: #1 W&L Journal Ranking – “European Law”; #4 Google-Scholar Journal Ranking – “European Law”; more than 5,000 subscribers from over 50 countries.

**Law Clerk, Justice Renate Jaeger, Federal Constitutional Court**, Karlsruhe, Germany (2000 to 2002)

- First non-German Law Clerk to serve at the German Federal Constitutional Court.
- Researched comparative constitutional law topics relevant to cases before the Court, focusing especially on comparative research of American constitutional jurisprudence.
- Attended oral arguments and contributed to in-chambers discussions of pending cases.
- Edited English-language translations of the Court's decisions.

## EARLY CAREER

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**Associate Professor of Law**, University of Idaho College of Law, Moscow, ID (2002 to 2008)

**Law Clerk, Judge Robert Whaley**, U.S. District Court, E.D.Wash., Spokane, WA (1995 to 1996)

**Staff Attorney**, Tennessee Post-Conviction Defender's Office, Nashville, TN (1996 to 1999)

**Staff Attorney**, Arizona Capital Representation Project, Tempe, AZ (1994 to 1995)

## SELECTED BOARD AND COMMITTEE SERVICE

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### Service to the Law School and University

- Board Member, Transnational Law Institute (2008 to Present).
- Board Member, Lewis Law Center (2008 to 2009; 2011 to 2017).
- Faculty Representative to University Board of Trustees (Elected) (2012 to 2014).

**Co-President**, Robert Bosch Fellowship Alumni Association (Elected) (2012 to 2013)

- Oversaw budget, led Board of Directors, and organized annual meeting (Berlin, June 2013).
- Directed the Ad Hoc Working Group on the Future of the Fellowship.

**Chair**, Executive Committee of the AALS Comparative Law Section (Elected) (2009 to 2010)

## EDUCATION

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**LL.M., Master of Laws**, University of Frankfurt Law School, Frankfurt am Main, Germany (2002)  
(summa cum laude)

- Master's Thesis: *The Last Victim of the Cold War: Self-Determination Rights in International Law and the Death of Democracy* (Supervisor Prof. Dr. Michael Bothe).

**J.D. / M.A. – English Literature**, Duke University, Durham, NC (1994)

- Master's Thesis: *Original Sin and the Division of Labor: Marx in Milton's Paradise* (Supervisors Prof. Stanley Fish; Prof. Frederick Jameson).

**B.A. – English Literature**, Washington State University, Pullman, WA (1991) (cum laude with Honors Program Certificate)

- Phi Beta Kappa.
- Varsity Football, 1990 First-Team Academic All-Pac10.

## KNOWLEDGE INITIATIVES ORGANIZED

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- Annual Montpelier Comparative Constitutional Law Roundtable (2012 to Present).
- Annual German Law in Context Seminar (2008 to Present).
- *Lawyering in Dark Times: Courage and Cowardice at the Bar*, American Bar Association and Washington & Lee University School of Law (2017).
- *Privacy and Power: A Transatlantic Dialogue in the Shadow of the NSA-Affair*, Center for Security and Society – University of Freiburg (2014) [proceedings published as a book from Cambridge University Press (2017)].
- *The Curious Life of the Grundgesetz in America - A Symposium in Honor of Donald Kommers*, American Academy Berlin (2012).
- *National Security and the Constitution*, University of Idaho College of Law (2006) [proceedings published as a book from Routledge Press (2008)].
- *Progress in International Organization*, University of Idaho College of Law (2005) [proceedings published as a book from Martinus Nijhoff Press (2008)].
- *Indigenous Peoples in International Law: Lands, Liberties, Legacies*, University of Idaho College of Law (2006) [proceedings published as a special issue, 31 AMERICAN INDIAN LAW REVIEW (2007)].
- *Post Conflict Justice: From Malmédy to Halabja*, University of Idaho College of Law (2004) [proceedings published as a special issue, 13 MICHIGAN STATE UNIVERSITY – DCL JOURNAL OF INTERNATIONAL LAW (2005)].
- *The New Transatlantic Tensions and the Kagan Phenomenon*, Max Planck Institute for Comparative Public Law and Public International Law (2003) [proceedings published as a special issue, 4 GERMAN LAW JOURNAL (2003)].
- *Transboundary Harm in the 21st Century: Lessons from the Trail Smelter Arbitration*, University of Idaho College of Law (2003) [proceedings published as a book from Cambridge University Press (2006)].

## SELECTED PUBLICATIONS

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### Books (Author / Editor)

- *Introduction to German Law and Legal Culture* (author) (forthcoming Cambridge University Press 2018).
- *Privacy and Power: A Transatlantic Dialogue in the Shadow of the NSA-Affair* (editor) (Cambridge University Press 2017).
- *The Constitutional Jurisprudence of the Federal Republic of Germany* (author with Donald Kommers) (3<sup>rd</sup> edition Duke University Press 2012).
- *Comparative Law as Transnational Law: A Decade of the German Law Journal* (editor with Peer Zumbansen) (Oxford University Press 2011).
- *US National Security, Intelligence and Democracy: From the Church Committee to the War on Terror* (editor) (Routledge 2008).
- *Progress in International Law* (editor with Rebecca Bratspies) (Martinus Nijhoff Press 2008).

- *Transboundary Harm in International Law: Lessons from the Trail Smelter Arbitration* (editor with Rebecca Bratspies) (Cambridge University Press 2006).

### Articles and Book Chapters

- *A Pantomime of Privacy: Terror and Investigative Powers in German Constitutional Law*, 57 BOSTON COLLEGE LAW REVIEW 1-83 (forthcoming 2018).
- *Literature as Human Dignity: The Constitutional Court's Misguided Ban of the Novel Esra*, in COMPARING HUMAN DIGNITY 159-186 (Dieter Grimm *et al.* eds., 2018).
- *A Rose by any Other Name? The Comparative Law of the NSA-Affair*, in PRIVACY AND POWER 63-95 (Russell A. Miller ed., 2017).
- *Germany's German Constitution*, 57 VIRGINIA JOURNAL OF INTERNATIONAL LAW 95-129 (2017).
- *Intelligence Oversight – Made in Germany*, in GLOBAL INTELLIGENCE OVERSIGHT 257-288 (Richard O. W. Morgan & Zachary Goldman eds., 2016).
- *Germany v. Europe: The Principle of Democracy in German Constitutional Law and the Troubled Future of European Integration*, 54 VIRGINIA JOURNAL OF INTERNATIONAL LAW 579-614 (2014).
- *Balancing Security and Liberty in Germany*, 4 JOURNAL OF NATIONAL SECURITY LAW & POLICY 369-398 (2010) [peer reviewed].
- *Germany's Basic Law and the Use of Force*, 17 INDIANA JOURNAL OF GLOBAL LEGAL STUDIES 197-206 (2010) [peer reviewed].
- *Das Bundesverfassungsgericht: Procedure, Practice and Policy of the German Federal Constitutional Court* (with Donald P. Kommers), 3 JOURNAL OF COMPARATIVE LAW 194-211 (2009) [peer reviewed].
- *Comparative Law and Germany's Militant Democracy*, in US NATIONAL SECURITY, INTELLIGENCE AND DEMOCRACY: THE LEGACY OF THE CHURCH COMMITTEE 229-251 (Russell Miller ed., 2008).
- *Lords of Democracy: The Judicialization of "Pure Politics" in the United States and Germany*, 61 WASHINGTON & LEE LAW REVIEW 587-662 (2004).

### Reports, White Papers, and Expertise

- *Liberation not Extortion: The Fate of Ad-Blocking in the German and U.S. Legal Systems* (CMS Law Firm, Cologne, Germany, 2017).
- *Law Land: Germany as a Legal Super Power* (American Institute of Contemporary German Studies, 2015).
- *Privacy and Intelligence Oversight – Legal Situation in the United States* (1<sup>st</sup> Committee of Inquiry – German Bundestag – 18<sup>th</sup> Parliamentary Period, 2014).
- *Jurisdiction of the United States Supreme Court: The Discretion to Decide* (German Federal Ministry of Justice, 2013).

### Essays, Editorials, and Blog-Posts

- [German Court Says Ad-Blocking is Liberation, Not Extortion](#), TECHNOLOGY & MARKETING LAW BLOG (Aug. 28, 2017).
- [Literature as Human Dignity: The Constitutional Court's Misguided Ban of the Novel Esra](#), VERFASSUNGSBLOG (July 27, 2017).

- [\*How to Kill an Idea: An American's Observations on the NPD Party-Ban Proceedings\*](#), VERFASSUNGSBLOG (Jan. 13, 2017).
- [\*German Intelligence: Operation Chaos\*](#), LAWFARE BLOG (May 13, 2016).
- [\*The Tattered German-American Relationship Needs the USA FREEDOM Act – More for What it Doesn't Do than for What it Does\*](#), AMERICAN INSTITUTE OF CONTEMPORARY GERMAN STUDIES—ISSUE COMMENTARY (May 18, 2015).
- [\*Privacy and Power: A Reflection on the German-American Intelligence Crisis\*](#), LAWFARE BLOG (July 15, 2014).
- [\*Poor Prospects for Internationalization: Germans and Americans in Law Faculties Jenseits des Atlantiks\*](#), VERFASSUNGSBLOG (Feb. 26, 2014).
- [\*Surveillance and Data Protection in the Conflict between European and American Legal Cultures\*](#), AMERICAN INSTITUTE OF CONTEMPORARY GERMAN STUDIES – ISSUE COMMENTARY (Dec. 8, 2013).
- [\*The German Constitutional Court and Europe\*](#), INT'L J. CONST. L. BLOG (Sept. 5, 2012).
- [\*Germany – Yes You Can\*](#). ATLANTIC COMMUNITY OPINION (June 23, 2010).
- *The Basic Law and the Use of Force – Remarks on the 60<sup>th</sup> Anniversary of the Bonner Grundgesetz*, in THE 60<sup>TH</sup> ANNIVERSARY OF THE GERMAN FEDERAL REPUBLIC – AICGS GERMAN-AMERICAN ISSUES SERIES 21 (Jackson Janes ed., 2009).
- *The Law was Never Our Own: The Robert Bosch Foundation Fellowship, the German Law Journal and the Meaning of Comparative Law* (with Peer Zumbansen), in BUILDING A NEW TRANSATLANTIC GENERATION – ESSAYS BY BOSCH ALUMNI 144 (R. Stefan Szwed ed. 2004).
- *The Jurisprudence of Dignity – Shared Transatlantic Values*, 4 GERMAN LAW JOURNAL No. 9 (Sept. 1, 2003).
- *Much Ado, But Nothing: California's New World War II Slave Labor Statute of Limitations and Its Place in the Increasingly Futile Effort to Obtain Compensation From American Courts*, in NS-FORCED LABOR: REMEMBRANCE AND RESPONSIBILITY 201 (Peer Zumbansen ed., 2002).

## SELECTED LECTURES AND APPEARANCES

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- “Understanding the Courts, Policy, and Legal Culture of Germany,” Future of Privacy Forum, Washington, DC (Oct. 27, 2016). [[video link](#)]
- “Comparative Reflections on Intelligence-Gathering and Privacy,” American Institute for Contemporary German Studies, Washington, DC (June 17, 2015).
- Invited Expert Testimony – Drafting Group “F” on the Reform of the European Court of Human Rights (GT-GDR-F) – Council of Europe, Strasbourg, France (Dec. 10-12, 2014).
- Invited Expert Testimony – Committee of Inquiry – German Parliament (NSA Committee of Inquiry), Berlin, Germany (June 5, 2014).
- “Reply to the Speech of Dr. Hans-Georg Massen, Director of Germany's Federal Office for Constitutional Protection,” Konrad Adenauer Foundation 10th Annual Conference on International Law, Bonn, Germany (Oct. 15, 2013).
- “Recht-Staat: German Legal Power in the Post-Cold War World,” Symposium on German Power in the Post-Cold War World, BMW Center – Georgetown University, Washington, DC (Dec. 9, 2013).

- “Germany v. Europe: The Principle of Democracy in German Constitutional Law and the Struggle of European Integration,” University of Copenhagen Law Faculty (Nov. 13, 2013).
- “The Constitutional Framework for German Democracy,” Book Presentation – Goethe Institute and American Institute for Contemporary German Studies, Washington, DC (April 11, 2013).

## SELECTED MEDIA CONTRIBUTIONS

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- Hoover/Brookings Book Soiree Podcast (April 29, 2017) [interview – discussion] [[audio link](#)].
- Kerstin Kohlenberg, *Amerika schafft sich ab*, DIE ZEIT (Jan. 19, 2017) [subject of report].
- Russell Miller, *Mehr Respekt bitte!*, FRANKFURTER ALLGEMEINE ZEITUNG (Nov. 9, 2016) [op-ed].
- Rachel Stern, *Fiercely Critical of NSA, Germany Now Answering for its Own Spy Practices*, CHRISTIAN SCIENCE MONITOR (May 22, 2015) [interviewed – quoted].
- Lewis Sanders, *Reining in the BND: Intel Oversight’s “Structural Deficit,”* DEUTSCHE WELLE (May 12, 2015) [interviewed – quoted].
- Reinhard Müller, *“Werdet endlich Erwachsen,”* FRANKFURTER ALLGEMEINE ZEITUNG (July 9, 2014) [quoted].
- Russell Miller & Ralf Poscher, *Präventiver Datenschutz—Kampf der Kulturen*, FRANKFURTER ALLGEMEINE ZEITUNG (Nov. 11, 2013) [op-ed].
- Dietmar Hipp, *“Demokratie schürt Angst,”* DER SPIEGEL (July 15, 2013) [feature interview].
- Reinhard Müller, *Datenschutz in Amerika*, FRANKFURTER ALLGEMEINE ZEITUNG (July 12, 2013) [quoted].
- Henry Chu, *German Judges May Hold Europe’s Fate in Their Hands*, L.A. TIMES (Sept. 11, 2012) [interviewed – quoted].

## HONORS, AWARDS, AND FELLOWSHIPS

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- Schumann Visiting Research Fellowship (University of Münster, Germany) (2017).
- Lewis Prize for Excellence in Legal Scholarship (W&L Law School) (2016).
- Leibniz Senior Research Fellow (Max Planck Institute, Heidelberg, Germany) (2015 to 2016).
- AICGS/DAAD Research Fellowship (Washington, DC) (2015).
- Center for Security and Society Fellowship (University of Freiburg, Germany) (2013 to 2015).
- Robert Bosch Foundation Fellowship Alumnus of the Year (2012).
- AICGS Non-Resident Fellow (Washington, DC) (2011 to Present).
- Fulbright Senior Research Fellow (Max Planck Institute, Heidelberg, Germany) (2009 to 2010).
- Ethan Allen Faculty Fellow (W&L Law School) (2008 to 2009).
- Robert Bosch Foundation Fellowship (Karlsruhe, Germany; Strasbourg, France) (1999 to 2000).