

SARAH H. CLEVELAND

COLUMBIA LAW SCHOOL
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PRESENT EMPLOYMENT & PROFESSIONAL ACTIVITIES

COLUMBIA LAW SCHOOL, NEW YORK, NY. Louis Henkin Professor of Human and Constitutional Rights. Teaching and research in international and comparative human rights; international humanitarian law; national security law; foreign affairs and the U.S. Constitution; and federal civil procedure (Since 2007). Board Member, Columbia University Global Policy Initiative (Since 2013). Advisor, Hertog National Security Program (Since 2011). Help coordinate project that seeks to promote rule of law in Myanmar through civil society education and training, legislative and constitutional reform, strengthening legal education, and student exchanges (Since 2013).

FACULTY CO-DIRECTOR, HUMAN RIGHTS INSTITUTE, COLUMBIA LAW SCHOOL, NEW YORK, NY. Help oversee and direct program in human rights scholarship, training, and advocacy. Major project areas include promoting Human Rights in the United States, including engagement with UN human rights mechanisms; the Inter-American Human Rights System; Human Rights and the Global Economy; and Human Rights and Counterterrorism (Since 2007).

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). Independent Member on the Council of Europe's expert advisory body on human rights and rule of law reform. Assist with evaluating the compatibility of national laws and constitutional reforms in Europe, North Africa, Latin America, and elsewhere. (Member, and Vice Chair of Sub-Commission on the Rule of Law (Since 2013); Observer Member (Oct. 2010-April 2013).)

AMERICAN LAW INSTITUTE, COORDINATING REPORTER, *RESTATEMENT (FOURTH) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES*. Co-Coordinating Reporter directing and overseeing preparation of major treatise on U.S. foreign relations law; also serving as a Reporter on Status of Treaties in U.S. Domestic Law (Since 2012).

PROJECT ON HARMONIZING STANDARDS FOR ARMED CONFLICT. Co-director of transnational expert project examining potential reforms to the law of non-international armed conflict. The project engages a steering committee of international human rights and humanitarian law experts in academia and governments from Australia, Canada, Denmark, the United Kingdom, the United States, and elsewhere (Since 2012).

PRIOR TEACHING EXPERIENCE

HARVARD LAW SCHOOL, Cambridge, MA. Bemis Visiting Professor of International Law (2006-2007).

GEORGE WASHINGTON UNIVERSITY – OXFORD PROGRAM IN INTERNATIONAL HUMAN RIGHTS LAW, New College, Oxford, UK (July 2006; July 2007).

COLUMBIA LAW SCHOOL, New York, NY. Samuel Rubin Visiting Professor of Law (2005-2006).

UNIVERSITY OF MICHIGAN LAW SCHOOL, Ann Arbor, MI. Visiting Professor (Fall 2004).

UNIVERSITY OF TEXAS SCHOOL OF LAW, Austin, TX. Marrs McLean Professor in Law (2001-2007); Assistant Professor (1997-2000); Professor of Law (2000-2001). Faculty Director, Transnational Worker Rights Clinic (2004-2007); Co-Founder, Rapoport Center for Human Rights and Justice (2004). Supervised internships with the international criminal tribunals (ICTY and ICTR), the Inter-American Court of Human Rights, and the Guatemalan Legislature.

OTHER PROFESSIONAL EXPERIENCE

COUNSELOR ON INTERNATIONAL LAW TO THE LEGAL ADVISER, Office of the Legal Adviser, U.S. Department of State. Helped supervise the legal work of the U.S. State Department, including relating to human rights, international justice, national security, U.S. domestic litigation involving international law and foreign relations issues, and regional matters involving Afghanistan, Pakistan, India, and Sri Lanka (Sept. 2009-Aug. 2011).

ATTORNEY-ADVISER INTERNATIONAL (EXPERT), U.S. DEPARTMENT OF STATE. Provided part-time pro bono expert legal assistance on international and foreign relations law matters to the Office of the Legal Adviser (Sept. 2011-Jan. 2013).

VISITING SCHOLAR, EUROPEAN UNIVERSITY INSTITUTE, Fiesole, Italy (March-April 2012).

EXTERNAL LEGAL ADVISORY GROUP, KINGDOM OF BAHRAIN. Part of five-member team of international lawyers retained to provide independent external legal advice to the Government of Bahrain on implementing the human rights recommendations of the Bahrain Independent Commission of Inquiry (Jan.-March 2012).

U.S.-CHINA LEGAL EXPERTS DIALOGUE. Participated as expert public member of U.S. delegation for dialogue with representatives of the Chinese government on rule of law questions facing both countries. Beijing, China (April 2012); Charlottesville, VA (Nov. 2013).

ASPEN INSTITUTE FEDERAL JUDICIAL TRAINING SEMINARS on “International Human Rights and Humanitarian Law: Their Application in Domestic Jurisprudence.” Instructor on international human rights law for U.S. federal and state judges (Nov. 2007; May 2008; Jan. 2009; Jan. 2012).

WORKING GROUP ON DETENTION WITHOUT TRIAL. Co-founder and coordinator of academic working group exploring legal and policy issues surrounding detention of terrorism suspects (July 2008-Aug. 2009).

AFGHANISTAN TRANSITIONAL COMMERCIAL LAW PROJECT WORKING GROUP. Expert on American Bar Association-sponsored project to draft an employment code for post-Taliban Afghanistan (2003).

ERLENBORN COMMISSION, LEGAL SERVICES CORPORATION. Appointed to five-member federal commission reviewing the provision of legal assistance to aliens in the United States (1999).

FLORIDA LEGAL SERVICES, Belle Glade, FL. Skadden Fellow. Conducted civil impact litigation on behalf of Caribbean sugar cane guest workers and other migrant farmworkers in the southeastern United States (1994-1996).

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF FLORIDA, West Palm Beach, FL. Cooperating attorney on broad constitutional rights litigation docket (1994-1996).

LOWENSTEIN INTERNATIONAL HUMAN RIGHTS CLINIC, Yale Law School, New Haven, CT. Co-director of student litigation effort on behalf of Haitian refugees in federal challenge to the United States Caribbean interdiction program. Assisted in researching and drafting briefs for district, circuit, and Supreme courts; testified before U.S. Congress; conducted discovery on U.S. Naval Base, Guantanamo Bay, Cuba (1992).

SHELL CENTER FOR INTERNATIONAL HUMAN RIGHTS: RESEARCH PROJECT IN NAMIBIA. Conducted research into impact of Namibian economy on human and constitutional rights protections (Summer 1990).

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, Geneva, Switzerland. Researched conditions for voluntary repatriation of South African refugees (Summer 1990).

COMMISSION ON THE SKILLS OF THE AMERICAN WORKFORCE, National Center on Education & the Economy, Rochester, NY. Responsible for comparative European research (1989-1990).

EDUCATION

YALE LAW SCHOOL, New Haven, CT. J.D. (1992). Senior Editor, *Yale L. & Pol. Rev.* (1991-1992). Mary McCarthy Fellowship in Public Interest Law (1992). Charles G. Alborn Prize for Excellence in Appellate Advocacy, co-recipient (1992). Annual Human Rights Award, American Immigration Lawyers' Association, co-recipient (1992).

LINCOLN COLLEGE, OXFORD UNIVERSITY, United Kingdom. Rhodes Scholar (1987-1989). M.St. in British Imperial & Commonwealth History (July 1989).

BROWN UNIVERSITY, Providence, RI. Honors A.B. *Magna Cum Laude* (1987). Independent Concentration in Law & Mental Health. Senior Class Commencement Orator. Junior *Phi Beta Kappa*.

CLERKSHIPS

SUPREME COURT OF THE UNITED STATES, Washington, D.C. Law clerk to Associate Justice Harry A. Blackmun (1993-1994).

UNITED STATES DISTRICT COURT, Washington, D.C. Law clerk to Judge Louis F. Oberdorfer (1992-1993).

PROFESSIONAL MEMBERSHIP POSITIONS

International Bar Association Human Rights Institute, Council Member (Since 2013).

American Law Institute (Since 2007). Co-Coordinating Reporter, *Restatement (Fourth) of the Foreign Relations Law of the United States*, Reporter on *Restatement* Treaties Project (Since 2012).

American Society of International Law (Since 1998). Sponsor of Mid-Year Meeting (2013); Annual Meeting Program Committee (2012-2013); National Security Roundtable Steering

Committee (Since 2011); Chair of Selection Committee for Four Societies Project (Fall 2007-Spring 2008); Member, International Law in U.S. Courts Interest Group (Since 2002).

Secretary of State's Advisory Committee on International Law, U.S. Department of State (Since 2011).

Columbia Journal of Transnational Law, Board of Directors (Since 2007).

Journal of International Economic Law, Board of Editors (Since 2004).

Florida Bar Association (Since 1994).

SELECT PUBLICATIONS

Books

SUPPLEMENT TO HENKIN, CLEVELAND, ET AL., HUMAN RIGHTS (2013) (co-author).

HENKIN, CLEVELAND, ET AL., HUMAN RIGHTS (Foundation Press, 2nd ed., 2009) (co-author).

Articles, Essays, and Book Chapters

After Kiobel, ___ J. INT'L CRIM. L. ___ (forthcoming 2014).

Human Rights Derogation, Convergence, and the Law of War and Peace (forthcoming 2014).

Defining and Punishing Offenses Against Treaties (with William Dodge) (forthcoming 2014).

The Kiobel Presumption and Extraterritoriality, 52 COLUM. J. TRANSNAT'L L. 8 (2013).

In Memoriam: Tribute to Louis Henkin, 49 COLUM. J. TRANSNAT'L L. 13 (2011).

Embedded International Law and the Constitution Abroad, 110 COLUM. L. REV. 101 (2010).

Foreign Authority, American Exceptionalism, and the Dred Scott Case, 82 CHICAGO-KENT L. REV. 393 (2007).

The Legacy of Louis Henkin: Human Rights in the "Age of Terror", an Interview with Sarah H. Cleveland, 38 COLUM. HUM. RTS. L. REV. (2007).

Our International Constitution, 31 YALE J. INT'L L. 1 (Winter 2006).

International Decisions: Legal Status and Rights of Undocumented Workers, 99 AM. J. INT'L L. 460 (2005).

Hamdi Meets Youngstown: Justice Jackson's Wartime Security Jurisprudence and the Detention of Enemy Combatants, 68 ALBANY L. REV. 1127 (2005).

The Alien Tort Statute, Civil Society and Corporate Responsibility, 56 RUTGERS L. REV. 971 (2004).

Why International Labor Standards?, in INTERNATIONAL LABOR STANDARDS: GLOBALIZATION, TRADE AND PUBLIC POLICY, Robert J. Flanagan and William J. Gould, IV, eds. (Stanford Univ. Press, 2003).

Inter-American Court of Human Rights Amicus Curiae Brief: The United States Violates International Law When Labor Law Remedies Are Restricted Based on Workers' Migrant Status, 1(3) SEATTLE JOURNAL FOR SOCIAL JUSTICE 795 (Spring/Summer 2003) (co-author).

Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth-Century Origins of Plenary Power over Foreign Relations, 81 TEXAS L. REV. 1 (2002).

Human Rights Sanctions and International Trade: A Theory of Compatibility, 5 J. INT'L ECON. L. 133 (2002).

Norm Internalization and U.S. Economic Sanctions, 26 YALE J. INT'L L. 1 (Winter 2001).

Crosby and the "One Voice" Myth in U.S. Foreign Relations, 46 VILLANOVA L. REV. 975 (2001).

Human Rights Sanctions and the World Trade Organization, in HUMAN RIGHTS, THE ENVIRONMENT, AND THE LIBERALIZATION OF INTERNATIONAL TRADE, F. Francioni, ed. (Hart Publishing, UK 2001).

The Plenary Power Background of Curtiss-Wright, 70 U. COL. L. REV. 1127 (1999).

Global Labor Rights and the Alien Tort Claims Act, 76 TEXAS L. REV. 1533 (1998).

Aliens and the Duty of Nonrefoulement: Haitian Centers Council v. McNary, 6 HARV. HUM. RTS. J. 1 (1993) (co-author).

Media & Blogs

The Alien Tort Statute and the Foreign Relations Fallacy, Online symposium: *Kiobel v. Royal Dutch Petroleum*, SCOTUSBLOG (Jul. 13, 2012 and Jul. 24, 2012), available at <http://www.scotusblog.com/author/sarah-cleveland/>.

Book Review, Extraterritorial Application of Human Rights Treaties, by Marko Milanovic, *Opinio Juris* / EJIL: Talk! (Dec. 2011).

Is There Room for the World in Our Courts? WASHINGTON POST, March 20, 2005.

President Not Above the Law, DALLAS MORNING NEWS, June 30, 2004, at 19A.

LEGISLATIVE TESTIMONY

House of Lords House of Commons Joint Committee on Human Rights. Written evidence on the state secrets doctrine, *Report on The Justice and Security Green Paper*, HL Paper 286 HC 1777 (24th Report of Session 2010–12) (April 2012), List of Written Evidence, JS-29 (April 2012).

United States Senate Committee on the Judiciary, Subcommittee on the Constitution, *Hearing on the Legal, Moral and National Security Consequences of "Prolonged Detention"* (June 2009).

House Judiciary Committee, Subcommittee on the Constitution, *Hearing on House Res. 97 and the Appropriate Role of Foreign Judgments in the Interpretation of American Law* (July 2005).

Subcommittee on Legislation and National Security of the House Committee on Government Operations, *Hearing on U.S. Human Rights Policy Toward Haiti*, 102d Cong., 2d Sess. 97 (1992).

SELECT PRESENTATIONS

The Use of Chemical Weapons as a Criminal Offense: Constitutional/International Law Interaction, presenter at “A World Free of Chemical Weapons, and Beyond,” University of Rome, Rome, Italy (March 2014).

Luxembourg Forum, meeting of U.S. Supreme Court and European Court of Justice, academic participant, Luxembourg (Feb. 2014).

Symmetries: International Humanitarian Law and International Human Rights Law, presenter at Oxford-International Committee of the Red Cross conference, Oxford University, UK (July 2013).

Kiobel, *Universal Civil Jurisdiction and the Liability of Corporations in International Law*, roundtable presenter, European University Institute, Fiesole, Italy (June 2013).

Bond v. United States *and the Treaty Power*, panelist and organizer, Annual Meeting of the American Society of International Law, Washington, D.C. (April 2013).

American Treaty Exceptionalism, panel moderator & organizer, Annual Meeting of the American Society of International Law, Washington, D.C. (April 2013).

Burma's 2008 Constitution & the Rule of Law, presented half-day seminar on comparative constitutional and human rights issues and constitutional reform to the Rule of Law Committee and other members of the Myanmar Parliament, Naypyitaw, Myanmar (Feb. 2013).

Rule of Law and the 2008 Burmese Constitution, presenter at seminar hosted by Myanmar Egress, Yangon, Myanmar (Feb. 2013).

Targeted Killing, Unmanned Aerial Vehicles and EU Policy, invited participant in High Level Policy Seminar, European University Institute, Fiesole, Italy (Feb. 2013).

Expert Meeting on Lethal Autonomous Robotics, invited participant, European University Institute, Fiesole, Italy (Feb. 2013).

Derogation, Convergence, and the Law of War and Peace, paper presented at Roundtable in Honor of Louis Henkin, International Association of Constitutional Law, Columbia Law School, New York, NY (Nov. 2012).

International Law Versus National Security, panelist, Federalist Society Annual Meeting, Washington, D.C. (Nov. 2012).

Guantanamo Military Commissions and the Future of International Criminal Law, panelist, International Law Weekend, American Branch of the International Bar Association, New York, NY (Oct. 2012).

Expert Meeting on the Future of the International Criminal Court, invited participant, The Hague, Netherlands (Sept. 2012).

Rights at War, Louis Henkin Annual Memorial Lecture, University of Miami Law School, Miami, FL (Sept. 2012).

Convergence and Conflicts of Human Rights and International Humanitarian Law in Military Operations: The U.S. Perspective, panelist, University of Pretoria, South Africa (Aug. 2012).

Horizontal Complementarity and Universal Jurisdiction, presentation to Secretary of State's Advisory Committee on International Law, Washington, D.C. (June 2012).

International Law and Sanctions, presenter at conference on "Smart Sanctions and the Rule of Law," NYU Law School, New York, NY (June 2012).

The Rule of Law as a Practical Concept, invited participant at Council of Europe symposium, London, UK (March 2012).

Here and There: Extraterritorial Protection of Rights After Boumediene and Al Skeini, panelist at "Judicial Process and the Protection of Rights: The U.S. Supreme Court and the European Court of Human Rights," joint conference of the U.S. Supreme Court and European Court of Human Rights co-hosted by U.S. Department of State and George Washington Law School, Washington, D.C. (March 2012).

War, Terror, and the Federal Courts, Ten Years After 9/11, panelist at Association of American Law Schools Annual Meeting, Washington, D.C. (Jan. 2012).

Advancing Human Rights through International and Domestic Courts, panelist, Yale Law School, New Haven, CT (Nov. 2011).

Libya and Lawfulness, panelist at International Law Week, American Branch of the International Law Association, New York, NY (Oct. 2011).

Transatlantic Dialogues on International Law: International Law and Human Rights, roundtables sponsored by Atlantic Council / Chatham House, London, UK and Washington, D.C. (Nov. 2010; Oct. 2011).

Hostilities in International Law, presented at workshop on "The War Powers Resolution and the Relevance of History," Harvard Law School, Cambridge, MA (Oct. 2011).

The Ethics and Law of International Counterterrorism: The Challenges of the Next 10 Years, panelist at conference on "Law, Security, and Liberty after 9/11: Looking to the Future," Harvard Law School, Cambridge, MA (Sept. 2011).

Consular Notification Reform and the ICJ's Avena Judgment, presentation to the U.S. State Department Office of the Legal Adviser, Washington, D.C. (Sept. 2011).

The United States and Human Rights, A Town Hall with French Youth, featured speaker, hosted by the City of Strasbourg, France (April 2011).

The Crisis in Libya: International and Domestic Responses, presented at Yale Law School, New Haven, CT (April 2011).

International Humanitarian Law and Security Detention of Suspected Terrorists, Executive Seminar Instructor, European University Institute Academy of Global Governance, Fiesole, Italy (March 2011).

European and United States Counter-Terrorism Policies, the Rule of Law and Human Rights, participant in High Level Policy Seminar, European University Institute, Fiesole, Italy (March 2011).

National Enforcement of Universal Jurisdiction Crimes, presented at Sokol Colloquium on Private International Law, University of Virginia, Charlottesville, VA (April 2010).

International Human Rights Law, Foreign Sovereign Immunity, and National Courts, panelist, Annual Meeting of the American Society of International Law, Washington, D.C. (March 2010).

A New Era of Principled Engagement: The Obama Administration and International Law, keynote speaker for symposium on “The Obama Impact: Has the New Administration Changed U.S. Involvement in International Law and Policy?” J.B. Moore Society for International Law, University of Virginia School of Law, Charlottesville, VA (Feb. 2010).

International Humanitarian Law in Domestic Law: A Case Study of the United States, three lectures, European University Institute Human Rights Law Course, Fiesole, Italy (June 2008).

Embedded International Law and the Constitution Abroad, panelist at symposium on “The Interaction Between Domestic Constitutions and International Law,” Harvard International Law Journal, Harvard Law School, Cambridge, MA (April 2008).

Geography or Control? International Jurisdiction and Constitutional Protection for Aliens Abroad, symposium panelist, Georgetown University Law Center, Washington, D.C. (Oct. 2007).

Commentator at conference on “The Reception of European Human Rights Law into National Systems,” Columbia Law School, New York, NY (Oct. 2007).

LITIGATION

Brief for Professors Sarah H. Cleveland and William S. Dodge as Amici Curiae in Support of Respondent, *Bond v. United States* (No. 12-158) (U.S. 2013) (Supreme Court brief addressing the constitutional authority of Congress to implement the Chemical Weapons Convention under the Define and Punish Clause).

Brief for Foreign and Comparative Law Experts Harold Hongju Koh, Sarah H. Cleveland, Laurence R. Helfer, and Ryan Goodman as Amici Curiae Supporting Respondents, *Hollingsworth v. Perry* (No. 12-144) (U.S. 2013) (Supreme Court brief addressing comparative approaches to same-sex marriage).

Brief of Professors of Constitutional Law and Federal Jurisdiction as Amici Curiae in Support of Petitioners, *Boumediene v. Bush and Al Odah v. United States* (Nos. 06-1195 and 06-1196) (U.S. 2007) (co-author) (Supreme Court brief addressing the unconstitutionality of denying habeas corpus jurisdiction to aliens detained as enemy combatants on Guantanamo).

Brief of Amici Curiae Constitutional and International Law Professors in Support of Plaintiffs / Appellants, Sarei v. Rio Tinto (Nos. 02-56256 & 02-56390) (9th Cir. en banc, 2007) (co-author) (addressing application of political question doctrine to Alien Tort Statute litigation).

Brief of Amici Curiae Professors of Constitutional Law and Federal Jurisdiction Advocating Denial of Motion to Dismiss (Reversal), Al-Marri v. Wright (No. 06-7427) (4th Cir. 2006) (co-author) (addressing the unconstitutionality of denying habeas corpus jurisdiction to legal alien detained as an enemy combatant in the United States).

Brief of Professors of Constitutional and International Law as Amici Curiae, Mujica v. Occidental Petroleum (9th Cir. 2005) (co-author) (addressing judicial deference to the executive in human rights litigation).

Brief of Law Professors as Amici Curiae, Benitez v. Mata (No. 03-7434) (U.S. 2004) (Supreme Court brief addressing due process limits on indefinite detention of removable aliens).

Brief Amicus Curiae of Immigration and Labor Rights Organization in OC-18, Advisory Opinion on the Legal Status and Rights of Undocumented Workers, *Inter-American Court of Human Rights* (2003) (co-author) (addressing legal protections for migrant workers under international human rights law).

Quincy Farms v. United Farm Workers of America, Case No. 96-262-CAB (represented United Farm Workers in First Amendment challenge to anti-picketing injunction).

McDonald v. Okeelanta Corporation, Case No. CL-91-3105-AO (15th Jud. Cir., Palm Beach Cty., FL); *Phillip v. Atlantic Sugar Ass'n.*, Case No. CL-91-3107-AO (15th Jud. Cir., Palm Beach Cty., FL); *Pinnock v. Sugar Cane Growers Cooperative of Florida*, Case No. CL-91-3108-AO (wage claim class actions by foreign sugar cane workers).

NAACP v. Sec'y of Labor, 84 F. 3d 1432 (D.C. Cir. 1996) (represented class of approximately 30,000 farm workers in federal challenge to application of U.S. Department of Labor's wage regulations in the sugar industry).

Malcolm v. Okeelanta Corporation (15th Jud. Cir., Palm Beach Cty., FL) (represented 377 foreign sugar cane workers in contract challenge to workers' wrongful termination).

Haitian Centers Council v. McNary, 969 F.2d 1326 (2d Cir. 1992); and 969 F.2d 1350 (2d Cir. 1992) (assisted Yale Law School Lowenstein Clinic's legal representation of Haitians detained on the U.S. Naval base on Guantanamo and forcibly returned to Haiti under the U.S. Caribbean interdiction program).

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