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YALE LAW SCHOOL
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ACADEMIC POSITIONS

Yale Law School

- Visiting Lecturer in Law & Robina Foundation Visiting Human Rights Fellow 2012-14
- Designed and taught alone two academic law school courses for JDs and LLMS:
International Law and Armed Conflict
International Human Rights Law

EDUCATION

Princeton University

- Ph.D. Candidate, Department of Politics (degree expected, Summer 2014)
Dissertation Title: *Inextricable Accomplices? Criminal War, International Law, and the Moral Integrity of the Soldier*
Fields: Political Theory and International Relations
- University Center for Human Values (UCHV) Graduate Prize Fellowship, Laurance S. Rockefeller Graduate Prize Fellowship, UCHV Merit Prize (details below in "Honors and Awards")
- M.A. 2007

Yale Law School

- J.D. 2010
- Yale Law Journal, Senior Editor (2008-2010); Yale Journal of International Law, Editor (2007-2008)
- Ambrose Gherini Prize, Raphael Lemkin Prize (twice), Jerome Sayles Hess Fund Prize (details below in "Honors and Awards")

Stanford University

- B.A. 2003
- Majors: Public Policy, Philosophy
- Phi Beta Kappa, Honors, Distinction, Cooke Family Fund Award, Mothershead Award (details below in "Honors and Awards")

PUBLICATIONS

Inextricable Accomplices: Criminal War and the Soldier's Moral Burden (Working Paper)

Can international law coherently, and without internal dissonance, criminalize wrongful war, require disobedience to internationally criminal orders, and yet deny soldiers any protections against being forced to kill in criminal wars? Can a cogent account of the normative underpinnings of international law show those soldiers burdened with the trauma of perceived complicity in a wrongful war to be engaged in moral misdiagnosis?

Contrary to the prevailing orthodoxy, the answer to these questions is “no.” The widespread, unjustified killing in a wrongful war is what makes it worthy of criminalization, and a scrupulous and coherent normative account of international law must acknowledge that the soldiers who fight criminal wars bear a heavy and lasting moral burden. This exposes a disturbing tension in their treatment by a global legal regime whose asserted normative authority in the post-Nuremberg era rests in part on its claimed promotion of human dignity.

To be clear, there are robust institutional and pragmatic reasons for *immunizing* lower-level participants against ex post criminal liability for fighting in wrongful wars. However, these reasons do not establish the *non-culpability* of such participation. Despite the moral culpability of fighting in a wrongful war, there may also be strong practical reasons for international law to refrain from providing ex ante protections or rights to soldiers against domestic regimes that force them to fight in wrongful wars. However, when protection is withheld on these grounds, the international legal regime abandons soldiers, leaving them to bear the moral remainder of a weak international order. If this can be defended at all, it is as the lesser evil. At best, the soldier's moral burden – rooted as it is in the very normative logic of international law's approach to armed conflict and the use of force – is one of the tragic collateral harms of war.

That assessment carries with it a powerful internal imperative. It demands that the harm be minimized whenever possible and it compels us to engage in a regular and continuous re-examination of the grounds of necessity as conditions change. Recent transformations in the means and methods of warfare suggest heightened prospect for reforms at the international and domestic levels.

Taking Seriously the Soldier's Moral Burden: Avenues of Institutional Reform (Working Paper).

This paper builds on the arguments in *Inextricable Accomplices* to identify a series of possible institutional reforms that would respond to the imperative of taking seriously the soldier's moral burden and rigorously re-examining the case for its necessity. Given the fundamental transformation in the way wars are being fought in the twenty-first century, that imperative is currently at its most pressing. This paper proposes institutional reforms falling into three categories – those that would empower the soldier to avoid participation in wrongful war (such as asylum rights or a human right to disobey); those that lay the foundation for greater soldierly deference to the state with respect to the *jus ad bellum* (such as requirements for a *jus ad bellum* devil's advocate combined with *post bellum* transparency); and those that alleviate the soldier's supplementary *jus in bello* burden (through similar procedures regarding rules of engagement or high-level targeting decisions). Helping to strengthen many of these institutions across all three categories would be a regular post-war commission of inquiry modeled

loosely on the Chilcot Inquiry in the United Kingdom (and other post-Iraq inquiries in the United Kingdom and the United States).

Speculating on War and Peace (Working Paper).

Much of the focus on the complicity of businesses in violent wrongdoing and the importance of subjecting it to international regulation has been in the realm of human rights and atrocity crimes. A vitally significant, but neglected area of research is in the realm of transnational concession agreements between rebel groups and international investors. Such agreements occur both during civil wars and in transitional periods following the signing a peace agreement (sometimes violating key provisions of such an agreement). Left unregulated, they have the potential to undermine carefully negotiated and precarious peace processes. Significant examples occurred in Sudan, both before the Comprehensive Peace Agreement of 2005 (CPA), and between the beginning of the CPA period and the South's ultimate secession in 2011. This paper articulates the normative considerations at stake in these agreements and proposes a framework for their regulation under international law.

Signing onto Peace (Working Paper).

This paper argues for a reconsideration of the legal standing of peace agreements. Under existing international law, third states and organizations – including even those that facilitate, observe, or sign as witnesses, the agreements in question – have no obligations to uphold or support peace agreements (whether between states or between a state and rebel groups). Indeed, they do not even have an obligation not to *undermine* such agreements. They may contract with one of the parties in a way that violates the latter's obligations under the peace treaty. This rule makes sense if one views international law as a horizontal regime concerned with bilateral relations between states, but it is normatively jarring when considered from the perspective of international law as a regime of global public order, with peace and human rights as its normative lodestars. Accepting the latter vision of international law entails an imperative to reconsider the standing and role of peace agreements in international law.

With Power Comes Responsibility: Joint Ventures, Attribution, and Morality in International Law (Forthcoming, 2014).

When the actions of lawful joint ventures involving a number of states and international organizations result in global public wrongs, responsibility must be attributed to the participant states or organizations that hold the levers of control most relevant to preventing the conduct in question. This proposed standard (1) builds on the normative trend in international law emphasizing the state's inherent moral obligation to prevent such wrongdoing, (2) recognizes the vital role of international cooperative ventures in furthering the project of international law, (3) is sensitive to the difficulty of developing systems of contribution and indemnification at the international level, (4) advances the project of deterrence, and (5) preserves the right to reparation. As such, this "power-to-prevent" standard is superior to the dominant preference for one or another formalism (whether "ultimate authority and control," "overall operational control," blanket multiple attribution akin to joint and several liability, or even the *Nicaragua*-inspired interpretation of "effective control"). It would apply to a broad range of international collective enterprises, including multi-national forces, peacekeeping operations, FRONTEX operations, joint policing, joint anti-piracy patrols, joint

prisons, and joint territorial administrations. A broader standard of blanket multiple attribution akin to joint and several liability may be appropriate when the enterprise itself is unlawful.

Killings at Srebrenica, Effective Control, and the Power to Prevent Unlawful Conduct, [16 INT'L & COMP. L. Q. 713](#) (2012).

In an important advance in the law of international responsibility, two Hague Court of Appeal judgments on the human rights failures of Dutch UN peacekeepers during the Srebrenica genocide adopted the power-to-prevent standard of attribution for the first time. This piece examines three aspects of the judgments – their unique approach to the question of human rights extraterritoriality, their avoidance of the so-called “responsibility to protect,” and the theory under which they attributed the human rights failings of the battalion to the Netherlands, rather than the United Nations. On the third point, the Court adopted the standard of attribution proposed in my *Translating the Standard of Effective Control into a System of Effective Accountability*. Here, I elaborate further the contours of the rule I had advocated in that article and develop its legal and normative roots. In particular, I emphasize the equal application of the effective control analysis to both the sending state and the receiving organization, argue that this necessitates understanding effective control as preventive control, and explain why this is the normatively and legally optimal interpretation of the International Law Commission’s work on international responsibility.

Nationality and the International Judge: The Nationalist Presumption Governing the International Judiciary and Why it Must Be Reversed, [45 CORNELL INT’L L. J. 77](#) (2012).

The normative authority of the international judiciary, its realization of its core aspirations, and its role in upholding the rule of international law depend on expunging structural assumptions of judicial nationalism in favor of a cosmopolitan model of international judging. Anxiety about judicial nationalism is rife in international courts. It underpins three kinds of provision – the judicial nationality limit, the judge *ad hoc* option, and the nationality-based recusal – one or more of which are adopted by the majority of international courts. These rules are misguided and counter-productive on their own terms. First, nationality is not a characteristic of sufficient potency to raise concern about the impartiality of a judge. Second, even if the anxiety were warranted, extant approaches to mitigating the perceived threat fail miserably in that endeavor. Third, lending statutory imprimatur to such anxiety actually exacerbates the threat of bias by normalizing the notion of judicial nationalism and thus contributing injuriously to the international judge’s conception of her professional role. These flaws are consequential. Lacking a global executive branch, international courts rely heavily on their normative authority for their efficacy in advancing the rule of law. The feasibility of cosmopolitan reform is exemplified most powerfully by its successful implementation by the World Trade Organization Appellate Body and the Caribbean Court of Justice.

Bombs, Ballots, and Coercion: The Madrid Bombings, Electoral Politics, and Terrorist Strategy, [20 SECURITY STUDIES 303](#) (2011).

Contrary to popular perception, the 2004 terrorist bombings in Madrid were not a strategic terrorist success and do not provide a blueprint for future terrorist efforts to manipulate democratic outcomes. On March 11, 2004, an al Qaeda affiliate killed 191 civilians in a series of coordinated train bombings in Madrid. Spain's

general election three days later confounded pollsters' expectations – the incumbent PP was ousted by the challenging PSOE, a party committed to withdrawal from Iraq. After establishing that al Qaeda is not a credible coercive agent, I debunk the popular myth that Spanish voters erroneously entered a coercive bargain with the network. The attacks were also a strategic failure in terms of terrorist advertising, provocation, and regime destabilization. Although they likely boosted morale in al Qaeda, this is a strategic victory common to almost any successfully executed attack. Despite their lack of strategic impact, the Madrid bombings did contribute to the PSOE victory in three ways. First the attacks boosted turnout among abstainers (who skew left in Spain). Second, the PP responded to the attacks by blaming unequivocally the Basque separatist group, ETA, in a way that was widely viewed as manipulative, dishonest, and political, feeding into an existing popular narrative of PP mendacity. Third, before the attacks Spaniards had preferred PSOE policy on the “global war on terror.” Its raised salience benefited the PSOE, even though voters did *not* believe withdrawal from Iraq would reduce the risk of further attacks, and even though they backed the PSOE pledge to increase significantly the Spanish deployment in Afghanistan (in direct violation of the terrorists' explicit demand for full withdrawal). Additionally, the PP was more electorally vulnerable prior to the attacks than had been recognized, and the gap had been closing steadily prior to the close of opinion polls days earlier. The unpredictable ways in which the attacks affected the election do not conform to the dominant narrative and do not fit into a strategic frame for global terrorism. There is little reason to believe their impact is replicable.

Translating the Standard of Effective Control into a System of Effective Accountability: How Liability Should be Apportioned for Violations of Human Rights by Member State Troop Contingents Serving as United Nations Peacekeepers, [51 HARV. INT'L L. J. 113](#) (2010).

The international regime of responsibility for the human rights violations of UN peacekeepers up to the time of writing was divided and wrongheaded. This paper provides a comprehensive critical analysis of that regime. I argue that both the United Nations and troop-contributing states are subject to human rights law, including the fundamental duty to remedy human rights violations for which they are responsible, and that these duties apply extraterritorially in many peacekeeping contexts. Contrary to legal authorities up to the time of writing, I then argue that the determination of whether the troop-contributing state or the United Nations should be held responsible in a given context must be driven by an assessment of which entity held the levers of control most likely to be effective in lawfully preventing the wrong in question. To that end, I propose a five-category framework of responsibility. This framework expands the responsibility of troop-contributing states, and advocates the joint responsibility of the state and the United Nations in a significantly greater number of contexts than had been recognized by courts and other authorities up to the time of writing. The proposed regime maximizes the avenues to remedy for victims without prejudice to the fairness and effectiveness of a framework that accurately locates those most responsible. I conclude by addressing several legal and policy objections.

This article was cited by, and its core proposal adopted in, the landmark cases:

Mustafić-Mujić v. the Netherlands, Case No. 200.020.173/01, Hague Court of Appeal (2011).

Nuhanović v. the Netherlands, Case No. 200.020.174/01, Hague Court of Appeal (2011).

Finding Balance in the Attribution of Liability for the Human Rights Violations of U.N. Peacekeepers, [51 HARV. INT'L L. J. ONLINE 105](#) (2010).

This essay replies to essays by Professor Jordan Paust and Professor Peter Rowe, responding to *Translating the Standard of Effective Control into a System of Effective Accountability*.

The International Criminal Court, Article 79, and Transitional Justice: The Case for an Independent Trust Fund for Victims, [28 WIS. INT'L L. J. 233](#) (2010).

Contrary to the rulings of the International Criminal Court's Pre-Trial Chamber, the Trust Fund for Victims provided for in the ICC's statute should be freed to pursue independent projects without any obligation to maintain a reserve for topping up Court-ordered reparations payments. Indeed, it should use all of its resources in pursuit of reparative projects that benefit and acknowledge those victims that are *unlikely* to be reached by the ICC's reparations process. Court-ordered reparations should be funded only by the wealth of the criminal in question and by other Court-generated resources, such as fines and forfeitures. This approach would better realize the imperatives of transitional justice, better conform to the requirements of modern fundraising, and better align the distribution of institutional responsibilities under the ICC regime with the distribution of institutional competences.

War and Peace in Rwanda, in STOPPING WARS AND MAKING PEACE: STUDIES IN INTERNATIONAL INTERVENTION 71 (Kristen Eichensehr & W. Michael Reisman eds., 2009).

This chapter describes why and how extensive peacemaking efforts in the Rwandan civil war failed, leading ultimately to the genocide of 1994, and draws general lessons for negotiating peace in internal armed conflict. Early efforts at peace were doomed because the parties preferred to continue fighting rather than to compromise on their core, incompatible aims. The failure of the international process in Arusha in 1992-1993 was more complex. At its core were three factors. First, democratization pressures from donors and international financial institutions forced the Habyarimana government to introduce coalition partners at the same time as it was trying to wage war, manage a collapsing economy, and negotiate with the hostile insurgents. This created a sense of desperation in the old regime and meant that the delegation at Arusha represented neither key leaders in the government nor the Rwandan military. Second, the Arusha protocols on transitional government and the integration of the armed forces ignored the demands of the old ruling oligarchy. The insurgency's military superiority and the composition of the government's negotiating team had secured the rebels a victor's agreement, but the old regime's enduring institutional powers gave it the capacity to spoil the process of implementation. Third, despite endorsing a victor's agreement for the rebels, the United Nations failed to deploy a robust peacekeeping force capable of containing the ruling party spoilers.

Crime Beyond Punishment, [15 U.C. DAVIS J. INT'L L. & POL'Y 189](#) (2009).

The strong preference for criminal punishment for mass atrocities performed by state actors against their own citizens (inspired, in large part, by the prosecutions at Nuremberg and given contemporary institutional heft by the slew of ad hoc tribunals, domestic prosecutions of former leaders, and the ICC), has yet to be given a robust and coherent philosophical basis. This article calls into question the various justifications attempted by its advocates. Assessing the situation from the

perspective of each of the leading philosophical justifications of punishment, I argue that four unique features of the atrocity and post-atrocity context – the use of state power to perpetrate the wrongs, the fact that state atrocity will be punished only in a victor’s court or a foreign forum, atrocity’s defiance of our ordinary conceptions of justice or desert, and the massive numbers of perpetrators and accomplices involved in atrocity – render punishment in that scenario uniquely philosophically problematic. Efforts to deal with atrocity through a combination of truth commissions (or other public inquiries), material and symbolic reparations, and reform of the public educational curriculum are not merely second-best substitutes, or supplements to criminal justice, but are potentially superior alternatives that better achieve the ends that supposedly motivate the punishment model.

Book Note, 33 YALE J. INT’L L. 513 (2008) (reviewing GIDEON BOAS, *THE MILOŠEVIĆ TRIAL* (2007)).

COMBATING SEXUAL HARASSMENT AT THE WORKPLACE (2005) (co-authored with Keya Jayaram).

A non-academic handbook articulating the implications of the landmark 1997 *Vishaka v. Rajasthan* judgment by the Indian Supreme Court for women’s rights NGOs, victims of sexual harassment, and employers.

HONORS AND AWARDS

Robina Foundation Visiting Human Rights Fellow (2012-2013, 2013-2014), Yale Law School

- Fellowship awarded by invitation to bring human rights scholars and practitioners to spend time in residence at the Yale Law School

Laurance S. Rockefeller Graduate Prize Fellowship (2011-2012), Princeton University

- Competitive university-wide fellowship awarded to a small number of students by the Graduate School in cooperation with academic departments

University Center for Human Values Graduate Prize Fellowship (2011-2012), Princeton University

- Competitive interdisciplinary fellowship awarded to a small number of students working on dissertations in the areas of ethics and human values, broadly construed

Jerome Sayles Hess Fund Prize (2010), Yale Law School

- Student who demonstrates excellence in the area of international law

Raphael Lemkin Prize (2009, 2010), Yale Law School

- Best paper in the field of international human rights law

Ambrose Gherini Prize (2009), Yale Law School

- Best paper in the field of international law either public or private

Best Overall Brief; Best Overall Prosecutor; Best Overall Defense Counsel (2009), International Criminal Court Trial Competition, The Hague, Netherlands

- Won 3 of 6 available prizes at the international finals (involving twenty teams), having qualified as one of two teams from North American region

Kirby Simon Fellowship (2008, 2009), Yale Law School

- For work in The Hague, Netherlands

University Center for Human Values Merit Prize (2005-2006), Princeton University

- Competitive first-year prize fellowship awarded to excellent students who show promise in the area of ethics, political theory/philosophy, and human values

Melman Fellowship (2004-2005), Institute for Policy Studies (Washington D.C.)

- Competitive fellowship awarded for research in public policy
- For work in Mumbai, India

Cooke Family Fund Award (2003), Stanford University

- Best thesis in Ethics in Society

Mothershead Award (2003), Stanford University

- Most outstanding contribution to moral and political philosophy

Phi Beta Kappa, Honors, and Distinction (2003), Stanford University

INVITED PRESENTATIONS

With Power Comes Responsibility: Joint Ventures, Attribution, and Morality in International Law

The Distribution of Responsibilities in International Law
University of Amsterdam & Amsterdam Center for International Law (May 2013)

The Attribution of Liability for the Wrongs of Peacekeepers

Foundations of Shared Responsibility in International Law
University of Amsterdam & Amsterdam Center for International Law (November 2011)

Translating the Standard of Effective Control into a System of Effective Accountability

Harvard International Law Journal Speaker Series
Harvard Law School (November 2009)

WORK EXPERIENCE

Lowenstein International Human Rights Clinic, Yale Law School

- Member (January 2008-May 2010)
- Authored legal memoranda, policy analyses, and reports for numerous organizations, including International Crisis Group, Human Rights Watch, and INTERIGHTS

Special Court for Sierra Leone (SCSL), The Hague, Netherlands

- Legal Intern (June 2009-August 2009)
- Trial Chamber II, *Prosecutor v. Charles Ghankay Taylor*
- Drafted legal memoranda for the judges
- Analyzed and mapped evidence in preparation for judgment drafting
- Prepared analyses of the testimony of the Accused (on the stand for entire internship)

International Criminal Tribunal for the former Yugoslavia (ICTY), The Hague, Netherlands

- Legal Intern (May 2008-August 2008)
- Office of the President, Appeals Chamber
- Drafted Appeals Chamber decisions and judgments, presidential orders, presidential lectures, press releases, and internal legal memoranda
- Drafted a proposed addition to the Rules of Procedure and Evidence along with an explanatory memorandum for consideration by the Rules Committee

Extraordinary Chambers in the Courts of Cambodia (ECCC), Special Project at Yale Law School

- Student Legal Researcher (January 2008-August 2008)
- Drafted legal memoranda addressing issues arising or likely to arise before the Court

24 Hours for Darfur

- Student Legal Researcher (September 2007-May 2008)
- Prepared and drafted video- and questionnaire-based survey of Darfuri refugees in Chad regarding their perspectives on peace and justice
- Performed research on the conflict in Darfur, transitional justice institutions, and informed consent

India Centre for Human Rights and Law (ICHRL), Mumbai, India

- Research Analyst (October 2004-May 2005)
- Women's Rights Division
- Planned, researched and wrote a full length handbook detailing legal history and recent sexual harassment jurisprudence and legislative reform in India

Lehman Brothers, New York, NY

- Analyst (July 2003-July 2004)
- Equity Capital Markets, Investment Banking Division
- Advised clients with the use of market analysis and company valuation; worked on the bookrunning execution of 18 deals for \$4.6 billion; produced company- and industry-specific daily market updates for priority clients
- Earned placement in the top year-end bonus pool for first-year analysts

ACADEMIC RESEARCH ASSISTANCE

Professor Bruce Ackerman, Yale Law School

- Research Assistant (March 2009-June 2009)
- Dynamic interaction between administrative agencies and courts regarding school desegregation following the Civil Rights Act

Professor Emilie Hafner-Burton, Princeton University

- Research Assistant (May 2007-August 2007)
- Impact of market-based incentives on the human rights behaviors of abusive regimes

TEACHING EXPERIENCE

International Human Rights Law (Yale Law School)

- Lecturer (Spring 2014)
- Designed syllabus and will teach course alone
- JD students and LLM students

International Law and Armed Conflict (Yale Law School)

- Lecturer (Fall 2012)
- Designed syllabus and taught course alone
- JD students and LLM students
- Average course evaluations (scale 1-5):
 - Compared to other YLS classes, how valuable was in-class time: 4.9
 - Compared to other YLS professors you've had, how good a teacher was the professor: 4.6

Intelligence, National Security and Constitutional Democracy (Princeton University, Politics)

- Teaching Assistant (Spring 2011)
- 3 sections ("precepts")
- Average course evaluation for quality of precepts (scale 1-5): 4.6

TEACHING & RESEARCH INTERESTS:

PRIMARY:

- | | |
|--|--|
| • Public International Law | • Criminal Law |
| • Human Rights Law | • Torts |
| • International Law & the Use of Force | • National Security Law |
| • International Law of Armed Conflict | • Foreign Relations Law |
| • International Criminal Law | • Ethics & Professional Responsibility |
| • Military Law | |

SECONDARY:

- | | |
|----------------------|---------------------|
| • Constitutional Law | • Environmental Law |
| • Evidence | • Contracts |
| • Remedies | • Comparative Law |

BAR ADMISSIONS

State Bar of New York, member since 2011