

**OONA A. HATHAWAY**

Gerard C. and Bernice Latrobe Smith Professor of International Law  
Yale Law School  
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**EDUCATION**

**YALE LAW SCHOOL**, J.D., June 1997.

*Yale Law Journal*, Editor-in-Chief.

*Yale Journal of International Law*, Managing/Articles Editor.

*Yale Journal of Law and Humanities*, Editor.

Lowenstein International Human Rights Clinic.

**HARVARD COLLEGE**, B.A. in Government, *summa cum laude*, June 1994.

Thomas Temple Hoopes Prize (for outstanding research and writing).

Gerda Richards Crosby Prize (for outstanding research and writing).

Phi Beta Kappa.

John Harvard Scholar, Elizabeth Agaziz Award, Dean's List (all semesters).

*Harvard International Review & Harvard Political Review*, Editor.

**ACADEMIC AND LEGAL POSITIONS**

- 2009- present **YALE UNIVERSITY SCHOOL OF LAW**, New Haven, CT.  
*Gerard C. and Bernice Latrobe Smith Professor of International Law.*
- 2008-2009 **U.C. BERKELEY SCHOOL OF LAW**, Berkeley, CA.  
*Professor of Law.*
- 2005-present **ADVISORY COMMITTEE ON INTERNATIONAL LAW FOR THE LEGAL ADVISER, U.S. DEPARTMENT OF STATE**, Washington, D.C.  
*Committee Member.*
- 2002-2008 **YALE UNIVERSITY SCHOOL OF LAW**, New Haven, CT.  
*Associate Professor of Law.*
- October 2006 **UNIVERSITY OF TORONTO FACULTY OF LAW**, Toronto, Canada  
*Distinguished Visitor.*
- 2006 **HARVARD LAW SCHOOL**, Cambridge, MA.  
(Winter Term) *Jeremiah Smith Jr. Visiting Associate Professor.* Taught a course on international law and international relations.
- 2000-2002 **BOSTON UNIVERSITY SCHOOL OF LAW**, Boston, MA.  
*Associate Professor.*
- 1999-2000 **HARVARD UNIVERSITY CENTER FOR ETHICS AND THE PROFESSIONS & HARVARD UNIVERSITY CARR CENTER FOR HUMAN RIGHTS POLICY**, Cambridge, MA.  
*Eugene P. Beard Visiting Graduate Fellow.*

## ACADEMIC AND LEGAL POSITIONS (CONT.)

- July-Aug. 1999 **MCDERMOTT, WILL & EMERY**, Boston, MA & Washington, DC.  
*Associate*. Worked on human rights and border dispute cases; prepared a report with the Chair of the Inter-American Juridical Committee of the Organization of American States on the Law of the Sea Convention.
- 1998-99 **JUSTICE SANDRA DAY O'CONNOR**, U.S. Supreme Court, Washington, DC.  
*Law Clerk*.
- 1997-98 **JUDGE PATRICIA WALD**, U.S. Court of Appeals, D.C. Circuit, Washington, DC.  
*Law Clerk*.

## PROFESSIONAL HONORS & BOARDS

EXECUTIVE COMMITTEE, THE MACMILLAN CENTER, YALE UNIVERSITY, 2009-  
BOARD OF EDITORS, YALE JOURNAL OF INTERNATIONAL LAW, 2009-  
APPOINTED SENIOR RESEARCH FELLOW IN INTERNATIONAL AND AREA STUDIES FOR  
THE MACMILLAN CENTER, YALE UNIVERSITY, 2007-2008  
RECIPIENT OF CARNEGIE SCHOLARS AWARD, 2004.  
RECIPIENT OF YALE CENTER FOR INTERNATIONAL AND AREA STUDIES DIRECTOR'S  
AWARD, 2004.

## PUBLICATIONS

### *Academic Publications*

*Presidential Power over International Law: Restoring the Balance*  
(forthcoming, YALE LAW JOURNAL, October 2009) (examines the role of the president in U.S. international lawmaking)

*Treaties' End: The Past, Present and Future of International Lawmaking in the United States*, 117 YALE LAW JOURNAL (2008) (examines the use of treaties and ex post congressional-executive agreements from historical, comparative, and empirical perspectives and argues for greater replacing most treaties with congressional-executive agreements)

*International Delegation and Domestic Sovereignty*, LAW AND CONTEMPORARY PROBLEMS (2008) (examines the debate over the delegation of legal and political authority to international organizations)

*Domestic Enforcement of International Law: Hamdan v. Rumsfeld*, in STORIES IN INTERNATIONAL LAW (Foundation Press, 2007)

*Why Do Nations Join Human Rights Treaties?*, 51 JOURNAL OF CONFLICT RESOLUTION 588 (2007) (peer review journal) (examines why nations subscribe to international human rights treaties utilizing cross national data analysis and uses findings to assess a political theory of international law)

### *Academic Publications (cont.)*

*The Continuing Influence of the New Haven School*, YALE JOURNAL OF INTERNATIONAL LAW 553 (2007) (discussing the ways in which the New Haven School of international law continues to influence legal scholarship today)

*Rationalism and Revisionism in International Law*, 119 HARVARD LAW REVIEW 1404 (2006) (with A. Lavinbuk) (assesses the state of the academic debate over international law in light of a recent book on international law, *The Limits of International Law*, by Jack Goldsmith and Eric Posner)

*Between Power and Principle: An Integrated Theory of International Law*, 72 UNIVERSITY OF CHICAGO LAW REVIEW 469 (2005) (proposes a new conception of the relationship between international law and state behavior), reviewed in *Legal Affairs* by Michael Ignatieff.

FOUNDATIONS OF INTERNATIONAL LAW AND POLITICS (with Harold H. Koh) (Foundation Press 2004) (a reader intended for legal and political science audiences), reviewed in Christopher C. Joyner, *International Law Is, as International Relations Theory Does?*, 100 AM. J. INT'L L. 248 (2006)

*The New Empiricism in Human Rights: Insights and Implications*, AMERICAN SOCIETY OF INTERNATIONAL LAW PROCEEDINGS 206 (2004) (discusses the lessons that can be drawn from existing empirical research into human rights law and proposes promising avenues for future research)

*The International Law of Torture*, in TORTURE: PHILOSOPHICAL, POLITICAL, AND LEGAL PERSPECTIVES (Sanford Levinson ed., Oxford University Press 2004) (explores the role of international law in efforts to end the practice of torture)

*The Cost of Commitment*, 55 STANFORD LAW REVIEW 1821 (2003) (argues that the cost of compliance varies according to a country's divergence from the requirements of a treaty and the likelihood that the country will change its practices to comply with its requirements)

*Testing Conventional Wisdom*, 13 EUROPEAN JOURNAL OF INTERNATIONAL LAW 185 (2003) (peer review journal) (arguing that empirical analysis can be an important and powerful tool for testing assumptions regarding state behavior)

*Do Human Rights Treaties Make a Difference?*, 111 YALE LAW JOURNAL 1935 (2002) (analyzes quantitative data on over 150 nations during a 40-year period to assess the impact of human rights treaties on countries' human rights practices and the empirical validity of current theories of international law compliance), reviewed in David Weissbrodt, *Do Human Rights Treaties Make Things Worse?*, FOREIGN POLICY 88 (Jan./Feb. 2003).

***Academic Publications (cont.)***

*Path Dependence in the Law: The Course and Pattern of Change in a Common Law Legal System*, 86 IOWA LAW REVIEW 601 (2001) (develops and applies three strands of path dependence theory to explain change in common law legal systems and to offer a positive and normative account of *stare decisis*).

*Positive Feedback: The Impact of Trade Liberalization on Industry Demands for Protection*, 52 INTERNATIONAL ORGANIZATION 575 (1998) (peer review journal) (proposes and empirically tests a theory that helps explain variation in demand for trade protection).

*Book Note, The Politics of the Confirmation Process*, 107 YALE LAW JOURNAL 235 (1996) (reviews John Anthony Maltese, *The Selling of Supreme Court Nominees*).

### ***Popular and Other Writings***

*America needs to prepare for early Iraq pullout*, The Financial Times (August 23, 2009) (with Bruce Ackerman)

*The Iraq War is Now Illegal*, The Daily Beast (Jan. 1, 2009) (with Bruce Ackerman), available at <http://www.thedailybeast.com/blogs-and-stories/2008-12-31/the-iraq-war-is-now-illegal/>.

*A legal time bomb in Iraq*, The Guardian (U.K.) (December 12, 2008) (with Bruce Ackerman), available at <http://www.guardian.co.uk/commentisfree/2008/dec/12/comment-iraq-occupation-us-legality>.

*Bush should include Congress*, The Boston Globe (November 26, 2008) (with Congressman Bill Delahunt), available at [http://www.boston.com/bostonglobe/editorial\\_opinion/oped/articles/2008/11/26/bush\\_should\\_include\\_congress/](http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2008/11/26/bush_should_include_congress/).

*Bush's Final Illusion: The president's agreement with Iraq bypasses Congress. Again*, Slate Magazine (October 21, 2008) (with Bruce Ackerman), available at <http://www.slate.com/id/2202771/>.

*The Case for Replacing Article II Treaties with Ex Post Congressional-Executive Agreements*, American Constitution Society Issue Brief (Nov. 16, 2008), available at <http://www.acslaw.org/node/7625>.

Testimony on “The U.S.-Iraq Bilateral Agreement: Constitutional and other Legal Concerns,” House Foreign Affairs Committee, Subcommittee on Oversight, (Nov. 13, 2008), available at <http://www.internationalrelations.house.gov/110/hat111908.pdf>.

Testimony on “Declaration and Principles: Future U.S. Commitments to Iraq,” House Foreign Affairs Committee, Subcommittee on Oversight (Mar. 4, 2008), available at <http://www.internationalrelations.house.gov/110/hat030408.htm>.

### ***Popular and Other Writings (cont.)***

Testimony on “The November 26 Declaration of Principles: Implications for UN Resolutions on Iraq and for Congressional Oversight,” House Foreign Affairs Committee, Subcommittee on Oversight (February 2008), available at <http://www.internationalrelations.house.gov/110/hat020808.pdf>.

What Bush Will Surrender in Iraq, TIME MAGAZINE (ONLINE), September 10, 2008 (with Bruce Ackerman) (arguing that the draft agreement with Iraq includes several unconstitutional provisions)

*Into No-Man’s Land*, THE L.A. TIMES, July 25, 2008 (with Bruce Ackerman) (arguing that the proposed memorandum of understanding with Iraq is unconstitutional and does not adequately protect the troops)

*The War’s Expiration Date*, THE WASHINGTON POST ONLINE, Saturday, April 5, 2008 (with Bruce Ackerman) (arguing that the war in Iraq will become illegal on Jan. 1, 2009 unless new legislation is passed or the UN Mandate is extended)

*An Agreement That Needs Agreement*, THE WASHINGTON POST ONLINE, Saturday, Feb. 15, 2008 (with Bruce Ackerman) (arguing that the proposed agreement between the U.S. and Iraq must be approved by Congress to be legal)

*Why We Need International Law*, THE NATION, November 19, 2007 (putting forth a case for international law on the ground that international law benefits the United States’s national interest)

*A Tortured Way to Run War on Terror*, NEWSDAY, October 26, 2005 (op-ed discussing the Administration’s efforts to stop Congress from regulating the military’s treatment of detainees)

*Judge Roberts and International Law* & other posts, Supreme Court Extra: Think Progress, at <http://court.thinkprogress.org/> (blog).

*Debate Club: Is International Law Really Useful?*, on-line at LEGAL AFFAIRS ([http://www.legalaffairs.org/webexclusive/debateclub\\_.msp](http://www.legalaffairs.org/webexclusive/debateclub_.msp)) (Jan. 2005) (on-line written debate with Eric Posner, a prominent critic of international law)

*The Court Puts the White House in its Place*, NEWSDAY, June 30, 2004 (op-ed discussing the Supreme Court’s cases on the rights of prisoners in the war on terror), reprinted as *Supreme Court Brings Bush Administration Back to Earth*, THE HARTFORD COURANT, July 1, 2004, as *A Check on the Executive*, THE STAR-LEDGER, July 1, 2004, and as *White House Brought Back to Earth Bush’s Power Over Inmates in War on Terror Reined in*, WINNEPEG FREE PRESS, July 3, 2004.

***Popular and Other Writings (cont.)***

*Human Rights and Security*, a paper for the United Nations High Level Panel on Global Security Threats (commissioned by the UN Foundation) (proposes ways the UN can use international law to more effectively shape what states do)

*Two Cheers for International Law*, 27 WILSON QUARTERLY 50 (Autumn 2003) (examines the role of international law in modern international politics)

*Making Human Rights Treaties Work: Global Legal Information and Human Rights in the 21<sup>st</sup> Century*, 31 INT'L J. OF LEGAL INFO. 312 (2003) (discussing why human rights treaties have been ignored in discussions of the war against terrorism and how they can be made more effective)

*Making Human Rights Treaties Work*, 4 YALE POLITIC 28 (2003) (discussing why human rights treaties have been ignored in discussions of the war against terrorism and how they can be made more effective)

*Human Rights*, Project Syndicate (Nov. 2002) (op-ed for a syndicate of 228 newspapers in 107 countries, reprinted in numerous local newspapers under various titles)

*Lifting the Veil*, 19 HARV. POL. REV. 16 (Mar. 1992) (journalistic piece examining the political and social status of women in Kuwait, based in part on observations made during a visit to Kuwait). Winner of the Kennedy School of Government Political Journalism Award.

## **DRAFTS AND WORKS-IN-PROGRESS**

STRONG STATES, STRONG WORLD (forthcoming, Princeton University Press 2008) (summary available; draft will be available in June 2008)

*The Legal and Political Foundations of International Law* (provides a new account of when and how international law comes to be; draws upon a comprehensive new database created by coding all of the constitutions currently operating in the world, with special attention paid to the political processes that countries use to create domestic and international law)

## CONGRESSIONAL TESTIMONY AND BRIEFINGS

- House Foreign Affairs Committee, Subcommittee on Oversight, testified on “Renewing the United Nations Mandate for Iraq: Plans and Prospects” (Nov. 13, 2008)
- Congressional Briefing on U.S.-Iraqi Relations and the Bush-Maliki Agreement (Sept. 22, 2008)
- House Foreign Affairs Committee, Subcommittee on Oversight, testified on “Declaration and Principles: Future U.S. Commitments to Iraq,” (March 2008)
- House Foreign Affairs Committee, Subcommittee on Oversight, testified on “The November 26 Declaration of Principles: Implications for UN Resolutions on Iraq and for Congressional Oversight,” (February 2008)

## OTHER PUBLIC PRESENTATIONS (2003-present only)

- Constitution in 2020, America and the World panel, Yale Law School, October 2009 (presented “American in the World: Making Law and Marking War”)
- International Law Colloquium, NYU School, Sept. 2009 (presented “Presidential Power Over International Lawmaking: Restoring the Balance”)
- Creating a Dialogue Between Qualitative and Quantitative Approaches to Human Rights, American Political Science Association Conference in Toronto, September 2009 (commentator)
- The Domestic Politics of International Law panel, American Political Science Association Conference in Toronto, September 2009 (presented “The Role of Domestic Politics in U.S. International Lawmaking”)
- Changing Concepts of Sovereignty Panel, American Society of International Law Annual Conference, March 2009 (Chair/Moderator)
- Law and Globalization Workshop, Yale Law School, February 2009 (presented “Presidential Power Over International Law”)
- The Federalist Society Annual Student Conference, Yale Law School, February 2009 (presented on panel, “Exportability of Separation of Powers”)
- Miller Center on Global Challenges and the Law, UC Berkeley School of Law, February 2009 (presented “International Law Challenges Facing Obama”)
- International Law and International Relations Workshop, Stanford University, February 2009 (presented “Presidential Power Over International Law”)
- Workshop on Self-Execution Doctrine, Duke Law School, September 2008 (presented “Self-Execution Doctrine and the Comparative Perspective”)
- International Law Workshop, Vanderbilt Law School, September 2008 (presented “Imbalance of Power”)
- American Society of International Law, New Voices Panel, April 2008 (Moderator)
- Yale Law School, Faculty Workshop, Feb. 2008 (presented “Treaties’ End: The Past, Present, and Future of International Lawmaking in the United States”)
- American Association of Law Schools Annual Meeting, panel on The Future of Legal Scholarship, January 2008

University of Wisconsin-Madison School of Law & Department of Political Science, November 2007 (presented “Treaties’ End”)

Fordham Law School, Symposium, October 2007 (presented “What Does International Rule of Law Mean for the United States”)

Stanford University, Conference on International Regimes, October 2007 (presented on “New Challenges to International Regimes”)

American Political Science Association Conference, August 2007 (presented “Why Do Nations Join Human Rights Treaties?”)

New America Foundation Annual Retreat, May 2007 (presented on a panel on “The Changing Face of Globalization”)

Stanford University, International Law Colloquium, April 2007 (presented “International Delegation and Domestic Sovereignty”)

Georgetown University School of Law, International Law Colloquium, April 2007 (presented “International Delegation and Domestic Sovereignty”)

Princeton University International Relations Faculty Colloquium, March 2007 (presented “International Delegation and Domestic Sovereignty”)

New Haven School Conference, Yale Law School, March 2007 (presented on a panel on “Is there a ‘New’ New Haven School?”)

Temple University School of Law International Law Colloquium, March 2007 (presented “International Law and State Sovereignty”)

Duke University Delegating Sovereignty Conference, February 2007 (presented “International Delegation and Domestic Sovereignty”)

Middle East Legal Studies Seminar, January 2007 (presented “International Law and Domestic Sovereignty”)

Yale University, “Justice in the Mirror” Conference, December 2006 (presented “Global Justice and Domestic Sovereignty”)

New America Foundation, Oct. 2006 (presented “Strong States, Strong World”)

University of Toronto Faculty of Law, October 2006 (presented “Strong States, Strong World”)

Midwest Political Science Conference, April 2006 (presented “Why Do States Join Human Rights Treaties”)

Columbia Law School Law and Economics Workshop, March 2006 (presented “Strong States, Strong World”)

University of Michigan Law School International Law Workshop, March 2006 (presented “Strong States, Strong World”)

Duke Law School, March 2006 (presented “Does delegation undermine U.S. sovereignty?”)

Fordham Law School, February 2006 (presented “Reflections on International Law and the Internal Point of View”)

University of Connecticut School of Law, January 2006 (presented “Strong States, Strong World”)

Harvard Law School, December 2005 (presented “Strong States, Strong World”)

Harvard University, November 2005 (presented “The Legacy of Nuremberg”)

University of Virginia School of Law, October 2005 (presented “Reflections on the Future of the State”)

**PUBLIC PRESENTATIONS (cont.)**

Fletcher School of Law and Diplomacy, October 2005 (guest lecturer)

Columbia University, Department of Political Science, April 2005 (presented “Between Power and Principle”)

Harvard Law School, International Law Workshop, April 2005 (presented “Between Power and Principle”)

Georgetown Law School, International Law Colloquium, January 2005 (presented “Between Power and Principle”)

Princeton University, Conference on Torture, January 2005 (presented “The Promise and Limits of the International Law on Torture”)

Vanderbilt University, International Law Roundtable, November 2004 (presented “Between Power and Principle”)

Chicago Law School, American Constitution Society Conference, October 2004 (participated in panel on “Coercive Interrogation”)

Chicago Law School, Conference on International Dispute Resolution, October 2004 (presented “Who Adjudicates?”)

University of Toronto Law School, (presented “Between Power and Principle: A Political Theory of International Law”)

Yale Law School Alumni Conference, panel on Global Governance, October 2004 (moderator)

Odyssey, Chicago Public Radio, May 2004 (debated “The Internationalization of International Law” with Eric Posner on this hour-long radio news show)

USC Conference on Compliance, May 2004 (presented “Between Power and Principle: A Political Theory of International Law”)

Harvard Law School, April 2004 (presented “Between Power and Principle: A Political Theory of International Law”)

American Society of International Law, April 2004 (presented on a panel entitled “Empirical Approaches to Human Rights”)

University of Bremen, Bremen, Germany, December 2003 (presented “Between Power and Principle: A Political Theory of International Law”)

Yale Law School Faculty Workshop, December 2003 (presented “Between Power and Principle: A Political Theory of International Law”)

Seminario en Latinoamérica de Teoría Constitucional y Política (SELA), Yucay, Peru, June 2003 (presented on a panel entitled “Two-Track Justice”)

Law and Society Association 2003 Annual Meeting, Pittsburgh, PA, June 2003 (presented on “Empirical Approaches to International Human Rights Law”)

Yale Law School Human Rights Workshop, New Haven, CT, May 2003 (presented “Why do countries commit to human rights treaties?”)

University of Virginia International Law Colloquium, Charlottesville, VA, April 2003 (presented “Why do countries commit to human rights treaties?”)

Boalt Hall, University of California International Law Colloquium, Berkeley, CA, February 2003 (presented “The Cost of Commitment”)

Stanford Law School, Symposium: *Treaties, Enforcement, and U.S. Sovereignty*, Palo Alto, CA, February 2003 (presented “The Cost of Commitment”)

## **COURSES TAUGHT**

Foreign Affairs and International Law  
Introduction to Transnational Law  
Law and Globalization  
Research and Writing on International Law  
Civil Procedure  
International Law and International Relations  
State Behavior and International Law  
International Law and Human Rights  
Norms and Ideas in International Law and Politics (with Prof. Keith Darden)  
Philosophy of International Law (informal seminar)

#### **PROFESSIONAL ASSOCIATIONS**

New York State Bar, Third Department (admitted in 1998)  
Washington, D.C. Bar (admitted in 2000)  
American Society of International Law (2000-) (Member of Planning Committee for the Annual Meeting, 2008-2009)  
*Yale Law Journal* Board of Directors, 2006-2008  
Reviewer for *International Organization*, *International Studies Quarterly*, *Journal of Conflict Resolution*, *Journal of Peace Research*, *Human Rights Quarterly*, Oxford University Press, Princeton University Press, Yale University Press, among others.  
Nonresident Fellow, New American Foundation (2006-2007)  
Advisory Committee on International Law for the Legal Advisor, United States Department of State (2005-)  
Yale Center for International and Area Studies, Research Associate (2004-2008)  
American Political Science Association (2000-)

#### **UNIVERSITY SERVICE (2003-present only)**

YLS Appointments Committee, Chair of Entry-Levels Committee, 2009-2010  
YLS Space Committee, 2009-2010  
UC Berkeley Miller Center Steering Committee, 2008-2009  
YLS International Commercial Arbitration Reading Group, Advisor 2006-2007  
YLS Time/Calendar Committee, 2006-2007  
YLS Lemkin Prize Committee, Summer 2004-2007  
YLS Fellowships Committee, 2004-05, 2006-2007  
YLS Space Committee, 2004-05, 2006-2007  
YLS Security Subcommittee, 2004-05  
YLS Curriculum Committee, 2004-05, 2006-2007  
YLS Globalization Subcommittee, 2004-05, 2006-2007, 2007-2008  
YLS First Term Subcommittee, 2004-05, 2006-2007  
YLS Retreat Committee, Spring 2004  
YLS Special Courses of Study Committee, 2003-04  
YLS Jewell Prize Committee, Summer 2003