

**Michael A. Newton**

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Professor of the Practice of Law, Vanderbilt University Law School –

<https://law.vanderbilt.edu/bio/michael-newton> Top Secret Clearance last adjudicated Sept 2019

Director, Vanderbilt in Venice Academic Program --

<https://law.vanderbilt.edu/academics/vanderbilt-in-venice/index.php>

**Current Courses:** International Protection of Human Rights, International Criminal Law, Comparative Counterterrorism, Advanced International Humanitarian Law Seminar & International Law Practice Lab **Other Expertise:** Transitional Justice, National Security Law, Peace Operations, Foreign Relations, Human Rights Litigation, Counterterrorism

**Education:**

LL.M., The University of Virginia School of Law, Charlottesville, Virginia (2001)

LL.M., The Judge Advocate General's School, Charlottesville, Virginia (1996)

J.D., The University of Virginia School of Law, Charlottesville, Virginia (1990)

B.S., United States Military Academy, West Point, New York (1984)

**Professional Memberships:**

Elected Member, International Institute of Humanitarian Law; American Society of International Law (Elected to Executive Council, 2011); Virginia Bar; Admitted to the List of Counsel, International Criminal Court; International Bar Association; American Bar Association;

**Selected Professional Activities:**

Submitted brief upon request and argued as invited amici, ICC Appeals Chamber *Al Bashir* Appeal, 2019 and *Ntaganda* Appeal, 2020

Expert Advisor to the ABA Proxy War project

[https://www.americanbar.org/groups/human\\_rights/reports/report-legal-framework-regulating-proxy-warfare-2019/](https://www.americanbar.org/groups/human_rights/reports/report-legal-framework-regulating-proxy-warfare-2019/) [building on my Expert opinion related to Yemen at [https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/ABACHRAssessmentofArmsSalestoSaudiArabia.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/ABACHRAssessmentofArmsSalestoSaudiArabia.authcheckdam.pdf) ]

Argued as part of the Defense Team at the Appeal of Jean-Pierre Bemba to the Appeals Chamber International Criminal Court 2018 [including brief preparation leading to full acquittal]

Expert Advisor to the State Comptroller of Israel [assessing IDF actions in Gaza], 2015-2018

Expert Report submitted in the Gambia Memorial at the ICJ in *Gambia v. Myanmar*, October 2020

Member, Board of Advisors for the ABA International Criminal Court Project, <http://www.aba-icc.org/>

One of the two U.S. delegates who successfully negotiated the Elements of Crimes Document for the International Criminal Court – 1999 – 2001 [helped gain consensus on the document]

Member, Expert's Panel on the Future of American Policy Towards the International Criminal Court, American Society of International Law, <http://www.asil.org/icc-task-force.cfm> – 2008 – 2009

Provided Legal Advice on conduct of hostilities to the Libyan Transitional National Council - 2011

Expert consultant to litigation teams, *inter alia*, *Abu Garda*, *Gotovina*, *Bemba*, *Al Bashir*, *Milosevic*, *Karadzic*, *Todorovic*, and *Ntaganda* cases

Advised the Afghanistan Rule of Law Field Force – 2010 & 2011 [human rights issues and technical assistance related to rule of law reform]

Supporting Iraqi Kurdish Regional Government officials in documenting and prosecuting Da'esh atrocities beginning in August 2014 [to include helping establish Dohuk evidence collection]

Member of the Experts Roster for Justice Rapid Response Mechanism

International Legal Advisor to the Judicial Chambers of the Iraqi High Criminal Court 2006 - 2009  
 [extensive advice related to *Dujail* trial, *Anfal* genocide case, and discrete issues from other cases]  
 Coordinated support to the UN Conduct and Disciplinary Affairs Unit with respect to regulations for investigation and prosecution of widespread gender crimes committed during UN Peace Operations by both uniformed contingents and civilian staff  
 Expert Advisor to the UN Office of Drugs and Crime, Human Trafficking Case Digest, *available at* [http://www.unodc.org/documents/human-trafficking/2017/Case\\_Digest\\_Evidential\\_Issues\\_in\\_Trafficking.pdf](http://www.unodc.org/documents/human-trafficking/2017/Case_Digest_Evidential_Issues_in_Trafficking.pdf)  
 Expert Advisor: Council on Foreign Relations Reports on ICC Related Projects – 2010 & 2011  
 Expert Advisor to the Government of Peru system wide legal reforms – assisted with analysis in support of the Fujimori trial and working with the Supreme Court and Ministry of Justice in support of ongoing judicial reforms in the wake of the Sendero Luminoso era]  
 International Advisor on Domestic Incorporation of the Rome Statute for the Government of Uganda – 2008-2011 [worked with Governmental officials, High court judges, and UN agencies in support of DDR efforts in Northern Uganda, the work of the Amnesty commission, and the establishment of the domestic war crimes chamber]  
 Expert leader for Working Group III [Terrorism and Human Rights] during which roughly twenty of the world's leading experts negotiated and promulgated by consensus the Leiden principles [see COUNTER-TERRORISM STRATEGIES IN A FRAGMENTED INTERNATIONAL LEGAL ORDER]  
 Invited Expert advising the Committee on Economic, Social, and Cultural Rights 2014  
 Expert advisor to the Genocide Prevention Task Force, United States Holocaust Memorial Museum, American Academy of Diplomacy, and United States Institute of Peace – 2008  
 This Report led, *inter alia*, to the Conference on Instability Indicators and Genocide Prevention held at Vanderbilt Law School and the International Symposium on Preventing Genocide and Mass Atrocities held at the Shoah Memorial in November 2010 and the later evolution of PSD-10  
 Assisted in Drafting and Implementation of the Statute for the Iraq Special Tribunal, 2003 -4  
 U.S. representative on the U.N. Planning Mission for the Sierra Leone Special Court – 2002 (Member of the Special Court Academic Consortium and involved in various aspects of litigation)  
 Expert Adviser to the United Nations Regional Center for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC) – 2013 & 2014  
 Coordinated U.S. support for the current *ad hoc* International Tribunals – 1999-2002  
 Coordinated U.S. Government Support to the Milosevic Case (to include responsibility for planning and accompanying the FBI forensics deployments into Kosovo – 1999)  
 Handled more than 500 cases as a Military prosecutor – 1991-1995  
 Operational Lawyer in Northern Iraq – 1991 [deployed on Operation Provide Comfort to aid Kurds]

**Notable Educational Achievements:**

Designed and implemented one of the most innovative experiential and substantive courses in modern American legal education – <http://law.vanderbilt.edu/academics/academic-programs/international-legal-studies/international-law-practice-lab.php> [support to ongoing litigation in international criminal forums, human rights aspects of terrorist prosecutions, and legal expertise to numerous governments, *inter alia* Uganda, Kosovo, U.S. State Department, Peru]  
 Supervised preparation of the Mapping Bashir project that provides the world's most accurate analysis of President Al-Bashir's travels subsequent to ICC warrants of arrest  
 Supervised part of the team compiling the Manual on International Criminal Defense, 2<sup>nd</sup> edition, published by the Association of Defense Counsel, International Courts and Tribunals, [https://03f4ac73-be6a-4070-8a29-4e4d17b4545d.filesusr.com/ugd/ce12e8\\_e52dd86e9fe24c6d9c6927d55b48a119.pdf](https://03f4ac73-be6a-4070-8a29-4e4d17b4545d.filesusr.com/ugd/ce12e8_e52dd86e9fe24c6d9c6927d55b48a119.pdf)  
 Led international criminal law aspects of the Judicial Training Institute for senior Iraqi jurists in Baghdad

Active in support of the American Bar Association and U.S. Department of State in Human Rights education to judges and counsel around the world and in support of ongoing litigation  
 Wrote, coordinated and led the Law of Armed Conflict Competition for Military Academies, International Institute of Humanitarian Law, San Remo, Italy – 2003, 2004, 2005.  
 Senior Member of the Defense Institute for International Legal Studies team teaching Iraqi jurists and drafting a constitution for a free Iraq – Nov. 2000  
 Led the first Rule of Law Symposium for Kosovar judges – June 1999 [later provided legal and technical expertise in developing the Transitional Justice mechanisms in Kosovo]  
 Planned and executed the Human Rights and Rule of Engagement Training for all Multinational Forces and International Police Officers entering Haiti in support of coalition forces – 1993  
 Designed and implemented training for Special Forces counterdrug operations - 1992

**Previous Academic Positions:**

*Associate Professor, Department of Law, U.S. Military Academy, West Point, N.Y.*  
 2002-2005      Courses Taught: International Law, Law of Armed Conflict, Constitutional Law

Professor of International and Operational Law, *International and Operational Law Department, Judge Advocate General's School and Center, Charlottesville, VA* → 1996-1999  
Taught: International Law, Operational Law, Law of War Workshop, & Intelligence Law Seminar

**Other Professional Experience:**

- \* Senior Advisor to the United States Ambassador-at-Large for War Crimes Issues, Office of War Crimes Issues, U.S. Department of State (2001-2002)
- \* Special Advisor to the United States Ambassador-at-Large for War Crimes Issues, Office of War Crimes Issues, U.S. Department of State (1999-2000)
- \* Professor of International Law, International and Operational Law Department, The Judge Advocate General's School (1996-1999)
- \* Brigade Judge Advocate, 194th Armored Brigade (Separate)(1993-1995)
- \* Administrative Law Attorney, U.S. Army Special Forces Command (Airborne), Fort Bragg, N.C. (1992-1993)
- \* Group Judge Advocate, 7th Special Forces Group (Airborne), Fort Bragg, N.C. (1992)
- \* Chief Operational Law, U.S. Army Special Forces Command (Airborne), Fort Bragg, N.C. (1991-1992)
- \* Company Executive Officer, Battalion Support Platoon Leader, and Armor Platoon Leader, 4th Battalion, 68th Armor, Fort Carson, Colorado (1984-1987)

**Publications:**

*Current Projects*

HUMAN SHIELDS: CONFRONTING CONUNDRUMS CAUSED BY THE FACES OF MODERN WAR (Oxford University Press)

*Absolutist Admissibility at the ICC: Revalidating Authentic Domestic Investigations.* 54 ISRAEL L. REV. (publication pending Feb 2021)

*Winning at the Strategic Seams, in GREY ZONE AND HYBRID WARFARE* (Mitt Regan and Aurel Sari, eds. Oxford University Press){part of the Ethics, National Security, and Rule of Law Series}

*Books & Book Chapters*

THE UNITED STATES DEPARTMENT OF DEFENSE LAW OF WAR MANUAL: COMMENTARY AND CRITIQUE (Cambridge University Press, 2019)

*Jus Post Bellum and Proportionality*, in THE JUSTICE OF PEACE AND JUS POST BELLUM 79 (Carsten Stahn, *et. al.* eds., Oxford University Press, 2020)

*The Interoperability of the Laws of Armed Conflict*, in The ‘LEGAL PLURIVERSE’ SURROUNDING MULTINATIONAL MILITARY OPERATIONS 70 (Robin Geiß and Heike Krieger, eds., Oxford University Press, 2020)

*A Synthesis of Community Based Justice & Complementarity*, in CONTESTED JUSTICE: THE POLITICS AND PRACTICE OF INTERNATIONAL CRIMINAL COURT INTERVENTIONS 122 (Carsten Stahn, *et. al.* eds., Cambridge University Press 2015)(revised chapter forthcoming in 2d edition 2020)

PROSECUTING MARITIME PIRACY: DOMESTIC SOLUTIONS TO INTERNATIONAL CRIMES, *co-edited with* Michael P. Scharf and Milena Sterio (Cambridge University Press, 2015)

*Piracy and the Problem of “Command Responsibility”*, in PROSECUTING MARITIME PIRACY: DOMESTIC SOLUTIONS TO INTERNATIONAL CRIMES 242 (Michael Scharf, Michael Newton, Milena Sterio, eds., Cambridge University Press 2015)

PROPORTIONALITY IN INTERNATIONAL LAW, with Larry May, W. Alton Jones Professor of Philosophy, Vanderbilt University (Oxford University Press, 2014)

Senior Editor, TERRORISM: INTERNATIONAL CASE LAW REPORTER, Oxford University Press (2007, 2008, 2009, 2010, 2011, & 2012) {annual series} <http://ukcatalogue.oup.com/product/9780199986248.do>

*Charging War Crimes: Policy & Prognosis*, in THE LAW AND PRACTICE OF THE INTERNATIONAL CRIMINAL COURT, Chapter 29, 732 (Carsten Stahn ed., Oxford University Press 2015), *see* [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2397926](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2397926)

*Proportionality and Precautions in Cyber-Attacks*, in INTERNATIONAL HUMANITARIAN LAW AND THE CHANGING TECHNOLOGY OF WAR 229 (Dan Saxon ed., Martinus Nijhoff 2013)

*The Death Penalty and the Iraqi Transition: Lessons of a Lost Opportunity*, in THE POLITICS OF THE DEATH PENALTY 172 (Madoka Futamura & Nadia Bernaz, eds., Routledge Press 2013)

*Terrorist Crimes and the Aut Dedere Aut Judicare Obligation*, in COUNTER-TERRORISM STRATEGIES IN A FRAGMENTED INTERNATIONAL LEGAL ORDER 68 (Larissa van den Herik & Nico Schrijver, eds., Cambridge University Press 2013)

*Community Based Accountability in Afghanistan: Recommendations to Balance the Interests of Justice*, in JUS POST BELLUM AND TRANSITIONAL JUSTICE 74 (Larry May and Elizabeth Edenson, eds., Cambridge University Press, 2013)

*Terrorism and Crimes against Humanity* [co-authored with Michael P. Scharf], in *CRIMES AGAINST HUMANITY AND INTERNATIONAL LAW* 262 (Leila Sadat, ed., Cambridge University Press 2011)

*The Quest for Constructive Complementarity*, in *THE ICC AND COMPLEMENTARITY: FROM THEORY TO PRACTICE* 304 (Carsten Stahn & Mohammed El Zeidy eds., Cambridge University Press 2011)

*Why Criminal Culpability Should Follow the Critical Path: Reframing the Theory of Effective Control*, 40 *NETHERLANDS YEARBOOK OF INTERNATIONAL LAW* 3 (2010)

*ENEMY OF THE STATE: THE TRIAL AND EXECUTION OF SADDAM HUSSEIN* [co-authored with Professor Michael Scharf] 2008, St. Martin's Press – see <http://www.enemyofthestatebook.com> [Book of the Year, American Branch of International Association of Penal Law]

*Power not Process – The New Frontiers of Internationalized Justice*, in *PROCEEDINGS OF THE SECOND INTERNATIONAL HUMANITARIAN LAW DIALOGS, AUGUST 25-26, 2008, CHAUTAUQUA INSTITUTION*, 40 *Studies in Transnational Legal Policy* 171 (2009)

*Implementing International Law: A Qualified Defense of the Al Dujail Trial*, in 9 *YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW* 2006, 117 (T. McCormack & Avril McDonald, eds. 2008)

*Echoes of Nuremberg*, in *PROCEEDINGS OF THE FIRST INTERNATIONAL HUMANITARIAN LAW DIALOGS, AUGUST 29, 2007, CHAUTAUQUA INSTITUTION*, 101 (April 2008)

*Legal Authorities for the Creation of the Iraqi High Tribunal*, in *SADDAM ON TRIAL – UNDERSTANDING AND DEBATING THE IRAQI HIGH TRIBUNAL* (MICHAEL P. SCHARF & GREGORY S. MCNEAL, eds., 2006)[the book also contains nine of my shorter essays on discrete legal issues]

*The Iraqi Special Tribunal: A Human Rights & Rule of Law Synergy*, in *TESTING THE BOUNDARIES OF INTERNATIONAL HUMANITARIAN LAW* 243 (Susan C Breau and Agnieszka Jachec-Neale, eds. 2006)

*Unlawful Belligerency After September 11: History Revisited and Law Revised*, in *NEW WARS, NEW LAWS ? APPLYING THE LAWS OF WAR TO 21<sup>ST</sup> CENTURY CONFLICTS* 75 (David Wippman and Matthew Evangelista, eds., 2005)

*The Military Lawyer: Nuisance or Necessity?*, in *STRENGTHENING MEASURES FOR THE RESPECT AND IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW*, International Institute of Humanitarian Law and the International Committee of the Red Cross (2005)

*Humanitarian Protection in Future Wars*, in 8 *INTERNATIONAL PEACEKEEPING: THE YEARBOOK OF INTERNATIONAL PEACE OPERATIONS* 349 (2004)

*International Criminal Law Aspects of the War Against Terrorism*, in *INTERNATIONAL LAW AND THE WAR ON TERROR*, 79 *U.S. NAVAL WAR COLLEGE INTERNATIONAL LAW STUDIES* 323 (2003)

Editor, *OPERATIONAL LAW HANDBOOK* (1998)[used in military legal branches around the world]  
Editor, *CASES AND MATERIALS ON INTELLIGENCE LAW* (2d ed. 1997 & 3d ed. 1998)  
*INTERNATIONAL LAW DESKBOOK, 1997-1998*



*Articles & Shorter Pieces*

*A Radical Reimagining of the Concept of 'Attack,'* *Articles of War*, Lieber Institute, West Point (October 29, 2020), available at <https://lieber.westpoint.edu/articles-of-war/>

*The Bemba Appeal Judgment prevented misalignment between the ICC implementation of Article 28 and best practices governing military operations around the world. Criminal culpability of commanders cannot be predicated on a judicially mandated duty to withdraw forces from ongoing operations.*, *ICC FORUM* (May 27, 2019), available at <https://iccforum.com/responsibility/#Newton>

*Reframing the Proportionality Principle*, 51 *VAND. J. TRANSNAT'L L.* 867 (2018)

*Contorting Common Article 3: Reflections on the Revised ICRC Commentary*, 45 *GA J. INT'L AND COMP. L.* 513 (2018)

*How the ICC Threatens Treaty Norms*, 49 *VAND. J. TRANSNAT'L L.* 371 (2016)[cited by the ICC Prosecutor Nov 2017 request to Pre-Trial Chamber related to the Afghanistan situation]

*Ad Hoc Multinational Units*, Chapter 3, subsection III, *THE HANDBOOK OF THE LAW OF VISITING FORCES* (Dieter Fleck ed., 2d. ed, Oxford University Press, 2018)

*A Legal Maze: the Complexity of determining Atrocities as Genocide*, *Echoes of Genocide Conference Materials on the 30th Anniversary of the Halabja Genocide*, PDF at <https://us.gov.krd/media/1816/echoes-of-genocide-march-13-2018-krg-representation-in-the-united-states.pdf>

*Back to the Future: Reflections on the Advent of Autonomous Weapons Systems*, 47 *CASE W. RES. J. INT'L L.* 5 (2015)

*Introductory Note to the Department of State Rewards Program Update and Technical Corrections Act of 2012*, 52 *I.L.M.* 861 (2013)

*Remembering the Chemical Attacks Against the Kurds*, *THE HILL*, Mar. 26, 2013, available at <http://thehill.com/blogs/congress-blog/foreign-policy/290333-remembering-the-chemical-attacks-against-the-kurds>

*Human Shields as Unlawful Lawfare*, commissioned by the International Relations and Security Network, Zurich Switzerland, April 24, 2013

*Inadvertent Implications of the War Powers Resolution*, 45 *CASE W. RES. J. INT'L L.* 255 (2012), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2232354](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2232354)

*About That Genocide Indictment Proposal ...*, *CNN World*, October 25, 2012, available at <http://globalpublicsquare.blogs.cnn.com/2012/10/25/about-that-genocide-indictment-proposal/>

*The Law of War in the War Against Terrorism*, 9 *LOY. U. OF CHICAGO INT'L L. REV.* 1 (2012)[Keynote Address to the 2011 International Law Symposium]

*Evolving Equality: The Development of the International Defense Bar*, 47 STAN. J. INT'L L. 379 (2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1701808](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1701808) [2011 Article of the Year, American Branch of International Association of Penal Law]

*South Sudan's Gathering Storm*, PROJECT SYNDICATE OP-ED PAGE, available at <http://www.project-syndicate.org/commentary/bradshaw1/English>, June 6, 2011 (co-authored with Enough Executive Director John Bradshaw) (translated into nine languages and subsequently published worldwide)

*Flying Into the Future: Drone Warfare and the Changing Face of Humanitarian Law*, 39 DENV. J. INT'L LAW AND POL'Y 101 (2011) [Keynote Address to the 2010 Sutton Colloquium]

*Illustrating Illegitimate Lawfare*, 43 CASE W. RES. J. INT'L L. 255 (2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1698322](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1698322)

*Reconsidering Reprisals*, 21 DUKE J. COMP. & INT'L L. 361 (2010), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1622805](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1622805)

*The Complementarity Conundrum: Are We Watching Evolution or Evisceration?*, 8 SANTA CLARA INT'L L. REV. 115 (2010)

*The Iraqi Special Tribunal*, Max Planck Encyclopedia of Public International Law (2010)

*Evolving U.S. Efforts to Support Domestic Accountability*, American Society of International Law Discussion Paper, November 2010, [http://asil.org/pdfs/2010\\_beyond\\_kampala.pdf](http://asil.org/pdfs/2010_beyond_kampala.pdf)

*The Chameleon Court: The Changing Face of the ICC*, 27 LAW IN CONTEXT 5 (No. 1, 2009)

*Exceptional Engagement: Protocol I and a World United Against Terror*, 42 TEX. INT'L L. J. 323 (2009), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1524301](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1524301)

*Some Observations on the Future of U.S. Military Commissions – 42 CASE W. RES. J. INT'L L. 151 (2009)*  
*Send More Troops or U.S. Loses War*, NASHVILLE TENNESSEAN OP-ED PAGE, A12, Sept. 23, 2009

*Enemy Combatant Cases*, OXFORD GUIDE TO SUPREME COURT DECISIONS (2d. ed. 2009)

*U.S. Resolve has put Terrorists on the Run*, NASHVILLE TENNESSEAN OP-ED PAGE, Sept. 11, 2008

*Case Commentary: Munaf, Bigger than Boumediene?*, 30 ABA NATIONAL SECURITY LAW 10 (June 2008)

*We Never Had Enough Troops to do the Job*, NASHVILLE TENNESSEAN OP-ED PAGE, Feb. 16, 2008

*The Anfal Genocide: Personal Reflections and Legal Residue*, 40 VAND. J. TRANSNAT'L L. 1521 (2007)

*Introductory Note to Extraordinary Chambers in the Courts of Cambodia Provisional Detention Order Against Kaing Guek Eav*, 46 I.L.M. 911 (2007)

*Modern Military Necessity: The Role & Relevance of Military Lawyers*, 12 ROGER WILLIAMS UNIVERSITY L. REV. 869 (2007)

*A Near Term Retrospective on the Al-Dujail Trial & The Death of Saddam Hussein*, 17 TRANS'L L. & CONTEMP. PROBS. 101 (Winter 2008)

*Public Committee Against Torture in Israel v. Government of Israel: U.S. Military Commissions Through the Lens of the Supreme Court of Israel*, 8 ENGAGE: THE JOURNAL OF THE FEDERALIST SOCIETY'S PRACTICE GROUPS NO. 4, 112 (OCTOBER 2007)

*U.S. Troops Do Their Duty*, WASHINGTON TIMES OP-ED PAGE, May 3, 2007

*American Society of International Law INSIGHT, The Iraqi High Tribunal's Dujail Trial Opinion, December 16, 2006, Vol. 10, Issue 34, available at <http://www.asil.org/insights/2006/12/insights061218.html>*

Concurring opinion for the International Citizen's Tribunal for Sudan, November 2006

*Inside Look at the Anfal Trial*, NASHVILLE BAR JOURNAL, 8, September 2006

*The Iraqi High Criminal Court: Controversy and Contributions*, 88 INT. REV. OF THE RED CROSS 399, NO. 862, (June 2006)

*War by Proxy: Legal and Moral Duties of 'Other Actors' Derived from Government Affiliation*, 37 CASE W. RES. J. INT'L L. 249, No. 2 & 3, 2006

*U.S. should support effort against Sudan war crimes*, DENVER POST OP-ED, November 11, 2005

*The Iraqi Special Tribunal: A Human Rights Perspective*, 38 CORNELL INT. L. J. 863 (2005)

*Iraq's New Court Finds Itself on Trial*, NEW YORK TIMES OP-ED PAGE, Nov. 24, 2004

*The Iraqi Special Tribunal: Securing Sovereignty From the Ground Up*, 5 ENGAGE: THE JOURNAL OF THE FEDERALIST SOCIETY'S PRACTICE GROUPS NO. 2, 98 (NOVEMBER 2004)

*I Am an American Soldier: Reflections on Abu Ghraib*, 45 ANTHROPOLOGY NEWS No.6, at 17 (September 2004)

*Harmony or Hegemony? The American Military Role in the Pursuit of Justice*, 19 CONN. J. INT'L LAW, 231 (2004)

*Legal Obligations and Training of Special Operations Forces*, Project on the Means of Intervention, III Workshop Papers 40, The Carr Center for Human Rights Policy, John F. Kennedy School of Government (2004)

*Guantanamo: Apply Detainee Precedent*, National Law Journal 34, Dec. 8, 2003 (with David A. Wallace)

*"A View From the Trenches": The Military Role in the Pursuit of Justice*, 35 CASE W. RES. J. INT'L L. 287 (2003)

*Milosevic, Killing Fields, and "Kangaroo Courts": Symposium on an Emerging International Criminal Justice System -- Should the United States Join the International Criminal Court*, 9 U.C. DAVIS J. OF INT'L LAW & POL'Y 35 (2002)



*The Bush Administration View of Accountability for International Crimes*, 36 NEW ENG. L. REV. 891 (Summer 2002)

*Comparative Complementarity: Domestic Jurisdiction Consistent with the Rome Statute of the International Criminal Court*, 167 MIL. L. REV. 20 (Mar. 2001)[Recipient, ABA Military Writing Award – 2002]

*Ambassadors for Freedom*, 4 J. NAT'L SECURITY L. 167, (Dec. 2000)(co-authored with Ambassador David J. Scheffer)

40TH ANNIVERSARY CONFERENCE PANEL: *The International Criminal Court Preparatory Commission: The Way It Is & The Way Ahead*, 41 VA. J. INT'L L. 20 (Fall 2000)

*United Nations Convention on the Safety of United Nations (UN) and Associated Personnel Enters Into Force* (ARMY LAW., February, 1999)

*So Judge, How Do I Get That FISA Warrant?': The Policy and Procedure for Conducting Electronic Surveillance* (ARMY LAW., October, 1997)(co-authored with Louis A Chiarella)

*Continuum Crimes: Military Jurisdiction over Foreign Nationals Who Commit International Crimes*, 153 MIL. L. REV. 1 (1996)

### Book Reviews

*An Introduction to the Law of International Criminal Tribunals: A Comparative Study*, 18 JOURNAL OF INTERNATIONAL LAW OF PEACE AND ARMED CONFLICT 230 (No. 3, 2005)

*Military Justice in America: The U.S. Court of Appeals for the Armed Forces, 1775-1980*, THE AMERICAN HISTORICAL REVIEW, publication pending October 2005

*Justice at Dachau*, ASSEMBLY 14 (Sept. - Oct. 2003)

*The Ethics of War & Peace: An Introduction to Legal and Moral Issues*, 151 MIL. L. REV. 258, (Winter 1996)

### Selected Recent Presentations {full listing available on request}:

*Expanding Role of Mercenaries and Its Implications for the Laws of Armed Conflict and Atrocity Prevention*, Atrocity Prevention Study Group, Stimson Center, Washington, D.C., February 20, 2020

*HILAC lecture: The rules regulating war: where do we stand after 70 years?* Netherlands Red Cross and the Grotius Center for International Legal Studies, Humanity House, The Hague, October 31, 2019

*Winning at the Strategic Seams, Hybrid Threats in the Grey Zone: Mapping the Terrain*, University of Pennsylvania Law School, December 6-7

*New Paradigms & Old Problems vis-à-vis War Crimes Investigations, Military Justice and Armed Conflict: Old Problems, New Challenges*, Minerva Center for Human Rights, Jerusalem, November 11-12, 2019

*NIAC and Conflict Classification in the Modern Operational Environment*, The 4th Major General John L. Fugh Symposium on Law and Military Operations, Future Conflict, The Judge Advocate General's Legal Center and School, Charlottesville, Virginia, May 29, 2018

"*Missing in Action: Justice & Accountability*" Comments on the Kurdish Genocides at Halabja, 30th Anniversary Commemoration, Kurdistan Regional Government and the Kurdish American Congressional Caucus, Newseum, Arlington, VA, March 13, 2018

*Making Modern War: Tensions and Teleologies*, Washington University Law School, St. Louis, February 5, 2018, <https://lecturecapture.wustl.edu/mediasite/Play/f0f4bfb433e44206b71c08519529cf971d>

"Proportionality in Urban Warfighting," Military Advocate General's Corps of the Israel Defense Forces International Conference on the Law of Armed Conflict, Tel Aviv, Israel, April 25-27, 2017

*Max Planck Dialogues on the Law and Peace of War*: A book series with Cambridge University Press, Max Planck Institute, Heidelberg, Germany, March 30-31, 2017

*Contorting Common Article 3*, Expert Meeting on the 2016 International Committee of the Red Cross Commentary on the First Geneva Convention, University of Georgia Law School, Athens Georgia, September 23, 2016

*International Perspectives and Legal Pitfalls in Making 'Peace' with the FARC*, Universidad Sergio Arboleda, Bogota Colombia, July 12, 2016

Expert Facilitator, Trial Observation Capacity Building Workshop, American Bar Association Center for Human Rights in support of U.S. Department of State Democracy, Human Rights, and Labor Bureau, Amman, Jordan, March 28-April 1, 2016

"*Proportionality and the Law of Genocide Prevention*," Interagency Atrocity Prevention Study Group, Washington, D.C., January 19, 2016

*Experts Meeting on Advancing Universal Jurisdiction*, International Bar Association, The Florida State University Center for the Advancement of Human Rights and the Charles Horman Truth Foundation, FSU School of Law, Tallahassee FL, November 10, 2015

"*The ICC and the Middle East*," 9th International Humanitarian Law Dialogues, Chautauqua, New York, August 31, 2015

*Proportionality and Human Rights: An Examination of Process and Policy*, Oxford Martin Programme on Human Rights for Future Generations, Oxford University, June 5, 2015

"*Litigating the Laws of War under International Human Rights Law: Irreconcilable Differences or Intellectually Defensible Distinctions*", Harvard Human Rights Journal, Harvard Law School March 28, 2015

*Terrorism and Human Rights*, Irish Centre for Human Rights, Galway Ireland, March 19-22, 2015

"*Keeping the Ship Afloat: Preserving Military Assistance during Disaster Relief Operations*," This is Not a Drill: Confronting Legal Issues in the Wake of International Disasters, Vanderbilt Journal of Transnational Law Symposium, February 19, 2015

*"International Law and Terrorism: Israel & Gaza/Sri Lanka and LTTE"*, IBA Annual Conference on International Criminal Law, The Peace Palace, The Hague, Jan. 31, 2015

*"Lessons Learned on Defending Perpetrators in International Tribunals,"* Conference on The Defence and the Quest for the Truth, International Research and Documentation Centre War Crimes Trials of the University of Marburg, Marburg, Germany , December 5, 2014

*"Counterinsurgency and Proportionality"*, The NATO School, Oberammergau Germany, May 23, 2014

*"Keeping Proportionality in Perspective,"* The Weighing of Lives in War: Combatants and Civilians in the Jus in Bello Conference, University of Pennsylvania Law School, Philadelphia, April 11-12, 2014

*"Proportionality in International Law"*, Yale Law School, March 12, 2014

*"Terrorism and Human Rights"*, Irish Centre for Human Rights, Galway Ireland, Feb. 27-29, 2014

*"Law, Legitimacy, and Lustration: Prosecuting War Crimes in Syria,"* International Conference on the Syrian Crisis and International Law, Qatar University, Doha, Qatar, Feb. 25-26, 2014

*"The International Law of Charging and Proving War Crimes"*, International Law Department, U.S. Naval War College, Newport Rhode Island, January 24, 2014

*Israel and the Arab Spring,* 7<sup>th</sup> Annual International Humanitarian Law Dialogues, sponsored by the American Society of International Law and the Robert H. Jackson Center, Chautauqua, N.Y, August 27, 2013

*Investigative Techniques in International Fact-Finding Missions,* Summer Programme on Human Rights, Fact-Finding, and International Crimes, Leiden University, Campus The Hague, July 9, 2013

*The Problem of Proportionality in Counterinsurgency Operations,* Ca Foscari, University of Venice & Istituto de Scienze et Lettere, June 11, 2013

Lectures to the Supreme Court of Peru on the law of command responsibility as applied in the context of Sendero Luminoso cases, Lima, Peru, April 29-30, 2013

*The International Criminal Court: A Policy Prognosis for U.S. Cooperation,"* Moving Forward: The Future of the ICC in Light of Recent Developments Conference, Emory Law School, Atlanta, Georgia, February 26, 2013

*The Kurdish Genocide in the Context of Contemporary Jurisprudence,"* sponsored by the Kurdistan Regional Government United Kingdom representative, London, England, January 17-18, 2013

*Transnational Cooperation in Preventing & Prosecuting Cyber-Crimes,* Combating Cybercrime: Annual Conference of the International Criminal Law Network, The Hague, December 13, 2012

*The Problem of Proportionality in Counterinsurgency Operations,* "Conduct of Hostilities and Law Enforcement: A Contradiction in Terms?", Minerva Center for Human Rights, Hebrew University, Jerusalem, Israel, December 3-4, 2012

*Charging War Crimes: Policy & Prognosis*, Joint Discussion Section for the Judges of the International Criminal Court and Senior Staff, Office of the Prosecutor, The Hague, October 29, 2012

*Charging War Crimes and Modes of Liability in the ICC*, Grotius Expert Seminar on the ICC at Ten Years, Peace Palace, The Hague, September 28-29, 2012

*The War Powers Resolution at 40: Still Controversial After All These Years*, conference on Presidential Power, Foreign Affairs, and the 2012 Election, Case Western Reserve University School of Law, Cleveland, Ohio, September 7, 2012

*Libya and Iraq: Comparing Approaches to Transitional Justice*, Instituto Veneto di Scienze ed Arti, Venice Italy, co-sponsored by the Università Ca' Foscari Venezia and European Inter-University Center for Human Rights and Democratisation, Venice, Italy, May 29, 2012

Keynote speaker, Memorial Commemorating the Genocide of Halabja sponsored by the International Criminal Court and Kurdistan Regional Government in the U.S.A., Washington, D.C., March 16, 2012

*The Kurdish Genocide Trials: An Insider's Legal and Historical Perspective*, Case Western Law School, Cleveland, Ohio, February 3, 2012

*Discussion of Jurisprudence and Jurisdiction*, Office of Military Commissions, Office of the Chief Prosecutor, Washington, D.C., January 31, 2012

*Community Based Justice Mechanisms and the Real "Interests of Justice"*, Nashville Workshop on Jus-Post Bellum and Transitional Justice, August 23, 2011

*Terrorism and the Constraints of International Criminal Law*, International Law Institute - African Centre for Legal Excellence (ILI-ACLE) & The Open Society Initiative for East Africa (OSIEA), 4th Annual Roundtable on International Criminal Law in Africa, Nairobi, Kenya June 30, 2011

*Terrorists on Trial: Performative Perspectives of Terrorism Trials*, keynote lecture, Netherlands Institute for Advanced Study in the Humanities and Social Sciences (NIAS) in cooperation with the International Centre for Counterterrorism, The Hague, May 26, 2011

*A Synthesis of Community Based Justice and Complementarity: Applying Article 53 in Afghanistan & Beyond*, Leiden University, Launch Conference, Assessing the Impact of the International Criminal Court, Leiden University – Campus, the Hague, May 6, 2011

*Justice Under Construction: Contemporary Initiatives and the Future of Efforts to Form and Reform Justice Systems*, UC Berkeley Boalt Hall School of Law, Berkeley, CA, March 31, 2011  
[http://www.boalt.org/bjil/symp\\_upcoming.php](http://www.boalt.org/bjil/symp_upcoming.php)

*Annual Benjamin Ferencz Session: Integrating the Crime of Aggression into International Criminal Law and Public International Law*, American Society of International Law 105<sup>th</sup> Annual Meeting, Washington DC, March 24, 2011

*Of Law & Legitimacy: Developing Dynamics of 21<sup>st</sup> Century Conflicts*, Keynote Address, Symposium on "The Laws of War: International Conflict and the Global War on Terror, Loyola University Chicago School of Law School, February 25, 2011,

*Divided Loyalties: Professional Standards and Military Duty*, Case Western Reserve University School of Law, Cleveland, OH, February 11, 2011

*Next Steps for the International Criminal Court*, Panel Presentation at the Tillar House, American Society of International Law, Washington, DC. November 30<sup>th</sup> 2010,

*Prospects & Policy for Developing an Integrated Atrocity Prevention Network*, International Conference Sponsored by the Memorial de La Shoah and the U.S. Holocaust Memorial Museum, Paris, France, November 15-16, 2010

*Modern conflicts, robotic weapons and their implications for International Humanitarian Law*, Sturm College of Law, University of Denver, November 6, 2010

*International and National Legal Dimensions of Mass Atrocity Prevention*, The Auschwitz Institute for Peace and Reconciliation, Oswiecim and Krakow, Poland, September 20-24, 2010

*Lawfare and the Israeli-Palestine Predicament*, Case Western Reserve School of Law, Cleveland, Ohio, September 10, 2010

*A More Just Rule of Law: Marshaling Lawyers to Prevent Mass Atrocities*, ABA Center for Human Rights Annual Meeting, San Francisco, California, August 8, 2010

*Congressional Testimony to the Helsinki Commission hearing entitled No Way Home, No Way to Escape: The Plight of Iraqi Refugees and our Iraqi Allies*, July 22, 2010

*Terrorism and International Law*, Hague Peace Palace, Conference on Counterterrorism Strategies, Human Rights and International Law: Meeting the Challenges, Grotius Center for International Legal Studies, April 1, 2010

*Testimony to the UN Fact Finding Commission on the Gaza Conflict*, Geneva, Switzerland, available at <http://www.un.org/webcast/unhrc/archive.asp?go=041> July 7, 2009

***Selected Military Decorations:*** Legion of Merit, Defense Meritorious Service Medal, Joint Meritorious Unit Award, Army Superior Unit Award, Meritorious Service Medal (four), Army Commendation Medal (four) Global War on Terrorism Expeditionary Medal, Humanitarian Service Medal, Southwest Asia Service Medal, Kosovo Campaign Medal, Airborne, Air Assault, British Airborne Wings

**Selected Recent Media Appearances:** Dozens of broadcast and radio interviews (*inter alia*, CNN American Morning, ABC Good Morning America, Voice of America "The Encounter", BBC Radio 4, Fox & Friends, Reuters TV, Fox News Channel's Special Report with Brit Hume, Canadian Broadcast Service). Quoted in many print stories (New York Times, Los Angeles Times, Washington Post, etc)