

MELISSA A. WATERS

Washington University School of Law

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EDUCATION

YALE LAW SCHOOL, Juris Doctor

Charles G. Albom Prize for Best Appellate Advocacy Work in a Law School Clinic

Senior Editor, Yale Law Journal

Senior Editor, Yale Journal of International Law

UNIVERSITÉ CATHOLIQUE DE LOUVAIN, Louvain-la-neuve, Belgium

Rotary International Ambassadorial Graduate Scholarship

Course work (in French) in international law, European law and politics

YALE COLLEGE, B.A., French History

Magna cum laude

Distinction in the History Major

ACADEMIC APPOINTMENTS

WASHINGTON UNIVERSITY. Professor of Law.

July 2008-Present

McDonnell International Scholars Academy Ambassador to the University of Utrecht, Netherlands.

Currently teaching public international law, foreign relations law, and conflicts of law.

Service: Law School Appointments Committee.

VANDERBILT UNIVERSITY. Visiting Assistant Professor of Law.

Fall 2007

Taught public international law and U.S. foreign relations law.

WASHINGTON & LEE UNIVERSITY. Assistant Professor of Law.

July 2004-

Ethan Allen Faculty Fellow (awarded for excellence in scholarship).

June 2008

Taught foreign relations law, conflicts of law, and civil procedure.

Service: Appointments Committee, Clerkship Committee, University Committee on

Inclusiveness, President's Consultative Committee. Advisor to Jessup International Moot Court Team.

CASE WESTERN RESERVE UNIVERSITY.

January 2002-

Visiting Assistant Professor of Law, Acting Director of War Crimes

June 2004

Research Office. Taught Global Perspectives (an introductory international and comparative law course for first-year law students), torts, and civil procedure. Co-taught (with Professor Michael Scharf) a war crimes research seminar in which students prepared legal memoranda for the Sierra Leone Special Court and the International Criminal Tribunal for Rwanda. Coached the Case Western student teams for the Jean Pictet International Red Cross Competition and the Jessup International Moot Court Competition. Served as co-chairperson of a Symposium on International Crimes Against Women.

UNIVERSIDAD FRANCISCO MARROQUIN, Guatemala City, Guatemala. Summer 2004

Visiting Professor of Law. Taught a summer school course in international human rights law to Guatemalan law students, with a focus on practical efforts to address human rights problems in Guatemala.

PRACTICE EXPERIENCE

SOROS FOUNDATION OPEN SOCIETY INSTITUTE. *Consultant.* **2001 to 2002**
Advised the Soros Foundation on democracy and human rights programs worldwide, with a particular focus on the design, development and implementation of rule of law and human rights litigation projects. Developed a human rights fellowship program in South Africa for Angolan and Mozambican law graduates. Advised Soros on development of international justice initiatives.

**U.S. STATE DEPARTMENT, BUREAU OF DEMOCRACY,
HUMAN RIGHTS & LABOR.** **September 2000
to August 2001**
Senior Advisor to Assistant Secretaries of State Harold Hongju Koh and Lorne Craner.
Advised the Assistant Secretary on issues relating to war crimes and accountability, domestic implementation of international human rights law, and the use of economic sanctions to advance human rights. Served as the Assistant Secretary's special representative in inter-agency negotiations on the International Criminal Court and Sierra Leone Special Court, and on the U.S. Government's position on Alien Tort Statute litigation. Created, negotiated, and advocated an economic sanctions program against the Burmese government, including liaison and advocacy work with Congress. Advised the Assistant Secretary on international legal dimensions of foreign policy proposals. Member of the U.S. Government negotiating team for international negotiations on the rights of indigenous peoples.

WILLIAMS & CONNOLLY. *Litigation Associate.* **1999 to 2000**
Member of President Clinton's legal defense team.

**HONORABLE MORRIS S. ARNOLD,
EIGHTH CIRCUIT COURT OF APPEALS. *Judicial Clerk.*** **1998 to 1999**

YALE LAW SCHOOL, LOWENSTEIN HUMAN RIGHTS CLINIC **1997 to 1998**
Student Director. Managed (with Professor Harold Hongju Koh and Rosa Ehrenreich Brooks) a staff of twenty in the planning and implementation of various human rights law projects in the U.S. and abroad. Directed the preparation and management of the Clinic's Alien Tort Statute lawsuit against Radovan Karadzic (the first class action lawsuit under the ATS).

SCHOLARLY PUBLICATIONS

Articles

Creeping Monism: The Judicial Trend Toward Interpretive Incorporation of Human Rights Treaties, 107 COLUMBIA L. REV. 628 (2007). One of three U.S. entries selected by the American Society of International Law (through a peer reviewed process) for presentation at the inaugural *Four Societies Symposium* (a joint symposium of the American, Australia/New Zealand, Canadian, and Japanese Societies of International Law).

Normativity in the "New" New Haven School: Assessing the Legitimacy of International Legal Norms Created by the World's Judges, 32 YALE J. INT'L L. 455 (essay)(2007). Selected for presentation and publication as part of YJIL's Fifth Annual Young Scholars Conference.

Mediating Norms and Identity: The Role of Transnational Judicial Dialogue in Creating and Enforcing International Legal Norms, 93 GEORGETOWN L.J. 487 (2005).
Cited by U.S. Supreme Court Justice Antonin Scalia in his concurring opinion in *Kansas v. Marsh*, 126 S.Ct. 2516 (2006).

Common Law Courts in an Age of Equity Procedure: Redefining Appellate Review for the Mass Tort Era, 80 NORTH CAROLINA L. REV. 527 (2002).

Book Chapters

International Law as an Interpretive Tool, 1945-2000, in THE U.S. SUPREME COURT AND INTERNATIONAL LAW: CONTINUITY OR CHANGE? (Sloss et al., eds., Cambridge Press) (forthcoming 2010).

The Attitudes of U.S. Courts Towards International Courts and Tribunals: Is Sanchez-Llamas a Model for Transnational Dialogue?, in THE UNITED STATES AND INTERNATIONAL COURTS AND TRIBUNALS (Romano, ed., Cambridge Press)(forthcoming 2009).

Transnational Judicial Dialogue and Transnational Speech: International Jurisdictional Conflicts in Hate Speech and Defamation Law, in PROGRESS IN INTERNATIONAL ORGANIZATION (Miller & Bratspies, eds., Martinus Nijhoff)(2008).

Symposium and Conference Publications

Getting Beyond the Crossfire Phenomenon: A Militant Moderate's Take on the Role of Foreign Authority in Constitutional Interpretation, 77 FORDHAM L. REV. 635 (2008).

Using Human Rights Treaties to Resolve Ambiguity: Transnational Judicial Dialogue and the Advent of a Rights-Conscious Charming Betsy Canon, 38 VICTORIA U. WELLINGTON L. REV. 237 (2007)(Four Societies Symposium, Wellington, New Zealand).

Treaty Dialogue in Sanchez-Llamas: Is Chief Justice Roberts a Transnationalist, After All? 11 LEWIS & CLARK L. REV. 89 (2007).

Justice Scalia on the Use of Foreign Law in Constitutional Interpretation: Unidirectional Monologue or Co-Constitutive Dialogue?, 12 TULSA J. COMP. & INT'L L. 149 (2005).

On Fire Jumping, Cotton Farming, and Beekeeping: Frank Waters' Cardinal Rules of Lawyering, 56 ARKANSAS L. REV. 15 (2003)(in memoriam to my father, U.S. District Judge H. Franklin Waters).

Works in Progress

Diagonal Dialogue I: Reconceptualizing "Respectful Consideration" for the New Dualist Era (manuscript).

Diagonal Dialogue II: What Administrative Law Deference Frameworks Can Teach Us About Giving "Respectful Consideration" to International Courts (manuscript).

LECTURES AND PRESENTATIONS

- “Diagonal Dialogue: Reconceptualizing ‘Respectful Consideration’ for the post-*Medellin* Dualist Era,” International Law Roundtable, American University School of Law (September 2008).
- “Predictions on *Medellin*,” Georgetown Law School ABILA International Law Weekend (March 2008).
- “Judicial Deference to International Courts: Challenging the Conventional Wisdom,” Symposium, *Public and Private Law in the Global Adjudication System*, Duke University Law School (February 2008).
- “Diagonal Dialogue: Giving ‘Respectful Consideration’ to International Court Treaty Interpretations,” work in progress presented at roundtables and faculty workshops at Boston College, Cardozo, Emory, Kansas, Illinois, Temple, Texas, Vanderbilt, and Washington University Law Schools (Fall 2007 –Spring 2008).
- “Transnational Norm Entrepreneurship Before the Supreme Court: Law Professor Amici in *Sanchez-Llamas*,” Conference, *International Law and the Constitution: Terms of Engagement*, Fordham Law School (October 2007).
- “Transnational Norm Entrepreneurship Before the Supreme Court: Was *Roper v. Simmons* a Pyrrhic Victory?,” Conference, *A World of Legal Conflicts: Multiple Norms in the International Legal System*, Princeton University, Woodrow Wilson School Program in Law and Public Affairs (June 2007).
- “Pyrrhic Justice? Lessons Learned from the Saddam Trial,” Inaugural John Gedid Endowed Lectureship, Widener University Law School (April 2007).
- “Normativity in the ‘New’ New Haven School: Assessing the Legitimacy of International Legal Norms Created by the World’s Judges,” Fifth Annual YJIL Young Scholars Conference, *The “New” New Haven School: International Law -- Past, Present and Future*, Yale Law School (March 2007).
- “The Democratic Legitimacy of Interpretive Incorporation of Human Rights Treaties,” Vanderbilt Law School Roundtable on International Law (Feb. 2007).
- “Foreign Authority Through a Narrow Lens: Creeping Monism and Interpretative Incorporation,” presented at roundtables and faculty workshops at Vanderbilt, George Washington, Seton Hall, and Florida Law Schools, and at student/faculty colloquia seminars at Georgetown and Georgia Law Schools (Fall 2006-Spring 2007).
- “Will State Courts Become Internationalists, Too?,” *State Courts and Transnational Decision-Making: The Road Ahead*, ILA International Law Weekend (Oct. 2006).
- “Interrogations, Confessions, and Treaty Violations: The Role of Judicial Dialogue from *Miranda* to *Sanchez-Llamas*,” Symposium, *Cautions and Confessions: Miranda v. Arizona After 40 Years*, University of Colorado Law School (Oct. 2006).
- “Foreign Authority Through a Narrow Lens: Creeping Monism and Interpretative Incorporation,” Law & Society Conference (July 2006).
- “Foreign Authority Through a Narrow Lens: Creeping Monism, Interpretative Incorporation,

- and the International Countermajoritarian Difficulty,” *Fostering A Scholarly Network: International Law and Democratic Theory*, Four Societies Symposium (Joint Symposium of American Society of International Law and the Australia New Zealand, Canadian, and Japanese Societies of International Law), Wellington, New Zealand (June 2006).
- “American Exceptionalism as an ‘American Value,’” Symposium, *Next Steps in the U.S. Relationship with International Courts and Tribunals*, George Washington Law School (May 2006).
- “Creeping Monism in the World’s Common Law Courts: Should the U.S. Supreme Court Follow Suit?” *Beyond Boundaries*, International Law Workshop, Connecticut Law School (Jan. 2006).
- “Teaching Personal Jurisdiction: *Yahoo! v. LICRA & UEJF*,” *Workshop on Integrating Transnational Legal Perspectives Into the First Year Curriculum*, American Association of Law Schools Conference (Jan. 2006).
- “Creeping Monism in the World’s Common Law Courts: Should the U.S. Supreme Court Follow Suit?” *Foreign Relations Law Colloquium*, Harvard Law School (Oct. 2005).
- “Creeping Monism, Common Law Courts, and *Roper v. Simmons*,” *Young Scholars Workshop*, Southeastern Association of Law Schools Conference (July 2005).
- “The Role of Transnational Judicial Dialogue in Creating and Enforcing International Human Rights Law,” *The Protection of Human Rights in the Twenty-First Century*, Southeastern Association of Law Schools Conference (July 2005).
- “Transnational Judicial Dialogue and Transnational Speech: International Jurisdictional Conflicts in Hate Speech and Defamation Law,” Symposium, *Progress in International Organization*, University of Idaho Law School (Mar. 2005).
- “Emerging Transnational Jurisdictional Issues in Internet Defamation Law: Challenges for American Media Corporations,” *Privacy and Defamation Law in the Digital Age*, American Association of Law Schools Conference, San Francisco, CA (Jan. 2005).
- “Justice Scalia on the Use of Foreign Law in Constitutional Interpretation,” Symposium, *The Supreme Court’s 2003-2004 Term: Building Bridges or Constructing Barriers Between National, Foreign and International Law?*, University of Tulsa Law School (Oct. 2004).

MEDIA

- “Iraqi Democracy: Walkout or Timeout?,” Commentary, *All Things Considered*, National Public Radio (July 2006).
- “The Foundation of *Miranda* Rights: A Lesson from the Iraqis,” Commentary, *All Things Considered*, National Public Radio (June 2006).
- “Mirandizing Iraq,” Op/Ed, *Richmond-Times Dispatch* (June 2006).

PROFESSIONAL AND PRO BONO ACTIVITIES

Moderator/Speaker. Served as moderator of a joint Arkansas/Ukraine panel at the Arkansas Bar Association's "domestic mainstreaming" rule of law initiative (part of the American Bar Association's World Justice Project). April 2008.

Speaker/Educator. Sir Richard May Seminar, International Judicial Academy, Hague, Netherlands, September 2007. Lectured on the role of international law in the United States courts to a group of federal and state court judges.

Consultant/Trainer. International Bar Association, Human Rights Training Program for Jurists from Iraq, 2003-05. Participated as an international trainer in a two-year program to train Iraqi judges, prosecutors, and defense lawyers in international human rights law. One-week sessions for 50 to 60 Iraqi participants were held every two to three months in Dubai.

Consultant/Trainer. ABA/CEELI, Judicial Training Program for Female Judges from Iraq, 2006. Participated as a trainer in human rights law for Iraq's first group of female judicial candidates.

Consultant/Trainer. CEELI Institute, Human Rights Training Program for Central Asian Officials, 2005. Participated as an international trainer in a CEELI Institute program to train judges and government officials from Central Asia.

Member/Consultant. Public International Law & Policy Group.

Member. Kerry-Edwards Campaign, National Security and Foreign Policy Outreach Team.