

David A. Kaye
UC Irvine School of Law
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CURRENT APPOINTMENTS

UN Special Rapporteur on the Right to Freedom of Opinion and Expression August 2014 – currently

UC Irvine School of Law, Irvine, California Summer 2012 – currently
Clinical Professor of Law; Director, International Justice Clinic

Direct projects in human rights, humanitarian law, international justice. Teach and research in human rights and international humanitarian law. Led major project on the Security Council and the International Criminal Court, supported by Humanity United. Lead and supervise current projects involving Northern Ireland, Myanmar/Burma, the International Criminal Tribunal for the former Yugoslavia, Syria, and Iran.

PREVIOUS ACADEMIC APPOINTMENTS

UCLA School of Law, Los Angeles, California Fall 2007 – Summer 2012
Founding Executive Director, International Human Rights Law Program
Founding Director, International Justice Clinic

Founded and provided overall direction for the first major human rights law program and clinic in the Los Angeles area. Taught human rights law and international justice clinic focusing on accountability for serious human rights violations. Led projects including the following:

- Developed workshop on transitional justice for Syrian activists in Istanbul in 2012, in collaboration with Open Society and International Centre for Transitional Justice;
- Collaborations with Open Society Justice Initiative focusing on regional accountability mechanisms in Africa and corporate pillage in the Democratic Republic of the Congo;
- Major report on U.S. policy toward the Kampala Review Conference for the ICC;
- Strategic collaboration with the War Crimes Chamber in the courts of Bosnia and Herzegovina;
- Support of Cambodian genocide survivors in Long Beach and Santa Ana in their petitions as complainants and civil parties before the Khmer Rouge Tribunal;
- Work with AIDS-Free World reporting on problems with witness protection in sexual violence cases in post-conflict settings (field research in Colombia, Liberia, Sierra Leone, and The Hague).

Whittier Law School, Costa Mesa, California Fall 2005 – Summer 2007
Visiting Assistant Professor

First-year and advanced international law courses, including summer programs in Amsterdam and Toulouse.

Georgetown University Law Center, Washington, D.C. 2002
Adjunct Professor of Law

Taught seminar on International Humanitarian Law.

EDUCATION

Boalt Hall School of Law, University of California at Berkeley J.D. 1995

University of California at Berkeley B.A. (Rhetoric) 1990

- Phi Beta Kappa, graduated with honors
- Hebrew University of Jerusalem (UC Education Abroad, 1988 – 1989)

GOVERNMENT AND POLICY EXPERIENCE

Embassy of the United States, The Hague, The Netherlands
Deputy Legal Counselor 2002 – 2005

U.S. liaison to the International Criminal Tribunal for the former Yugoslavia (ICTY), Permanent Court of Arbitration, and other legal institutions in The Hague. Co-counsel of the United States before the International Court of Justice (*Oil Platforms, Avena*) and Iran-U.S. Claims Tribunal.

Office of the Legal Adviser, U.S. Department of State, Washington, D.C.
Attorney-Adviser 1995 – 2002

Special assistant in 2000 – 2001 and principal staff attorney in areas including:

- Application of law of armed conflict, use of force and human rights law following 9/11, including Geneva Conventions, detainee issues and military commissions. Lead drafter of State/Legal memoranda advocating application of Third Geneva Convention in Afghanistan.
- Negotiations on weapons under law of armed conflict, including landmines and cluster bombs. Led inter-agency working group developing U.S. Government positions. Drafted proposed protocols of the Convention on Conventional Weapons, including expansion of Convention to govern non-international armed conflict and application to anti-vehicle landmines.
- International agreements on nuclear nonproliferation, safety and liability; North Korean nuclear issues; U.S. sanctions law following nuclear tests of India and Pakistan; nuclear export controls.
- Law of state responsibility, including U.S. policy concerning the Helms-Burton (Libertad) Act of 1996 and consequent NAFTA and U.S.-European negotiations.
- Four Superior Honor Awards and one Meritorious Honor Award.

International Bureau for Human Rights, Moscow, Dushanbe, Almaty, Bishkek, Tashkent
Special Correspondent January – June 1992

Investigated, analyzed, and reported the impact of the changing politics and institutions of four former Soviet republics on human rights, minority communities and international relations.

PROFESSIONAL AND ACADEMIC MEMBERSHIPS

Council on Foreign Relations, Life Member

American Society of International Law

Co-Editor, *ASIL Insights* (2009 – 2013); Executive Council (2010 – 2013); Executive Committee (2010 - 11); Program Committee Member, 2010 and 2013 Annual Meetings & 2011 Midyear Meeting

Center for Civil Society and Democracy in Syria, Advisory Board - Member

American Branch – International Law Association (Chair, IHL Section)

International Justice Resource Center, Advisory Board – Member

UC Irvine Forum for the Academy and the Public, Board – Member

California State Bar, Member

PUBLICATIONS

Articles, Essays and Reviews

Archiving Justice: Conceptualizing the Archives of the United Nations International Criminal Tribunal for the Former Yugoslavia, JOURNAL OF ARCHIVAL SCIENCE (2014), available at <http://link.springer.com/article/10.1007%2Fs10502-014-9229-x>.

Direct Participation: Law School Clinics and International Humanitarian Law (with Laurie Blank), INTERNATIONAL REVIEW OF THE RED CROSS, Vol. 95, No. 892 (2014) (forthcoming), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2403303.

Stealth Multilateralism: U.S. Foreign Policy Without Treaties – or the Senate, FOREIGN AFFAIRS, September/October 2013, available at <http://www.foreignaffairs.com/articles/139649/david-kaye/stealth-multilateralism>.

Human Rights Prosecutors? The United Nations High Commissioner for Human Rights, International Justice, and the Example of Syria, in Felice Gaer and Christen Broeker, editor, THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: CONSCIENCE FOR THE WORLD (2013), available in draft at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2196550.

The Council and the Court, Special Report of the U.C. Irvine School of Law International Justice Clinic (2013), available at <http://councilandcourt.org/>.

State Execution of the International Covenant on Civil and Political Rights, 3 U.C. IRVINE LAW REVIEW 95 (2013).

Justice Beyond The Hague: Supporting the Prosecution of International Crimes in National Courts, COUNCIL ON FOREIGN RELATIONS SPECIAL REPORT (June 2011), available at http://i.cfr.org/content/publications/attachments/Beyond_The_Hague_CSR61.pdf.

Who's Afraid of the International Criminal Court? FOREIGN AFFAIRS, May/June 2011, available at <http://www.foreignaffairs.com/articles/67768/david-kaye/whos-afraid-of-the-international-criminal-court>.

Of War and Law (Book Review), AMERICAN JOURNAL OF INTERNATIONAL LAW (Vol. 102, No. 2, April 2008).

Complexity in the Law of War, in PROGRESS IN INTERNATIONAL ORGANIZATION (Bratspies and Miller, eds., Martinus Nijhoff Publishers, 2008), available at <http://ssrn.com/abstract=926604>.

The International Law of Hamdan v. Rumsfeld, YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW (co-author) (2007).

The Legal Bureaucracy and the Law of War, GEORGE WASHINGTON INTERNATIONAL LAW REVIEW (Volume 38, Spring 2006).

Adjudicating Self-Defense: Discretion, Perception and the Resort to Force in International Law, COLUMBIA JOURNAL OF TRANSNATIONAL LAW (Volume 44, Fall 2005).

The Chechnya Cases Before the European Court of Human Rights, AMERICAN JOURNAL OF INTERNATIONAL LAW (Volume 99, October 2005).

The Ethics of Destruction: Norms and Force in International Relations (Book Review), AMERICAN JOURNAL OF INTERNATIONAL LAW (Vol. 97, No. 1, January 2003).

The Second Review Conference of the 1980 Convention on Certain Conventional Weapons, AMERICAN JOURNAL OF INTERNATIONAL LAW (Vol. 96, No. 4, October 2002) (co-author).

The Guilt of Nations (Book Review), AMERICAN JOURNAL OF INTERNATIONAL LAW (Vol. 95, No. 3, July 2001).

Introduction: The International Law Commission's Draft Articles on State Responsibility, INTERNATIONAL LEGAL MATERIALS (March 1998).

The Helms-Burton Act: Title III and International Claims, HASTINGS INTERNATIONAL AND COMPARATIVE LAW REVIEW (Volume 20, No. 4, Summer 1997).

Peaceful Territorial Change (Book Review), AMERICAN JOURNAL OF INTERNATIONAL LAW (Vol. 90, No. 3, July 1996) (co-author).

Are There Limits to Military Alliance? Presidential Power to Place American Troops Under Non-American Commanders, TRANSNATIONAL LAW AND CONTEMPORARY PROBLEMS (Volume 5, Fall 1995).

United Nations Reform, in PROCEEDINGS OF THE 1994 ANNUAL CONFERENCE OF THE AMERICAN SOCIETY FOR INTERNATIONAL LAW (1995).

Red Light, Green Light? The 1994 Subsidies Agreement, Research and Development Subsidies and American Policy, JOURNAL OF WORLD TRADE (December 1994) (co-author).

United Nations Military Forces: The UN Charter and the U.S. Constitution, ABA PUBLIC SERVICES MONOGRAPH SERIES NO. 5 (1994).

Selected Op-eds and Short Essays

Syria's State of Impunity, FOREIGN AFFAIRS, January 23, 2014, available at <http://www.foreignaffairs.com/articles/140676/david-kaye/syrias-state-of-impunity>.

Harold Koh's Case for Humanitarian Intervention, JustSecurity.org, October 7, 2013, available at <http://justsecurity.org/2013/10/07/kaye-kohs-case/>.

The Legal Consequences of Illegal Wars, FOREIGN AFFAIRS, August 29, 2013, available at <http://www.foreignaffairs.com/articles/139886/david-kaye/the-legal-consequences-of-illegal-wars>.

America's Honeymoon with the ICC, FOREIGN AFFAIRS: SNAPSHOT, April 17, 2013, available at <http://www.foreignaffairs.com/articles/139170/david-kaye/americas-honeymoon-with-the-icc>.

International Law Issues in the Department of Justice White Paper on Targeted Killing, ASIL INSIGHTS, February 15, 2013, available at <http://www.asil.org/insights130215.cfm>.

Responsibility to Object, FOREIGN POLICY, January 10, 2013, available at http://www.foreignpolicy.com/articles/2013/01/10/responsibility_to_object.

The Right Way to Help Syria's Rebels (with Dalia Dassa Kaye), THE LOS ANGELES TIMES, August 8, 2012, available at <http://articles.latimes.com/2012/aug/08/opinion/la-oe-kaye-syria-intervention-20120808>.

What to do with Qaddafi, THE NEW YORK TIMES, September 1, 2011, available at <http://www.nytimes.com/2011/09/01/opinion/what-to-do-with-qaddafi.html?scp=1&sq=david%20kaye&st=cse>.

Wanted: Qaddafi & Co., FOREIGN AFFAIRS, May 19, 2011, available at <http://www.foreignaffairs.com/articles/67857/david-kaye/wanted-qaddafi-co>.

A Jurisdiction the International Criminal Court Does Not Need, THE LOS ANGELES TIMES, June 1, 2010, available at <http://www.latimes.com/news/opinion/commentary/la-oe-kaye-icc-20100601,0,1071610.story>.

Prosecuting Aggression, INTERNATIONAL HERALD TRIBUNE, May 26, 2010, available at <http://www.nytimes.com/2010/05/27/opinion/27iht-edpoint.html>.

The First Review Conference of the Rome Statute of the International Criminal Court, ASIL INSIGHTS, May 14, 2010, available at <http://www.asil.org/insights100514.cfm>.

The Torture Commission We Really Need, FOREIGN POLICY.COM, March 25, 2010, available at http://www.foreignpolicy.com/articles/2010/03/25/the_torture_commission_we_really_need.

Targeted for Death (symposium), THE LOS ANGELES TIMES, February 21, 2010, available at <http://articles.latimes.com/2010/feb/21/opinion/la-oe-miller-web21-2010feb21>.

The Goldstone Report, ASIL INSIGHTS, October 1, 2009, available at <http://www.asil.org/insights091001.cfm>.

Was Harsh Interrogation Torture? Yes, CQ Researcher, September 2009.

Investigating the CIA: Dust-up, THE LOS ANGELES TIMES, August 26 – 28, 2009, available at <http://www.latimes.com/news/opinion/opinionla/la-oe-w-alt-kaye26-2009aug26,0,5917922.story>.

The Torture Memos: Dust-up, THE LOS ANGELES TIMES, April 29 – May 1, 2009, available at <http://www.latimes.com/news/opinion/opinionla/la-oe-w-kaye-carafano29-2009apr29,0,6696340.story>.

The U.S. must reengage with the International Criminal Court, THE LOS ANGELES TIMES, March 11, 2009, available at <http://www.latimes.com/news/opinion/commentary/la-oe-kaye11-2009mar11,0,6399642.story>.

Closing Gitmo: Dust-up, THE LOS ANGELES TIMES, November 19 – 21, 2008, available at <http://www.latimes.com/news/opinion/la-oe-w-sulmasy-kaye2008-nov19-21,0,43769.storygallery>.

Human Rights Salon, UN Dispatch, October 2008, available at http://www.undispatch.com/archives/human_rights_s/index.php.

Karadzic, Bashir and the Challenges for International Justice, Video Op-ed, Burkle Center for International Relations, September 2008, available at <http://www.international.ucla.edu/article.asp?parentid=97455>.

Bombs Away? (with Steven Solomon), *The Huffington Post*, July 1, 2008, available at http://www.huffingtonpost.com/steven-solomon-and-david-kaye/bombs-away_b_110315.html.

Scalia's Fear Factor, THE LOS ANGELES TIMES, June 13, 2008, available at <http://www.latimes.com/news/opinion/la-oe-kaye13-2008jun13,0,7314680.story>.

Guantanamo by the Numbers, THE NEW YORK TIMES, November 10, 2007 (co-author), available at http://www.nytimes.com/2007/11/10/opinion/10kayeintro.html?_r=1&oref=slogin.

It's Too Hard to Prove Genocide, THE LOS ANGELES TIMES, March 1, 2007, available at <http://articles.latimes.com/2007/mar/01/opinion/oe-kaye1>.

Pacts Americana? THE NEW YORK TIMES, December 15, 2006 (co-author), available at <http://www.nytimes.com/2006/12/15/opinion/15kaye.html?ex=1178769600&en=aa6be12767e6ac6f&ei=5070>.

Lebanon and the Laws of War, SAN FRANCISCO CHRONICLE, July 27, 2006.

Don't Bury The Hague With Milosevic, INTERNATIONAL HERALD TRIBUNE, March 14, 2006, available at <http://www.ihf.com/articles/2006/03/13/opinion/edkaye.php>

Don't Fear the International Criminal Court, FOREIGNPOLICY.COM, February 22, 2006.

Struggling with Independence: Central Asian Politics in the Post-Soviet World, MIDDLE EAST INSIGHT, July-October 1992.

SELECTED PRESENTATIONS

The Future of International Criminal Law, Panel Moderator, ASIL Annual Meeting, Washington, DC, April 10, 2014.

The United States, Global Governance and Presidential Multilateralism, Presentation and Roundtable Discussion, Council on Foreign Relations, Los Angeles, November 20, 2013. Presented also at the Denver Council on Foreign Relations and University of Denver, January 28 – 29, 2014; and the Council on Foreign Relations in San Francisco, February 2014.

Archiving Justice: The Future of the ICTY, Paper Presentation, UCLA Conference on Human Rights Archives, Los Angeles, California, October 18, 2013.

International Law Issues: Syria, Use of Force, Iran - Interview on Bloggingheads.tv by Robert Wright, October 6, 2013, available at <http://bloggingheads.tv/videos/22366>.

Stealth Multilateralism, Lecture, Laguna Woods Concerned Citizens, Laguna Woods, California, October 1, 2013.

The International Criminal Court and Global Politics, Lecture, Renmin University School of Law, Beijing, China, September 10, 2013.

Making the Security Council Work for the ICC, Guest Lecture, International Criminal Court, The Hague, The Netherlands, July 2013.

The Council and the Court, Lecture, University of Leiden Law School – Summer Program, The Netherlands, July 3, 2013.

Enemies, A Law Story, Presentation, University of Amsterdam Law School, The Netherlands, July 2, 2013.

The ICCPR and Human Rights Litigation at the State Level, Panel Presentation, International Justice Resource Center Training for Legal Aid Lawyers, UC Hastings, June 11, 2013.

Security Council Politics and International Justice, Lecture and Roundtable Discussion, Council on Foreign Relations, New York, May 30, 2013.

The Council and the Court, Presentation, United Nations: Friends of the ICC, New York, May 29, 2013.

Ai Weiwei: Never Sorry, Post-screening Moderator, UCLA Burke Center for International Relations, Los Angeles, California, May 22, 2013.

Accountability for International Crimes: Domestic versus International Jurisdiction, Lecture, University of Colorado, Boulder, via Skype, April 9, 2013.

The Purposes of International Justice, Lecture, USC Law School and the LA County Bar Association – International Law Section, Los Angeles, California, March 13, 2013.

The United Nations and International Justice, Lecture, UNA Association of Orange County, Santa Ana, California, January 27, 2013

State Implementation of Human Rights Treaties, Presenter, UCI Law Scholarly Sampler, Irvine, California, December 5, 2012.

The Council and the Court, Convener, Workshop Retreat of UCI School of Law and the UCLA Burke Center on International Relations, with support of Humanity United, Laguna Beach, California, November 28 – 30, 2012.

Teaching International Humanitarian Law, Panelist/Lecturer, Teaching IHL Workshop of the ICRC and Emory Law School IHL Clinic, November 1 – 2, 2012.

The Human Rights Crisis in Iran, American Jewish Committee and Net-Kal, Los Angeles, California, August 30, 2012.

International Justice and the Future of the ICC, Lecture, China Foreign Affairs University, Beijing, China, June 16, 2012.

Transitional Justice Workshop for Syrian Activists, Co-convener with the Open Society Institute and the International Centre for Transitional Justice, Istanbul, Turkey, April 2012.

The ICC Turns Ten: Panel Presentation, Stanford Law School, May 11, 2012.

State Incorporation of Human Rights Law, UC Irvine School of Law Symposium on Human Rights Litigation in State Courts and Under State Law, Irvine, California, March 2, 2012.

The High Commissioner for Human Rights and International Justice, Conference on the High Commissioner for Human Rights, Jacob Blaustein Institute for Human Rights of the American Jewish Committee, New York, February 8, 2012.

Conference: The Potential Role of Transitional Justice in Active Conflicts, Presenter, Minerva Center for Human Rights, Hebrew University, Jerusalem, Israel, November 13 – 15, 2011.

The International Criminal Court: An Introduction, Santa Barbara Coalition for Global Dialogue, November 9, 2011.

Justice Beyond The Hague, Presentation, Council on Foreign Relations Academic Conference Call, October 13, 2011.

Public International Law and the Responsibility to Protect Doctrine, Panel Presentation, Webinar of the California State Bar and the Langston Bar Association, October 4, 2011.

Keynote Address, The Individual and the International, Annual Meeting of the International Studies Association Western Region, Pasadena, California, September 24, 2011.

Human Rights 101, Presentation for the California Committee South of Human Rights Watch, Los Angeles, September 7, 2011.

High Technology and the Laws of War, The Global Impact and Implementation of Human Rights Law, McGeorge School of Law, March 12, 2011.

Human Rights in 2021, International Law Weekend West, Southwestern Law School, February 26, 2011.

Getting Some Closure? The Law and Politics of Detention Policy, Lecture, UC Irvine International Studies Public Forum, Irvine, California, *video available at* <http://ocw.uci.edu/lectures/lecture.aspx?id=174>, April 29, 2010.

The Obama Administration and Human Rights, Panel Presentation, Claremont McKenna College, Claremont, California, April 23, 2010.

What Makes States Successful? Afghanistan and the Future of State Building, Panelist, Symposium of the Public-Private Partnership for Justice Reform in Afghanistan, University of La Verne College of Law, Ontario, California, April 16, 2010.

A Short History of Human Rights Law, Lecture, Human Rights Watch Educators Program, Mt. St. Mary's College, Los Angeles, California, *video available at* <http://video.yahoo.com/watch/5728138/15004528>, August 6, 2009.

The Present and Future of the International Criminal Court, Lecture, Global Exchange, Thousand Oaks, California, July 27, 2009.

Torture, Trials and Terrorism: Detention Policy in the Obama Era, Lecture, UCLA Extension, Los Angeles, California, May 26, 2009.

The Purposes of International Justice, Justice Award Lecture, Soku Gakkai Int'l, Santa Monica, California, May 16, 2009.

The Impact of International Justice on National Jurisdictions, Presentation, Conference of the Journal of International Law and Foreign Affairs, UCLA School of Law, February 20, 2009.

What's Just about International Justice? Lecture, Center for European and Eurasian Studies, UCLA, February 12, 2009.

Whither the Court: Boumediene v. Bush, Presentation, UCLA School of Law, August 25, 2008.

The ICTY and the Future of International Justice, Lecture, Munger Tolles & Olson, Los Angeles, January 14, 2008.

An Arab Court for Human Rights, Presentation, Chapman University Human Rights Conference, April 16, 2007.

Hamdan, Common Article 3 and the Framework for the Fight Against Terrorism, Presentation and Panelist, German-American Colloquium on Legal Issues in the Fight Against Terrorism, Sponsored by German Foreign Office and Max Planck Institute, Berlin, October 12, 2006.

Challenges Facing the Law of War in the United States, Presenter and Workshop Facilitator, Conference on Governing and Living in a Time of Terror: Law Beyond 9/11, Boalt Hall School of Law, Berkeley, September 8, 2006.

The International Law of Hamdan v Rumsfeld, Colloquium, Center for International and Comparative Law, Whittier Law School, August 28, 2006.

The IHL Bureaucracy, Lecture, Pepperdine School of Law, April 7, 2006.

Introduction: The Negotiation of the Claims Settlement Declaration, Symposium on the 25th Anniversary of the Algiers Accords, Boalt Hall School of Law, Berkeley, January 13, 2006.

Self-Policing By Government Lawyers: Function, Dysfunction and the Law of War, Presentation, George Washington University Law School, Washington, D.C., September 30, 2005.

Recent Developments and the International Criminal Tribunals, Moderator, Panel of the American Society of International Law Annual Conference, Washington, D.C., April 1, 2005.

The United States and the Use of Force Under International Law, Lecture, The Netherlands Ministry of Foreign Affairs Interagency Legal Group, December 16, 2004.

Europe, the United States and International Law, Lecture, Leiden University, November 1, 2004.

Self-Defense, the UN Charter and the Perception of Threat, Presentation and Panelist, University of Utrecht, October 22, 2004.

The Occupation of Iraq under International Law, Presentation and Panelist, University of Amsterdam, May 13, 2004.

Lessons Learned from the Development of War Crimes Tribunals, Lecture, Erasmus University, Rotterdam, April 26, 2004.

The Law on the Use of Force after Iraq, Presentation and Panelist, T.M. Asser Institute Academic Forum, The Hague, March 26, 2004.

Problems of Compliance in Internal Armed Conflict, Presentation and Panelist, Regional Conference of the International Committee of the Red Cross, Brugge, Belgium, September 12, 2003.

Europe, Iraq and the Future of the EU's Common Foreign and Security Policy, Lecture, University of Amsterdam, February 10, 2003.