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16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA**

18  
19 AHIMSA WICKREMATUNGE, in her  
20 individual capacity and in her capacity  
21 as the legal representative of the estate  
22 of LASANTHA WICKREMATUNGE,

Plaintiff,

v.

24 NANDASENA GOTABAYA RAJAPAKSA,

25 Defendant.

Case No. 2:19 CV-02577-R-RAO

**DECLARATION OF  
STEVEN R. RATNER IN SUPPORT  
OF PLAINTIFF'S OPPOSITION  
TO DEFENDANT'S MOTION TO  
DISMISS**

Date: September 16, 2019  
Time: 10:00 am  
Courtroom: 880  
Judge: Hon. Manuel L. Real

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1 I, Steven R. Ratner, declare under penalty of perjury of the laws of the United  
2 States as follows:

3 **I. QUALIFICATIONS**

4 1. I am the Bruno Simma Collegiate Professor of Law at the University of  
5 Michigan, where I teach public international law. Prior to joining the Michigan  
6 faculty in 2004, I was the Albert Sidney Burleson Professor in Law at the  
7 University of Texas at Austin, and before that I was an Attorney-Adviser in the  
8 Office of the Legal Adviser at the U.S. Department of State. I received an A.B.,  
9 *magna cum laude*, from Princeton University in 1982, a J.D. from Yale Law School  
10 in 1986, and a *diplôme (mention très bien)* from the Institut Universitaire de Hautes  
11 Études Internationales (Geneva) in 1993. My CV appears as Exhibit A.

12 2. From 1998 to 2008, I served as a member of the Board of Editors of the  
13 *American Journal of International Law*, one of the highest forms of recognition of  
14 scholars of international law. Earlier, I received the Society's Certificate of Merit  
15 for the best scholarly book published in the field of international law. My  
16 appointment to my chair in 2009 is a leading faculty recognition at University of  
17 Michigan. In 2009 and again in 2018, the U.S. Department of State appointed me to  
18 its Advisory Committee on International Law, a highly select group of academic  
19 experts and practitioners who meet with the State Department's Legal Adviser and  
20 lawyers to consult on matters of international law. From 2013 to 2017, I served as  
21 an Adviser for the American Law Institute's Restatement (Fourth) of the Foreign  
22 Relations Law of the United States. This year, the American Society of  
23 International Law selected me to serve as a Counsellor, a recognition of long-term  
24 contributions to international law.

25 3. My academic career has focused on public international law, with  
26 specific expertise in international human rights law, international humanitarian law,  
27 international criminal law, international investment law, and related issues. Since I  
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1 began teaching law in fall 1992, I have taught a semester-long course on  
2 international law on human rights most years, as well as a course on the law of  
3 armed conflict that addresses prosecution of war crimes. I am the co-author of one  
4 of the leading textbooks on international law used in the United States,  
5 *International Law: Norms, Actors, Process* (Kluwer, 4th ed. 2015), as well as one  
6 of the leading commentaries on remedies for human rights abuses, *Accountability*  
7 *for Human Rights Atrocities in International Law* (Oxford, 3d ed. 2009). I have  
8 published numerous articles on questions of accountability and have lectured on  
9 this topic at a number of law schools.

10 4. Beyond my academic work, my background in accountability for  
11 human rights abuses includes service as a U.S. government negotiator during the  
12 drafting of the 1991 Cambodia Settlement Agreements; a consultancy to the U.S.  
13 government on bringing the Khmer Rouge to justice under the 1994 Cambodia  
14 Genocide Justice Act; and membership on the United Nations (“U.N.”) Secretary-  
15 General’s three-person Group of Experts for Cambodia, which examined options  
16 for domestic and international trials of Khmer Rouge leaders. Each of these  
17 projects involved careful examination of options for domestic trials, including the  
18 capacity and the independence of the judicial system.

19 5. In 2010, the U.N. Secretary-General appointed me to a Panel of Experts  
20 to examine options for accountability of individuals implicated in various human  
21 rights abuses during the last phases of Sri Lanka’s civil war. The other members of  
22 the Panel were Marzuki Darusman, former Attorney General of Indonesia, and  
23 Yasmin Sooka, former member of the Truth and Reconciliation Commissions of  
24 both South Africa and Sierra Leone. Our panel “advise[d] the Secretary-General on  
25 the modalities, applicable international standards and comparative experience  
26 relevant to the fulfillment” of a commitment by the U.N. Secretary-General and Sri  
27 Lanka’s then-president “to an accountability process, having regard to the nature  
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1 and the scope of alleged violations.”<sup>1</sup> Our panel, with assistance from U.N. officials  
2 and independent consultants, worked for 10 months to produce a 213-page report  
3 that we submitted to the U.N. Secretary-General in March 2011.

4 6. The Panel of Experts carefully examined allegations of violations of  
5 international human rights law and international humanitarian law by forces of the  
6 Government of Sri Lanka (the “Government”) and of the opposition Liberation  
7 Tigers of Tamil Eelam (the “LTTE”). We also carefully examined the international  
8 standards for a state’s response to alleged human rights violations; the State of Sri  
9 Lanka’s judiciary and public prosecutors in terms of their ability and willingness to  
10 carry out fair investigations and prosecutions that would meet international  
11 standards; the Government’s responses to allegations of abuses during the 30-year-  
12 long civil war; and certain structural factors within the country affecting prospects  
13 for accountability. The Panel’s sources of information included witness statements,  
14 accounts from observers on the ground, statements from members of the public,  
15 and distinguished experts on Sri Lankan history, politics, and law.

16 7. Through my work on the Panel, I developed significant expertise in the  
17 workings of the Sri Lankan judicial system and in the challenges to accountability  
18 for civil war–related abuses. Our detailed findings and conclusions on Sri Lanka’s  
19 approach to accountability occupied approximately 30 single-spaced pages of our  
20 final report. In the end, the Panel proposed a list of recommendations for both the  
21 Government and the U.N. The key recommendation for the Government was to  
22 “commence genuine investigations” into alleged abuses by both sides during the  
23 conflict. The report of the Panel of Experts received strong endorsement from  
24 numerous governments, including the United States and the European Union. This  
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26 <sup>1</sup> United Nations, *Report of the Secretary-General’s Panel of Experts on*  
27 *Accountability in Sri Lanka*, Mar. 31, 2011, p. i [hereinafter Panel of Experts  
28 Report].

1 endorsement eventually led the U.N. Human Rights Council to pass a series of  
2 resolutions urging Sri Lanka to undertake bona fide investigations. In Resolution  
3 25/1 (2014), the Council asked the U.N. Office of the High Commissioner on  
4 Human Rights (“OHCHR”) to conduct a comprehensive investigation into the  
5 alleged abuses during the war and possibilities for accountability, which it  
6 completed in 2015.<sup>2</sup>

7 8. Since the completion of the Panel’s mandate in 2011, I have continued  
8 to work on and follow accountability in Sri Lanka, including through briefings to  
9 government delegates to the U.N. Security Council and Human Rights Council,  
10 speeches to public and academic fora, and articles. I have also read OHCHR’s  
11 periodic reports and various Special Rapporteurs of the Human Rights Council who  
12 have visited and written about accountability in Sri Lanka. Based on my personal  
13 experience with the U.N. officials who research and write these reports, I consider  
14 that these reports are prepared with great care, with due respect to the Sri Lankan  
15 Government’s views. They thus represent a highly credible evaluation of events on  
16 the ground. I have also examined the reporting of reliable nongovernmental  
17 organizations (“NGOs”) regarding developments in Sri Lanka. Because of my  
18 long-term work on Sri Lanka, I am able to distinguish between bona fide  
19 independent reporting of events there and accounts that appear independent but  
20 actually represent advocacy on behalf of the Government or supporters of the  
21 former LTTE. The reports that I cite in this report from the U.N, the U.S.  
22 Department of State, and NGOs are, in my opinion, worthy of significant weight  
23 with respect to their factual findings.

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27 <sup>2</sup> See Human Rights Council, Resolution 22/1, Promoting Reconciliation and  
28 Accountability in Sri Lanka, U.N. Doc. A/HRC/RES/22/1 (Apr. 9, 2013).

1 **II. REPORT**

2 9. Counsel for Plaintiff Ahimsa Wickrematunge has asked me to present  
3 the following report, which examines the prospects of accountability in cases like  
4 Plaintiff’s against Defendant in Sri Lanka. I do not have nor have I had any family,  
5 economic, working, or any other connection to Plaintiff or Defendant.

6 10. I have based my report, for which I receive no remuneration, on my  
7 own experience and knowledge, as well as independent research. Exhibit B lists the  
8 materials I consulted while drafting this report.

9 11. In summary, Sri Lanka is plagued by a lack of accountability and  
10 tolerance of impunity for even the most serious human rights abuses committed by  
11 high-level and security officials like those involved in Lasantha Wickrematunge’s  
12 murder. International observers have consistently documented these shortcomings,  
13 including no fewer than 10 reports from U.N. bodies and experts. The Human  
14 Rights Council has noted with concern that the Government had failed to  
15 “adequately address serious allegations of violations of international human rights  
16 law and international humanitarian law.”<sup>3</sup> The U.S. State Department reported that,  
17 in 2018, “[i]mpunity for conflict-era abuses also persisted, including military,  
18 paramilitary, police, and other security-sector officials implicated in cases  
19 involving the alleged targeted killing of parliamentarians, abductions, and  
20 suspected killings of journalists and private citizens.”<sup>4</sup> Human rights victims cannot  
21 achieve effective civil relief in Sri Lankan courts, especially for crimes committed  
22 by one of Sri Lanka’s most senior former officials from one of its most powerful  
23 families. I conclude that:

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26 <sup>3</sup> Human Rights Council, Resolution 22/1, Promoting Reconciliation and  
Accountability in Sri Lanka, U.N. Doc. A/HRC/RES/22/1, pmb. (Apr. 9, 2013).

27 <sup>4</sup> U.S. DEP’T OF STATE, 2018 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES—  
28 SRI LANKA 6 (2019).

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- a. Defendant’s report on Sri Lankan law, even if factually correct in many respects, ignores the critical issue before this Court: the gap between the written law and the practice of accountability in Sri Lanka;
- b. As a result of this gap between law and practice, no remedy is available for victims of abuses of the civil war, and to date the Sri Lankan courts and Government have not held those most responsible to account;
- c. The Sri Lankan judicial system is especially inadequate to handle a civil complaint against Defendant given his and his family’s political power; and
- d. Human rights litigants and defenders, like Plaintiff, are often the victims of retaliation by security forces or the Government.

I will discuss each of these points in turn.

**A. Defendant’s Report on Sri Lankan Law Ignores the Gap Between Law and Practice of Accountability in Sri Lanka.**

12. Former Chief Justice De Silva’s report, which Defendant submitted in support of his Motion to Dismiss (“Defendant’s Report on Sri Lankan Law”), does not present a full or accurate picture of the prospects for civil relief in Sri Lankan courts arising out of human rights abuses committed by Government officials. I have no reason to doubt most of the Report’s descriptions of specific provisions of Sri Lankan law, though I understand that Professor Suri Ratnapala will respond separately to those conclusions.

13. On its face, Sri Lankan law does provide some safeguards for judicial independence, such as criminalizing attempts to influence or interfere with the administration of justice and making Supreme Court appointments subject to the



1 approval of a nominally independent commission.<sup>5</sup> Sri Lankan law appears to permit  
2 civil suits against public officials under certain circumstances,<sup>6</sup> and Defendant’s  
3 Report correctly points out that the Attorney General has filed indictments against  
4 some high-ranking public officials, including a criminal corruption case against  
5 Defendant.<sup>7</sup>

6 14. But Defendant’s Report is limited to the law and mechanisms on the  
7 books, opining about only theoretical possibilities for accountability under that law  
8 and those mechanisms. It is remarkable, for example, that a report on the state of  
9 possible remedies under Sri Lankan law cites only one court case—from 1937, on  
10 habeas corpus—interpreting Sri Lanka’s constitution or statutes.<sup>8</sup> The Report creates  
11 the illusion that the Sri Lankan judiciary is independent and fully functioning, and  
12 that it offers victims these avenues of recourse. In fact, whatever theoretical  
13 possibilities the law might provide for civil or criminal cases against human rights  
14 violators, no government official has been held legally accountable since the end of  
15 the civil war in 2009. The wide gap between the law and practice of transitional  
16 justice in Sri Lanka has persisted through the end of the civil war and multiple  
17 changes in government. I thus strongly disagree with the Report’s assessment of the  
18 impartiality and independence of the Sri Lankan judiciary,<sup>9</sup> which I understand  
19 Professor Juan Méndez will separately address as a legal matter. In what follows, I  
20 present the reality of accountability in Sri Lanka.

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24 <sup>5</sup> Declaration of Joseph Asoka Nihal De Silva in Support of Defendant’s Motion to  
Dismiss, ¶¶ 3.21, 3.41 [hereinafter Defendant’s Report on Sri Lankan Law].

25 <sup>6</sup> Defendant’s Report on Sri Lankan Law, ¶¶ 3.50-3.52.

26 <sup>7</sup> Defendant’s Report on Sri Lankan Law, ¶¶ 4.10–4.11.

27 <sup>8</sup> Cf. Defendant’s Report on Sri Lankan Law, ¶ 3.9.

28 <sup>9</sup> Defendant’s Report on Sri Lankan Law, ¶ 4.7.

1                   **B. No Remedy Is Available for Victims of the Civil War, and**  
2                   **High-Level Perpetrators Have Not Been Held Accountable.**

3           15. Sri Lanka has a culture of impunity for high-level officials that  
4 precludes any effective remedy for Plaintiff. The Panel of Experts of which I was a  
5 member noted in 2011 that the Government’s understanding of transitional justice  
6 lacked “any notion of accountability for its own conduct in the prosecution of the  
7 war, especially during the final stages.”<sup>10</sup> Despite the election of a new Government  
8 in 2015, the development of some legal frameworks and institutions, and a  
9 willingness of Government officials to engage with various U.N. experts, little has  
10 changed in the Government’s actions regarding accountability. OHCHR noted in  
11 2019 that, “[s]ince 2015, virtually no progress has been made in investigating or  
12 prosecuting domestically the large number of allegations of war crimes or crimes  
13 against humanity collected by OHCHR in its investigation, and particularly those  
14 relating to military operations at the end of the war.”<sup>11</sup> Transitional justice  
15 institutions have still not “produce[d] concrete benefits” such as “the identification  
16 of missing persons, the provision of reparations, and the issuance of court  
17 verdicts.”<sup>12</sup>

18           16. President Sirisena and the Government have shielded high-level  
19 military officials from accountability.<sup>13</sup> On January 9, 2019, the president appointed  
20 Major General Shavendra Silva as the Chief of Staff of the Sri Lanka Army, even  
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22 <sup>10</sup> Panel of Experts Report, ¶ 281.

23 <sup>11</sup> OHCHR, *Promoting Reconciliation, Accountability and Human Rights in Sri*  
24 *Lanka*, ¶ 29, U.N. Doc. A/HRC/40/23 (Feb. 8, 2019) [hereinafter OHCHR 2019  
25 Report].

26 <sup>12</sup> OHCHR 2019 Report, ¶ 15.

27 <sup>13</sup> Ben Emmerson, Special Rapporteur on the Promotion and Protection of Human  
28 Rights and Fundamental Freedoms While Countering Terrorism, *Visit to Sri*  
*Lanka*, ¶¶ 50–51, U.N. Doc. A/HRC/40/52/Add.3 (Dec. 14, 2018).

1 though U.N. experts had documented credible allegations of violations of human  
2 rights and humanitarian law by troops under his command.<sup>14</sup> In May 2019, President  
3 Sirisena reinstated the leader of the military intelligence unit implicated in the cases  
4 of Lasantha Wickrematunge and another journalist, Keith Noyahr, as an active  
5 military intelligence officer, even though he had been arrested (and then released on  
6 bail) for Noyahr’s attack.<sup>15</sup> The president has sought to undermine accountability  
7 processes by asserting that the LTTE is behind calls to end impunity,<sup>16</sup> even though  
8 the LTTE was completely destroyed as a military and political force at the end of  
9 the civil war.

10       17. Lack of independence in the Sri Lankan judiciary and investigative  
11 mechanisms prevents accountability of high-level officials, particularly in cases  
12 such as Lasantha Wickrematunge’s. The International Commission of Jurists noted  
13 this year in a submission to the U.N. Human Rights Council that “the Sri Lankan  
14 justice system has for decades systematically failed to respond independently,  
15 impartially and effectively to violations of international human rights and  
16 humanitarian law perpetrated by security forces.”<sup>17</sup> The Government regularly exerts  
17 pressure on such investigations and prosecutions, shifting cases involving military  
18 officials to different jurisdictions, swapping judges presiding over particular cases,

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22 <sup>14</sup> OHCHR 2019 Report, ¶ 57; *Sri Lanka Names War Veteran as Army Chief, U.S., U.N. Critical of Decision*, REUTERS, Aug. 19, 2019.

23 <sup>15</sup> *See Sri Lankan Army Reinstates Official Suspected in Lasantha Murder, Other Attacks*, COMM. TO PROJECT JOURNALISTS, May 15, 2019.

24 <sup>16</sup> *See* INFORM HUMAN RIGHTS DOCUMENTATION CENTRE, REPRESSION OF  
25 DISSENT IN SRI LANKA [JAN-DEC 2017] 31–32 (2018).

26 <sup>17</sup> Human Rights Council, Written Statement Submitted by International  
27 Commission of Jurists, *Sri Lanka: A Decade of Inaction and Impunity*, p. 2, U.N.  
28 Doc. A/HRC/40/NGC/50 (Feb. 14, 2019).

1 or issuing statements assigning responsibility away from defendants—practices  
2 which have “effectively sought to preclude impartial criminal investigations.”<sup>18</sup>

3 18. The U.S. State Department’s 2018 human rights report, on which  
4 Defendant’s Report on Sri Lankan Law relies, only confirms concerns about the  
5 lack of independence of the Sri Lankan courts.<sup>19</sup> Defendant’s Report cites to a  
6 section of the State Department report related to due process rights of criminal  
7 defendants, which is not relevant here. As noted above, the same State Department  
8 report elsewhere criticized Sri Lanka’s culture of impunity.<sup>20</sup>

9 19. Defendant’s Report description of the process of submitting a petition  
10 to the Attorney General to investigate criminal allegations also does not reflect  
11 reality.<sup>21</sup> Although the Attorney General has broad power over the investigation and  
12 prosecution of criminal offenses, the Panel of Experts on which I sat found reasons  
13 to question the independence of the Attorney General’s Department from the  
14 presidency.<sup>22</sup> We found that the Attorney General’s “[p]ast investigations and  
15 prosecutions in Sri Lanka have been highly selective and often involved abuses of  
16 power on the part of law enforcement, rather than a fair and even-handed pursuit of  
17 justice.”<sup>23</sup> We noted that the U.N. Human Rights Committee had held that a decision  
18 of the Attorney General not to initiate criminal proceedings against police officers  
19 responsible for a death in custody was so arbitrary as to amount to a denial of  
20 justice.<sup>24</sup> We also found that investigations by the Attorney General’s office “have

21 <sup>18</sup> OHCHR, *Report of the OHCHR Investigation on Sri Lanka*, ¶ 1234, U.N. Doc.  
22 A/HRC/30/CRP.2 (Sept. 16, 2015) [hereinafter OISL 2015 Report].

23 <sup>19</sup> Defendant’s Report on Sri Lankan Law, ¶¶ 3.36–3.41.

24 <sup>20</sup> See STATE DEP’T 2018 REPORT at 8.

25 <sup>21</sup> Cf. Defendant’s Report on Sri Lankan Law, ¶ 3.72.

26 <sup>22</sup> Panel of Experts Report, ¶ 354.

27 <sup>23</sup> Panel of Experts Report, ¶ 354.

28 <sup>24</sup> Sathasivam v. Sri Lanka, U.N. Human Rights Committee, U.N. Doc.  
CCPR/C/93/D/1436/2005 (July 8, 2008).

1 often taken extraordinary amounts of time, if they are completed at all,”<sup>25</sup> that  
 2 “[v]ictims making such allegations have routinely been harassed by law  
 3 enforcement personnel following filing of a complaint against state officers,”<sup>26</sup> and  
 4 that “[c]riminal inquiries and indictments have even been used to harass and  
 5 intimidate critics of the Government, such as journalists and human rights  
 6 defenders.”<sup>27</sup>

7         20. International NGOs remain concerned about the Attorney General’s  
 8 office. Amnesty International has noted “longstanding structural issues that have  
 9 impeded or undermined prosecutions,” such as the office’s practice of both  
 10 *prosecuting* cases of enforced disappearance and *defending against* writs of habeas  
 11 corpus—“without the faintest regard for the glaring conflict of interest at play.”<sup>28</sup>  
 12 International Crisis Group has found that “[k]ey officials in the . . . attorney  
 13 general’s office have taken positions or made statements that directly undermine  
 14 efforts to reform the institutions responsible for decades of major human rights  
 15 violations.”<sup>29</sup>

16         21. Lasantha Wickrematunge’s case itself is yet another example of the  
 17 shortcomings of the Sri Lankan judicial system. Ten years have lapsed and the  
 18 killing of Lasantha Wickrematunge in January 2009 is still under investigation, with  
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20 <sup>25</sup> *Sarma v. Sri Lanka*, U.N. Human Rights Committee, U.N. Doc.  
 21 CCPR/C/78/D/950/2000 (July 16, 2003); *Banda v. Sri Lanka*, U.N. Human  
 22 Rights Committee, U.N. Doc. CCPR/C/91/D/1462/2005 (Oct. 26, 2007).

23 <sup>26</sup> *Rajapakse v. Sri Lanka*, U.N. Human Rights Committee, U.N. Doc.  
 24 CCPR/C/87/D/1250/2004 (July 14, 2006); *Gunaratna v. Sri Lanka*, U.N. Human  
 Rights Committee, U.N. Doc. CCPR/C/95/D/1432/2005 (Mar. 17, 2009).

25 <sup>27</sup> *Kankanamge v. Sri Lanka*, U.N. Human Rights Committee, U.N. Doc.  
 CCPR/C/81/D/2000 (July 27, 2004).

26 <sup>28</sup> Biraj Patnaik, *Sri Lanka: The Government Cannot Afford to Fail the Office on*  
 27 *Missing Persons*, AMNESTY INT’L, Oct. 21, 2018.

28 <sup>29</sup> INT’L CRISIS GRP., *SRI LANKA’S TRANSITION TO NOWHERE* 10 (2017).

1 little progress. The court has released all suspects on bail.<sup>30</sup> According to Sri Lankan  
2 press reports, the Criminal Investigation Division updated the court on the status of  
3 the investigation at a hearing on January 17, 2019, reporting that they suspect a  
4 single group was behind the killing of Lasantha Wickrematunge, Noyahr, and  
5 another journalist named Upali Tennakoon—but offering no further details. The  
6 magistrate judge postponed a further, *pro forma* hearing until May 10, 2019.<sup>31</sup> There  
7 is no reason to believe that an indictment, let alone a trial, will be forthcoming.

8         22. Lasantha Wickrematunge’s case is not isolated. U.N. experts have  
9 noted the Government’s “failure to hold perpetrators accountable for gross human  
10 rights violations, serious violations of humanitarian law and international crimes,”  
11 as well as the “virtual impunity for any abuse committed by the police or the  
12 security forces,” concluding that “[i]mpunity is so widespread that it has become a  
13 normal occurrence, thereby contributing to shattering the public’s confidence in its  
14 judiciary.”<sup>32</sup> To my knowledge, since the end of the civil war, no Sri Lankan court  
15 has ever adjudicated a victim’s claim against a Government or security official of  
16 violating humanitarian or human rights law arising out of the civil war.

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22 <sup>30</sup> OHCHR 2019 Report, ¶ 45; OHCHR, *Promoting Reconciliation, Accountability*  
23 *and Human Rights in Sri Lanka*, ¶ 37, U.N. Doc. A/HRC/37/23 (Jan. 25, 2018);  
24 OHCHR, *Report on Sri Lanka*, ¶ 39, U.N. Doc. A/HRC/34/20 (Feb. 10, 2017);  
OISL 2015 Report, ¶¶ 266–68.

25 <sup>31</sup> *CID Presents Progress Report on Lasantha Murder Investigation*, NEWS 1ST,  
Jan. 17, 2019.

26 <sup>32</sup> Mónica Pinto, Special Rapporteur on the Independence of Judges and Lawyers,  
27 *Mission to Sri Lanka*, ¶ 87, U.N. Doc. A/HRC/35/31/Add.1 (Mar. 23, 2017); *see*  
28 *also* OHCHR 2019 Report, ¶ 38; OISL 2015 Report, ¶ 1178.



1                   **C. The Sri Lankan Justice System Is Especially Inadequate to**  
 2                   **Handle a Complaint Against Defendant.**

3           23. While it is already nearly impossible for victims or prosecutors to hold  
 4 any senior official accountable in Sri Lanka, the Sri Lankan justice system is  
 5 especially inadequate when it comes to a civil claim against a public figure as  
 6 powerful as Gotabaya Rajapaksa. Defendant comes from one of the most powerful  
 7 families in Sri Lanka. His brother, Mahinda Rajapaksa, is the former president and  
 8 current leader of the opposition. In October 2018, President Sirisena dismissed the  
 9 sitting prime minister and appointed Mahinda Rajapaksa in his place (though he  
 10 resigned after the Supreme Court ruled his appointment illegal).<sup>33</sup> Defendant himself  
 11 is a former Secretary of Defence and a leading candidate for the presidency.  
 12 President Sirisena has shown little interest in pursuing allegations of serious crimes  
 13 and, in October 2016, criticized an ongoing investigation into credible corruption  
 14 charges against Defendant.<sup>34</sup> International Crisis Group reported that in the  
 15 following weeks, “courts released on bail all remaining military intelligence  
 16 personnel held on suspicion of involvement in murder and abduction cases,”  
 17 including the murder of Lasantha Wickrematunge, and observed that “[t]he speech  
 18 and the releases cast a cloud over ongoing investigations and deepened doubts about  
 19 government willingness to pursue cases against the security forces and associates of  
 20 the former regime in the face of military resistance.”<sup>35</sup>

21           24. Defendant has repeatedly leveraged his political connections to shield  
 22 himself from accountability, and the Government has proven itself vulnerable to  
 23 such interventions. No member of the Rajapaksa family, including Defendant, has  
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 26 <sup>33</sup> See Plaintiff’s First Amended Complaint, ¶ 59.

27 <sup>34</sup> See INT’L CRISIS GRP., SRI LANKA’S TRANSITION TO NOWHERE 7, n.17 (2017).

28 <sup>35</sup> INT’L CRISIS GRP., SRI LANKA’S TRANSITION TO NOWHERE 7 (2017).

1 faced prosecution for conflict-era crimes despite numerous credible allegations  
2 against them—even made by, among others, the then-U.S. Ambassador.<sup>36</sup>

3  
4 **D. Human Rights Litigants and Defenders, Like Plaintiff, Are**  
5 **Often Victims of Retaliation.**

6 25. Litigants, counsel, family members, and human rights defenders in  
7 cases meant to hold the Government accountable often are victims of retaliation. In  
8 2015, OHCHR observed “a climate of fear and intimidation inside Sri Lanka” and  
9 noted that it had “received persistent reports of surveillance, threats, intimidation,  
10 harassment, [and] interrogation of grass roots activists, human rights defenders and  
11 potential witnesses by security forces inside Sri Lanka.”<sup>37</sup> OHCHR reported that the  
12 “[s]ecurity forces have sought to pressurise relatives of victims into signing  
13 documents admitting that the victims were terrorists, or pressured the authorities to  
14 replace Judicial Medical Officers responsible for conducting autopsies.”<sup>38</sup>

15 26. These concerns have persisted in numerous reliable reports about  
16 human rights defenders who seek justice before Sri Lankan courts or in international  
17 human rights forums. In 2017, OHCHR noted that “[a]llegations of continued  
18 harassment and surveillance of human rights defenders and victims by security and  
19 intelligence personnel persist”<sup>39</sup> and called on the Government to “order all security

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21 <sup>36</sup> AMBASSADOR PATRICIA A. BUTENIS, U.S. DEP’T OF STATE, SRI LANKA WAR-  
22 CRIMES ACCOUNTABILITY: THE TAMIL PERSPECTIVE, ¶ 3 (2010)  
23 (“[R]esponsibility for many of the alleged crimes rests with the country’s senior  
24 civilian and military leadership, including President Rajapaksa and his  
25 brothers.”); *see also* Ryan Goodman, *Sri Lanka’s Greatest War Criminal*  
(*Gotabaya*) *is a US Citizen: It’s Time to Hold Him Accountable*, JUST SECURITY,  
26 May 19, 2014 (collecting and citing reliable and independent sources); Ryan  
27 Goodman, *Helping Sri Lanka’s New Democracy*, N.Y. TIMES, Jan. 19, 2015.

28 <sup>37</sup> OISL 2015 Report, ¶¶ 42–44.

<sup>38</sup> OISL 2015 Report, ¶ 1233.

<sup>39</sup> OHCHR 2017 Report, ¶ 50.



1 forces to end immediately all forms of surveillance and harassment of and reprisals  
2 against human rights defenders, victims and social actors.”<sup>40</sup> The State Department  
3 reported in 2017 that “the military and police continued to harass civilians with  
4 impunity. . . . According to civil society, military intelligence operatives conducted  
5 domestic surveillance operations and harassed or intimidated members of civil  
6 society in conjunction with, or independent of, police. In May [2016] police  
7 reportedly harassed a Catholic priest in Mullaitivu following his efforts to  
8 memorialize local family members who died during the armed conflict.”<sup>41</sup> On  
9 July 12, 2017, attorney Amitha Ariyaratne was abducted and attacked, and the  
10 assailants told him it was due “to his appearance in cases against the police.”<sup>42</sup>

11       27. In 2018, OHCHR expressed “grave[] concern[]” that, “2½ years into a  
12 reconciliation process, [the] Office continues to receive reports of harassment or  
13 surveillance of human rights defenders and victims of human rights violations. . . .  
14 During the period under review, at least two incidents escalated to physical violence  
15 against the activist being threatened or kept under surveillance.”<sup>43</sup> OHCHR later  
16 reported “at least two incidents” in 2018 “involving the assault of human rights  
17 defenders by unidentified aggressors, presumably in connection to their advocacy on  
18 cases of disappearance. Other human rights defenders have reported being  
19 questioned by the authorities after having travelled to Geneva to attend sessions of  
20 the Human Rights Council. One Sri Lankan U.N. staff member was visited by  
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22  
23

24 <sup>40</sup> OHCHR 2017 Report, ¶ 66(a).

25 <sup>41</sup> U.S. DEP’T OF STATE, 2017 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES—  
SRI LANKA 6 (2018).

26 <sup>42</sup> See INFORM HUMAN RIGHTS DOCUMENTATION CENTRE, REPRESSION OF  
27 DISSENT IN SRI LANKA [JAN-DEC 2017] 29–30 (2018).

28 <sup>43</sup> OHCHR 2018 Report, ¶ 43.

1 armed men who questioned him about his activities in support of visits by diplomats  
2 and United Nations officials.”<sup>44</sup>

3 28. In response to numerous complaints he received against the  
4 Government, the U.N. Special Rapporteur on the Situation of Human Rights  
5 Defenders noted in 2015 his “serious concern in relation to acts of intimidation and  
6 death threats directed against human rights defenders,” as well as further reports of  
7 reprisals against human rights defenders following their participation and  
8 engagement with the U.N. Human Rights Council.<sup>45</sup> In August 2018, the  
9 Government’s own quasi-independent Office on Missing Persons (“OMP”) noted  
10 “with deep concern the multiple forms of harassment experienced by families of the  
11 missing and the disappeared” advocating on behalf of their missing family members.  
12 OMP cited attacks against women relatives, both in July 2018, and wrote that  
13 “[s]uch acts of intimidation or reprisal aimed at complainants, witnesses, relatives of  
14 the disappeared person or their defence counsel or persons conducting investigations  
15 are a serious threat to justice and undermine public confidence in the State.”<sup>46</sup>

### 16 III. CONCLUSION

17 29. Sri Lanka does not offer an adequate forum in which Plaintiff can  
18 pursue a civil action against one of Sri Lanka’s most powerful former public  
19 officials for civil war–era crimes committed over a decade ago. Sri Lankan courts  
20 are plainly unsatisfactory for such cases; as the record to date makes clear, Sri  
21 Lanka has failed to hold even rank-and-file perpetrators to account for human rights  
22 violations. Instead, the overall culture of impunity has resulted in a lack of capacity  
23 and will of courts and prosecutors, delays in investigations and prosecutions, and

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24 <sup>44</sup> OHCHR 2019 Report, ¶ 55.

25 <sup>45</sup> Michel Forst, *Report of the Special Rapporteur on the Situation of Human Rights*  
26 *Defenders*, ¶ 332, U.N. Doc. A/HRC/28/63/Add.1 (Mar. 4, 2015).

27 <sup>46</sup> GOV’T OF SRI LANKA, OFFICE ON MISSING PERSONS, INTERIM REPORT, ¶ 19  
28 (2018).

1 retribution against plaintiffs, witnesses, and attorneys. Defendant—a Rajapaksa,  
2 former Secretary of Defence, and leading presidential candidate—is effectively  
3 untouchable.

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5

\* \* \*

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7 I hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, and  
8 under the laws of the United States, that the above is true and correct to the best of  
9 my knowledge and belief.

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11 Executed on August 26, 2019, in Ann Arbor, Michigan.

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Steven R. Ratner

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 26, 2019, I electronically filed the foregoing **DECLARATION OF STEVEN R. RATNER IN SUPPORT OF PLAINTIFF’S OPPOSITION TO DEFENDANT’S MOTION TO DISMISS** with the Clerk by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

*/s/ Catherine Amirfar* \_\_\_\_\_  
Catherine Amirfar

**EXHIBIT A**  
**CURRICULUM VITAE OF STEVEN R. RATNER**

**STEVEN RICHARD RATNER**

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Employment

- Currently: Bruno Simma Collegiate Professor of Law, University of Michigan Law School
- 2008-09: Consultant on International Law, International Committee of the Red Cross, Geneva  
Research Fellow, Institut de Hautes Études Internationales et du Développement,  
Geneva
- 2004-09: Professor of Law, University of Michigan Law School
- 1999-2004: Albert Sidney Burleson Professor in Law, University of Texas School of Law
- Fall 2000: Visiting Professor of Law, Columbia Law School
- 1998-1999: Fulbright Senior Scholar, OSCE Regional Research Program  
Asser Research Fellow, T.M.C. Asser Institute, The Hague, Netherlands
- 1997-1999: Professor of Law, University of Texas School of Law
- 1993-1997: Assistant Professor of Law, University of Texas School of Law
- 1992-1993: International Affairs Fellow, Council on Foreign Relations  
Professor (Adjunct) of Law, Benjamin N. Cardozo School of Law, Yeshiva University
- 1986-1993: Attorney-Adviser, Office of the Legal Adviser, United States Department of State  
(Special Assistant to the Legal Adviser, Attorney-Adviser for East Asian and  
Pacific Affairs and for Economic, Business, and Communications Affairs)

Education

Yale Law School, J.D., 1986  
Institut Universitaire de Hautes Études Internationales, Geneva, 1982-83, M.A. (Diplôme, mention  
très bien), 1993  
Princeton University, A.B., 1982, magna cum laude; Major: Woodrow Wilson School of Public and  
International Affairs

### Honors and Distinctions

Member, American Law Institute, 2016-present  
Member, Advisory Committee on International Law, U.S. Department of State, 2009-present  
Counsellor, American Society of International Law, 2019-present  
John P. Humphrey Lecturer on Human Rights, McGill University Faculty of Law, 2014  
Adviser, American Law Institute Restatement (4<sup>th</sup>) of the Foreign Relations Law of the United States, 2013-17  
Member, Board of Editors, American Journal of International Law, 1998-2008  
Fulbright Scholarship, United States Information Agency, 1998-99  
Certificate of Merit, American Society of International Law, 1998 (for best academic book)  
Finalist, Robert W. Hamilton Annual Authors' Award, University of Texas at Austin, 1997  
Francis Deák Prize, American Society of International Law, 1994 (for best article by younger author)  
Council on Foreign Relations International Affairs Fellow, 1992-93  
Superior Honor Award and Group Superior Honor Award, U.S. Department of State, 1989 and 1991  
Daniel M. Sachs Graduating Scholarship, Princeton University, 1982

### Academic Expertise and Teaching Interests

International law	Foreign investment
International human rights	International humanitarian law
United Nations and international organizations	Ethnic and territorial conflict
Moral philosophy and international law	International criminal law

### Professional Activities

Member, Advisory Committee on International Law, U.S. Department of State, 2009-present

Member, Expert Panel, National Academies of Science, Engineering, and Medicine Project on Exploring the Development of Analytic Frameworks: A Pilot Project for the Office of the Director of National Intelligence, 2017-18

Adviser, American Law Institute Restatement (Fourth) of the Foreign Relations Law of the United States, 2013-17

Member, United Nations Panel of Experts on Accountability in Sri Lanka, 2010-2011

Member, International Working Group on Business and Human Rights Arbitration, 2015-

Member, Drafting Team, Hague Rules on Business and Human Rights Arbitration, 2017-

Arbitrator, Hangzhou Arbitration Commission, Hangzhou International Arbitration Court, 2016-

Member, Academic Forum on Investor-State Dispute Settlement, Geneva Center for International Dispute Settlement, 2018-

Academic expert for UN Office for the Coordination of Humanitarian Affairs to prepare the Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict, 2014-15

Academic expert for the Special Representative of the UN Secretary-General for Business and Human Rights, 2005-09

Member, Board of Editors, Journal of Political Philosophy, 2016-

Member, Board of Editors, American Journal of International Law, 1998-2008

Legal consulting on foreign investment arbitration, Alien Tort Claims Act, territorial status issues

Expert on the Mediation Roster, Mediation Support Unit, United Nations Department of Political Affairs

Academic expert for the Netherlands Ministry of Foreign Affairs and Leiden University project on Counter-terrorism Strategies, Human Rights, and International Law, 2008-2011

Academic expert on the law of occupation and implementation of humanitarian law, International Committee of the Red Cross, Geneva, 2008-2012

Member, Multilateral Issues Team, Barack Obama for President campaign, 2007-2009

Academic advisor, United Nations Secretary-General's Policy Working Group on the United Nations and Terrorism, 2002

Member, United Nations Group of Experts for Cambodia Pursuant to General Assembly Resolution 52/135, 1998-1999

Independent expert for the Organization for Security and Cooperation in Europe for advising the government of Latvia on language issues, 1999

Member, Group of Experts of the Organization for Security and Cooperation in Europe High Commissioner on National Minorities to prepare recommendations on minority participation in public life, 1998-1999

Legal consultant to Organization for Security and Cooperation in Europe High Commissioner on National Minorities, 1998-99

Consultant to United States Department of State on bringing Khmer Rouge leaders to justice (under the Cambodian Genocide Justice Act of 1994), 1995

Guest commentator on PBS News Hour, Fox News O'Reilly Factor, Australian TV's Lateline, Dateline, and PM, Court TV, CNN International, National Public Radio, Public Radio International, BBC Radio, Voice of America, local radio and TV, PolitiFact.com, SRF Radio, Bloomberg Radio



Consultant to editors of The Crimes of War, handbook for news reporters and the public on war crimes, and the Crimes of War Project, on-line resource on international humanitarian law, 1997-2007

Manuscript or proposal referee for Oxford University Press, Cambridge University Press, United States Institute of Peace, Radcliffe College, Carnegie Commission on Preventing Deadly Conflict, Israel Science Foundation, Guggenheim Foundation, Ethics, World Politics, Law and Society Review, Journal of Conflict Resolution, American Journal of Political Science, Global Governance, International Theory, International Organization, British Journal of Political Science, European Journal of International Law, Review of International Studies, Global Policy, Journal of International Dispute Settlement, Philosophy Compass, American Journal of International Law

Member, External Review Team, Jack and Mae Nathanson Centre on Transnational Human Rights, Crime and Security, York University (Toronto), 2014

Visiting Fellow, Australian National University College of Law, 2013, 2015, 2016, 2017

Visiting Professor, Hamad Bin Khalifa University College of Law, 2017-present

Visiting Professor, Università Commerciale Luigi Bocconi, 2013, 2019

Visiting Professor, University of Haifa Faculty of Law, 2010-2011

Visiting Professor, University of Tokyo School of Law, 2006

International Visiting Scholar, University of Melbourne Faculty of Law, 2001, 2005

Member, International Board, Concord Research Center for the Interplay between International Norms and Israeli Law, School of Law, College of Management, Rishon Le Zion, Israel

Member, Executive Council, American Society of International Law, 1998-2001

Founder and Faculty Director, University of Michigan Law School Geneva International Fellows Program, 2007-present

Co-Founder and Director, LL.M. Program in Latin American and International Law, University of Texas School of Law, 1999-2000

Guatemala Legislative Modernization Program Coordinating Committee, University of Texas at Austin, 1997-2001

Editorial Advisory Board and Faculty Advisor, Texas International Law Journal, 1997-2004

Faculty Advisor, University of Texas School of Law internship program at the International Criminal Tribunals for the Former Yugoslavia and for Rwanda, 1996-2004

Executive Committee, Board of Advisors, Daniel Sachs Graduating Scholarship, Princeton University

Board of Trustees, Temple Beth Emeth, Ann Arbor, Michigan, 2007-08, 2009-13

Avocations: skiing, running, hiking, yoga, banjo, trying to learn German

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## Publications

### BOOKS

**The Thin Justice of International Law: A Moral Reckoning of the Law of Nations** (Oxford: Oxford University Press, 2015, 496 pp.)

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Revisiting Sri Lanka’s Bloody War, **International Herald Tribune**, March 2-3, 2012, at 6 (with Marzuki Darusman and Yasmin Sooka)



**Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka** (2011) (report to United Nations Secretary-General) (with Marzuki Darusman and Yasmin Sooka)

The Law of Occupation and UN Administration of Territory: Mandatory, Desirable, or Irrelevant?, background paper prepared for International Committee of the Red Cross expert meeting on Occupation and other forms of Administration of Foreign Territory, December 2008

Administration of territories by the United Nations: Is there room for international humanitarian law?, in **International Humanitarian Law, Human Rights, and Peace Operations** (San Remo: International Institute of Humanitarian Law Roundtable Proceedings, 2008), at 169-74

Book Review, Lawless World (by Philippe Sands, 2005), 100 **American Journal of International Law** 746-51 (2006)

Memo to lawmakers: Consider our values, **The Christian Science Monitor**, August 8, 2006, at 9

Self-Defense and the World After September 11: Implications for UN Reform, in **Building a New Role for the United Nations: The Responsibility to Protect** (Madrid: Fundación para las Relaciones Internacionales y el Diálogo Exterior Working Paper, 2005), at 6-8

Book Review, Human Rights: Between Idealism and Realism (by Christian Tomuschat, 2003), 115 **Ethics** 633-38 (2005)

Introductory Remarks on Empirical Work in Human Rights, 98 **Proceedings of the American Society of International Law** 197-98 (2004)

Failure of U.S. leaders led to Abu Ghraib, **Detroit News**, September 1, 2004, at 13A

Understanding and Following the Rules of War, **The Austin American-Statesman**, June 19, 2004, A13

Make Iraq A Global Citizen Again, **International Herald Tribune**, May 20, 2003, at 9

**International Law: Norms, Actors, Process** coursebook web site, <http://sitemaker.umich.edu/drwcsebook/home> (updated periodically) (with Jeffrey Dunoff and David Wippman)

Without better proof, U.S. will lack allies in Iraq war, **Dallas Morning News**, September 6, 2002, at 21A

**Capacity-Building to Fight Terrorism: Finding the UN's Comparative Advantage** (2002), study submitted to the UN Secretary-General's Policy Working Group on the United Nations and Terrorism

Symposium, The Multinational Enterprise as Global Corporate Citizen, 21 **New York Law School Journal of International and Comparative Law** 1 (2001) (with others)

Book Review, Unspeakable Truths: Confronting State Terror and Atrocity (by Priscilla B. Hayner, 2001), 95 **American Journal of International Law** 994-97 (2001)

U.N. can't impose a new government on Afghanistan, **Dallas Morning News**, October 24, 2001, at 21A

Terrorism and the Laws of War – September 11 and its Aftermath: Expert Analysis, **Crimes of War Project** web site, www.crimesofwar.org. (2001)

The Bob Kerrey Case: Interpreting the Rules of Engagement in Vietnam: Expert Analysis, **Crimes of War Project** web site, www.crimesofwar.org. (2001)

Challenges to Fragile Democracies in the Americas: Legitimacy and Accountability, 36 **Texas International Law Journal** 359-63 (2001)

The Israeli-Arab Conflict and the Laws of War: Expert Analysis, **Crimes of War Project** web site, www.crimesofwar.org (2000)

The Pinochet Precedent: Who Could be Arrested Next?: Expert Analysis, **Crimes of War Project** web site, www.crimesofwar.org (2000)

Peacebuilding and Past Human Rights Abuses: Toward a Strategy of Accountability, 5 **International Peacekeeping** 75-80 (1999)

Current Development: The United Nations Group of Experts for Cambodia, 93 **American Journal of International Law** 948-53 (1999)

Memorandum of Law in Support of Concluding That Apartheid is a Crime Against Humanity Under International Law, reprinted in 20 **Michigan Journal of International Law** 267-300 (1999) (with 20 other law professors)

Quietly preventing conflict, **The Christian Science Monitor**, Aug. 18, 1999, at 9

Categories of War Crimes, Crimes Against Peace, Aggression, Apartheid, and Internal vs. International Conflict, in Roy Gutman and David Rieff, eds., **The Crimes of War: What the Public Should Know** (New York: W.W. Norton, 1999)

**Report of the Group of Experts for Cambodia pursuant to General Assembly Resolution 52/135** (1999) (report to United Nations Secretary-General) (with Ninian Stephen and Rajsoomer Lallah), UN Document No. A/53/850

The Relationship between the International Criminal Court and the Security Council: An Appraisal of the United States Position, **Cooperazione fra Stati e Giustizia Penale Internazionale** 237-43 (Società Italiana di Diritto Internazionale ed., 1999)

Book Review, Possession Contestée et Souveraineté Territoriale (by Marcelo G. Kohen, 1997), 92 **American Journal of International Law** 782-84 (1998)

The Genocide Convention After Fifty Years, 92 **Proceedings of the American Society of International Law** 1-3 (1998)

Evaluating Peacekeeping Missions, 41 **Mershon International Studies Review** 151-65 (1997) (with Paul Diehl, Robert Johansen, William Durch, and A. Betts Fetherston)

Book Notice, International Rules: Approaches from International Law and Relations (Robert Beck et al. eds. 1996), 91 **American Journal of International Law** 220-21 (1997)

The Attempt to bring the Perpetrators of the Cambodian Genocide to Trial, in Albert J. Jongman ed., **Contemporary Genocides: Causes, Cases, Consequences** (Leiden: PIOOM, 1996) (with Jason S. Abrams)

Criminal Accountability for Human Rights Abuses, **Townes Hall Notes**, Spring 1996, at 50-51

**Striving for Justice: Accountability and the Crimes of the Khmer Rouge** (1995) (consultants' study for U.S. Department of State) (with Jason S. Abrams)

If Peace is to Work, Peacekeepers are Crucial, **The Christian Science Monitor**, November 16, 1995, at 19

The End of Sovereignty?, 88 **Proceedings of the American Society of International Law** 71-84 passim (1994) (remarks at roundtable discussion)

Controlling the Breakup of States: Toward a United Nations Role, 88 **Proceedings of the American Society of International Law** 42-46 (1994)

Clinton Administration Gets Some Lessons in UN Protocol, **The Christian Science Monitor**, November 1, 1993, at 18

Case Note, Land, Island and Maritime Frontier Dispute, Application to Intervene, 85 **American Journal of International Law** 680-86 (1991) (also in P.H.F. Bekker, ed., **Commentaries on World Court Decisions** (The Hague: Martinus Nijhoff, 1997))

Case Note, International Tin Council v. Amalgamet, 82 **American Journal of International Law** 837-40 (1988)

Speeches, Paper Deliveries, and other Engagements by Invitation

May 15, 2019 – Università Commerciale Luigi Bocconi Public Seminar (Milan, Italy), “The Thin Justice of International Economic Law”

May 8, 2019 – Queen’s University Belfast Guest Lecture (Belfast, Northern Ireland), “The Aggravating Duty of Non-Aggravation in International Law”

April 26, 2019 – University of Michigan Law School Young Scholars Conference (Ann Arbor, MI), “The Jamal Khashoggi Murder and the Limits of International Law”

April 22, 2019 – University of Michigan Center for Southeast Asian Studies Panel on The Philippines Withdraws from the International Criminal Court: Now What? (Ann Arbor, MI) – panelist

April 17, 2019 – Hamad bin Khalifa University School of Law Colloquium (Doha, Qatar), “Arbitrating Business and Human Rights Disputes: A Way Forward?”

April 10, 2019 – European Consortium for Political Research Workshop on Sovereignty, Justice, and International Law (Mons, Belgium), “Global Investment Rules as a Site for Moral Inquiry”

March 7, 2019 – National University of Singapore Faculty of Law Centre for International Law (Singapore), “The Aggravating Duty of Non-Aggravation in International Law”

March 6, 2019 – National University of Singapore Middle East Institute (Singapore), “The Khashoggi Assassination: Does International Law Matter?”

March 5, 2019 – National University of Singapore Faculty of Law Centre for Legal Theory (Singapore), “Global Investment Rules as a Site for Moral Inquiry” (with response by M. Sornorajah)

February 1-2, 2019 – Academic Forum on Investor-State Dispute Settlement Workshop on Reforming International Investment Arbitration (Oslo, Norway) – panelist and presenter

January 30, 2019 – Pluricourts Conference on Reforms of International Investment Arbitration: Philosophical Perspectives (Oslo, Norway), “The Moral Implications of International Investment Law”

January 30, 2019 – Pluricourts Lunch Seminar (Oslo, Norway), “International Law and Political Philosophy: Uncovering New Linkages”

December 3, 2018 – University of Michigan International Institute Round Table on Antisemitism Today (Ann Arbor, MI), “Hate Speech in U.S. Constitutional Law and International Law”

November 30, 2018 – Vanderbilt University Law School International Law Roundtable (Nashville, TN) – “The Aggravating Duty of Non-Aggravation”

October 10, 2018 – Hamad bin Khalifa University College of Law and Public Policy Colloquium on The Order on Provisional Measures of the International Court of Justice in the Case of Qatar v. UAE of 23 July 2018 (Doha, Qatar) – “The Duty of Non-Aggravation in International Law”

September 22, 2018 – University of Michigan Transnational Law Conference on The Role of “Soft Law” in International Insolvency and Commercial Law (Ann Arbor, MI) – chair of panel on issues of political economy

September 17, 2018 – University of Michigan Law School Lunch Talk (Ann Arbor, MI) -- “India’s Decriminalization of Homosexuality: What Next?”

September 1, 2018 – American Political Science Association Annual Meeting panel on International Law (Boston, MA) – “International Investment Law as a Site for Global (In-)Justice?”

April 19, 2018 – Hamad bin Khalifa University College of Law and Public Policy Conference on Comparative and International Investment Law: Prospects for Reform (Doha, Qatar) – “International Investment Law and Domestic Investment Rules: Tracing the Connections”

April 11, 2018 – University of Michigan Law School National Security Law Society (Ann Arbor, MI), “Regulation of Lethal Autonomous Weapons Systems”

April 4, 2018 – European Commission Brainstorming Meeting on the Design of a Multilateral Investment Court (Washington, DC) – invited expert

February 10, 2018 – University of Miami School of Law Festschrift Conference for Allen Buchanan (Miami, FL) – “International Investment Rules as a Site for Global (In-)Justice: An Institutionally-Centric Moral Appraisal”

February 14, 2018 – University of Michigan International Institute Round Table on the Future of International Justice: Lessons from the Yugoslav Tribunal (Ann Arbor, MI) – panelist

January 25-26, 2018 – Hague Rules on Business and Human Rights Arbitration Drafting Team meeting (The Hague, Netherlands) – invited member and acting chairperson

January 23, 2018 – University of Michigan Law School lunch talk on Regulating Human Rights in Corporate Supply Chains (Ann Arbor, MI) – response to remarks of Jolyon Ford

January 19, 2018 – University of Michigan Gerald R. Ford School of Public Policy Research Workshop on the Politics of International Criminal Justice (Ann Arbor, MI) – response to paper by Beth van Schaack and concluding panelist

January 18, 2018 – University of Michigan Law School Cultural Heritage Law Society panel on Rubin v. Islamic Republic of Iran (Ann Arbor, MI) – featured speaker

November 27, 2017 – United Nations Forum on Business and Human Rights (Geneva, Switzerland), panel on Business and Human Rights Remedies Hague Style – invited presenter

November 13-14, 2017 – International Law Commission Expert Workshop on International Organizations and Customary International Law (Ann Arbor, MI) – invited expert

November 2, 2017 – University of Texas School of Law Faculty Colloquium (Austin, Texas) – “The Thin Justice of International Law”

October 28, 2017 – Union Internationale des Avocats 61<sup>st</sup> Congress (Toronto, Canada) – “Extraterritorial Regulation of Natural Resource Exploitation: The Governmental Perspective”

October 13, 2017 – University of Michigan Law School Tax Law Conference on Perspectives on the Multilateral Instrument (Ann Arbor, MI) – commentator on OECD investment and tax treaties

July 6, 2017 – Australian National University Public Seminar (Canberra, Australia), “An International Investment Court: Necessary and Feasible”

June 10, 2017 – University of Michigan European Alumni Reunion (Rome, Italy), “International Law and the Trump Administration”

June 1-2, 2017 – Regional Consultation for North America and the English Speaking Caribbean on the 2020 Review of the United Nations Treaty Body System (New York, NY), “Human Rights Treaty Bodies and Country-Specific UN Processes”

May 18-19, 2017 -- Workshop on Interdisciplinary Approaches to Global Justice: A Methodological Conversation between International Lawyers and Philosophers (Ann Arbor, MI), convenor and moderator

April 12, 2017 – University of Michigan Law School lunch talk (Ann Arbor, MI), “U.S. Strikes on Syria: International and Constitutional Law Implications,” featured speaker

April 1, 2017 – University of Michigan Law School Young Scholars Conference (Ann Arbor, MI), commentator on panel on International Law

March 30, 2017 -- University of Michigan Symposium on the Tanner Lecture on Human Values (Ann Arbor, MI), commentator on the Tanner Lecture by Radhika Coomaraswamy

March 24, 2017 – University of Michigan Donia Human Rights Center Conference on Changing Models of Minority Integration (Ann Arbor, MI), featured panelist

October 28, 2016 – Jack and Mae Nathanson Centre Seminar on Legal Philosophy Between State and Transnationalism, York University (Toronto, Canada), “The Thin Justice of International Law”

October 6, 2016 – Michigan Conference on Human Rights Theory and Practice (Ann Arbor, MI), “Comparative Human Rights and Theories of Global Justice: Navigating a Dimly Lit (Two-Way) Street”

September 23, 2016 – “The Next” Conference on International Investment and Dispute Resolution (Seoul, Korea), “The Global State of Bilateral Investment Treaties and Investor-State Arbitration”

September 9, 2016 – European Society of International Law Annual Meeting (Riga, Latvia), panel on the Enforcement of International Law in (a) Crisis, featured panelist

June 22, 2016 – University of Michigan World History and Literature Initiative Workshop on Global Human Rights and Human Dignity, “The Evolution of Human Rights Law”

May 27, 2016 – University Living Center (Ann Arbor, MI), “Human Rights in U.S. Foreign Policy”

April 8, 2016 – University of Michigan Law School Young Scholars Conference (Ann Arbor, MI), commentator on panel on International Humanitarian Law

April 2, 2016 – American Philosophical Society Western Pacific Division Meeting (San Francisco, CA) Author Meets Critics panel on The Thin Justice of International Law, featured panelist

March 16, 2016 – Society of Active Retirees speaker series (Farmington Hills, MI), “The Nuremberg Trials and their Legacy After 70 Years”



March 9, 2016 – University of Arizona James Rogers School of Law (Tucson, AZ), “The Thin Justice of International Law”

February 19, 2016 – McGeorge School of Law Symposium on Investment Treaty Dispute Settlement (Sacramento, CA), “Visions of Global Justice in International Investment Law”

January 13, 2016 – Michigan Journal of International Affairs panel on the Increasing Aggression of Russian Foreign Policy (Ann Arbor, MI), featured panelist

October 22, 2015 – University of Nottingham Faculty of Law Regional Seminar Series (Nottingham, UK), “Finding Justice in International Law”

October 21, 2015 – Oxford Martin Programme on Human Rights for Future Generations (Oxford, UK), “The Thin Justice of International Law”

October 20, 2015 – King’s College London Dickson Poon School of Law (London, UK), response to comments at book launch for The Thin Justice of International Law

October 20, 2015 – United Kingdom Foreign and Commonwealth Office Legal Directorate (London, UK) – “Extraterritorial Protection of Human Rights and Global Justice”

September 7, 2015 – Max Planck Institut für Ausländisches Öffentliches Recht und Völkerrecht (Heidelberg, Germany) – “The Thin Justice of International Law”

September 5, 2015 – Université de Fribourg Authors’ Retreat on the Sources of International Law (Fribourg, Switzerland), “War/Crimes and the Limits of the Doctrine of Sources”

July 10, 2015 – Australian National University College of Law (Canberra, Australia), “The Thin Justice of International Law”

July 10, 2015 – Australian National University College of Asia and the Pacific Regulatory Institutions Network (Canberra, Australia), “International Law’s Ban on Torture: Can a Super-Norm Survive Pervasive Violations?”

March 27, 2015 – University of Michigan Law School Young Scholars Conference (Ann Arbor, MI), commentator on panel on Questioning the Laws of War

February 26, 2015 – Juris Conferences Ninth Annual Investment Treaty Arbitration Conference (Washington, D.C.) – commentator on panel “Lawful vs. Unlawful Expropriation: Is This a Distinction Without a Difference?”

February 13, 2015 – Georgetown University Law Center Human Rights Workshop (Washington, D.C.) – “Protecting Human Rights Abroad: International Norms and Thin Global Justice”

January 16, 2015 – University of Toronto Faculty of Law Legal Theory Workshop (Toronto, Canada) – “The Thin Justice of International Investment Law”

January 7, 2015 – Tel Aviv University Buchmann Faculty of Law International Law Seminar (Tel Aviv, Israel) – “Ethics and International Law: Integrating the Global Justice Project(s)”

January 6, 2015 – Hebrew University Faculty of Law International Law Forum (Jerusalem, Israel) – “The Thin Justice of International Law”

January 6, 2015 – Israel Ministry of Foreign Affairs Office of the Legal Adviser (Jerusalem, Israel), presentation to staff attorneys on United Nations fact-finding mechanisms

January 5, 2015 – Tel Aviv University Buchmann Faculty of Law Global Trust Seminar (Tel Aviv, Israel) – “The Thin Justice of International Law”

January 5, 2015 – Israel Defense Forces Military Advocate General International Law Department (Tel Aviv, Israel), presentation to staff attorneys on drone warfare and international law

January 4, 2015 – University of Haifa Faculty of Law (Haifa, Israel) – “The Thin Justice of International Trade Law”

September 17, 2014 – McGill University Faculty of Law Centre for Human Rights and Legal Pluralism, John P. Humphrey Lecture in Human Rights (Montreal, Canada) – “After Atrocity: Optimizing UN Action Toward Accountability for Human Rights Abuses”

July 10-11, 2014 – Legal Experts Meeting on the Law Regulating Humanitarian Relief Operations in Armed Conflict (Oxford, UK), invited expert

March 17, 2014 – Canadian Red Cross International Humanitarian Law Conference on Engaging Non-State Actors (Windsor, Canada) – “Understanding the ICRC’s Strategies of Persuasion”

March 12, 2014 – University of Michigan Center for International and Comparative Law seminar on Upheaval in Ukraine (Ann Arbor, MI), featured speaker

February 28, 2014 – University of Richmond Conference on Normative Theory and International Law (Richmond, Virginia) – “Ethics and International Law: Integrating the Global Justice Project(s)”

February 7, 2014 – Universiteit Leiden Law School colloquium (Leiden, Netherlands), “The Thin Justice of International Law”

February 6, 2014 – Goethe Universität Normative Orders Cluster (Frankfurt, Germany), “The Thin Justice of International Law”

November 2, 2013 – New York University School of Law Center for Human Rights and Global Justice Conference on International Human Rights Fact-Finding in the Twenty-First Century (New York, New York), “International Standards for Accountability: Guidelines in Human Rights Fact-Finding”

October 18, 2013 – University Living Center (Ann Arbor, MI), “Crisis in Syria: Legal and Political Issues About Disarming Assad”



September 11, 2013 – University of Michigan Center for International and Comparative Law and Human Rights Advocates seminar on Attacking Syria: The Key Legal Issues (Ann Arbor, MI), featured speaker

August 2, 2013 – Australian National University College of Law Centre for International and Public Law and Centre for Military and Security Law Public Seminar (Canberra, Australia), “Drone Strikes, US Policy and the Law,” featured speaker

August 1, 2013 – Australian National University College of Law Centre for Military and Security Law Workshop on International Humanitarian Law, Anti-Terrorism Laws and Non-State Actors (Canberra, Australia), Keynote Address

July 31, 2013 – Australian National University College of Law Centre for Military and Security Law (Canberra, Australia), “Accountability and the Sri Lankan Civil War”

July 30, 2013 – Australian National University College of Asia and the Pacific Regulatory Institutions Network (Canberra, Australia), “The Thin Justice of International Law”

June 24, 2013 – State Department Advisory Committee on International Law (Washington, D.C.), commentator on Kiobel case

June 6, 2013 – Fondazione Corriere della Sera “Societas” series (Milan, Italy), “Cyber War and Drones: The Implications of War without Soldiers,” featured speaker

June 5, 2013 -- Università Commerciale Luigi Bocconi Research Division Claudio Dematté Seminar (Milan, Italy), “Modern challenges to investment treaties”

June 5, 2013 – Università Commerciale Luigi Bocconi faculty seminar (Milan, Italy), “The Thin Justice of International Law”

May 23, 2013 – International Judicial Conference on Opportunities and Challenges Facing the Judiciary of the 21<sup>st</sup> Century (Berlin, Germany), featured speaker

April 4, 2013 – American Society of International Law Annual Meeting panel on the Future of Human Rights Fact-Finding (Washington, D.C.), featured speaker

February 14, 2013 – Jack and Mae Nathanson Centre, Osgoode Hall School of Law panel on Sri Lanka: Challenges: Implementing International Human Rights and Accountability for Human Rights Violations (Toronto, Canada), featured speaker

October 8, 2012 – University of Michigan Law School International Law Workshop (Ann Arbor, MI), “Justice After War Crimes in Sri Lanka: A UN Insider’s Perspective”

October 4, 2012 – New York University School of Law Hauser Colloquium (New York, NY), “The Thin Justice of International Law”

September 11, 2012 – Arizona State University College of Law faculty colloquium (Phoenix, AZ), “The Thin Justice of International Law”

June 12, 2012 -- American Law Institute Expert Meeting on a New Restatement of Foreign Relations Law (Washington, D.C.), invited expert

May 30-June 1, 2012 – International Committee of the Red Cross Expert Meeting on Strengthening Compliance with International Humanitarian Law (Geneva, Switzerland), invited expert

March 30, 2012 – University of Michigan Conference on Law and Human Rights in Global History (Ann Arbor, MI), commentator on panel on “Instruments of Implementation: Courts, Commissions, and Conventions”

March 26, 2012 – John Marshall Law School Faculty Scholarship Roundtable (Chicago, Illinois), “The Justice of International Law”

January 20, 2012 – University of Basel and Graduate Institute of International Studies Authors’ Retreat on Transparency in International Law (Thun, Switzerland), “Behind the Flag of Dunant: Secrecy and the Compliance Mission of the International Committee of the Red Cross”

January 18, 2012 – Geneva Academy of International Humanitarian Law and Human Rights Roundtable discussion on Delivering on the Commitment to Accountability in Sri Lanka (Geneva, Switzerland), featured speaker

October 6, 2011 – Interfaith Council for Peace and Justice panel on U.N. Recognition of Palestinian Statehood (Ann Arbor, MI), featured panelist

September 22, 2011 – Wayne State University Law School panel on the General Assembly Resolution on Palestinian Statehood (Detroit, Michigan), featured panelist

June 6, 2011 – State Department Advisory Committee on International Law (Washington, D.C.), luncheon talk on the UN Secretary-General’s Panel of Experts on Sri Lanka

May 13, 2011 – Temple Law School Workshop on Synthesizing Insights from International Law and International Relations (Philadelphia, Pennsylvania), “Persuading to Comply: On the Deployment and Avoidance of Legal Argumentation”

March 29, 2011 – Yale Law School Seminar on Law and Globalization (New Haven, Connecticut), “Between Minimum and Optimum World Public Order: An Ethical Path for the Future”

December 26, 2010 -- Hebrew University Faculty of Law International Law Year in Review (Jerusalem, Israel), “The Obama Administration and Counter-Terrorism”

June 21, 2010 – State Department Advisory Committee on International Law (Washington, D.C.), commentary on Legal Advisor Koh’s Speech to the American Society of International Law

April 8-10, 2010 – Roundtable on Interdisciplinary Research on Global Justice (Ann Arbor, MI) (co-chair, lead organizer), “International Law and the Cosmopolitan/Nationalist Divide”

November 23, 2009 – University of Michigan Middle East Law Students Association Panel (Ann Arbor, MI), “The Goldstone Report: Gaza, Israel, and International Law”

October 2, 2009 – Temple Law School International Law Roundtable on Does the Constitution Follow the Flag? (Philadelphia, PA), invited participant

September 14, 2009 – University of Michigan Law School International Law Workshop (Ann Arbor, MI), “Detaining Terrorism Suspects Without Trial: Is it Legal Under U.S. and International Law?”

June 11-13, 2009 – Netherlands Ministry of Foreign Affairs and Grotius Center of Leiden University Project on Counter-terrorism Strategies, Human Rights, and International Law,” Working Group on the Use of Force Against Non-State Actors (The Hague, Netherlands), “Self-Defense Against Terrorists: The Meaning of Armed Attack”

March 26, 2009 -- Institut de Hautes Études Internationales et du Développement Law Section public lecture (Geneva, Switzerland), “Toward an Ethical Posture for International Organizations”

March 17, 2009 -- University of Geneva Faculty of Law public lecture (Geneva, Switzerland), “How to Stop Worrying About Fragmented International Law: Lessons from the Law(s) on Investment”

February 27, 2009 -- Institut de Hautes Études Internationales et du Développement Inter-Agency Group Lunch (Geneva, Switzerland), “How to Stop Worrying About Fragmented International Law: Lessons from Foreign Investment”

January 27, 2009 – Institut de Hautes Études Internationales et du Développement Roundtable on Gaza and International Law (Geneva, Switzerland), panelist

December 16, 2008 – International Committee of the Red Cross Expert Meeting on the Law of Occupation (Geneva, Switzerland), “The Law of Occupation and UN Administration of Territory: Mandatory, Desirable, or Irrelevant?”

September 5, 2008 – International Institute of Humanitarian Law Round Table on International Humanitarian Law, Human Rights, and Peace Operations (San Remo, Italy) – “Administration of Territories by the United Nations: Is There Room for IHL?”

May 20, 2008 – State Bar of Michigan Committee on Human Rights Panel on Corporate Responsibility for Human Rights (Dearborn, Michigan), panelist and commentator

May 13, 2008 – Osher Lifelong Learning Institute at the University of Michigan Distinguished Lecture (Ann Arbor, MI), “The War on Terror: The Role of International Law”

January 21, 2008 – University of Michigan Inter-Humanitarians Council lecture (Ann Arbor, MI), “International Law, Human Rights, and the ‘War on Terrorism’”

December 14, 2007 – United Nations Office of the Special Representative for the Prevention of Mass Atrocities policy advisory group meeting on Prevention of Genocide and Mass Atrocities and the Responsibility to Protect (Stellenbosch, South Africa), panelist and commentator

December 7, 2007 – Temple Law School Symposium on Ruling the World? Constitutionalism, International Law, and Global Government (Philadelphia, PA), commentator on paper by Professor Michael Doyle

October 25, 2007 – Northwestern University School of Law and Katholieke Universiteit Leuven Faculty of Law Symposium on Corporate Human Rights Responsibility (Chicago, IL), “Who Has the Duty to Remedy Abuses?: An Academic Perspective”

September 28, 2007 – International Committee of the Red Cross and Washington College of Law Expert Roundtable Meeting on Teaching International Humanitarian Law at US Law Schools (Washington, D.C.), invited participant

June 6, 2007 – Minerva Center for Human Rights Conference on Forty Years after 1967: Reappraising the Role and Limits of the Legal Discourse on Occupation in the Palestinian-Israeli Context (Jerusalem and Tel Aviv, Israel), “Occupation and Territorial Boundaries: Facts -- and Law -- on the Ground”

April 20, 2007 – Georgetown Law School Legal Theory Workshop (Washington, DC), “Do International Organizations Play Favorites?: An Impartialist Account”

March 26, 2007 – Wayne State University School of Law Edward Wise Symposium (Detroit, MI), “Can We Compare Evils?: The Enduring Debate on Genocide and Crimes Against Humanity”

March 10, 2007 – University of Michigan Symposium on the Tanner Lecture on Human Values (Ann Arbor, MI), commentator on the Tanner Lecture by Samantha Power

March 2, 2007 – University of California at Los Angeles School of Law faculty colloquium (Los Angeles, CA), “Do International Organizations Play Favorites?: An Impartialist Account”

February 16, 2007 – University of Fribourg Conference on the Philosophy of International Law (Fribourg, Switzerland), commentator on paper by Professor David Luban

February 10, 2007 – Michigan Journal of International Law Symposium on State Intelligence Gathering and International Law (Ann Arbor, MI), panel moderator on The Desirability, Feasibility, and Methodology of Applying International Law to Intelligence Activities

December 17, 2006 – University of Bern International Symposium on Justice, Legitimacy, and Public International Law (Bern, Switzerland), “Reimagining International Institutions: An Impartialist Account”

November 17, 2006 – New York University Center for Human Rights and Global Justice and Realizing Rights Workshop on Attributing Corporate Responsibility for Human Rights under International Law (New York, NY), participant and commentator

September 29, 2006 – Washington University in St. Louis Conference on Judgment at Nuremberg (St. Louis, MO), “Can We Compare Evils? The Enduring Debate on Genocide and Crimes Against Humanity”

June 22, 2006 -- International Law Society of the University of Tokyo Colloquium (Tokyo, Japan),

“Renditions and Targeted Killings in The Global War on Terror: What Place for International Law?”  
April 20, 2006 -- Eastern Michigan University Conference on The Crisis in Darfur: International Response to Genocide in the 21st Century (Ypsilanti, MI), “Responding to Mass Atrocities: Intervention, Prosecution, or Both?”

April 8, 2006 -- University of North Carolina at Greensboro Conference on Philosophical Issues in International Law (Greensboro, NC), “Predator and Prey: Seizing and Killing Suspected Terrorists Abroad”

November 29, 2005 – University of Michigan Center for Southeast Asian Studies Lectures Series Seminar on the Khmer Rouge Genocide Trial (Ann Arbor, MI), featured speaker

November 8, 2005 – University of Michigan Bioethics, Values and Society Faculty Seminar on Physician Involvement in Hostile Interrogations (Ann Arbor, MI), commentator on paper by Professor Fritz Allhoff

October 10, 2005 – University of Michigan Institute for the Humanities Brown Bag Lecture (Ann Arbor, MI), “The War Crimes Tribunals for Yugoslavia: Are Trials after Atrocities Effective?”

September 16, 2005 – University of Michigan International Perspectives on Human Rights Brown Bag Seminar (Ann Arbor, MI), “The Role of Human Rights Law During Military Occupations”

June 3, 2005 – Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE) Roundtable on Building a New Role for the United Nations (Madrid, Spain), “Self-Defense and the World After September 11: Implications for UN Reform”

May 13, 2005 – Tsinghua University School of Law Conference on New Developments for Sino-American Commercial Law (Beijing, China), “The Expropriation Battles – Act II: Regulatory Takings”

April 11, 2005 – University of Michigan Law School Agora on Reading the Torture Memos (Ann Arbor, MI), “The Torture Memos: Making Lite of International Law?”

February 7, 2005 – Michigan State Journal of International Law Symposium on The Relevance of International Criminal Law to the Global War on Terrorism (East Lansing, MI), “Are the Laws of War Applicable to the War on Terrorism?”

January 10, 2005 – University of Windsor Faculty of Law Panel on Torture, Human Rights, and the Search for Global Justice (Windsor, Canada): “Suing Foreign Human Rights Abusers: U.S. and International Practice”

November 1, 2004 – University of Michigan Law School Workshop on U.S. Detentions During the “War on Terrorism”: International Law and American Justice (Ann Arbor, MI): Introduction and remarks on “The Impact of U.S. Detention Policy and Practices on International Law”

October 7, 2004 – Belgrade Centre for Human Rights Workshop (Belgrade, Serbia and Montenegro), “The International Criminal Court and the Limits of Global Tribunals”

October 6, 2004 -- Belgrade Centre for Human Rights Public Lecture (Belgrade, Serbia and Montenegro),

“Participation of Minorities in Public Life: Beyond the Legal Standards”

June 8, 2004 – Concord Research Center Conference on Democracy and Occupation (Rishon Le Zion, Israel), “Occupations by Democracies and by International Organizations: The Challenges of Convergence”

February 12, 2004 – University of Texas Tejas Club (Austin, TX), “Saddam Hussein, Human Rights, and Guantanamo Bay”

November 6-7, 2003 – University of Texas School of Law Conference on International War Crimes Trials: Making a Difference? (Austin, TX), Opening Remarks, panel moderator, Concluding Remarks

October 9, 2003 – University of Georgia School of Law Faculty Colloquium (Athens, GA), “Is International Law Impartial?”

September 12, 2003 -- University of Toronto Faculty of Law (Toronto, Canada), Workshop on Canada and the Use of Force: Caught Between Multilateralism and Unilateralism, invited participant

June 25, 2003 – American Civil Liberties Union Central Texas Chapter (Austin, TX), “The International Criminal Court”

June 20, 2003 -- Texas Exes Alumni College lecture program (Austin, TX), “The United Nations and Iraq”

May 24, 2003 – Stanford University Center for International Security and Cooperation workshop on How to Build a State (Palo Alto, CA), “Rebuilding International Personality: Some Guidance from International Law and Practice”

April 29, 2003 – University of Texas School of Law panel on *Henry V* and the Ways of War: Legal and Ethical Issues (Austin, TX), “*Henry V* and the Law of War”

April 25, 2003 – Vanderbilt University Law School Legal Theory Workshop (Nashville, TN), “Precommitment Theory as a Framework for Self-Restraint by States: Explanation and Examples”

April 17, 2003 – University of California Boalt Hall School of Law Workshop on International Law (Berkeley, CA), “Precommitment Theory as a Framework for Self-Restraint by States: Explanation and Examples”

January 24, 2003 – International Peace Academy conference on The UN Security Council in the Post-Cold War Era (New York, NY), “Does the UN Security Council Create Law?”

December 18, 2002 – Tel Aviv University Faculty of Law international conference on Liberty, Equality, Security (Tel Aviv, Israel), “Overcoming Temptations to Violate Human Dignity in Times of Crisis: On the Possibilities for Meaningful Self-Restraint”

December 17, 2002 – University of Haifa Faculty of Law conference on Democracy versus Terror: Where are the Limits? (Haifa, Israel), “Jus ad Bellum and Jus in Bello After September 11”



October 11, 2002 – University of Houston Law Center Friday Frontier faculty colloquium (Houston, TX), “Jus ad Bellum and Jus in Bello After September 11”

September 20, 2002 – Texas Law Review Symposium on Precommitment, Bioethics, and Constitutional Law (Austin, TX), “Precommitment Theory and International Law: Starting a Conversation”

September 5, 2002 – Texas International Law Journal Symposium on Judicialization and Globalization of the Judiciary (Austin, TX), “The International Criminal Court and the Limits of Global Judicialization”

May 2, 2002 – Columbia University Center on International Organization Roundtable on the United Nations and Terrorism (New York, NY), “Capacity-Building to Fight Terrorism: Finding the UN’s Comparative Advantage”

April 30, 2002 – Amnesty International, University of Texas Chapter (Austin, TX), “The Pitfalls of International Criminal Justice”

October 26, 2001 – University of Göttingen Institute of International Law Symposium on the United States and International Law (Göttingen, Germany), “The United States and the ‘International Community’: The Inevitability of Multiple Visions”

October 12, 2001 – Canadian Department of Foreign Affairs and International Trade’s Canadian Centre for Foreign Policy Development Roundtable on Afghanistan: Governance Scenarios and Canadian Policy Options (Ottawa, Canada), “Failed States and Governance: Lessons Learned”

May 29, 2001 – Australian Red Cross Solferino Lecture (Melbourne, Australia), “Overcoming Impunity?: Not so Fast”

May 23, 2001 – University of Melbourne Faculty of Law International Law Interest Group (Melbourne, Australia), “A Theory of Human Rights Obligations for Corporations”

February 12, 2001 – University of Chicago Law School Workshop on International Law (Chicago, IL), “Corporations and Human Rights: Toward a Theory of International Legal Responsibility”

January 26, 2001 – Autonomous Region of Trentino-Alto Adige Conference on Organising Cohabitation: The Trentino-South Tyrol Experience and Prospects for the Balkans (Trento, Italy), “International Guarantees of Autonomy: Limitations and Warnings”

December 4, 2000 – Columbia Law School Society for Law and Ideas (New York, NY), “Overcoming Impunity for Human Rights Abuses: An Insider’s/Outsider’s Perspective”

November 27, 2000 – New York Law School Conference on The Multinational Enterprise as Global Corporate Citizen (New York, NY), “Corporations and Human Rights in International Law”

November 21, 2000 – Columbia Law School Society for Law and Ideas and Society of International Law (New York, NY), “American Exceptionalism and the Future of International Law and Organization,” respondent to address by Edward Luck



October 20, 2000 – Johns Hopkins University Paul H. Nitze School of Advanced International Studies, Washington Interest in Negotiation Group (Washington, DC), “Intermediaries and International Norms: The Work of the OSCE High Commissioner on National Minorities”

July 28, 2000 -- Centro Para Accion Legal en Derechos Humanos and American University Washington College of Law Conference on Contemporary Perspectives in International Criminal Law (Antigua, Guatemala), “Transitory Transitions and the Problem of Impunity”

May 12, 2000 -- Organization for Security and Cooperation in Europe Seminar to Launch the Lund Recommendations on the Effective Participation of National Minorities in Public Life (Vienna, Austria), “The General Principles of the Lund Recommendations”

February 25, 2000 -- University of Texas Conference on Challenges to Fragile Democracies in the Americas (Austin, TX), “Looking Forward and Looking Back: Democracy, Accountability, and Fragile Governments in the Americas”

January 9, 2000 – First Unitarian Universalist Church (Austin, TX), “Prosecuting and Preventing Crimes Against Humanity”

November 12, 1999 -- University of Texas Center for Russian, East European, and Eurasian Studies (Austin, TX), “Preventing Ethnic Conflict: The Work of Europe's Minorities Commissioner”

October 21, 1999 -- Texas International Law Society Conference on Preventing Ethnic Conflict: Emerging Answers from Kosovo (Austin, TX), “Ethnic Conflict in Europe: An Overview from International Law”

October 16, 1999 – World Federalist Association Fall Assembly (Dallas, Texas), “Cambodia and the U.N.: Bringing the Khmer Rouge to Justice”

July 9, 1999 – International Criminal Tribunal for the Former Yugoslavia (The Hague, Netherlands), “Democracy and Accountability: On a Normative Collision Course?”

May 18, 1999 – T.M.C. Asser Instituut (The Hague, Netherlands), “Accountability of the Khmer Rouge for Human Rights Atrocities: National and International Responses (and Non-Responses)”

March 5, 1999 – Rijks Universiteit Leiden, Faculty of Law (Leiden, Netherlands), “Democracy and Accountability: The Criss-Crossing Paths of Two Emerging Norms”

June 13, 1998 – Italian Society of International Law Annual Meeting (Siena, Italy), “The Relationship between the International Criminal Court and the Security Council: An Appraisal of the United States Position”

June 10-11, 1998 – Training Programme in the Civilian Personnel of Peace-keeping/Humanitarian Operations and Election Monitoring Missions: Volunteers, Officers, Observers (Pisa, Italy), “Coordinating the Actors in Peacekeeping Operations within the United Nations System and Other Organizations”

April 23, 1998 – University of Texas Learning Activities for Mature People (Austin, TX), “Prosecuting Human Rights Atrocities from Nuremberg 1945 to Rome 1998”

April 1, 1998 – American Society of International Law Annual Meeting (Washington, D.C.), “The Genocide Convention After 50 Years”

March 20, 1998 – United Nations Department of Political Affairs retreat on Human Rights in Negotiating Processes (Tarrytown, NY), “Promoting Reconciliation and Combatting Impunity”

January 7, 1998 – Association of American Law Schools Annual Meeting (San Francisco, CA), “The Global Law School: Myths and Reality,” and panelist and discussion leader for day-long workshop on “Staging the Law School of the Future”

September 18, 1997 – Hofstra Law School Symposium on War Crimes and War Crimes Tribunals (Hempstead, NY), “Why Only War Crimes?: Delinking Human Rights Offenses from Armed Conflict”

November 15, 1996 – United Nations Department of Political Affairs retreat on UN mediation and peacekeeping (New York, NY), featured speaker

October 12, 1996 – Admiral Nimitz Museum Conference on Justice in the Aftermath (Fredericksburg, TX), “A Brief History of War Crimes”

August 6, 1996 – Court TV broadcast of trial in the International Tribunal for the Former Yugoslavia (New York, NY), guest commentator

May 30, 1996 – Libera Università Internazionale degli Studi Sociali seminar on international economic law (Rome, Italy), guest lecturer

May 27, 1996 – Università degli Studi di Siena, Facoltà de Giurisprudenza graduate seminar (Siena, Italy), guest lecturer

April 23, 1996 – Austin Council on Foreign Affairs (Austin, TX), “Prosecuting War Crimes in the Former Yugoslavia”

April 20, 1996 – Lee College Conference on War in the 20<sup>th</sup> Century (Baytown, TX), panelist

March 4, 1996 – Harvard Law School seminar on Lawyers Without Borders (Cambridge, MA), guest lecturer

December 14, 1995 – Yale Law School Schell Center for International Human Rights panel on Rwanda, the Former Yugoslavia, and Other Current Developments in International Criminal Law (New Haven, CT), panelist

November 10-11, 1995 – Cornell Law School Workshop on International Law and Ethnic Conflict (Ithaca, NY), commentator

August 21-22, 1995 – Yale University Cambodian Genocide Program Conference on International Criminal Law in the Cambodian Context (Phnom Penh, Cambodia), featured participant and lecturer

July 7, 1995 – United States Institute of Peace Conference on Accountability for War Crimes and Genocide in Cambodia (Washington, D.C.), featured participant

June 15, 1995 – Travis County Bar Association International Law Section (Austin, TX), “Recent Developments in Foreign Investment Law”

June 10, 1995 – Southwestern Legal Foundation Academy of American and International Law (Austin, TX), “Foreign Investment in the United States and the Exon-Florio Legislation”

March 3, 1995 – University of Texas School of Law Symposium on International Intervention for the Cause of the Human Rights (Austin, TX), moderator

June 21, 1994 – Dallas Bar Association International Law Section (Dallas, TX), “U.S. Bilateral Investment Treaties: A New Source of Law for the U.S. Investor Abroad”

June 2, 1994 – Council on Foreign Relations Annual Seminars Presented by the International Affairs Fellows (Washington, D.C.), “Lessons Learned from Peacekeeping Operations: The Roles of the United States and the United Nations”

May 17, 1994 – U.S.-Japan Conference on UN Peace Efforts and Japan-U.S. Relations (Yokohama, Japan), “UN Peace Efforts: Legal Bases and Recent Experiences”

April 9, 1994 – American Society of International Law Annual Meeting (Washington, D.C.), participation in panel “The End of Sovereignty”

April 7, 1994 – American Society of International Law Annual Meeting (Washington, D.C.), “Controlling the Break-up of States: Towards a United Nations Role”

March 10, 1994 – International Colloquium on New Dimensions of Peace-keeping (Geneva, Switzerland), “The United Nations in Cambodia and the New Peacekeeping”

October 29, 1993 – American Branch of the International Law Society International Law Weekend (New York, NY), “United Nations Conservatorship over Failed States: From Theory to Reality”

**EXHIBIT B**  
**MATERIALS CONSULTED**

## I. U.N. Reports

1. Ben Emmerson, Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, *Visit to Sri Lanka*, U.N. Doc. A/HRC/40/52/Add.3 (Dec. 14, 2018), <https://undocs.org/A/HRC/40/52/Add.3>
2. Michel Forst, *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, U.N. Doc. A/HRC/28/63/Add.1 (Mar. 4, 2015), <https://undocs.org/A/HRC/28/63/Add.1>
3. Mónica Pinto, Special Rapporteur on the Independence of Judges and Lawyers, *Mission to Sri Lanka*, U.N. Doc. A/HRC/35/31/Add.1 (Mar. 23, 2017), <https://undocs.org/A/HRC/35/31/Add.1>
4. U.N. Human Rights Council, Resolution 22/1, Promoting Reconciliation and Accountability in Sri Lanka, U.N. Doc. A/HRC/RES/22/1 (Apr. 9, 2013), <https://undocs.org/A/HRC/RES/22/1>
5. U.N. Office of the High Comm'r for Human Rights, *Report of the OHCHR Investigation on Sri Lanka (OISL)*, U.N. Doc. A/HRC/30/CRP.2 (Sept. 16, 2015), [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A.HRC.30.CRP.2\\_E.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A.HRC.30.CRP.2_E.docx)
6. U.N. Office of the High Comm'r for Human Rights, *Promoting Reconciliation, Accountability and Human Rights in Sri Lanka*, U.N. Doc. A/HRC/40/23 (Feb. 8, 2019), <https://undocs.org/A/HRC/40/23>
7. U.N. Office of the High Comm'r for Human Rights, *Promoting Reconciliation, Accountability and Human Rights in Sri Lanka*, U.N. Doc. A/HRC/37/23 (Jan. 25, 2018), <https://undocs.org/A/HRC/37/23>
8. U.N. Office of the High Comm'r for Human Rights, *Report on Sri Lanka*, U.N. Doc. A/HRC/34/20 (Feb. 10, 2017), <https://undocs.org/A/HRC/34/20>

9. U.N. Office of the High Comm'r for Human Rights, *Promoting Reconciliation and Accountability in Sri Lanka*, U.N. Doc. A/HRC/25/23 (Feb. 24, 2014), <https://undocs.org/A/HRC/25/23>
10. United Nations, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, Mar. 31, 2011, <https://www.law.umich.edu/facultyhome/drwcasebook/Documents/Documents/Report%20of%20the%20Panel%20of%20Experts%20on%20Accountability%20in%20Sri%20Lanka.pdf>

## **II. U.S. Government Reports**

1. AMBASSADOR PATRICIA A. BUTENIS, U.S. DEP'T OF STATE, SRI LANKA WAR-CRIMES ACCOUNTABILITY: THE TAMIL PERSPECTIVE (2010), [https://www.wikileaks.org/plusd/cables/10COLOMBO32\\_a.html](https://www.wikileaks.org/plusd/cables/10COLOMBO32_a.html)
2. U.S. DEP'T OF STATE, 2018 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES—SRI LANKA (2019), <https://www.state.gov/wp-content/uploads/2019/03/SRI-LANKA-2018.pdf>
3. U.S. DEP'T OF STATE, 2017 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES—SRI LANKA (2018), <https://www.state.gov/wp-content/uploads/2019/01/Sri-Lanka.pdf>

## **III. Sri Lankan Government Reports**

1. GOV'T OF SRI LANKA, OFFICE OF MISSING PERSONS, INTERIM REPORT (2018), [https://www.news.lk/images/Master\\_Document\\_Clean\\_Document\\_28\\_August0.pdf](https://www.news.lk/images/Master_Document_Clean_Document_28_August0.pdf)

## **IV. U.N. Human Rights Committee Decisions**

1. *Banda v. Sri Lanka*, U.N. Human Rights Committee, U.N. Doc. CCPR/C/91/D/1462/2005 (Oct. 26, 2007), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhstcNDCvDan1pXU7dsZDBaDXL>

4tyhvmsS9111w5rXvKN%2bcOLyoXL8l2DbqGP2WaLO%2f  
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8waBN0vPrfra0C7joX8gh%2bIfY%2b%2bH3uco8mgk17w4%  
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2. Gunaratna v. Sri Lanka, U.N. Human Rights Committee, U.N. Doc. CCPR/C/95/D/1432/2005 (Mar. 17, 2009), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvpiiwkDHeBnDsduiOrYcq2REt4MGPG8oN2eHRJeRyLyjYn3OTpxWR648kchOfqMULc%2bH8eK06nqDy1vIHunIK9PeDLM7X029heRtPwn00rfc1GEjOICPb6dLQx4waU0Gw%3d%3d>
3. Kankanamge v. Sri Lanka, U.N. Human Rights Committee, U.N. Doc. CCPR/C/81/D/2000 (July 27, 2004), <https://undocs.org/CCPR/C/81/D/927/2000>
4. Rajapakse v. Sri Lanka, U.N. Human Rights Committee, U.N. Doc. CCPR/C/87/D/1250/2004 (July 14, 2006), <https://undocs.org/CCPR/C/87/D/1250/2004>
5. Sathasivam v. Sri Lanka, U.N. Human Rights Committee, U.N. Doc. CCPR/C/93/D/1436/2005 (July 8, 2008), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvPx7DCNvnzzSMxjTH%2bdDOqWYqVUSFRZW4i6lEdvDLmG4eUIH84KrHhh%2b%2bqrW9B7nzPkHgSXFfa%2fYVa%2f%2fDNY7pG0bQ9tEG4tR2%2f9sb7BDI0BcW88HnX50DvyIWvsCO1vTDQ%3d%3d>
6. Sarma v. Sri Lanka, U.N. Human Rights Committee, U.N. Doc. CCPR/C/78/D/950/2000 (July 16, 2003), <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsswSVVnSz50wXLYzs7W9cwHstPAwc1%2f%2bxwsgb7m6H3DilRJSoxCZK7x1KeL%2fpy7PBTw2xQsX2HrHp7Di36beClPEl7b6e1Ik4jPtBmtX7FvdjZdSLgqrEusFMoIXEVUIWg%3d%3d>

## V. NGO Reports

1. Biraj Patnaik, *Sri Lanka: The Government Cannot Afford to Fail the Office on Missing Persons*, AMNESTY INT'L, Oct. 21,



2018, <https://www.amnesty.org/en/latest/news/2018/10/sri-lanka-the-government-cannot-afford-to-fail-the-office-on-missing-persons>

2. Human Rights Council, Written Statement Submitted by International Commission of Jurists, *Sri Lanka: A Decade of Inaction and Impunity*, U.N. Doc. A/HRC/40/NGC/50 (Feb. 14, 2019)
3. INFORM HUMAN RIGHTS DOCUMENTATION CENTRE, REPRESSION OF DISSENT IN SRI LANKA [JAN-DEC 2017] (2018), <http://www.inform.lk/repression-of-dissent-in-sri-lanka-jan-dec-2017>
4. INT'L CRISIS GRP., SRI LANKA'S TRANSITION TO NOWHERE (2017), <https://d2071andvip0wj.cloudfront.net/286-sri-lanka-s-transition-to-nowhere.pdf>

## VI. Press Reports

1. *CID Presents Progress Report on Lasantha Murder Investigation*, NEWS 1ST, Jan. 17, 2019, <https://www.newsfirst.lk/2019/01/17/cid-presents-progress-report-on-lasantha-murder-investigation>
2. Ryan Goodman, Op-Ed, *Helping Sri Lanka's New Democracy*, N.Y. TIMES, Jan. 19, 2015, [https://www.nytimes.com/2015/01/20/opinion/helping-sri-lankas-new-democracy.html?smprod=nytcore-ipad&smid=nytcore-ipad-share&\\_r=1](https://www.nytimes.com/2015/01/20/opinion/helping-sri-lankas-new-democracy.html?smprod=nytcore-ipad&smid=nytcore-ipad-share&_r=1)
3. Ryan Goodman, *Sri Lanka's Greatest War Criminal (Gotabaya) is a US Citizen: It's Time to Hold Him Accountable*, JUST SECURITY, May 19, 2014, <https://www.justsecurity.org/10537/sri-lanka-gotabaya-us-citizen-war-crimes-accountability>
4. *Sri Lankan Army Reinstates Official Suspected in Lasantha Murder, Other Attacks*, COMM. TO PROJECT JOURNALISTS, May 15, 2019, <https://cpj.org/2019/05/sri-lankan-army-reinstates-official-suspected-in-l.php>

5. *Sri Lanka Names War Veteran as Army Chief, U.S., U.N. Critical of Decision*, REUTERS, Aug. 19, 2019, <https://www.reuters.com/article/us-sri-lanka-army/sri-lanka-names-war-veteran-as-army-chief-u-s-critical-of-decision-idUSKCN1V918K?il=0>