

## **MADLINE MORRIS**

*Duke Law School*  
*Durham NC 27708-0360 USA*  
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### **EDUCATION:**

Hague Academy of International Law, Certificate in Public International Law, 1995  
Yale Law School, J.D., 1989  
Senior Editor, Yale Law Journal  
Yale University, B.A., 1986  
*Summa cum laude*, Phi Beta Kappa, Distinction in the Major

### **EMPLOYMENT:**

1995-Present Professor of Law, Duke Law School, Durham, NC  
1995-2005 Director, Duke/Geneva Institute in Transnational Law, Geneva, Switzerland  
May 2003 Visiting Professor, University Center for International Humanitarian Law, Geneva, Switzerland  
1993-1995 Associate Professor of Law, Duke Law School, Durham, NC  
1990-1993 Assistant Professor of Law, Duke Law School, Durham, NC  
1989-1990 Law clerk, Judge John Minor Wisdom, U.S. Court of Appeals for the Fifth Circuit  
1989 Summer associate, Heller, Ehrman, White & McAuliffe, San Francisco, CA  
1988 Summer associate, Ennis, Friedman & Bersoff, Washington, DC  
1987 Summer associate, American Civil Liberties Union, National Legislative Office, Washington, DC

### **APPOINTED AND ADVISORY POSITIONS:**

2006-2008 U.S. Secretary of State's Advisory Committee on International Law  
2006-2008 Chief Counsel to the Office of the Chief Defense Counsel, Office of Military Commissions, U.S. Department of Defense  
2007 Consultant on the Brief for the Petitioners, *Boumediene v. Bush*, 553 U.S. 723 (2008)  
2006 Consultant to the Defense, *U.S. v. Taylor*, 909 F. Supp. 935 (1995)  
2005-2006 Advisor to the Office of the Chief Defense Counsel, Office of Military Commissions, U.S. Department of Defense

- 2005 Advisor to the Special Prosecutor, Republic of Serbia
- 2005 Co-counsel, *Cases Concerning the Ukraine (IMU v. Ukraine)*, European Court of Human Rights
- 2002-2004 Senior Legal Counsel, Office of the Prosecutor, Special Court for Sierra Leone
- 1999-2004 Consultant to U.S. State Department, Office of War Crimes Issues
- 2001 Advisor, Specialized Training on International Humanitarian Law, Belgrade, Serbia
- 1999 Chair, *Legality of the NATO Action in Kosovo*, New York Session of the Independent International Commission on Kosovo
- 1997 Special Consultant to the United States Secretary of the Army
- 1996-1997 Convenor, Consultation of the Government of Rwanda with the South African Truth and Reconciliation Commission Concerning Prosecution and Amnesty
- 1995-1997 Advisor on Justice to the President of Rwanda
- 1996 Consultant and Adjunct Faculty Member, U.S. Naval Justice School, Newport, RI

**WORKING GROUPS AND ADVISORY BOARDS:**

- 2016 Expert Working Group on Using Law to Fight Terror, Center for Ethics and the Rule of Law, University of Pennsylvania Law School, Philadelphia, PA
- 2013 Convenor, International Collaborative Program on National Security Law and Policy, Duke Law School, Durham, NC
- 2008-09 Brookings Military Advisory Group Project on U.S. Policy Toward International Justice, Brookings Institution, Washington, DC
- 1994-2008 Advisory Board, Duke Center on Law, Ethics, and National Security, Duke Law School, Durham, NC
- 2006 Working Group on the U.S. Military and the International Criminal Court, Henry L. Stimson Center, Washington, DC
- 2005 Grant Review Panel, United States Institute of Peace, Washington, DC
- 2005 Working Group on International Law, Politics, and Organizations, Boalt Hall Law School, Berkeley, CA
- 2004-2006 Advisory Board, Project on U.S. Attitudes and Practices Towards International Courts and Tribunals, Center on International Cooperation, New York University, New York, NY

- 2001-2006     Advisory Board, American Bar Association, Central and East European Law Initiative, Washington, DC
- 2004-2005     Iraq Working Group on International Humanitarian Law, convened by the Hoover Institution, Stanford University and the Washington College of Law, American University, Washington, DC

**BRIEFS, BRIEFINGS, AND TESTIMONY:**

- 2015           Expert Witness on diplomatic immunity, *Pliego v. Hayes*, Case No. 5:15-CV-00146, U.S. Dist. Ct., Western Dist. of KY
- 2010           Expert Opinion on extradition, *Matter of Edgar Vallejo*, before the Spanish National Tribunal, Madrid, Spain (*see, U.S. v. Edgar Vallejo*, Case No. 11-13135 (11<sup>th</sup> Cir. 2012))
- 2009           Expert Witness on exhaustion of local remedies under the Alien Tort Claims Act, *Sarei v. Rio Tinto*, Case No. 00-11695, U.S. Dist. Ct., Central Dist. of CA
- 2008           Expert Witness on jurisdiction over international drug trafficking under U.S. and international law, *U.S. v. Vallejo*, Case No. 93-433-CR, U.S. Dist. Ct., Southern Dist. of FL
- 2008           Expert Witness on law of war and the personal and subject-matter jurisdiction of military tribunals, *U.S. v. Jawad*, U.S. Military Commission, Guantanamo Bay, Cuba
- 2007           Brief of *Amicus Curiae* Professor Madeline Morris *et al.*, *U.S. v. Hamdan*, U.S. Military Commission, Guantanamo Bay, Cuba
- 2007           Brief of *Amicus Curiae* Professor Madeline Morris *et al.*, and Reply of *Amicus Curiae* to Government Response, *U.S. v. Khadr*, Case No. 07-001, U.S. Court of Military Commissions Review
- 2007           Presentation to U.S. Secretary of State’s Advisory Committee on International Law, on preventive detention in counterterrorism
- 2006           Testimony to U.S. Senate Committee on Foreign Relations, on ratification of U.S./U.K. extradition treaty
- 2004           Briefing to U.S. Under Secretary of State for Arms Control and International Security, on national-level war crimes prosecutions in Serbia
- 2003           Briefing to U.S. Under Secretary of State for Arms Control and International Security, on Special Court for Sierra Leone
- 2002           Briefing to U.S. National Security Council Director for Democracy, Human Rights, and International Operations, on international criminal jurisdiction
- 2002           Briefing to U.S. State Department Senior Negotiator for Base Access and Burden Sharing, on negotiation of international agreements under Article 98 of the Rome Statute for an International Criminal Court

- 2001 Expert Witness on jurisdiction over international drug trafficking under U.S. and international law, *U.S. v. Saavedra*, Case No. 99-1631, U.S. Dist. Ct., Southern Dist. of FL
- 1997 Briefing to Special Assistant to the President and Senior Director for African Affairs, U.S. National Security Council, on post-genocide judicial processes in Rwanda
- 1996 Briefing to Office of the U.S. Permanent Representative to the United Nations, U.S. Department of State, on post-genocide legislation in Rwanda
- 1994 Statement of Professor Madeline Morris, on the DeConcini Amendment to the National Defense Authorization Act of 1994 to Establish Within the Office of the Secretary of Defense the Position of Director of Special Investigations and for Other Purposes, 140 CONGRESSIONAL RECORD S8164, 103 Cong., 2d Sess. (July 1, 1994)

**PROFESSIONAL AWARDS:**

- 2007 Frederick Douglass Human Rights Award, Southern Center for Human Rights (joint recipient)

**PUBLICATIONS:**

*Books and Monographs*

FOREIGN RELATIONS: THE UNITED STATES, EUROPE, AND THE INTERNATIONAL CRIMINAL COURT (2004) (monograph sponsored by the German Marshall Fund, published by Foundation of the Institute of Public Affairs)

TERROR AND INTEGRITY: PREVENTIVE DETENTION IN AN AGE OF JIHAD (*forthcoming* 2020, Oxford University Press)

U.S. COUNTERTERRORISM LAW AND POLICY: A DOCUMENTARY HISTORY (*forthcoming*, Oxford University Press)

DERADICALIZATION: A REVIEW OF THE LITERATURE AND COMPARISON TO FINDINGS IN THE LITERATURES ON DEGANING AND DEPROGRAMMING (2010) (research brief commissioned by Institute for Homeland Security Solutions, funded by U.S. Dept. of Homeland Security), available at [http://sites.duke.edu/ihss/files/2011/12/Morris\\_Research\\_Brief\\_Final.pdf](http://sites.duke.edu/ihss/files/2011/12/Morris_Research_Brief_Final.pdf)

*Selected Book Chapters and Articles*

*After Guantanamo: War, Crime, and Detention*, HARVARD LAW AND POLICY REVIEW ONLINE (July 2009)

*On Liberty: Detention in New Forms of Armed Conflict*, XXXI HARVARD INTERNATIONAL REVIEW 58 (2009)

*Taking Liberties: The Personal Jurisdiction of Military Commissions*, Duke Law School Public Law and Legal Theory Paper No. 215, available at <http://ssrn.com/abstract=1222622>

- The Status of Combatants*, 54 WAYNE LAW REVIEW (2008) (Edward Wise Memorial Symposium)
- International Humanitarian Law: State Collusion and the Conundrum of Jurisdiction*, in INTERNATIONAL LAW AND INTERNATIONAL RELATIONS: BRIDGING THEORY AND PRACTICE (T.J. Biersteker *et al.* eds. 2007)
- Terrorism and the Laws of War: The Politics of Prosecution*, 5 CHICAGO JOURNAL OF INTERNATIONAL LAW (2005)
- Arresting Terrorism: Criminal Jurisdiction and International Relations*, in ENFORCING NORMS AGAINST TERRORISM (Andrea Bianchi ed. 2004)
- Terrorism and Unilateralism: Criminal Jurisdiction and International Relations*, 36 CORNELL INTERNATIONAL LAW JOURNAL 473 (2004) (symposium)
- The Law of Genocide: Content and Connotation*, 35 CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW 205 (2004) (symposium)
- Democracy, Global Governance, and International Criminal Law*, in FROM SOVEREIGN IMPUNITY TO INTERNATIONAL ACCOUNTABILITY (Thakur & Malcontent eds. 2004)
- Democracy, International Relations, and the Enforcement of International Criminal Law*, XII FINNISH YEARBOOK OF INTERNATIONAL LAW (2004) (symposium)
- Genocide, Politics, and Polity*, 35 CASE WESTERN RESERVE LAW REVIEW 205 (2003)
- Prosecuting Terrorism: The Quandaries of Criminal Jurisdiction and International Relations* 133, in TERRORISM AND THE MILITARY (Wybo Herre ed. 2003)
- Judgment Without Democracy* (OpEd), WASHINGTON POST, July 24, 2002, reprinted in:
- U.S. DEPARTMENT OF DEFENSE, EARLY BIRD, July 25, 2002
  - GLOBALSECURITY, available at <https://www.globalsecurity.org/wmd/library/news/iraq/2002/iraq-020805-usia01.htm>
  - Group for Study and Research on Globalisations, available at <http://www.mondialisations.org/php/public/art.php?id=3772&lan=EN>
- The Democratic Defect of the International Criminal Court*, in NEWSLETTER OF THE U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS, Issue 23 (July 25, 2002)
- The Democratic Dilemma of the International Criminal Court*, 5 BUFFALO CRIMINAL LAW REVIEW 591 (2002) (symposium)
- Being Particular about Universal Jurisdiction: The Yerodia Decision of the International Court of Justice*, 58 EGYPTIAN JOURNAL OF INTERNATIONAL LAW 9 (2002)
- Lacking a Leviathan: The Quandaries of Peace and Accountability*, in POST-CONFLICT JUSTICE (Cherif Bassiouni ed. 2002)
- Universal Jurisdiction in a Divided World*, 35 NEW ENGLAND LAW REVIEW 337 (2001) (symposium)

*Foreword: The United States and the International Criminal Court*, 64 LAW & CONTEMPORARY PROBLEMS 1 (2001)

*High Crimes and Misconceptions: The ICC and Non-Party States*, 64 LAW & CONTEMPORARY PROBLEMS 13 (2001),

*reprinted in:*

- BARRY E. CARTER ET AL., INTERNATIONAL LAW (7<sup>th</sup> ed., 2018) (excerpt)
- PROBLEMAS ESTRUCTURALES DE DERECHO PENAL INTERNACIONAL (Alejandro Chehtman ed. 2015) (in Spanish translation)
- INTERNATIONAL CRIMES, PEACE AND HUMAN RIGHTS: THE ROLE OF THE INTERNATIONAL CRIMINAL COURT (Dinah Shelton ed. 2000)

*Complementarity and Its Discontents: States, Victims, & the International Criminal Court* 177, in INTERNATIONAL CRIMES, PEACE AND HUMAN RIGHTS: THE ROLE OF THE INTERNATIONAL CRIMINAL COURT (Dinah Shelton ed. 2000)

*Jurisdiction of the International Criminal Court Over Nationals of Non-party States*, 6 ILSA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW 363 (2000)

*Few Reservations About Reservations: United States Participation in Human Rights Treaties*, 1 CHICAGO JOURNAL OF INTERNATIONAL LAW 341 (2000)

*Complementarity and Conflict: States, Victims, and the ICC*, in NATIONAL SECURITY AND INTERNATIONAL LAW: THE UNITED STATES AND THE INTERNATIONAL CRIMINAL COURT (Carl Kaysen *et al.* eds. 2000)

*Justice After Genocide: Rwanda*, in WAR CRIMES: THE LEGACY OF NUREMBERG (Belinda Cooper ed., 1998)

*Justice in Cataclysm: Symposium Preface*, 7 DUKE JOURNAL OF COMPARATIVE AND INTERNATIONAL LAW 1 (1997)

*The Trials of Concurrent Jurisdiction: The Case of Rwanda*, 7 DUKE JOURNAL OF COMPARATIVE AND INTERNATIONAL LAW 349 (1997) (symposium),  
*reprinted in:*

- INTERNATIONAL CRIMINAL LAW (M. Cherif Bassiouni ed. 2d ed., 1998)
- AMERICAN DIPLOMACY (January-March 1998)

*Justice in the Wake of Genocide: The Case of Rwanda*, 3 ILSA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW 689 (1997) (symposium)

*The Rape Differential* (OpEd), WASHINGTON POST, Nov. 20, 1996, p. A19

*Accountability for International Crimes and Serious Violations of Fundamental Human Rights: Symposium Foreword*, 59 LAW AND CONTEMPORARY PROBLEMS 1 (1996)

*By Force of Arms: Rape, War, and Military Culture*, 45 DUKE LAW JOURNAL 651 (1996)

*The Structure of Entitlements*, 78 CORNELL LAW REVIEW 822 (1993)

*Advice and Consent: The Senate's Role in the Confirmation Process*, in ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION 10 (Supp. I 1991) (with Walter Dellinger)

*The Grammar of Advice and Consent: Senate Confirmation of Supreme Court Nominees*, 38 DRAKE LAW REVIEW 863 (1989)

*Stereotypic Alchemy: Transformative Stereotypes and Antidiscrimination Law*, 7 YALE LAW & POLICY REVIEW 251 (1989)

**SELECTED LECTURES, PANELS, AND PAPERS PRESENTED:**

*The Politics of the International Criminal Court*, panel discussion, Duke Law School Federalist Society, Durham, NC, January 14, 2018

*Content and Contingency in the Proceedings of U.S. Military Commissions*, presented at the conference, “After Afghanistan: Where to from Here?,” Duke Center on Law, Ethics, and National Security, Durham, NC, April 13, 2012

*Jurisdiction to Detain*, presented at conference “Jurisprudence of the Military Commissions,” National Institute of Military Justice, Washington, DC, January 23, 2009

*Preventive Detention in the Age of Jihad*, presented at conference “The Rules of War in the 21<sup>st</sup> Century,” convened by Carnegie Council on Ethics & International Affairs at Georgia State University, Atlanta, GA, October 27, 2007

*The Fifth Column: War, Crime, and Terror*, presented at the Edward Wise Memorial Symposium, “Rethinking Legal Approaches to Terrorism and Mass Atrocity,” Wayne State University Law School, Detroit, MI, March 26, 2007

*U.S. Military Commissions: Without Judgment*, presented at the conference, “Jurisprudence and the War on Terror,” Columbia Law School, April 22, 2006

*Guantanamo: Law and the Enemy*, presented at conference “Military Commission Trial Practices: Effects on Due Process and National Security,” Boston University Law School, April 14, 2006

*The Fatal Flaw of International Criminal Courts*, presented at conference “Sharpening the Cutting Edge of International Human Rights Law: Unresolved Issues of War Crimes Tribunals,” Boston College School of Law, March 24, 2006

*Judgment, Justice, and Jurisdiction*, Human Rights Lecture Series, Law School of the College of William & Mary, Williamsburg, VA, March 29, 2005

*The Added Value of Mixed Tribunals*, presented at conference “International Criminal Justice: A Transatlantic Dialogue,” Katholieke Universiteit Leuven Faculty of Law, Brussels, Belgium, May 7-8, 2004

*Europe, the United States, and the International Criminal Court*, presented at the “International Security and Human Rights,” seminar convened by the Institute of Public Affairs and the German Marshall Fund, Warsaw, Poland, March 26, 2004

*Universalism, Unilateralism, and the Politics of Atrocity*, presented at conference “Post-Conflict Justice: From Malmédy to Halabja,” University of Idaho School of Law, Coeur d’Alene, ID, March 18-20, 2004

*International Humanitarian Law: State Collusion and the Conundrum of Jurisdiction*, presented at the “Workshop on International Criminal Accountability,” convened by Social Science Research Council Program on Global Security and Cooperation, Washington, DC, November 6, 2003

*Official Acts: Influence, Accountability, and International Criminal Jurisdiction*, presented at conference “The International Criminal Court Five Years after Rome,” American Enterprise Institute, Washington, DC, November 3, 2003

*State Collusion and the Conundrum of Jurisdiction*, presented at the Graduate Institute of International Studies, Geneva, Switzerland, May 26, 2003

*International Relations and International Jurisdiction: Conflicts and Confluence*, presented at the University of Geneva Faculty of Law, May 25, 2003

*Judgment and the Assertion of Power: The Jurisdiction of the International Criminal Court*, presented at conference “Sovereignty and Intervention,” Tufts University, Boston, MA, February 27, 2003

*The Law of Genocide: Content and Connotation*, presented at conference “The Role of Justice in Building Peace,” Case Western Reserve University, Cleveland, OH, February 28, 2003

*Prosecuting Terrorism: The Quandaries of Criminal Jurisdiction and International Relations*, presented at conference “Terrorism and the Military: International Legal Implications,” International Society for Military Law and the Law of War, Hague, Netherlands, November 14-15, 2002

*Democratic Governance versus International Criminal Justice: The Dilemma of the International Criminal Court*, presented at United Nations Office of the High Commissioner for Human Rights, Geneva, Switzerland, June 7, 2002

*The Democratic Dilemma of the International Criminal Court*, presented at the Graduate Institute for International Studies, Geneva, Switzerland, June 4, 2002

*The Democratic Deficit of the International Criminal Court*, presented at Annual Meetings of the Law and Society Association, Vancouver, Canada, May 30, 2002

*Universal Jurisdiction in a Divided World: Implications of the Yerodia Decision of the International Court of Justice*, presented at Egyptian Society of International Law, Cairo, Egypt, April 8, 2002

*The Democratic Dilemma of the International Criminal Court*, presented at Al-Ahram Center for Political and Strategic Studies, Cairo, Egypt, April 4, 2002

*The International Criminal Court: Problems and Prospects*, presented at the Political Science Seminar of the American University, Cairo, Egypt, April 3, 2002

*The Democratic Dilemma of International Criminal Law*, presented at conference “Combating Impunity: Stakes and Perspectives,” convened by the Belgian Ministry of Foreign Affairs and the Coalition for the International Criminal Court, Brussels, Belgium, March 12, 2002



*Democracy, War Crimes, and the Role of the State*, presented at conference “From a Culture of Impunity to a Culture of Accountability,” convened by the United Nations University, Tokyo and the Netherlands Institute of Human Rights Utrecht University, Nov. 26, 2001

*High Crimes and Misconceptions: The ICC and Non-Party States*, presented at Boalt Hall International Law and Politics Workshop, Berkeley, CA, Feb. 8, 2001

*Being Particular About Universal Jurisdiction*, presented at symposium “Frontiers of Jurisdiction,” University of Chicago Legal Forum, Chicago, IL, Nov. 10, 2000

*Universal Jurisdiction in a Divided World*, presented at conference “Universal Jurisdiction: Myths, Realities, and Prospects,” New England School of Law Center for International Law and Policy, Boston, MA, Nov. 3, 2000

*The United States and the International Criminal Court*, presented at Annual Meetings of the American Bar Association, London, England, July 19, 2000

*Few Reservations About Reservations: United States Participation in Human Rights Treaties*, presented at conference “Global Governance and American Sovereignty,” American Enterprise Institute, Washington, DC, April 4-6, 2000

*High Crimes and Misconceptions: The ICC and Non-Party Nationals*, presented to the Working Group on the United States and the ICC, convened at Duke Law School, Durham, NC, Nov. 19, 1999

*NATO in Kosovo: The Legality of Armed Humanitarian Intervention*,” presented to the Independent International Commission on Kosovo, New York, NY, October 23, 1999

*The ICC and Non-Party Nationals*, presented at conference “The United States and the International Criminal Court: Which Way from Here?,” Duke Center on Law, Ethics, and National Security, Durham, NC, April 8, 1999

*The Jurisdiction of the ICC*, presented at conference “The Permanent International Criminal Court: Will It Make a Difference for Peace and Human Rights?,” Notre Dame Law School, South Bend, IN, March 19, 1999

*Victims, States, and the ICC*, Lectures in International Law Series, Notre Dame School of Law, South Bend, IN, Feb. 11, 1999

*Complementarity and Its Discontents: States, Victims, and the International Criminal Court*, presented at conference “National Security and International Law: The United States and the International Criminal Court,” American Academy of Arts and Sciences, Chicago, IL, Jan. 28, 1999

*Rwandan National Justice: The Current Posture*, presented at “Meeting of Experts on Post-Conflict Justice,” European Parliamentarians for Africa, New York, NY, Nov. 6, 1998

*Modes of Accountability*, presented at conference “Accountability for International Crimes and Serious Violations of Fundamental Human Rights,” International Institute of Higher Studies in Criminal Sciences, Siracusa, Italy, Sept. 17, 1997

*International Crimes*, presented at conference “Eliminating Impunity for International Crimes,” U.S. Holocaust Museum, Washington DC, April 13, 1997

*Justice After Genocide: The Case of Rwanda*, Dickinson Scholar Series, Dickinson School of Law, Carlisle, PA, March 7, 1997

*The Trials of Concurrent Jurisdiction: National and International Prosecution of Crimes Against Humanity*, presented at conference “Justice in Cataclysm: Criminal Tribunals in the Wake of Mass Violence,” jointly convened by Duke Law School and the Office of the Prosecutor, International Criminal Tribunals for the former Yugoslavia and Rwanda, July 19, 1996, Brussels, Belgium

*Approaching Criminal Justice in Rwanda*, presented at conference, “Genocide, Impunity, and Accountability,” convened by the Office of the President of Rwanda, Kigali, Rwanda, Nov. 3, 1995

*Violent Crime in Military Organizations*, presented at Colloquium of the University of Georgia Humanities Center, Athens, GA, April 27, 1994

*Rape and War*, presented at conference “Gender and War,” Rockefeller Foundation, Bellagio, Italy, April 7, 1993

*Rape in War*, presented at Kyoto Feminist Studies Colloquium, Kyoto, Japan, May 14, 1993

*A Component Theory of Entitlements*, University of Georgia Law School Faculty Workshop, Athens, GA, October 14, 1992