

CURTIS A. BRADLEY
William Van Alstyne Professor
Duke University School of Law
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EDUCATION

Harvard Law School, Cambridge, Massachusetts
J.D. 1988, *magna cum laude*

University of Colorado, Boulder, Colorado
B.A. 1985, *summa cum laude* in Political Science

PROFESSIONAL EXPERIENCE

Legal Adviser's Office, U.S. Department of State
Counselor on International Law, January 2004 – December 2004

Covington & Burling, Washington, D.C.
Associate, October 1991 – May 1995

The Hon. Byron R. White, United States Supreme Court
Law Clerk, July 1990 – June 1991

Arnold & Porter, Denver, Colorado
Associate, September 1989 – June 1990

The Hon. David M. Ebel, U.S. Court of Appeals for the Tenth Circuit
Law Clerk, July 1988 – June 1989

TEACHING EXPERIENCE

Duke Law School
Professor, Summer 2005 – Present

Harvard Law School
Bemis Visiting Professor of International Law, January 2008 – May 2008

University of Virginia School of Law
Professor, Summer 2000 – Summer 2005

University of Virginia School of Law
Visiting Professor, Summer 1999 – Spring 2000

University of Colorado School of Law
Associate Professor, Fall 1995 – Spring 1999

AREAS OF EXPERTISE

International Law
U.S. Foreign Relations Law
Separation of Powers
Presidential Power
Comparative Foreign Relations Law
National Security Law
Federal Jurisdiction
International Litigation
Counterterrorism Law

PUBLICATIONS

Books:

INTERNATIONAL LAW IN THE U.S. LEGAL SYSTEM (Oxford University Press) (3d ed. 2020)

OXFORD HANDBOOK OF COMPARATIVE FOREIGN RELATIONS LAW (Oxford University Press, 2019) (editor)
Recipient of the inaugural Robert E. Dalton Award for Outstanding Contribution in the Field of Foreign Relations Law

HISTORY'S CONSTITUTION: HOW GOVERNMENTAL PRACTICES DEFINE THE SEPARATION OF POWERS (work-in-progress to be published by Oxford University Press)

FOREIGN RELATIONS LAW (two volumes) (Edward Elgar Publishing 2019) (editor)

CUSTOM'S FUTURE: INTERNATIONAL LAW IN A CHANGING WORLD (Cambridge University Press 2016) (editor)

FEDERAL COURTS AND THE LAW OF FEDERAL-STATE RELATIONS (Foundation Press) (9th ed. 2018) (with Peter Low and John Jeffries, Jr., both of the University of Virginia School of Law)

FOREIGN RELATIONS LAW: CASES AND MATERIALS (Wolters Kluwer) (7th ed. 2020) (with Jack Goldsmith of Harvard Law School and Ashley Deeks of the University of Virginia School of Law)

PRESIDENTIAL POWER STORIES (Foundation Press 2009) (co-edited with Christopher Schroeder of Duke Law School)

Book Chapters:

The Dynamic and Sometimes Uneasy Relationship Between Foreign Relations Law and International Law, in BRIDGES AND BOUNDARIES: ENCOUNTERS BETWEEN FOREIGN RELATIONS LAW AND INTERNATIONAL LAW (Oxford University Press, forthcoming 2021).

Article II Treaties and Signaling Theory, in THE RESTATEMENT AND BEYOND: THE PAST, PRESENT, AND FUTURE OF U.S. FOREIGN RELATIONS LAW (Oxford University Press, 2020)

What is Foreign Relations Law?, in THE OXFORD HANDBOOK OF COMPARATIVE FOREIGN RELATIONS LAW (Oxford University Press, 2019)

War Powers and the Potential Benefits of Comparativism, in THE OXFORD HANDBOOK OF COMPARATIVE FOREIGN RELATIONS LAW (Oxford University Press, 2019)

The Irrepressible Functionalism in U.S. Foreign Relations Law, in FOREIGN RELATIONS LAW (Edward Elgar Publishing 2019) (two volumes)

Customary International Law Adjudication as Common Law Adjudication, in CUSTOM'S FUTURE: INTERNATIONAL LAW IN A CHANGING WORLD (Cambridge University Press 2016)

Treaty Signature, in OXFORD GUIDE TO TREATIES (Oxford University Press) (Duncan Hollis ed., 2012)

The Story of Ex parte Milligan: Military Trials, Enemy Combatants, and Congressional Authorization, in PRESIDENTIAL POWER STORIES (Foundation Press 2009)

Articles:

Unpacking Third-Party Standing, Volume 131, Yale Law Journal (forthcoming 2021) (with Ernest Young of Duke Law School)

Conflicting Approaches to the U.S. Common Law of Foreign Official Immunity, Volume 115, American Journal of International Law, pp. 1-19 (2021)

The Failed Transparency Regime for Executive Agreements: An Empirical and Normative Analysis, Volume 133, Harvard Law Review, pp. 629-725 (2020) (with Jack Goldsmith, and Oona Hathaway of Yale Law School)

Historical Gloss, Madisonian Liquidation, and the Originalism Debate, Volume 106, Virginia Law Review, pp. 1-72 (2020) (with Neil Siegel of Duke Law School)

Exiting Congressional-Executive Agreements, Volume 67, Duke Law Journal, pp. 1615-45 (2018)

Presidential Control Over International Law, Volume 131, Harvard Law Review, pp. 1201-97 (2018) (with Jack Goldsmith)

Doing Gloss, Volume 84, Chicago Law Review, pp. 59-80 (2017)

Historical Gloss, Constitutional Conventions, and the Judicial Separation of Powers, Volume 105, Georgetown Law Journal, pp. 255-322 (2017) (with Neil Siegel)

Obama's AUMF Legacy, Volume 110, American Journal of International Law, pp. 628-45 (2016) (with Jack Goldsmith)

Presidential War Powers as a Two-Level Dynamic: International Law, Domestic Law, and Practice-Based Legal Change, Volume 91, New York University Law Review, pp. 689-761 (2016) (with Jean Galbraith of the University of Pennsylvania School of Law)

After Recess: Historical Practice, Textual Ambiguity, and Constitutional Adverse Possession, The Supreme Court Review, pp. 1-69 (2015) (with Neil Siegel)

Constructed Constraint and the Constitutional Text, Volume 64, Duke Law Journal, pp. 1213-94 (2015) (with Neil Siegel)

Treaty Termination and Historical Gloss, Volume 92, Texas Law Review, pp. 773-835 (2014)

Presidential Power, Historical Practice, and Legal Constraint, Volume 113, Columbia Law Review, pp. 1097-1161 (2013) (with Trevor Morrison of Columbia Law School)

Historical Gloss and the Separation of Powers, Volume 126, Harvard Law Review, pp. 411-85 (2012) (with Trevor Morrison)

Attorney General Bradford's Opinion and the Alien Tort Statute, Volume 106, American Journal of International Law, pp. 509-30 (2012)

International Law and the U.S. Common Law of Foreign Official Immunity,
The Supreme Court Review, pp. 213-72 (2011) (with Laurence Helfer of Duke
Law School)

*Mandatory Versus Default Rules: How Can Customary International Law Be
Improved?*, Volume 120, Yale Law Journal Online, pp. 421-54 (2011) (with Mitu
Gulati of Duke Law School)

Judicial Oversight, Justice, and Executive Discretion Bounded by Law, Nomos
(2011)

Customary International Law and Withdrawal Rights in an Age of Treaties,
Volume 21, Duke Journal of Comparative and International Law, pp. 1-30 (2010)
(with Mitu Gulati)

State Action and Corporate Human Rights Liability,
Volume 85, Notre Dame Law Review, pp. 1823-38 (2010)

Withdrawing from International Custom,
Volume 120, Yale Law Journal, pp. 202-75 (2010) (with Mitu Gulati)

*The United States and Human Rights Treaties: Race Relations, the Cold War, and
Constitutionalism*,
Volume 9, Chinese Journal of International Law, pp. 321-44 (2010)

Foreign Sovereign Immunity and Domestic Officer Suits,
Volume 13, Green Bag 2d, pp. 137-51 (2010) (with Jack Goldsmith)

Foreign Sovereign Immunity, Individual Officials, and Human Rights Litigation,
Volume 13, Green Bag 2d, pp. 9-23 (2009) (with Jack Goldsmith)

The United States, Israel, and Unlawful Combatants,
Volume 12, Green Bag 2d, pp. 397-411 (2009)

Self-Execution and Treaty Duality,
The Supreme Court Review, pp. 131-82 (2008)

Intent, Presumptions, and Non-Self-Executing Treaties,
Volume 102, American Journal of International Law, pp. 540-51 (2008)

The Concept of International Delegation,
Volume 71, Law & Contemporary Problems, pp. 1-36 (2008) (with Judith Kelley
of Sanford School of Public Policy)

Unratified Treaties, Domestic Politics, and the U.S. Constitution,
Volume 48, Harvard International Law Journal, pp. 307-36 (2007)

The Military Commissions Act, Habeas Corpus, and the Geneva Conventions,
Volume 101, American Journal of International Law, pp. 322-44 (2007)

*Sosa, Customary International Law, and the Continuing
Relevance of Erie*,
Volume 120, Harvard Law Review, pp. 870-936 (2007)
(with Jack Goldsmith and David Moore of BYU Law School)

The Federal Judicial Power and the International Legal Order,
The Supreme Court Review, pp. 59-113 (2006)

Presidential Signing Statements and Executive Power,
Volume 23, Constitutional Commentary, pp. 307-64 (2006)
(with Eric Posner of the University of Chicago Law School)

*The War on Terrorism: International Law, Clear Statement
Requirements, and Constitutional Design*,
Volume 118, Harvard Law Review, pp. 2683-97 (2005) (with Jack Goldsmith)

Congressional Authorization and the War on Terrorism,
Volume 118, Harvard Law Review, pp. 2047-2133 (2005) (with Jack Goldsmith)

Executive Power Essentialism and Foreign Affairs,
Volume 102, Michigan Law Review, pp. 545-648 (2004)
(with Professor Martin Flaherty of Fordham Law School)

International Delegations, the Structural Constitution, and Non-Self-Execution,
Volume 55, Stanford Law Review, pp. 1557-96 (2003)

The Juvenile Death Penalty and International Law,
Volume 52, Duke Law Journal, pp. 485-557 (2003)

The Alien Tort Statute and Article III,
Volume 42, Virginia Journal of International Law, pp. 587-648 (2002)

The Constitutional Validity of Military Commissions,
Volume 5, Green Bag 2d, pp. 249-58 (2002)
(with Jack Goldsmith)

World War II Compensation and Foreign Relations Federalism,
Volume 20, Berkeley Journal of International Law, pp. 282-95 (2002)

The Costs of International Human Rights Litigation,
Volume 2, Chicago Journal of International Law, pp. 457-73 (2001)

Universal Jurisdiction and U.S. Law,
University of Chicago Legal Forum, pp. 323-50 (2001)

The Treaty Power and American Federalism, Part II,
Volume 99, Michigan Law Review, pp. 98-133 (2000)

Treaties, Human Rights, and Conditional Consent,
Volume 149, Pennsylvania Law Review, pp. 399-468 (2000)
(with Jack Goldsmith)

Customary International Law and Private Rights of Action,
Volume 1, Chicago Journal of International Law, pp. 421-29 (2000)

Chevron Deference and Foreign Affairs,
Volume 86, Virginia Law Review, pp. 649-726 (2000)

Pinochet and International Human Rights Litigation,
Volume 97, Michigan Law Review, pp. 2129-84 (1999)
(with Jack Goldsmith)

A New American Foreign Affairs Law?,
Volume 70, University of Colorado Law Review, pp. 1089-1107 (1999)

Breard, Our Dualist Constitution, and the Internationalist Conception,
Volume 51, Stanford Law Review, pp. 523-59 (1999)

*The Status of Customary International Law in U.S. Courts—
Before and After Erie*,
Volume 26, Denver Journal of International Law and Policy, pp. 807-26 (1998)

The Abiding Relevance of Federalism to U.S. Foreign Relations,
Volume 92, American Journal of International Law, pp. 675-79 (1998)
(with Jack Goldsmith)

The Treaty Power and American Federalism,
Volume 97, Michigan Law Review, pp. 390-461 (1998)

Federal Courts and the Incorporation of International Law,
Volume 111, Harvard Law Review, pp. 2260-75 (1998) (with Jack Goldsmith)

*The Charming Betsy Canon and Separation of Powers: Rethinking the
Interpretive Role of International Law*,
Volume 86, Georgetown Law Journal, pp. 479-537 (1998)

The Current Illegitimacy of International Human Rights Litigation,
Volume 66, Fordham Law Review, pp. 319-69 (1997) (with Jack Goldsmith)

Territorial Intellectual Property Rights in an Age of Globalism,
Volume 37, Virginia Journal of International Law, pp. 505-85 (1997)

*Customary International Law as Federal Common Law:
A Critique of the Modern Position,*
Volume 110, Harvard Law Review, pp. 815-76 (1997) (with Jack Goldsmith)

Short Essays and Other Writings:

Introduction to “The International Legal Order and the Global Pandemic” (with Laurence Helfer), Volume 114, American Journal of International Law, pp. 571-77 (2020)

Treaty Exit in the United States: Insights from the United Kingdom or South Africa? (with Laurence Helfer), Volume 111, American Journal of International Law Unbound, pp. 428-33 (2018)

Comparative Foreign Relations Law as a Field of Study, Volume 111, American Journal of International Law Unbound, pp. 344-48 (2017)

The Supreme Court as a Filter Between International Law and American Constitutionalism, Volume 104, California Law Review, pp. 1567-78 (2016)

Historical Gloss, the Recognition Power, and Judicial Review, Volume 109, American Journal of International Law Unbound, pp. 2-9 (2015)

Foreign Relations Law and the Purported Shift Away from “Exceptionalism,” Volume 128, Harvard Law Review Forum, pp. 294-304 (2015)

Federalism, Treaty Implementation, and Political Process: Bond v. United States, Volume 108, American Journal of International Law, pp. 486-96 (2014)

Emergency Power and Two-Tiered Legality, Volume 63, Duke Law Journal Online, pp. 1-14 (2013)

American Society of International Law Insight, *Supreme Court Holds That Alien Tort Statute Does Not Apply to Conduct in Foreign Countries* (April 2013)

Clear Statement Rules and Executive War Powers, Volume 33, Harvard Journal of Law & Public Policy, pp. 139-48 (2009)

*The Bush Administration and International Law:
Too Much Lawyering and Too Little Diplomacy*, Volume 4, Duke Journal of Constitutional Law & Public Policy, pp. 57-75 (2009)

American Society of International Law Insight, *Foreign Officials and Sovereign Immunity in U.S. Courts* (March 2009)

Enforcing the Avena Decision in U.S. Courts,
Volume 30, Harvard Journal of Law & Public Policy, pp. 119-25 (2006)

Case Comment, *Sanchez-Llamas v. Oregon*,
Volume 100, American Journal of International Law, pp. 882-88 (2006)

Military Commissions and Terrorist Enemy Combatants,
Volume 2, Stanford Journal of Civil Rights & Civil Liberties,
pp. 253-57 (2006)

“Parsing the Commander in Chief Power: Three Distinctions,”
in PROCEEDINGS OF THE 100TH ANNUAL MEETING OF THE AMERICAN SOCIETY OF
INTERNATIONAL LAW (2006)

Medellin v. Dretke: A Debate,
43 Colum. J. Transnat’l L. 667 (2005)

Entry on “Missouri v. Holland,”
in FEDERALISM IN AMERICA: AN ENCYCLOPEDIA (Greenwood Press 2005)

“Federalism and the Treaty Power,”
in PROCEEDINGS OF THE 98TH ANNUAL MEETING OF THE AMERICAN SOCIETY OF
INTERNATIONAL LAW (2004)

American Society of International Law Insight, *U.S. Announces Intent Not to
Ratify International Criminal Court Treaty* (May 2002)

The “Pinochet Method” and Political Accountability,
Volume 3, Green Bag, Second Series, pp. 5-10 (Autumn 1999)

Book Reviews:

A Review of Stephen Breyer, The Court and the World,
Volume 109, pp. 130-35, American Journal of International Law (2016)

A Review of Kal Raustiala, Does the Constitution Follow the Flag?,
Volume 104, American Journal of International Law, pp. 146-50 (2010)

Terror and the Law: The Limits of Judicial Reasoning in the Post-9/11 World,
Foreign Affairs (July/August 2008)

*Foreign Affairs and Domestic Reform: A Review of Mary L. Dudziak,
Cold War Civil Rights*, Volume 87, Virginia Law Review, pp. 1475-90 (2001)

A Review of John Rogers, International Law and United States Law,
Volume 93, American Journal of International Law, pp. 756-59 (1999)

International Civil Litigation in United States Courts,
Volume 37, Virginia Journal of International Law, pp. 233-45 (1993)
(with Jack Goldsmith)

WORKS-IN-PROGRESS

Constraining the Statutory President: Why Concerns About Chadha are Overstated

Nonbinding International Agreements: Commitments without Transparency
(with Oona Hathaway and Jack Goldsmith)

ASSOCIATIONS, APPOINTMENTS, AND AWARDS

Co-Editor-in-Chief, American Journal of International Law, 2018-Present

Reporter for the American Law Institute's Restatement (Fourth) of the Foreign Relations Law of the United States, 2012-18

Recipient of Andrew Carnegie Fellowship, 2016-17

Member, Secretary of State's Advisory Committee on International Law,
U.S. Department of State

Faculty Director, Duke-Leiden Institute in Global and Transnational Law,
2017-2019

Elected Member, American Law Institute

Co-Director of Center for International and Comparative Law, Duke Law School,
2006-08, 2010-12, 2014-Present

Senior Associate Dean for Academic Affairs, Duke Law School, 2007-09, 2012-14

Member of Dean's Senior Leadership Team, 2020-21

Recipient of Dean's Award for Enhancement of Intellectual Life, 2012

Recipient of Dean's Award for Institutional Service, 2011

Recipient of Dean's Award for Faculty Collaboration, 2006

District of Columbia and Colorado Bar Associations