Prof. Eugene Kontorovich
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POSITIONS HELD

Northwestern University School of Law, *Professor,* 2011 – *present; Associate Professor,* June 2007-11; *Visiting Professor,* Fall 2006.

Courses taught: Public International Law; Constitutional Law; workshops and colloquia in constitutional & international law topics. *Service*: Clerkship committee (chair); student grievance committee; ad hoc personnel committees.

University of Chicago Law School, *Visiting Professor,* 2005-07.

George Mason University School of Law, *Assistant Professor*, Jan. 2003 – May 2007.

Courses taught: Civil Procedure; Public International Law.

Judge Richard Posner, U.S. Court of Appeals for the 7th Circuit, *Law Clerk,* Aug. 2001 – Aug. 2002.

Wachtell, Lipton, Rosen & Katz, L.L.P., *Summer Associate,* 2000.

The Wall Street Journal, *Assistant Features Editor,* editorial page, April - July 1998.

The New York Post**,** *Editorial Board Member,* March 1997 – Feb. 1998.

Forward, *Contributing Editor,* 1996 – 2000; service in New York, Washington, Israel bureaus

EDUCATION

University of Chicago Law School, J.D. with High Honors, June 2001.

- Awards: Order of the Coif; Bradley Fellowship in Law and Econ., 2000-01; Institute for Humane Studies Fellowship, 2000-2001; Bradley Fellowship in Law & Governance, 1999-2000.
- Member, *University of Chicago Law Review,* vols. 67 & 68.
- Research Assistant, Profs. Richard Posner and William Landes.

University of Chicago, B.A., with General Honors and Special Departmental Honors, Dec. 1996.

AWARDS & FELLOWSHIPS

Paul M. Bator Prize (2012), The Federalist Society (awarded annually to law professor under age of forty for excellence in legal scholarship and teaching, and who has made a significant public impact)

Institute for Advanced Study, *Member,* School of Social Sciences, 2011-12

Lady Davis Visiting Professorship, Hebrew University (2013-14).

University of Southern California Law School, *Fellow in Law & Economics*, Summer 2001.

PUBLICATIONS

Books

ECONOMICS ANALYSIS OF INTERNATIONAL LAW (editor) (with Francesco Parisi) (EDWARD ELGAR 2016)

Academic Articles

Palestine, Uti Possidetis Juris *and the Borders of Israel*, 58 ARIZONA LAW REVIEW __ (forthcoming, 2016) (with Abraham Bell)

International Decisions: In re Arctic Sunrise (Netherlands v. Russia), 110 AMERICAN JOURNAL OF INTERNATIONAL LAW 96 (2016)

Economic Dealings With Occupied Territories, 53 COLUMBIA JOURNAL TRANSNATIONAL LAW 584 (2015)

Resolution 242 Revisited: New Evidence on the Required Scope of Israeli Withdrawal, 16 CHICAGO JOURNAL OF INTERNATIONAL LAW 127 (2015)

Why Judges Always Vote, 43 INTERNATIONAL REVIEW OF LAW AND ECONOMICS 190-99 (2015) (with Tonja Jacobi) [peer reviewed]

When Gravity Fails: Israeli Settlements and Admissibility in the International Criminal Court, 47 ISRAEL LAW REVIEW 379-99 (2014) [peer reviewed]

Three International Courts and Their Constitutional Problems, 99 CORNELL LAW REV. 1353-86 (2014)

Kiobel *Surprise: Unexpected by Scholars but Consistent With International Trends*, 89 NOTRE DAME LAW REVIEW 1671 (2014)

Israel/Palestine – The ICC's Uncharted "Territory," 11 JOURNAL OF INTERNATIONAL CRIMINAL JUSTICE 979-99 (2013) [peer-reviewed]

International Decisions: United States v. Dire, 107 AMERICAN JOURNAL OF INTERNATIONAL LAW 644-49 (2013)

Discretion, Delegation and Defining in the Constitution's Law of Nations Clause, 106 NORTHWESTERN UNIVERSITY LAW REVIEW 1675-51 (2012)

A Tort Statute, With Aliens and Pirates, 107 NORTHWESTERN U. LAW REV. COLLOQUY 100 (2012)

The Piracy Prosecution Paradox Political and Procedural Problems with Enforcing Order on the High Seas, 13.2 GEORGETOWN JOURNAL OF INTERNATIONAL AFFAIRS (2012) [peer-reviewed]

An Economic Analysis of Fact Witness Payment, 3 JOURNAL OF LEGAL ANALYSIS 139-64 (with Ezra Friedman) (2011) [peer-reviewed]

An Empirical Examination of Universal Jurisdiction for Piracy, 104 AMERICAN JOURNAL OF INTERNATIONAL LAW 326 (with Steven Art) (2010) [peer-reviewed]

"A Guantanamo on the Sea": The Difficulty of Dealing With Pirates and Terrorists, 98 CALIFORNIA LAW REVIEW 234 (2010)

- Reviewed: Samuel Isacharoff, *Pirates then and Now*, JOTWELL (Nov. 24, 2010) (identified as one of year's ten best works in constitutional law)

The Constitutionality of International Courts: The Forgotten Precedent of Slave Trade Tribunals, 158 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 39 (2009)

The "Define and Punish" Clause and the Limits of Universal Jurisdiction, 103 NORTHWESTERN UNIVERSITY LAW REVIEW 149 (2009)

- Extensively cited and endorsed by numerous federal court opinions.

International Decisions: United States v. Shi, 103 AMERICAN JOURNAL OF INTERNATIONAL LAW 734-40 (2009)

Beyond the Article I Horizon: Congress's Enumerated Powers and Universal Jurisdiction Over Drug Crimes, 93 MINNESOTA LAW REVIEW 1191 (2009)

- Cited favorably in numerous federal cases.

The Inefficiency of Universal Jurisdiction, 2008 UNIVERSITY OF ILLINOIS LAW REVIEW 389-418 (2008)

Originalism and the Difficulties of History in Foreign Affairs, 53 ST. LOUIS UNIVERSITY LAW JOURNAL 39-52 (2008)

What Standing is Good For, 93 VIRGINIA LAW REVIEW 1663 (2007)

Inefficient Customs in International Law, 48 WILLIAM & MARY LAW REVIEW 859-922 (2006)

Disrespecting the "Opinions of Mankind": International Law in Constitutional Interpretation, 8 GREEN BAG 2D 261 (2005)

The Constitution in Two Dimensions: A Transaction Cost Analysis of Constitutional Remedies, 91 VIRGINIA LAW REVIEW 1135-1198 (2005)

Implementing Sosa v. Alvarez-Machain*: What Piracy Teaches About the Limits of the Alien Tort Statute*, 80 NOTRE DAME LAW REVIEW 111 (2004)

Liability Rules for Constitutional Rights: The Case of Mass Detentions, 56 STANFORD LAW REVIEW 755 (2004)

The Piracy Analogy: Modern Universal Jurisdiction's Hollow Foundation, 45 HARVARD INTERNATIONAL LAW JOURNAL 183 (2004) [translated into Spanish]

The Arab League Boycott and WTO Accession: Can Foreign Policy Excuse Discriminatory Sanctions? 4 CHICAGO JOURNAL OF INTERNATIONAL LAW 283 (2003)

The Mitigation of Emotional Distress Damages, 68 UNIVERSITY OF CHICAGO LAW REVIEW 491 (2001)

Chapters in Books

Pirate "Gaolbalisation": Dividing Responsibility Among Countries, Companies, and Criminals, in DISTRIBUTION OF RESPONSIBILITIES IN INTERNATIONAL LAW, ANDRE NOLLKAEMPER & DOV JACOBS, EDS. pp. 386-403 (Cambridge U. Press 2015)

The Problems of Pirate Punishment, in PROSECUTING MARITIME PIRACY: DOMESTIC SOLUTIONS TO INTERNATIONAL CRIME, MICHAEL SCHARF, ET. AL., EDS. pp. 299-319 (Cambridge U. Press 2015)

Piracy, in NATIONAL SECURITY LAW IN THE NEWS: A GUIDE FOR JOURNALISTS, SCHOLARS AND POLICYMAKERS, Timothy McNulty, et. al., eds. (ABA 2012)

Congressional testimony

Two Recent Examples of Executive Undermining of Congress's Spending and Foreign Commerce Powers, testimony before the U.S. House Judiciary Committee, Task Force on Executive Overreach (May 12, 2016)

Economic Warfare Against Israel: Its Status in United States Law and International Trade Law, testimony for the U.S. House Committee on Oversight, Subcommittee on National Security (July 28, 2015)

The Palestinian ICC Bid and U.S. Interests, testimony for the U.S. House Committee on Foreign Affairs, Subcommittee on the Middle East & North Africa Hearing (Feb. 4, 2015)

Reviews, white papers, etc.

Avi Bell & Eugene Kontorovich, *Challenging the EU's Illegal Restrictions on Israeli Products in the World Trade Organization* , Kohelet Forum Policy Paper # 18 (Oct. 2015)

Can States Fund BDS?: Is banning the use of public money to support companies that boycott Israel unconstitutional and illegal?, TABLET MAGAZINE (July 13, 2015)

When Fasces Aren't Fascist: The Strange History of America's Federal Buildings, CITY JOURNAL 114-119 (Spring 2014)

EU's Grant Guidelines: A Legal and Policy Analysis, Kohelet Policy Forum Research Paper (with Avi Bell) (Oct. 2013)

Review of economic and philological books on piracy, 41 JOURNAL OF INTERDISCIPLINARY HISTORY 624-27 (2011)

Equipment Articles: An International Evidence Rule for Piracy, in GLOBAL CHALLENGE, REGIONAL RESPONSES: FORGING A COMMON APPROACH TO MARITIME PIRACY (2010)

Equipment Articles for the Prosecution of Maritime Piracy, discussion paper for the One Earth Future Foundation (May 2010) [cited by Seychelles Supreme Court]

Introductory Note, *Exchange of Letters Between European Union and Kenya to Prosecute Pirates*, 48 INTERNATIONAL LEGAL MATERIALS 747-750 (2009)
International Legal Responses to Piracy off the Coast of Somalia, ASIL INSIGHTS, vol. 13, no. 2 (Feb. 6, 2009)

International Responses to Territorial Conquest, 102 AMERICAN SOCIETY OF INTERNATIONAL LAW PROCEEDINGS 437-40 (2009)

Prosecute worldwide pirates, NATIONAL LAW JOURNAL 17 (May 11, 2009)

War Powers, POLICY REVIEW 77 (April 2006) (review of JOHN YOO, THE POWERS OF WAR AND PEACE)

A to Zzz, LEGAL AFFAIRS pp. 18-19 (July/August 2003) (with David Lisitza) (critical essay on the lost charms of *Black's Law Dictionary*)

WORKS-IN-PROGRESS

Settlements Elsewhere: Transferees to Occupied Territory in International Law

EU's "Differentiation" Policy and Discrimination In International Trade Law (with Avi Bell)

The Cost of Conquest: An Empirical Examination of International Reaction to the Acquisition of Territory by Force

The Median Voter Theorem and the Creation of Social Cohesion in Ancient Athens [in draft]

OCCASSIONAL ESSAYS & OP-EDS (SELECTED LIST)

Boycotting Israel Isn't Free Speech, NEW YORK DAILY NEWS (June 11, 2016)

Those Israel Boycotts Are Illegal: In many cases, educational associations that shun Israel may be sued for violating their charters, THE WALL STREET JOURNAL (with Steve Davidoff Solomon) (Dec. 2, 2015)

Europe Mislabels Israel, NEW YORK TIMES A35 (Nov. 13, 2015)

A Tale of Two Green Lines, CHRONICLE OF HIGHER EDUCATION (Nov. 17, 2014).

Sweden's Unprincipled Stance on Recognition, JERUSALEM POST (Oct. 12, 2014) [also appeared in Swedish version, in DAGEN]

A Court's Collapse: The International Criminal Court gives up on its prosecution of Kenyan president Uhuru Kenyatta, NATIONAL REVIEW ONLINE (Sept. 15, 2014)

Crimea, International Law, and the West Bank, COMMENTARY 25-29 (June 2014)

The Other Crimeas: Seizing territory isn't out of date, it's just conveniently ignored, LOS ANGELES TIMES A13 (March 24, 2014)

Legal 'standing': Obama's executive branch escape hatch, LOS ANGELES TIMES A24 (March 2, 2014)

Putin's Occupation Olympics, REUTERS NEWS SERVICE (Feb. 5, 2014)

The Case Against Early Voting, POLITICO MAGAZINE (with John McGinnis) (Jan. 29, 2014)

New EU/Morocco fisheries deal and its implications for Israel, JERUSALEM POST 16 (Dec. 10, 2013)

The Obamacare 'Fix' Is Illegal, POLITICO MAGAZINE (Nov. 22, 2013)

The EU is right about Western Sahara — which means it is wrong about Israel, GLOBAL POST (Nov. 21, 2013)

Africa's Undermining of the International Criminal Court, GEORGETOWN JOURNAL OF INTERNATIONAL AFFAIRS ONLINE (Oct. 29, 2013)

How the EU Directly Funds Settlements in Occupied Territory, JERUSALEM POST 13 (Sept. 29, 2013)

A Supreme Rebuke to Global Forum-Shopping, THE WALL STREET JOURNAL A21 (April 23, 2013)

UN vote: From 'occupation' to border dispute, JERUSALEM POST (Dec. 10, 2012)

*Precedents, Pirates, and the Presumption Against Extraterritoriality (*Symposium on Kiobel v. Shell), SCOTUSBLOG (July 10, 2012)

Prisoner trades and the case for Gitmo, LAWFARE: HARD NATIONAL SECURITY CHOICES (May 23, 2012)

*Does the new anti-boycott law harm free speech**?***, JERUSALEM POST 15 (April 12, 2011)

Is Gaza Still Occupied?, JERUSALEM POST (with Paula Kweskin) (July 17, 2011)

The New Arab Tactic against Israel, NATIONAL REVIEW ONLINE (May 18, 2011)

'Impending diplomatic tsunami' is greatly exaggerated, JERUSALEM POST (April 12, 2011)

A Shining Target on a Hill That Nobody Tries to Hit, WALL STREET JOURNAL W9 (April 15, 2010) [discussing compatibility of National Cathedral with First Amendment's Establishment Clause]

Why the Piracy Police Isn't Working, OPINIO JURIS (Feb. 10, 2009)

A Second Look at Kosovo, NEW YORK SUN (March 19, 2008)

Bitter Irony, NEW YORK SUN (Feb. 13, 2008)

A Man of His Word, review of THE GREAT SPEECHES OF ABBA EBAN, WORLD JEWISH DIGEST (Oct. 2007)

Naked Aggression: Sheba Farms and the Law, NEW YORK SUN 9 (Aug. 27, 2006).

The Law of the Latke, GREEN BAG 2d 205-207 (2006)

Religious Radicals, WALL STREET JOURNAL W13 (July 22, 2005).

Reform strategy for Saudi Arabia, WASHINGTON TIMES B3 (August 1, 2004).

Severe and prolonged harm: Defining torture in international and U.S. law, WASHINGTON TIMES A21 (June 25, 2004).

Is this a good time to ask for Pollard's release, JERUSALEM POST B11 (Aug. 1, 2003).

Riyadh's WTO Outrage, NEW YORK POST 31 (December 26, 2002)

The ICC – Open and Shut, JERUSALEM POST B8 (May 10, 2002).

A Dubious Warning, NEW YORK POST 27 (January 3, 2002).

ADDITIONAL ACTIVITES

- Contributor, WASHINGTON POST: *Volokh Conspiracy* blog
- Head of International Law Department, Kohelet Policy Forum (Jerusalem, Israel)
- Editorial Board, Maritime Safety and Security Law Journal
- Referee for peer reviews: Yale University Press; Oxford University Press (3); Cambridge University Press; *Journal of Leg. Studies; Journal of Law, Econ., & Org.; Rev. of Law and Econ.; Sup. Ct. Econ. Rev.; Int'l Rev. Law & Econ.;* Am. Law & Econ. Assoc. Ann'l Mtg,; *J. of Int'l Criminal Justice, Leiden J. of Int'l Law; Melbourne Journal of Int'l Law; Journal of Nat'l Security Law & Policy; Oxford Bibliographies Online; Journal of Int'l Law & Int'l Relations; Maritime Safety & Sec. L. J.; Israel Law Review;* also for *Harvard L. Rev.* and *Stanford Law Rev.*
- Frequent commentator in popular media, such as *New York Times, Wall Street Journal, Los Angeles Times, Slate,* NPR News and other programs, ABC News, NBC News, Fox News, Associated Press, Reuters, *New Yorker, Slate, ABA Journal,* etc.
- Member of Jewish National Fund, Federalist Society, Hamilton Society & other speakers bureaus
- Visiting Professor: Tel Aviv University Faculty of Law, Nov. – Dec. 2004; Bar Ilan University Faculty of Law, June 2012.
- Conference Organizer (with Samuel Estreicher), *International Law and the Israeli-Arab Dispute*, Northwestern University School of Law, May 17, 2010
- Academic Review Committee, Human Studies Fellowship (2011) (grant referee)
- Visiting Scholar, Princeton University Program in Law and Public Affairs, 2011-12

LITIGATION, TESIMONY and ADVISORY ROLES

- Congressional Testimony: U.S. House of Representatives, Foreign Affairs Committee: Middle East and North Africa Subcommittee (Feb. 4, 2015); House Committee on Oversight, Subcommittee on National Security (July 28, 2015); House Judiciary Committee Task Force on Executive Overreach (May 12, 2016)
- *Zivotosfky v. Kerry*, Supreme Court Amicus Curiae Brief for Louis Brandeis Center for Human Rights Under the Law and Professors of Constitutional and Foreign Relations Law (2014) (with Alan Gura)
- External Consultant, U.S. Department of Defense (2013)

- Consultant for defense attorneys in criminal cases raising constitutional and international law issues in United States Supreme Court and other federal courts (2004); wrote merits sections of briefs for respondent in *Illinois v. Caballes*, 543 U.S. 405 (2005)

SELECTED ACADEMIC PRESENTATIONS

The Peace Palace (The Hague), University of Leiden Grotius Center for International Legal Studies conference on "Jus Post Bellum") (Sept. 29, 2016)

Syracuse University, Institute for National Security and Counterterrorism, Carol Becker Speaker Series (March 2016)

Cleveland-Marshall College of Law, Faculty Workshop (Jan. 2016)

American Society for International Law Research Forum* (Oct. 2015)

American Law & Economics Association Annual Meeting*: (2014; 2010; 2007; 2006)

Tel Aviv University Faculty of Law: Faculty Workshop (May 2015)

Bar Ilan University, Dept. of Political Science (Sept. 2014 & May 2015)

Interdisciplinary Center (Herzilya), Lauder School of Government, Diplomacy, and Strategy: Graduate Seminar (May 2015)

San Diego State University, Jewish Studies Program (April 2015)

Hebrew University Faculty of Law: Public Law and International Law Workshops (May/June 2014; June 2015)

Haifa University Law: Faculty Workshop (May 2014)

Ramat Gan College of Law: Faculty Workshop (May 2014)

DePaul University College of Law: Conference on *People of the Book: Judaism and Constitutional Law* (April 2104)

2014 AALS Annual Meeting: Symposium on Extraterritoriality, Conflict of Laws Interest Group Panel

University of Amsterdam (SHARES Project): The Distribution of Responsibilities in International Law Seminar (May 2013)

Loyola University Law School: International Law Colloquium (Feb. 2013)

Conference on Empirical Legal Studies, Stanford University*, Nov. 9, 2012

DePaul University College of Law Center for Jewish Law & Judaic Studies (Dec. 2012)

Assoc. for the Study of the Middle East and Africa, 5th Annual Conference, Wash., D.C., Oct. 12, 2012

Princeton University, Program in Law and Public Affairs, March 12, 2012

Institute for Advanced Study, School of Social Science Seminar, Jan. 26, 2012

Stanford Law School, "International Bodies and Sovereignty" panel, Conference on the Constitution and the World Conference, Oct. 28th 2011

Harvard Law School, National Security Law Conference, Sept. 16-17th, 2011

Special Address at SMi's 2nd Annual Maritime Domain Awareness Conf., London, UK, June 20-21, 2011

Israeli Defense Forces Military Advocate General, Dept' of Int'l Law, June 16, 2011

University of Chicago Conference on Global Law, May 6, 2011

European Society of International Law, 4th Annual Research Symposium, Tallin, Estonia, May 2011*; 2nd Biennial Meeting, Paris, May 2006*

Yale Journal of International Law Conference: Non-State Actors and International Law, Feb. 2011

University of San Diego Faculty Workshop, Dec. 1, 2010

University of Texas Law School Faculty Workshop, Oct. 14, 2010

Yale University, Law, Economics, and Organization Workshop, March 11, 2010

University of California, Berkeley, Law of the Sea Institute/California Law Review Seminar on Piracy, April 22, 2010

Israel Law and Economics Association Annual Meeting, Haifa 2010

Midwestern Law and Economics Association Annual Meeting: 2008; 2007; 2005

Midwest Political Science Association Annual Meeting 2013, 010;, 2004

Searle Center, Northwestern University, Public Policy Roundtable: The Alien Tort Statute and U.S. Enforcement of Foreign Judgments, April 29, 2010

American Association of Law Schools Annual Meeting, Jan. 2010 [paper one of four selected in refereed call for papers on national security and international law]*

American Society of International Law, Annual Workshop on International Law in Domestic Courts*: Dec. 2009 - UC Hasting; Dec. 2007 – Texas/Austin [one of five papers selected out of dozens for presentation]

Harvard University, Kennedy School of Government, Expert Panel on Maritime Piracy, Dec. 2009†

American Society of International Law, Seminar on Maritime Piracy [internet broadcast], Dec. 1, 2009†

Georgetown Law School Foreign Relations Colloquium, Oct. 2009

American Society for International Law--Academic Council on the United Nations System, Expert Panel on Suppressing Maritime Piracy, October 2009†

Harvard University Law School Foreign Relations Workshop, Oct. 2009

National Security Junior Scholars Workshop, University of Texas, March 10, 2009*

American Society of International Law Annual Meeting*, 2008 - paper was selected in competition for young scholars; 2005 [paper was one of four selected from 55 submissions]

International Law and Economics Conference, Max Planck Institute for Research on Collective Goods (Bonn, Germany – Dec. 16, 2006)

University of Illinois Faculty Workshop, Oct.11, 2010; 2004

Southeastern Association of Law Schools Annual Meeting: Young Scholars Workshop,* 2004; 2006: paper distinguished as one of four selected in a conference-wide Call for Papers

** = paper selected in competitive call-for papers*
† = panelist, no paper presented

Student groups: I have spoken at the invitation of student groups at colleges and law schools and colleges Harvard, Yale, Brown University Columbia University, NYU, University of Michigan, Johns Hopkins, University of Chicago, University of Pennsylvania, Duke, UNC, Georgetown, Berkeley (Boalt Hall), Boston University, Washington University, Vanderbilt University, University of Kansas, University of Missouri, University of Miami, University of Florida, Case Western Reserve, Tulane, and many others.