

JENNY S. MARTINEZ
STANFORD LAW SCHOOL
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CURRENT POSITION

STANFORD LAW SCHOOL
Richard E. Lang Professor of Law and
Dean

April 2019-present

<i>Professor Law & Warren Christopher Professor in the Practice of International Law & Diplomacy</i>	<i>2011-2019</i>
<i>Associate Dean for Curriculum</i>	<i>2013-2016</i>
<i>Professor of Law</i>	<i>2009</i>
<i>Associate Professor of Law</i>	<i>2006</i>
<i>Assistant Professor of Law</i>	<i>2003</i>

Teach courses including constitutional law, international law, international human rights, global business, and civil procedure. Areas of research include national security and comparative constitutional law, international courts and tribunals, international human rights, international humanitarian law, and international criminal law. Senior Fellow (by courtesy) Stanford Freeman Spogli Institute for International Studies and faculty affiliate of Stanford Center on Democracy, Development and the Rule of Law and Stanford Center on International Security and Cooperation.

EDUCATION

Harvard Law School, J.D. 1997

Honors: *magna cum laude*; Sears Prize; *Harvard Law Review*, Managing Editor

Yale University, B.A. 1993

Honors: *cum laude*; distinction in the History major

PUBLICATIONS:

Articles, Essays, Book Chapters, etc.

The Constitutional Allocation of Executive and Legislative Power over Foreign Relations: A Survey, in OXFORD HANDBOOK OF COMPARATIVE FOREIGN RELATIONS LAW (forthcoming 2019).

“Like the Pirate and The Slave Trader Before Him”: Precedent and Analogy in Contemporary Law and Literature (co-authored with Lisa Surwillo), 35 LAW & HISTORY 81 (2017).

Who’s Afraid of International and Foreign Law?, 104 CAL. L. REV. 1579 (2016)

The New Territorialism & the Old Territorialism, 99 CORNELL L. REV. 1387 (2014).

Human Rights & History, 126 HARV. L. REV. F. 221 (2013).

The Anti-Slavery Movement and the Rise of Non-government Organizations, in Oxford Handbook of International Human Rights Law (Oxford 2013)

Horizontal Structuring, in OXFORD HANDBOOK OF COMPARATIVE CONSTITUTIONAL LAW (Oxford 2012)

International Courts and the U.S. Constitution: Re-examining the History, 159 U. PENN. L. REV. 1069 (2011)

The Extraterritorial Constitution and the Rule of Law, 27 CONSTITUTIONAL COMMENTARY 527 (2011)

International Criminal Law at the Crossroads: The Impact of Judge Patricia Wald (Tribute), INT’L CRIM. L. REV. (2011).

Patricia McGowan Wald, in Yale Biographical Dictionary of American Law (Yale 2009)

Process and Substance in the “War on Terror”, 108 COLUM. L. REV. 1013 (2008).

Antislavery Courts and the Dawn of International Human Rights Law, 117 YALE L.J. 550 (2008).

Understanding Mens Rea in Command Responsibility from Yamashita to Blaskic and Beyond, 5 J. INT’L CRIM. JUSTICE 638 (2007).

Slave Trade on Trial: Lessons of A Great Human Rights Law Success, BOSTON REVIEW (Sept./Oct. 2007)

The Law of Torture, in TORTURE, HUMAN RIGHTS AND TERRORISM, Working Paper 17, Center for Latin American Studies, University of California at Berkeley (2007)

The Military Commissions Act and “Torture Lite”: Something for a Great Nation To Be Proud of?, 48 HARV. INT’L L.J. ONLINE 58 (2007)

Inherent Executive Power: A Comparative Perspective, 115 YALE L.J. 2480 (2006)

Guilty Associations: Joint Criminal Enterprise, Command Responsibility, and the Development of International Criminal Law (co-authored with Prof. Allison Danner), 93 CAL L. REV. 75 (2005).

Enforcing the Decisions of International Tribunals in the U.S. Legal System, 45 SANTA CLARA L. REV. 877 (2005).

Book Review: The International Criminal Tribunal for the Former Yugoslavia: An Exercise in Law, Politics and Diplomacy, by Rachel Kerr (Oxford 2004), and *Justice in the Balkans: Prosecuting War Crimes in the Hague Tribunal*, by John Hagan (U. Chi. Press 2003), 99 AM. J. INT'L L. 523 (2005).

International Decisions: Hamdi v. Rumsfeld, 98 AM. J. INT'L L. 782 (2004).

Jose Padilla and the War on Rights, VIRGINIA QUARTERLY REVIEW (2004)

Towards an International Judicial System, 56 STAN. L. REV. 429 (2003).

Patricia Wald & Jenny Martinez, *Provisional Release at the ICTY*, in ESSAYS ON ICTY PROCEDURE AND EVIDENCE 231 (R. May, ed. 2001)

Books

THE SLAVE TRADE AND THE ORIGINS OF INTERNATIONAL HUMAN RIGHTS LAW (Oxford Univ. Press 2012)

Newspaper Editorials and Letters to the Editor:

There are Two Ways to Look at Sovereignty, New York Times, Room for Debate: A Running Commentary on the News, The Opinion Pages (Dec. 6, 2012)

Acknowledge that Treaties are Laws, New York Times, Room for Debate: A Running Commentary on the News, The Opinion Pages (July 8, 2012)

The Mess Left Behind, New York Times, Room for Debate: A Running Commentary on the News, The Opinion Pages (March 31, 2009)

Flexibility with Truth Commissions, New York Times, Room for Debate: A Running Commentary on the News, The Opinion Pages (March 2, 2009)

Questions of Justice, New York Times (October 17, 2007) (with Jack Goldsmith, Charles Fried, and Jack Balkin)

The Real Verdict on Jose Padilla, Washington Post (August 17, 2007)

Curbing the Misuse of the Enemy Combatant Provision, Washington Post (July 6, 2007)

Liberties and Limits in the War on Terrorism, Washington Post (Jan. 6, 2004)

Commanders Can Be Held Liable for Actions of Subordinates; Prison Abuse, Miami Herald (Aug. 31, 2004) (co-authored with Allison Marston Danner)

Troubles at the Tribunal, Washington Post (July 3, 2001)

Works in Progress

Corporations and the Law of Nations (book project in progress)

Human Trafficking and Rights Consciousness in Nepal (field research in progress, utilizing research grant from Stanford Freeman Spogli Institute for International Studies)

SELECTION OF RECENT INVITED PRESENTATIONS:

Business and Human Rights, Paris Dauphine University (September 2017)

Origins and Evolution of the Principle of Universal Jurisdiction, Universidad Autonoma de Madrid (March 2017)

International Human Rights, Criminal Law and Modern Forms of Slavery, Stanford – EHESS Workshop on Coercion, and Rights in Africa and the Indian Ocean World in the 19th and 20th Centuries (Paris, October 2015)

New Territorialism and Old Territorialism: Corporations and Accountability, panel on “The New Territorialism,” American Association of Law Schools Annual Meeting, published as symposium in the *Cornell Law Review* (January 2014)

Litigating the Alien Tort Statute After Kiobel, Shaking the Foundations Conference (October 2014)

Corporations, International Law and the Public/Private Distinction, Yale Legal Theory Workshop (April 2013)

The Slave Trade and the Origins of International Human Rights Law, U.C. Davis Law School (February 2010)

Legal and Policy Issues Related to Detention and Trial of Suspected Terrorists, Stanford Center on International Security and Cooperation (November 2010).

International Law at the Crossroads: The Impact of Judge Patricia Wald (Tribute), Conference on Women and International Criminal Law, American Society of International Law (October 2010)

International Human Rights and Humanitarian Laws: Their Application in National Jurisprudence, The Aspen Institute Justice and Society Program (program for federal judges) (June 2010)

International Courts and the U.S. Constitution: Re-examining the History, Stanford Global Justice Workshop (April 2010)

International Courts and the U.S. Constitution: Re-examining the History, UCLA Human Rights Workshop (March 2010)

International Humanitarian Law Issues, U.S. State Department Advisory Committee on International Law (December 2009)

Antislavery Courts and the Dawn of International Human Rights Law, Conference on the Law of Nations in the Early Modern Atlantic World, Newberry Library, Chicago (April 2009)

International Law and the War on Terror: A Retrospective, American Society of International Law Annual Meeting (March 2009)

Antislavery Courts and the Dawn of International Human Rights Law, The Harold E. and Margaret H. Rorschach Lecture in Legal History, Rice University (March 2009)

Public Opinion and Presidential Foreign Affairs Powers, U.C. Berkeley Law School International Law Workshop (October 2008)

Antislavery Courts and the Dawn of International Human Rights Law, International Studies Association Annual Meeting (April 2008)

Substance and Process in the War on Terror, U.S. Davis Law School Legal Theory Workshop (January 2008)

Public Opinion and the Commander-in-Chief, Harvard Law School conference on the Commander-in-Chief Power (November 2007).

Executive Power in Comparative Perspective, Boston University Law School Conference on the President in the 21st Century (October 2007)

Antislavery Courts and the Dawn of International Human Rights Law, Columbia Legal History Workshop (October 2007)

Antislavery Courts and the History of International Adjudication, Fordham Law School Conference on International Law and the Constitution (October 2007)

Antislavery Courts and the Dawn of International Human Rights Law, accepted for presentation at “*The bloody Writing is for ever torn*” – *Domestic and International Consequences of the First Governmental Efforts to Abolish the Atlantic Slave Trade*, sponsored by Omohundro Institute of Early American History and Culture (August 2007)

Antislavery Courts and the Dawn of International Human Rights Law, Yale Law School, Law and Globalization Workshop (April 2007)

Torture, Human Rights and Terrorism, U.C. Berkeley Center for Latin American Studies (March 2007)

Trying Enemy Combatants, International Law Weekend West (January 2007)

Writing Appellate Briefs, Panel Discussion, Ninth Circuit Judicial Conference Appellate Practice Workshop (October 2006)

The Relationship Between Jus in Bello and Jus ad Bellum, American Society of International Law 100th Annual Meeting (panel chair) (March 2006)

Inherent Executive Powers: A Comparative Perspective, Yale Law Journal Symposium on Executive Power (March 2006)

Antislavery Courts and the Dawn of International Human Rights, Stanford University Global Justice Workshop (December 2005)

Joint Criminal Enterprise & Command Responsibility, Judicial Training for Judges of the Special Court for Sierra Leone, The Hague (via teleconference) (October 2005)

From Guantanamo to San Francisco, World Affairs Council, San Francisco (June 2005)

From Korematsu to Padilla, U.S. District Court for the Northern District of California Historical Society, San Francisco (June 2005)

Democracies Fighting Terrorism: Terrorism and Human Rights, Club de Madrid and Security and Peace Institute Symposium, New York (May 2005)

Terrorism and Human Rights, Yale Alumni Gala, San Francisco (April 2005)

Emergency Powers, Pepperdine Law School faculty workshop (April 2005)

International Law & the Supreme Court's 2003 Term, American Society of International Law Annual Meeting (March 2005)

Balancing Human Rights and National Security in the War on Terror, Stanford Center on Conflict and Negotiation Workshop (February 2005)

Balancing Human Rights and National Security in the War on Terror, California Western Law School Speaker Series on Human Rights in the New Age of Terror (February 2005)

Recent Developments in International Criminal Law: Military Commissions for Suspected Terrorists, International Law West Conference (February 2005)

International Institutions & Domestic Legal Systems: Rwanda and the Former Yugoslavia, International Law West Conference (February 2005)

International Courts & U.S. Law, Santa Clara Law School Symposium (January 2005)

International Law and the War Power, University of Chicago, American Constitution Society Conference (November 2004)

Joint Criminal Enterprise, Command Responsibility, and the Development of International Criminal Law, University of California at Berkeley, Boalt Hall School of Law, International Law Workshop (October 2004)

Supreme Court 2003 Term, American Constitution Society Panel, Washington, D.C. (July 2004)

Enemy Combatant Status: A Legal Black Hole? Sonoma County, California ACLU Keynote Address (March 2004)

Detention of Suspected Terrorists: Balancing Human Rights and Security, University of Virginia, J.B. Moore International Law Society Conference, Charlottesville, Virginia (March 2004)

Detention of Suspected Terrorists: Balancing Human Rights and Security in Global Perspective, Einstein Forum, Potsdam, Germany (March 2004)

MEDIA AND PRESS INTERVIEWS

Numerous television, radio, and print interviews including ABC World News, CNN, Newshour with Jim Lehrer, NPR, Washington Post, New York Times, San Francisco Chronicle, and others.

REPRESENTATIVE LITIGATION EXPERIENCE

Jesner v. Arab Bank, 138 S.Ct. 1386 (2018)

Co-counsel for petitioners in case concerning liability of corporations under the Alien Tort Statute (with Stanford Supreme Court Litigation Clinic).

Bond v. United States, U.S. Supreme Court, 572 U.S. __ (2014)

Counsel of record for *amici curiae* Legal Historians, concerning the scope of the Treaty Clause.

Mohamad v. Palestinian Authority, U.S. Supreme Court 132 S.Ct. 1702 (2012)

Co-counsel for petitioners in case concerning scope of Torture Victim Protection Act (with Stanford Supreme Court Litigation Clinic).

Boumediene v. Bush, U.S. Supreme Court (Docket Nos. 06-1195, 06-1196, 2007)

Counsel of record for *amicus curiae* the National Institute of Military Justice, addressing the applicability of the laws of war to the Guantanamo detainees

Rumsfeld v. Padilla, 124 S.Ct. 2711 (2004); *Padilla v. Rumsfeld*, 352 F.3d 695 (2nd Cir. 2003)

Lead counsel; argued in U.S. Supreme Court on behalf of Jose Padilla in case involving power of President to detain American citizens without trial as enemy combatants.

Padilla v. Rumsfeld (U.S. District Court, 2007)

Counsel in suit for damages for torture while in government custody, brought by alleged enemy combatant.

Al Marri v. Hanft, 487 F.3d 160 (4th Cir. 2007)

Counsel of record for *amicus curiae* brief for experts on the laws of war in cases concerning “enemy combatant” detained in the United States.

Hwang Geum Joo v. Japan, 332 F.3d 679 (D.C. Cir. 2003); 413 F.3d 45 (D.C. Cir. 2005)

Presented oral argument (on two occasions) in D.C. Circuit on behalf of *amici curiae* human rights organizations in support of “comfort women” sexually enslaved by Japan during World War II, in appeal concerning scope of Foreign Sovereign Immunities Act and political question doctrine in Alien Tort Claims Act suit.

Hamdan v. Rumsfeld, 415 F.3d 33 (D.C. Cir. 2005)

Counsel of record for *amicus curiae* brief in military commissions case on scope of the crime of conspiracy in international criminal law.

Medellin v. Dretke, 125 S.Ct. 2088 (2005)

Co-counsel for *amicus curiae* brief for human rights organizations and bar associations in case concerning U.S. compliance with decisions of the International Court of Justice.

PREVIOUS EMPLOYMENT

Yale University

Senior Research Fellow & Visiting Lecturer

Conducted independent research on international law. Taught lecture course on international human rights law and seminar on terrorism and civil liberties.

New Haven, CT

February 2002-June 2003

Jenner & Block, LLC

Washington, D.C.

Litigation Associate

November 2000-June 2003

Participated in trial and appellate litigation. Substantive areas of practice included constitutional law, international law, and antitrust. Argued *pro bono* international human rights appeal in the D.C. Circuit, wrote briefs, took depositions, managed discovery.

U.N. International Criminal Tribunal for the Former Yugoslavia

Associate Legal Officer, Chambers of Judge Wald

The Hague
November 1999-October 2000

Legal research and writing. Assisted judges during daily trial sessions of defendants charged with genocide, crimes against humanity, and war crimes arising out of Bosnia.

U.S. Supreme Court

Law Clerk, Chambers of Justice Stephen Breyer

Legal research and writing.

Washington, D.C.

July 1998-July 1999

U.S. Court of Appeals for the Second Circuit

Law Clerk, Chambers of Judge Guido Calabresi

Legal research and writing.

New Haven, CT

July 1997-July 1998

U.S. Department of Justice, Office of the Solicitor General

Intern

Drafted briefs and memoranda for cases in which the government was involved before the U.S. Supreme Court and courts of appeals.

Washington, D.C.

May 1997-June 1997

BAR MEMBERSHIPS, PROFESSIONAL & COMMUNITY ACTIVITIES

Admitted to the Bar, California (active), Virginia (currently inactive) and Washington, D.C. (active)

Member, American Academy of Arts and Sciences (2020–present)

Member, American Law Institute (2015–present)

Member, U.S. State Department Advisory Committee on International Law (2009–2021)

Advisory Board, Open Society Justice Initiative (2008–2016)

Member, American Society of International Law (2003–present); Member, Planning Committee for ASIL Centennial Conference (2006)

Term Member, Council on Foreign Relations (2005–2010)

Volunteer Consulting Attorney, Human Rights First (formerly Lawyer’s Committee for Human Rights) (2003–05)

Consultant, International Center for Transitional Justice (2003–05)

VISITING PROFESSORSHIPS

Paris Dauphine University (September 2017)
Oxford University-GW Summer Program on International Human Rights (Summer 2009, 2014)
Peking University School of Transnational Law, Shenzhen (Summer 2013)

LAW SCHOOL & UNIVERSITY SERVICE

Chair, Law School Working Group on Diversity and Inclusion (Spring 2018)
Associate Dean for Curriculum (2013-2016)
Member, Provost Search Committee (2016)
Chair, Faculty Appointments Committee (2011-12); Member, Faculty Appointments Committee (2009-13)
Chair, Judicial Clerkship Committee (2005-2008); Member, Judicial Clerkship Committee (2003-2009)
Member, Legal Research and Writing Committee (2003-04; 2005-08)
Member, Public Interest Committee (2004-05)
Public Interest Programs Mentor (2004-present)