

June 2018

**DAVID LUBAN**

**University Professor;  
Professor of Law and Philosophy  
Georgetown University Law Center**

**Class of 1984 Distinguished Chair in Ethics  
Stockdale Center for Ethical Leadership  
United States Naval Academy**

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**Professional Experience**

Georgetown University Law Center:

University Professor and Professor of Law and Philosophy, beginning 2006  
Frederick Haas Professor of Law and Philosophy, 1997-2006  
Academic Director, Center for Transnational Legal Studies (London), 2012-13  
Acting Director, Center on National Security and the Law, 2009-2011

Stockdale Center for Ethical Leadership, United States Naval Academy: Class of 1984  
Distinguished Chair in Ethics, 2013-15; 2016-present

University of Maryland School of Law:

Morton and Sophia Macht Professor of Legal Ethics, 1993-97  
R. F. Stanton Professor of Law, 1989-93  
Professor of Law, beginning 1988  
Associate Professor of Law, 1986-88  
Visiting Associate Professor of Law, 1985-86  
Lecturer in Law, 1979-85  
Research Scholar, Institute for Philosophy and Public Policy, 1979-1997  
Adjunct Professor of Philosophy, 1990-1997

Kent State University:

Assistant Professor of Philosophy, 1975-79.  
Faculty Associate to the Center for Peaceful Change, 1975-79.

Yale University:

Lecturer in Philosophy, 1974-75.

## **Visiting Positions**

Harvard Law School: Covington & Burling Distinguished Visitor and Lecturer in Law, fall semester 2015

Interdisciplinary Center, Herzliya, Israel: Visiting Professor of Law, May 2014 (taught short course on torture)

Center for Transnational Legal Studies (London): Academic co-director, 2012-13

Fordham Law School: Bacon-Kilkenny Distinguished Visiting Professor, spring semester 2012

Institute for Advanced Studies, Hebrew University: Fellow, spring/summer 2011

Stanford Law School: Leah Kaplan Visiting Professor of Human Rights, 2005-06

Woodrow Wilson International Center for Scholars, Washington, D.C.: Fellow, 1996-97

Yale Law School: Visiting Professor of Law and W. M. Keck Foundation Distinguished Senior Fellow in Legal Ethics and Professional Culture, 1994-95.

University of Melbourne: Visiting Research Fellow (taught in philosophy department), spring semester 1992.

Harvard Law School: Visiting Professor of Law, winter term, 1989.

Dartmouth College: Visiting Associate Professor of Philosophy, 1984-85.

Max Planck Institute for Foreign and International Private Law (Hamburg): Visiting Scholar, fall 1982 (DAAD fellowship to study German legal ethics).

Max Planck Institute for European Legal History (Frankfurt): Visiting Scholar, fall 1982 (DAAD fellowship to study German legal ethics).

## **Academic Honors**

Member, American Academy of Arts and Sciences

2015 American Publishers Association Award for Professional and Scholarly Excellence (the PROSE Award) in philosophy

Keck Foundation Award and Lectureship for distinguished scholarship on legal ethics and professional responsibility, American Bar Foundation Fellows, 1998.

Phi Beta Kappa lecturer, 1993-95.

Sanford D. Levy Prize, awarded by the New York State Bar Association for best paper on legal ethics and professionalism, 1992 (shared prize).

Guggenheim Fellow, 1989-90.

University of Maryland Eminent Scholar, 1989-97.

## **Teaching Award**

Frank Flegal Teaching Award (Georgetown Law's annual teaching award), 2005.

## Education

Ph.D.: December 1974, Yale University, Philosophy. Danforth Fellow; Woodrow Wilson Fellow.

M.Phil.: December 1973, Yale University, Philosophy

M.A.: December 1973, Yale University, Philosophy

B.A.: June 1970, University of Chicago, Ideas and Methods, with concentration in mathematics. Honors at graduation; Phi Beta Kappa.

## Publications

### BOOKS

TORTURE, POWER, AND LAW (Cambridge University Press, 2014).

Winner of the 2015 American Publishers Association Award for Professional and Scholarly Excellence (the PROSE Award) in philosophy.

UNA TEORÍA DE LOS CRÍMENES CONTRA LA HUMANIDAD, Spanish translation by Ezequiel Malarino and Marisa Vázquez of *A Theory of Crimes Against Humanity* (Bogota: Editorial Temis S.A., 2011).

INTERNATIONAL AND TRANSNATIONAL CRIMINAL LAW (casebook, co-authored with Julie R. O'Sullivan and David P. Stewart)(Aspen Publishing, 2010).

- Second edition 2014

- Third edition, with additional co-author Neha Jain, in production, to appear 2018.

LEGAL ETHICS AND HUMAN DIGNITY (Cambridge University Press, 2007).

LEGAL ETHICS: LAW STORIES (co-edited with Deborah L. Rhode)(Foundation Press, 2005). Chinese translation in preparation.

HORITSUKA RONRI TO YOKI HANTANROKU (GOOD JUDGMENT IN LEGAL ETHICS) (Chuo University Press, Series of The Institute of Comparative Law in Japan 46, Tokyo, 2002). Japanese translation by Hiroshi Sumiyoshi of seven papers, with a new preface in English and Japanese.

Editor, THE ETHICS OF LAWYERS, International Library of Essays in Law & Legal Theory (Dartmouth Publishing [UK]/NYU Press [US], 1994).

LEGAL MODERNISM (University of Michigan Press, 1994; paperback 1997).

- FA LU XIAN DAI ZHU YI, Chinese translation by Yigong Su, with a new preface, Chinese University of Political Sciences and Law (2005).

LEGAL ETHICS (casebook)(co-authored)(Foundation Press, 1992).

(with Deborah L. Rhode): second edition, 1995, third edition, 2001, fourth edition, 2004, fifth edition, 2008;  
 (with Rhode and Scott L. Cummings): sixth edition, 2012;  
 (with Rhode, Cummings, and Nora Freeman Engstrom): seventh edition, 2016.

LAWYERS AND JUSTICE: AN ETHICAL STUDY (Princeton University Press, 1988).

Editor, THE GOOD LAWYER: LAWYERS' ROLES AND LAWYERS' ETHICS (Rowman & Allanheld, 1983).

## PAPERS, BOOK-CHAPTERS, ETC.

### A. Journal articles, book chapters, reviews

#### Since 2010

[1] *Fairness to Rightness: Jurisdiction, Legality, and the Legitimacy of International Criminal Law*, in Samantha Besson and John Tasioulas, eds., THE PHILOSOPHY OF INTERNATIONAL LAW (Oxford University Press, 2010), pp. 569-88.

[1a] *The Legitimacy of International Criminal Law*, a revision and Chinese translation of [1] in Furio Cerutti and Zhu Liqun, eds., GLOBAL GOVERNANCE: CHALLENGES AND TRENDS (QUANQIU WENTI YU QUANQIU ZHILI) (Social Sciences Academic Press (She Ke Wen Xian Chu Ban She), 2014), pp. 62-82.

[1b] *La legitimidad del derecho penal internacional*, Spanish translation of [1a] by Manuel Ayarra and Tatiana Podliszewski, REVISTA LATINOAMERICANA DE DERECHO INTERNACIONAL (April 2015), <http://www.revistaladi.com.ar/numero2-luban/>.

[2] *The Rule of Law and Human Dignity: Re-examining Fuller's Canons*, THE HAGUE JOURNAL OF THE RULE OF LAW, vol. 2, no. 1 (2010), pp. 29-47.

[2a] Reprinted in Chinese translation by Liqing Zhang, ESSAYS ON THEORIES OF RULE OF LAW IN CONTEMPORARY WEST, Chinese University of Political Science and Law Press (2015), pp. 313-36.

[3] *Tales of Terror: Lessons for Lawyers from the 'War on Terrorism'*, in Kieran Tranter et al., eds., REAFFIRMING LEGAL ETHICS: TAKING STOCK AND NEW IDEAS (Routledge, 2010), pp. 56-72.

[3a] Revised and reprinted in TORTURE, POWER, AND LAW.

[4] *How Should a Lawyer Be? A Reply to Woolley and Wendel*, GEORGETOWN JOURNAL OF LEGAL ETHICS, vol. 23 (2010), pp. 1101-1117.

[5] *The Conscience of a Prosecutor*, VALPARAISO LAW REVIEW, vol. 45 (2010), pp. 1-31.

[5a] Excerpted in Julie R. O'Sullivan, FEDERAL WHITE COLLAR CRIME: CASES AND MATERIALS, 5<sup>th</sup> ed. (West Publishing 2012).

[6] *Opting out of the Law of War: Comments on Withdrawing from International Custom*, 120 YALE LAW JOURNAL ONLINE (2010), pp. 151-67, <http://yalelawjournal.org/2010/12/8/luban.html>.

[7] *Carl Schmitt and the Critique of Lawfare*, CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW, vol. 43, symposium on lawfare (2010), pp. 457-71.

[7a] *Carl Schmitt e a Crítica ao Lawfare*, Portuguese translation by Marina Fernandes, in PARADIGMA (2017), at <http://www9.unaerp.br/revistas/index.php/paradigma/article/view/909/pdf>.

[8] *Review of Daniel Markovits, A MODERN LEGAL ETHICS: ADVERSARY ADVOCACY IN A DEMOCRATIC AGE*, ETHICS, vol. 120, no. 4 (2010), pp. 864-69.

[9] *Cheating in Baseball* (with Daniel Luban), in Leonard Cassuto and Stephen Partridge, eds., THE CAMBRIDGE COMPANION TO BASEBALL (Cambridge University Press, 2011), pp. 185-96. The volume won the 2012 "Best Anthology" award from the North American Society of Sports Historians.

[10] *State Criminality and the Ambition of International Criminal Law*, in Tracy Isaacs and Richard Vernon, eds., ACCOUNTABILITY FOR COLLECTIVE WRONGDOING (Cambridge University Press, 2011), pp. 61-91.

[11] *Fred Zacharias's Skeptical Moralism*, SAN DIEGO LAW REVIEW, vol. 48 (2011), pp. 303-19.

[12] *Hannah Arendt as a Theorist of International Criminal Law*, INTERNATIONAL CRIMINAL LAW REVIEW, vol. 11, symposium on women and international criminal law (2011), pp. 621-41.

[12a] Currently being translated into Chinese by Bin Li, for publication in the CHINA REVIEW OF INTERNATIONAL CRIMINAL LAW.

[12b] To be reprinted in Marco Goldoni & Christopher McCorkindale, eds., ARENDT AND LAW (Ashgate, forthcoming).

[13] *War as Punishment*, PHILOSOPHY & PUBLIC AFFAIRS, vol. 39, no. 4 (2011), pp. 299-330.

[14] *Mental Torture: A Critique of Erasures in U.S. Law* (with Henry Shue), GEORGETOWN LAW JOURNAL, vol. 100 (2012), pp. 823-63.

[14a] Reprinted in TORTURE, POWER, AND LAW.

- [15] *Misplaced Fidelity*, review essay of W. Bradley Wendel, *LAWYERS AND FIDELITY TO LAW*, *TEXAS LAW REVIEW*, vol. 90, no. 3 (2012), pp. 673-690.
- [16] *The Moral Complexity of Cause Lawyering Within the State*, *FORDHAM L. REV.*, vol. 81, no. 2 (2012), pp. 705-14.
- [17] “*That the Laws Be Faithfully Executed*”: *The Perils of the Government Legal Advisor*, *OHIO NORTHERN LAW REVIEW*, vol. 38 (2012), pp. 1-13.
- [18] *Military Necessity and the Cultures of Military Law*, *LEIDEN JOURNAL OF INTERNATIONAL LAW*, vol. 26 (2013), pp. 315-49.
- [19] *After the Honeymoon: Reflections on the Current State of International Criminal Justice*, *JOURNAL OF INTERNATIONAL CRIMINAL JUSTICE*, vol. 11 (2013), pp. 505-515.
- [20] *¿Existe el derecho humano a un abogado? (Is There a Human Right to a Lawyer?)* in Cristina García Pascual, ed., Joan Gutiérrez Fernández, trans., *EL BUEN JURISTA. DEONTOLOGÍA DEL DERECHO [The Good Lawyer. Ethics of Law]* (Valencia: Editorial Tirant Lo Blanc, 2013), pp. 217-32.
- [20a] *Is There a Human Right to a Lawyer?* (revised English language version of [20]), *LEGAL ETHICS*, vol. 17, no. 3 (2014), pp. 371-81.
- [21] *Just Cause of War*, *INTERNATIONAL ENCYCLOPEDIA OF ETHICS* (2013).
- [22] *Risk Taking and Force Protection*, in Yitzhak Benbaji & Naomi Sussmann, eds., *READING WALZER* (Routledge, 2014), pp. 277-301.
- [22a] German translation *Übernahme von Risiken und Schutz für die Truppe*, in Bernhard Koch, ed., *DEN GEGNER SCHÜTZEN? ZU EINER KONTROVERSE IN DER ETHIK DES BEWAFFNETEN KONFLIKTS* (“Beiträge zur Friedensethik” series, Nomos Verlag Baden-Baden, 2014), pp. 75-124.
- [23] *Treatment of Prisoners and Torture*, *CAMBRIDGE COMPANION TO HUMAN DIGNITY*, Roger Brownsword, ed. (2014), pp. 446-53.
- [24] Co-Editor, special issue on law and language of *KING’S COLLEGE LAW JOURNAL* (2014), including *Introduction: Law After Babel* (with Naomi Mezey), vol. 25, pp. 223-30.
- [25] *Human Rights Pragmatism and Human Dignity*, *PHILOSOPHICAL FOUNDATIONS OF HUMAN RIGHTS*, Massimo Renzo, Rowan Cruft, & Matthew Liao, eds. (Oxford University Press, 2015), pp. 263-78.

- [26] *Unsatisfying Wars: Degrees of Risk and the Jus ex Bello* (with Gabriella Blum), *ETHICS*, vol. 125 (April 2015), pp. 751-780.
- [27] *Arendt on the Crime of Crimes*, *RATIO JURIS*, vol. 28, no. 3 (2015), pp. 307-25.
- [28] *Time-Mindedness and Jurisprudence*, *VIRGINIA LAW REVIEW*, vol. 101, no. 4 (2015), pp. 903-17.
- [29] *A Communicative Conception of Torture*, (excerpted and revised from chapter 5 of *Torture, Power, and Law*), *RIVISTA DI FILOSOFIA DEL DIRITTO/JOURNAL OF LEGAL PHILOSOPHY*, vol. 4, no. 2 (2015), pp. 257-70.
- [29a] Another extract appears as *Pain and Powerlessness: Understanding the Evil of Torture*, *AUSTRALIAN BROADCASTING COMPANY: RELIGION & ETHICS*, June 1, 2018, <http://www.abc.net.au/religion/articles/2018/06/01/4851496.htm>.
- [30] *Has Obama Upheld the Law?*, review of CHARLIE SAVAGE, *POWER WARS*, *NEW YORK REVIEW OF BOOKS*, vol. 63, no. 7 (April 21, 2016), pp. 20-23.
- [31] *Optimism, Skepticism, and Access to Justice*, *TEXAS A & M LAW REVIEW*, vol. 3, no. 3, pp. 495-513 (2016).
- [32] *Say What You Will?*, review of TIMOTHY GARTON ASH, *FREE SPEECH: TEN PRINCIPLES FOR A CONNECTED WORLD*, *NEW YORK REVIEW OF BOOKS*, vol. 63, no. 14 (Sept. 29, 2016), pp. 36-40.
- [33] *Human Rights Thinking and the Laws of War*, *THEORETICAL BOUNDARIES OF ARMED CONFLICTS AND HUMAN RIGHTS*, Jens Ohlin, ed. (Cambridge University Press, 2016), pp. 45-77.
- [34] *Knowing When Not to Fight*, in *THE OXFORD HANDBOOK OF THE ETHICS OF WAR*, Helen Frowe & Seth Lazar, eds. (Oxford University Press, 2018), pp. 185-203. Also online on the Oxford Handbooks Online website, [www.oxfordhandbooks.com](http://www.oxfordhandbooks.com).
- [35] *Is Thin Justice Justice?*, review of Steven Ratner, *THE THIN JUSTICE OF INTERNATIONAL LAW*, on-line symposium on James G. Stewart international law weblog, at [jamesgstewart.com](http://jamesgstewart.com) (2016), <http://jamesgstewart.com/is-thin-justice-justice/>.
- [36] *Demystifying Political Violence: Some Bequests of ICTY and ICTR*, *AJIL UNBOUND*, vol. 110 (2016), pp. 251-57, [https://www.asil.org/blogs/symposium-international-criminal-tribunals-former-yugoslavia-and-rwanda-broadening-debate#\\_ftnref48](https://www.asil.org/blogs/symposium-international-criminal-tribunals-former-yugoslavia-and-rwanda-broadening-debate#_ftnref48). Part of “Symposium on the International Criminal Tribunals for the Former Yugoslavia and Rwanda: Broadening the Debate.”
- [37] *Philosophical Legal Ethics: An Affectionate History* (with W. Bradley Wendel), *GEORGETOWN JOURNAL OF LEGAL ETHICS*, vol. 30, no. 3 (2017): 337-64.

[38] *Joseph K. in Washington*, review of ERWIN CHERMERINSKY, *CLOSING THE COURTHOUSE DOORS*, NEW YORK REVIEW OF BOOKS, vol. 65, no. 5 (March 22, 2018), on line at <http://www.nybooks.com/articles/2018/03/22/josef-k-in-washington/>.

[39] *Just War Theory and the Laws of War as Non-Identical Twins*, ETHICS & INTERNATIONAL AFFAIRS, vol. 31, no. 4 (2017), pp. 443-40.

[40] *Group Rights, Group Intentions, and the Value of Groups*, JOURNAL OF GENOCIDE RESEARCH, vol. 20 (2018), available online at <https://www.tandfonline.com/doi/full/10.1080/14623528.2018.1445422>.

[41] *Humanitarianism as a Weapons System*, TEMPLE JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW, vol. 32, no. 1(2018), pp. 47-51.

[42] *Self-Representation, Access to Justice, and the Quality of Counsel*, JERUSALEM REVIEW OF LEGAL STUDIES (2018), available online at <https://academic.oup.com/jrls/advance-article/doi/10.1093/jrls/jlx030/5032542?guestAccessKey=1645903d-1137-48b7-bed0-223c297bf051>.

[43] *The Enemy of All Humanity*, OXFORD HANDBOOK OF INTERNATIONAL CRIMINAL LAW (forthcoming).

[43a] Concurrently forthcoming in NETHERLANDS JOURNAL OF LEGAL PHILOSOPHY.

[44] *Nationalism, Human Rights, and the Prospects for Peace: An Essay on Sovereign Responsibilities*, ARCHIV FÜR RECHTS- UND SOZIALPHILOSOPHIE, Beiheft series, ed. Jose Brito, Gülriz Uygur, Mortimer Sellers (forthcoming).

[44a] Ukrainian translation, PHILOSOPHY OF LAW AND GENERAL THEORY OF LAW (Ukrainian Language) (forthcoming).

[44b] draft available in the Global Trust working paper series as Global Trust Working Paper 02/2018, <http://globaltrust.tau.ac.il/publications>

[45] *What Is Philosophical Legal Ethics, and Why Should Lawyers Care?*, JORNADAS DE ÉTICA PROFESIONAL DEL ABOGADO (2016-18), forthcoming in Spanish translation.

### **Before 2010**

[1] *The Form of the Good in the Republic*, JOURNAL OF VALUE INQUIRY, vol. 12, no. 3, pp. 161-68 (1978).

[2] *A Dilemma in Spinoza's Theory of Knowledge*, PROCEEDINGS OF THE OHIO PHILOSOPHICAL



ASSOCIATION, pp. 20-37 (1979).

[3] *On Habermas on Arendt on Power*, PHILOSOPHY AND SOCIAL CRITICISM, vol. 6, no. 1, pp. 80-95 (1979).

[4] *Professional Ethics: A New Code for Lawyers?* THE HASTINGS CENTER REPORT, vol. 10, no. 3, pp. 11-15 (1980).

[5] *Just War and Human Rights*, PHILOSOPHY & PUBLIC AFFAIRS, vol. 9, no. 2, pp. 160-81 (1980).

[5a] Revised and republished in INTERNATIONAL ETHICS: A PHILOSOPHY & PUBLIC AFFAIRS READER, edited by Charles Beitz, Marshall Cohen, Thomas Scanlon, and A. John Simmons (Princeton University Press, 1985).

[5b] Reprinted in JUSTICE, edited by Thomas Morawetz (Dartmouth Publishing Co., International Library of Essays in Law and Legal Theory, 1992).

[5c] Excerpted in THE HUMAN RIGHTS READER: MAJOR POLITICAL ESSAYS, SPEECHES, AND DOCUMENTS FROM THE BIBLE TO THE PRESENT, edited by Micheline R. Ishay (Routledge, 1997), pp. 68-77.

[5d] Reprinted in Thomas Pogge and Keith Horton, eds., GLOBAL ETHICS: SEMINAL ESSAYS (Paragon House, 2008).

[5e] Excerpted in Larry May, Eric Rovie, and Steve Viner, eds., THE MORALITY OF WAR: CLASSICAL AND CONTEMPORARY READINGS (Pearson Prentice-Hall, 2005), pp. 272-80.

[5f] Reprinted in Anthony Coady and Igor Primoratz, eds., MILITARY ETHICS (Ashgate, 2008), pp. 33-54.

[6] *The Romance of the Nation-State*, PHILOSOPHY & PUBLIC AFFAIRS, vol. 9, no. 4, pp. 392-97 (1980).

[6a] Reprinted in INTERNATIONAL ETHICS: A PHILOSOPHY & PUBLIC AFFAIRS READER, edited by Charles Beitz, Marshall Cohen, Thomas Scanlon, and A. John Simmons (Princeton University Press, 1985).

[6b] Reprinted in Larry May, Eric Rovie, and Steven Viner, eds., THE MORALITY OF WAR: CLASSICAL AND CONTEMPORARY READINGS (Pearson Prentice-Hall, 2005), pp. 344-47.

[7] *Calming the Hearse Horse: A Philosophical Research Program for Legal Ethics*, MARYLAND LAW REVIEW, vol. 40, no. 3, pp. 451-76 (1981).

[8] *Why We Mistrust Lawyers*, QQ, vol. 1, no. 3 (Summer 1981).

- [8a] Reprinted in Claudia Mills, ed., *VALUES IN PUBLIC POLICY* (Harcourt Brace Jovanovich, 1992), pp. 127-31.
- [9] *Paternalism and the Legal Profession*, *WISCONSIN LAW REVIEW*, vol. 1981, no. 3, pp. 454-93 (1981).
- [9a] Spanish translation in *ARGENTINE JOURNAL OF LEGAL THEORY* (Universidad Torcuato Di Tella, Buenos Aires)(forthcoming).
- [10] *ETHICS AND THE LEGAL PROFESSION: A MODEL COURSE*, Center for Philosophy and Public Policy booklet (1982), 29 pp.
- [11] *The Twice-Told Tale of Mr. Fixit: Reflections on the Brandeis/Frankfurter Connection* (review essay of BRUCE ALLEN MURPHY, *THE BRANDEIS/FRANKFURTER CONNECTION*), *YALE LAW JOURNAL*, vol. 91, no. 8, pp. 1678-1707 (1982).
- [12] *Explaining Dark Times: Hannah Arendt's Theory of Theory*, *SOCIAL RESEARCH*, vol. 50, no. 1, pp. 215-48 (1983).
- [12a] Revised and reprinted in Lewis Hinchman and Sandra Hinchman, *HANNAH ARENDT: CRITICAL ESSAYS* (SUNY Press, 1994).
- [12b] Revised and reprinted in Luban, *LEGAL MODERNISM*.
- [13] *The Adversary System Excuse*, in *THE GOOD LAWYER: LAWYERS' ROLES AND LAWYERS' ETHICS* (Rowman & Allanheld), pp. 83-122 (1983).
- [13a] Reprinted in slightly abridged form in *READINGS IN THE PHILOSOPHY OF LAW*, edited by John Arthur and William H. Shaw (Prentice-Hall, 1983).
- [13b] Reprinted in Luban, *THE ETHICS OF LAWYERS* (Dartmouth, 1994).
- [13c] Excerpted in Richard L. Abel, *LAWYERS: A CRITICAL READER* (New Press, 1997), pp. 3-12.
- [13d] Japanese translation by Hiroshi Sumiyoshi, *COMPARATIVE LAW REVIEW*, vol. 33, no. 1 pp. 93-142 (1999)(part 1); vol. 33, no. 2, pp.183-210 (1999)(part 2).
- [13e] Substantially revised and updated in Luban, *LEGAL ETHICS AND HUMAN DIGNITY*.
- [13f] Excerpted in *PROFESSIONS IN ETHICAL FOCUS: AN ANTHOLOGY*, Fritz Allhoff & Anand J. Vaidya (Broadview Press, 2008)

[14] *Epistemology and Moral Education*, JOURNAL OF LEGAL EDUCATION, vol. 33, no. 4, pp. 636-61 (1983).

[15] *Group Portrait With Lawyers*, SOCIAL RESPONSIBILITY, vol. 9, pp. 20-36 (1983).

[16] *The Legal Profession Protects Itself*, THE HASTINGS CENTER REPORT, vol. 14, no. 1, pp. 20-21 (1984).

[17] *The Sources of Legal Ethics: A German-American Comparison of Lawyers' Professional Duties*, RABELS ZEITSCHRIFT FÜR AUSLÄNDISCHES UND INTERNATIONALES PRIVATRECHT, vol. 48, no. 2, pp. 245-88 (1984).

[18] *Against Autarky*, JOURNAL OF LEGAL EDUCATION, vol. 34, no. 2, pp. 176-89 (1984).

[19] *Mandatory Pro Bono: A Workable (and Moral) Plan*, MICHIGAN BAR JOURNAL, vol. 64, no. 3 (1985); a version appeared in QQ: REPORT FROM THE CENTER FOR PHILOSOPHY AND PUBLIC POLICY, vol. 5, no. 1.

[19a] Excerpted in Robert F. Cochran, Jr. & Teresa S. Collett, CASES & MATERIALS ON THE RULES OF THE LEGAL PROFESSION (West Publishing, 1996), pp. 279-82.

[20] *Bargaining and Compromise: Recent Work on Negotiation and Informal Justice*, PHILOSOPHY & PUBLIC AFFAIRS, vol. 14, no. 4, pp. 397-416 (1985).

[21] *Political Legitimacy and the Right to Legal Services*, BUSINESS AND PROFESSIONAL ETHICS, vol. 4, nos. 3-4, pp. 43-68 (1985).

[22] *Fish v. Fish, or, Some Realism About Idealism*, CARDOZO LAW REVIEW, vol. 7, no. 3, pp. 693-711 (1986).

[23] *The Paradox of Deterrence Revived*, PHILOSOPHICAL STUDIES, vol. 50, no. 2. (1986), pp. 129-41 (1986).

[24] *Legal Modernism*, MICHIGAN LAW REVIEW, vol. 86, no. 8, pp. 1656-95 (1986).

[24a] Revised and reprinted in Luban, LEGAL MODERNISM.

[25] *The Legacy of Nuremberg*, QQ, vol. 6, no. 1 (Winter 1986). This is an abridged version of [32].

[25a] Reprinted in Claudia Mills, ed., VALUES IN PUBLIC POLICY (Harcourt Brace Jovanovich, 1992), pp. 322-27.

[26] *Judging Judges*, QQ, vol. 6, no. 2 (Spring 1986).

- [26a] Reprinted in COURT REVIEW, vol. 23, no. 4
- [26b] An abridgment appeared as an op-ed in the TAMPA TRIBUNE-TIMES: *Judging the Judges* (August 24, 1986).
- [27] *Should Legal Services Rise Again?* QQ, vol. 6, no. 4 (Fall 1986).
- [27a] Reprinted in Claudia Mills, ed., VALUES IN PUBLIC POLICY (Harcourt Brace Jovanovich, 1992), pp. 158-63.
- [28] *The Lysistratian Prerogative: A Response to Stephen Pepper*, AMERICAN BAR FOUNDATION RESEARCH JOURNAL, vol. 1986, no. 4, pp. 637-49 (1986).
- [28a] Excerpted in Andrew Kaufman, PROBLEMS IN PROFESSIONAL RESPONSIBILITY, 3rd ed. (Little-Brown, 1989), pp. 265-73.
- [29] *A Fierce Blindness* (review essay of Kenneth Mann, DEFENDING WHITE-COLLAR CRIME), CRIMINAL JUSTICE ETHICS, vol. 5, no. 1, pp. 69-78 (1986).
- [30] *Some Greek Trials: Order and Justice in Homer, Hesiod, Aeschylus, and Plato*, TENNESSEE LAW REVIEW, vol. 54, no. 2, pp. 279-325 (1987).
- [30a] Revised and reprinted in Luban, LEGAL MODERNISM
- [30b] Excerpted in Anthony D'Amato and Arthur J. Jacobson, eds., JUSTICE AND THE LEGAL SYSTEM: A COURSEBOOK (Anderson Publishing, 1992).
- [31] *Law: The Decline of the Public Service Ideal*, THE HASTINGS CENTER REPORT, vol. 17, no. 1, special supplement, pp. 11-12 (1987).
- [32] *The Legacies of Nuremberg*, SOCIAL RESEARCH, vol. 54 no. 4, pp. 779-829 (1987).
- [32a] Revised and reprinted in Luban, LEGAL MODERNISM.
- [32b] Reprinted in THE INTERNATIONAL LIBRARY OF ESSAYS IN LAW & LEGAL THEORY, WAR CRIMES LAW, Vol. 2 (Ashgate Publishing Group, 2006).
- [32c] Reprinted in Guénaël Mettraux, ed., PERSPECTIVES ON THE NUREMBERG TRIAL (Oxford University Press, 2008).
- [33] *Action and Reaction in International Law*, PROCEEDINGS OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW, 1987, pp. 420-426 (1987).

[34] *Judicial Activism vs. Judicial Restraint: A Closer Look at the Bork Nomination*, QQ, vol. 7, no. 4 (Fall 1987).

[34a] Reprinted in Claudia Mills, ed., *VALUES IN PUBLIC POLICY* (Harcourt Brace Jovanovich, 1992), pp. 164-70.

[35] *The Noblesse Oblige Tradition in the Practice of Law*, VANDERBILT LAW REVIEW, vol. 41, no. 4, pp. 717-40 (1988).

[36] *Should Lawyers Advertise?* QQ, vol. 8, no. 3 (Summer 1988).

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- [6] *Review of William Dunham, THE MATHEMATICAL UNIVERSE*, THE WILSON QUARTERLY, vol. 21, no. 3, pp. 105-06 (1997).
- [7] *Review of Stuart Hampshire, JUSTICE IS CONFLICT*, ETHICS, vol. 112, no. 1 (2001), pp. 156-57.
- [8] *Review of Aleksandar Jokic, WAR CRIMES AND COLLECTIVE WRONGDOING*, PHILOSOPHICAL REVIEW, vol. 111, no. 4 (2002), pp. 620-24.
- [9] *Review of Dana Villa, ed., THE CAMBRIDGE COMPANION TO HANNAH ARENDT*, ETHICS, vol. 113, no. 3 (2003), pp. 724-30.
- [10] *Review of Luc Reydam, UNIVERSAL JURISDICTION: INTERNATIONAL AND MUNICIPAL LEGAL PERSPECTIVES*, INTERNATIONAL AND COMPARATIVE LAW QUARTERLY, vol. 54, no. 3 (2005), pp. 804-06.
- [11] *Review of Jon Elster, CLOSING THE BOOKS: TRANSITIONAL JUSTICE IN HISTORICAL PERSPECTIVE*, ETHICS, vol. 116, no. 2 (2006), pp. 409-12.

### **C. Journalism, etc.**

- [1] *Brünnhilde, Meet Ollie*, (op-ed), WASHINGTON POST, Outlook section, June 4, 1989, p. B5.
- [2] *Errata* (with John M. Brumbaugh, Mike Kelly, and M. Sigmund Shapiro), MARYLAND LAW REVIEW, vol. 50, no. 4, pp. 1350-54 (1991)(humor).
- [3] *Selling Indulgences*, SLATE, Feb. 14, 2005, <http://www.slate.com/id/2113447/>.
- [3a] Reprinted in Elliot Cohen & Michael Davis, eds., with Frederick A. Elliston, ETHICS AND THE LEGAL PROFESSION, 2<sup>nd</sup> ed. (Prometheus Books, 2008).
- [4] *Improper Advances: Talking Dream Jobs With the Judge Out of Court* (with Stephen Gillers and Steven Lubet), SLATE, Aug. 17, 2005, <http://slate.msn.com/id/2124603/>.
- [5] *Roberts' bad decision* (op-ed) (with Stephen Gillers and Steven Lubet), LOS ANGELES TIMES, Sept. 13, 2005.

[6] *Letter to Senator Arlen Specter, Chairman, U.S. Senate Judiciary Committee* (with Stephen Gillers and Steven Lubet), reprinted in *ENGAGE: THE JOURNAL OF THE FEDERALIST SOCIETY'S PRACTICE GROUPS*, vol. 6, no. 2 (October 2005), pp. 134-37.

[7] *Torture, American-Style* (op-ed), *WASHINGTON POST*, Outlook section, Nov. 27, 2005.

[8] *At war with the law in Iraq* (op-ed), *LOS ANGELES TIMES*, June 13, 2006.

- also in *OAKLAND TRIBUNE*, June 14, 2006.

- reprinted as *In killing of Zarqawi, war triumphs over law*, *SAN JOSE MERCURY*, June 18, 2006.

[9] *Forget Nuremberg*, *SLATE*, Sept. 26, 2006, <http://www.slate.com/id/2150396>.

[10] *Timid Justice*, *SLATE*, Feb. 28, 2007, <http://www.slate.com/id/2160835/>.

[11] *The OLC Memos, Federalist Society On-line Debate Series*, April 24, 2009, <http://www.fed-soc.org/debates/dbtid.27/default.asp>. Nine contributions.

[12] *David Margolis Was Wrong*, *SLATE*, Feb. 22, 2010, <http://www.slate.com/id/2245531/>.

[13] *What Would Augustine Do? The President, Drones, and Just War Theory*, *BOSTON REVIEW*, June 6, 2012, [http://www.bostonreview.net/BR37.3/david\\_luban\\_obama\\_drones\\_just\\_war\\_theory.php](http://www.bostonreview.net/BR37.3/david_luban_obama_drones_just_war_theory.php).

[14] *Submitting to the Law of Nations: Palestine, Israel, and the International Criminal Court*, *BOSTON REVIEW*, December 12, 2012, [http://www.bostonreview.net/BR37.6/david\\_luban\\_palestine\\_israel\\_international\\_criminal\\_court.php](http://www.bostonreview.net/BR37.6/david_luban_palestine_israel_international_criminal_court.php)

[15] *Syrian Torture: What the U.S. Must Do*, *NYRDAILY (NEW YORK REVIEW OF BOOKS)*, February 3, 2014, [www.nybooks/daily/2014/02/03/syrian-torture-what-us-must-do/](http://www.nybooks/daily/2014/02/03/syrian-torture-what-us-must-do/)

[16] *The Case Against Serving in the Trump Administration*, *SLATE*, Nov. 15, 2016, [http://www.slate.com/articles/news\\_and\\_politics/politics/2016/11/career\\_civil\\_servants\\_should\\_not\\_serve\\_in\\_the\\_trump\\_administration.html](http://www.slate.com/articles/news_and_politics/politics/2016/11/career_civil_servants_should_not_serve_in_the_trump_administration.html). Originally in *JUST SECURITY, The Case Against Serving*, Nov. 14, 2016, <https://www.justsecurity.org/34404/case-serving-trump/>.

#### **D. Congressional testimony**

House Judiciary Committee (Subcommittee on the Constitution, Rights, and Civil Liberties)(May 6, 2008) on the role of government lawyers in the torture debate.

Senate Judiciary Committee (Subcommittee on Administrative Oversight and the Courts)(May 13, 2009), “What Went Wrong: Torture and the Office of Legal Counsel in the Bush Administration.”

#### **E. Editor's Commentaries in NATIONAL REPORTER ON LEGAL ETHICS AND PROFESSIONAL RESPONSIBILITY (1986-88)**

- [1] “*Nix v. Whiteside*.”
- [2] “Confidentiality: The States and the Model Rules.”
- [3] “Legal Ethics and Nonlawyers in the Firm.”
- [4] “Rule 11: Is It a Cure for Motion Sickness?”
- [5] “Attorney Fee-Forfeiture Under RICO and CCE: The Fourth Circuit Speaks.”
- [6] “A Professional Tragedy.”
- [7] “Client Perjury.”
- [8] “Ethical Problems in ADR.”
- [9] “*Piper’s* Progeny.”
- [10] “Professional Responsibility of Judges I: Judicial Activism/Judicial Restraint.”
- [11] “Ethics and Malpractice.”
- [12] “Professional Responsibility of Judges II: Adjudication as a Public Good.”
- [13] “*Gideon’s* Conscript Army.”
- [14] “Attorney Fee-Forfeiture Revisited: Constitutional in the Second and Fourth Circuits.”
- [15] “In Praise of Barratry.”
- [16] “Two Cheers for Champerty and Maintenance.”
- [17] “*Wheat v. United States*.”
- [18] “Ethics in Negotiation I: Lying and Misleading.”
- [19] “‘Mega-’.”

#### **Lectures, papers, presentations**

300 lectures, workshops, and presentations, in the United States, Australia, Canada, Chile, China, Colombia, Germany, Israel, Italy, Mexico, Netherlands, Norway, Palestine, Portugal, Serbia, Spain, Switzerland, Turkey, the UK.

**Named lectures, keynotes, and other major lectures:** public lecture, “The Power of Bureaucrats,” Museum of Jewish Heritage, New York (2018); keynote, “Sovereigns as Trustees of Humanity: Stocktaking” conference, Lauterpacht Centre, Cambridge University (2018); keynote, Ethics of War and Peace conference, U.S. Military Academy (2017); keynote, “Beyond the State” conference, McMaster University (2017); keynote, IVR International Congress, Lisbon, Portugal (2017); keynote, Conference on Professional Ethics in Law

(co-hosted by five Chilean law schools), Santiago, Chile (2016); keynote, “Rethinking Access to Justice” conference, Texas A&M University School of Law (2015); keynote, “The Silence of Torture” conference, University of Bologna (conference on *Torture, Power, and Law* and Matthew Kramer’s *Torture and Moral Integrity*)(2014); keynote, Ratio Juris conference, University of Catanzaro (Italy)(2014); keynote, McCain Conference, U.S. Naval Academy (2014); keynote, “Ethics in National Security” conference, Penn Law School Center for Ethics and the Rule of Law (2013); keynote, National Consortium of Torture Treatment Programs annual convention (2013); Carhart Lecture, Ohio Northern University (2012); Routledge Lecture in Philosophy, Cambridge University (2011); Murphy Center Lecture on Human Dignity, St. Thomas Law School (2011); keynote, 3TU Conference on Ethics and War, The Hague (2011); Ethics and Society Lecture, Stanford University (2011); keynote, Union of Turkish Bar Associations Legal Ethics Conference, Ankara (2010); Tabor Lecture, Valparaiso Law School (2010); Beijing Academy of Social Sciences (2009); Gertler Lecture, University of Saskatchewan Law School (2009); Fordham Natural Law Colloquium (2009); Charles Ihlenfeld Lecture, West Virginia University Law School (2008); United States Military Academy (2005, 2008); Angela S. Cooney Memorial Lecture, Syracuse Law School (2008); keynote, Third International Conference on Legal Ethics, Gold Coast, Australia (2008); Steintrager Lecture, Wake Forest Law School (2008); Isaac Franck Memorial Lecture, Georgetown University (2008); Bell Lecture, Wooster College (1999, 2007); keynote, Association of Applied and Professional Ethics (2007); Evelyn Barker Memorial Lecture, University of Maryland-Baltimore County (2007); Van Arsdell Lecture, University of Illinois Law School (2004); keynote, Amintaphil biennial conference (2004); keynote, Ninth Circuit Judicial Conference (2003); keynote, Arthur Liman Colloquium, Yale Law School (2002); Irving S. Ribicoff Memorial Lecture, Yale Law School (2001); Tilburg University conference on *Legal Modernism* (2000)(three lectures); Condon-Faulkner Distinguished Lecture, University of Washington Law School (1999); Blankenbaker Lecture, University of Montana Law School (1998); Morris A. Gross Lecture, University of Toronto Law School (1996); Phi Beta Kappa Lecture, Brooklyn College (1994); Phi Beta Kappa Lecture, Troy State University (1993); Bertram Morris Colloquium, University of Colorado Law School (1992); Smithsonian Fellows Lecture (1987); Catriona Gibson Memorial Lecture, Queen’s University, Kingston, Canada (1982)

## **Other professional activities**

### ***Current:***

Board of Directors, International Association of Legal Ethics  
 Academic Committee, Fellowships at Auschwitz for the Study of Professional Ethics (FASPE)  
 Editorial board, ETHICS AND INTERNATIONAL AFFAIRS  
 Editorial board, LEGAL ETHICS  
 Editorial board, ETHICS AND BEHAVIOR  
 Advisory Board, Forum on International Criminal and Humanitarian Law  
 Group legal weblog *Balkinization*  
 Founding Editor, *Just Security* weblog

***Past:***

Law leader, Fellowships at Auschwitz for the Study of Professional Ethics (FASPE)(2016)(legal ethics course offered in Berlin, Krakow, and Auschwitz-Birkenau to 12 full-scholarship U.S. law students selected competitively)

Steering committee, AAAS project New Dilemmas in Ethics, Technology, and War

Advisory committee on legal and ethical issues, Stimson Foundation working group on U.S. drone policy (2013-14)

U.S. Department of Defense Cross-Domain Deterrence Initiative (2010)

D.C. Bar Ethics Committee (2004-2010).

Chair, AALS Section on Law and Interpretation (2002-04).

American Philosophical Association Committee on Law and Philosophy (2000-03).

- Chair, 2001-03.

D.C. Bar Special Committee on Civility Implementation (1998-99).

Trustee and Advisory Board, The Fantasy Salvage Fund (beginning 1999).

Advisory Board, Open Society Institute project on the legal profession (1997-2000).

Advisory Board member, lawyers' oral history project, University of North Carolina School of Law (1994).

Advisory Board, Texas Center on Professionalism (1993-95).

Advisory Board, Hoffberger Center on Professional Ethics (1990-95).

Director, NEH Summer Seminar for College Teachers, "The Changing Roles of the American Judge," summer 1991.

Editor, NATIONAL REPORTER FOR LEGAL ETHICS AND PROFESSIONAL RESPONSIBILITY 1986-91.

"The Rule of Law and Justice" -- week-long seminar for state-court judges -- American Academy of Judicial Education, Monterey, California, August 1990.

1988 Chair, Association of American Law Schools Professional Responsibility Section.

1989 Secretary, Association of American Law Schools Law and Humanities Section.

Chair, planning committee for Association of American Law Schools quadrennial Professional Responsibility workshop (1987-88).

Consultant for WETA Television: reviewed teaching guide for program "Ethics on Trial" (1987).

Working Group member, Hastings Center Project on Professional Ethics and Public Values (1987-88).

Faculty member, Association of American Law Schools Professional Responsibility Section quadrennial mini-workshops (March 1984, March 1988).

"Ethics in Judicial Decision-Making" -- American Academy of Judicial Education seminars given to all state trial and appellate judges in New Mexico, New Mexico Judicial Conclave, June 1988.

Week-long seminar for state court judges on ethical issues raised by new technologies -- American Academy of Judicial Education, Jackson Hole, Wyoming, July 1988.

Faculty, The Hasting Center Summer Workshop on Applied and Professional Ethics (July 1982) - week-long seminar for law teachers and lawyers on ethics and the legal profession.