

SCOTT M. SULLIVAN

Harvey A. Peltier, Sr. Professor of Law
J. Dawson Gasquet Endowed Professorship
Paul M. Hebert Law Center - Louisiana State University
(o) 225-578-8715
ssullivan@lsu.edu

EDUCATION

European University Institute, San Domenico di Fiesole, Italy
LL.M, Comparative, European and International Law (2002)

- J. William Fulbright Fellowship, U.S. Department of State (2001 – 2002)

The University of Chicago, The Law School, Chicago, IL
Juris Doctorate (2001)

- Hinton Moot Court Board (2000 – 2001)
- Hinton Moot Court Semi-Finalist (2000)

University of Kansas, Lawrence, KS
Bachelor of Arts, History (1998)

- Student Body President (1997 – 1998)
- Academic Merit Scholarship

ACADEMIC EMPLOYMENT

Paul M. Hebert Law Center - Louisiana State University, Baton Rouge, LA
J. Dawson Gasquet Endowed Professorship (2017 – present); Harvey A. Peltier, Sr.
Professor of Law (2015 – present)

Associate Professor of Law (2012 – 2015)

Assistant Professor of Law (2009 – 2012)

LSU Graduate School, Associated Faculty

Courses Taught:

- International Law
- International Human Rights
- U.S. Foreign Relations Law
- Cybersecurity Law
- Administration of Criminal Justice I (Criminal Procedure)
- Constitutional Law II
- Issues in Transnational Technology
- International Law in U.S. Courts (seminar)

Law Center Administrative Appointments:

- Faculty Scholarship Committee (2009 – present) (5x as chair)
- Faculty Appointments Committee (2010 – 2014; 2016 – present)
- International Programs Committee (2009 – 2012; 2014 – 2019)
- Student Educational Policies (2014 – 2018)
- Curriculum Committee (2013 – 2016)

University Administrative Appointments:

- University Council on Research (2021 – present)

- Committee on Research Integrity, LSU Master Plan – Research Advisory Committee (2021 – present)
- University Strategic Planning Working Group: Cybersecurity Issues (2022 – present)

University of Texas School of Law, Austin, TX

Visiting Assistant Professor (2006 – 2009)

- Co-Founder and Co-Director, National Security Program & Clinic (now named the Civil Rights Clinic)
- Faculty Affiliate, Rapoport Center for Human Rights, University of Texas-Austin Law School

Courses Taught:

- The Rule of Law in Wartime (hybrid clinical / doctrinal)
- International Law in U.S. Courts (seminar)
- Professional Responsibility

OTHER ACADEMIC AFFILIATIONS

King’s College, Dickson Poon School of Law, London, United Kingdom

Visiting Faculty (Fall 2017)

Robert Strauss Center for International Security & Law, University of Texas, Austin, TX

Associate (2011 – 2016)

Fellow (2007 – 2011)

PRIV-WAR Research Collaborative, European University Institute, Fiesole, Italy (2007 – 2011)

Global research consortium funded under European Community’s 7th Framework Programme. Lead researcher regarding U.S. law, practice and policy in the use of private security contractors.

OTHER PROFESSIONAL EXPERIENCE

Allen & Overy LLP, Associate, New York, NY, 2004 – 2006

United Nations, European Union, and United States Sanctions Compliance, National Security Detention Litigation.

Latham & Watkins LLP, Associate, Chicago, IL and New York, NY, 2002 – 2004

Securities and General Commercial Litigation

PUBLICATIONS AND WRITING

Works-in-Progress

Unpacking Cyber Neutrality (invited paper for NATO Cooperative Cyber Defence Centre for Excellence’s 15th International Conference on Cyber Conflict – CyCon 2023).

The perceived difference between providing conventional weapons and cyber support (defensive or offensive) underlines ambiguity in the law. *Unpacking Cyber Neutrality* seeks to untangle the pressing and challenging relationship between neutrality law

and cyber operations. The analysis crafts a typology of different cyber operations the U.S. may be engaged in on behalf of Ukraine – including classic “offensive” operations as envisioned under Cyberspace Operations Joint Publication 3-12, cyber espionage, “hunt-forward” and reconnaissance operations – and how each ought to be considered under international legal rules and concepts of neutrality. After differentiating such categories and applying existing conceptions of neutrality, the piece will assess whether particular distinctions regarding cyber operations might normatively justify different treatment.

Surveilling States for Human Rights Violations.

In recent decades nation-states have regularly deployed technological innovations in ways that facilitate the consolidation of political power and imposition of state authority at the expense of human rights. “Surveilling States” is an empirical research project that seeks to marshal unsupervised and supervised machine learning methodologies to digest publicly available information to identify the warning signs of democratic institutional failures and the human rights violations that typically follow. Using entirely publicly available information, we are constructing a view of broad and deep view of federal criminal prosecutions in every judicial district of United States. The resulting process will enable us, and hopefully subsequent practitioners, activists, and institutions, to examine the geographic and temporal trends of criminal prosecutions and uncover institutional failures resulting in, as a potential example, unlawful discrimination in such prosecutions across regions, prosecutors, defense counsel, judges, and courts.

The New “Sole Organ” Doctrine.

The President is often described as the “sole organ” of United States foreign policy. The “sole-organ” doctrine often invoked by the Executive Branch and utilized by the judiciary, however, offers no specific rule with a clear legal output; no identifiable framework, test or standard to apply. Instead, the sole-organ doctrine has generally been understood as expressing “the existence of inherent, exclusive executive power in the field of foreign affairs.” This article describes a shift in this sole-organ doctrine following recent Supreme Court decisions and offers a new framework of how to understand when the judiciary is most likely to resort to this amorphous “power.”

Publications

The Empirics of Criminal Federalism, 20 OHIO STATE CRIMINAL LAW JOURNAL __ (forthcoming) (with Iben Sullivan, Ph.D.) (peer-reviewed journal)

The Elusive Zone of Twilight, 62 BOSTON COLLEGE LAW REVIEW 741 (2021) (with Michael Coenen)

Judicial Deference and Democratic Values, 53 TULSA LAW REVIEW 363 (2017)

“Prosecuting Domestic Terrorism as Terrorism,” Just Security, August 18, 2017.

“Do-Overs and Judicial Legitimacy: Thoughts as We Await the New Immigration Executive Order,” Just Security, February 21, 2017

“The Draft Order on Multilateral Treaties and the Trump Administration’s Failure to Understand the Human Rights of National Security,” Just Security, February 16, 2017

Interpreting Force Authorization, 43 FLORIDA STATE UNIVERSITY LAW REVIEW 241 (2016)

The Future of the Foreign Commerce Clause, 83 FORDHAM LAW REVIEW 4 (2015)

Networking Customary Law, 61 KANSAS LAW REVIEW 659 (2013)

“U.S. Law and Policy Governing Private Entities in War,” in MULTILEVEL REGULATION OF MILITARY AND SECURITY CONTRACTORS: THE INTERPLAY BETWEEN INTERNATIONAL, EUROPEAN AND DOMESTIC NORMS, (C. Bakker and M. Sossai, ed.), (Hart Publishing, 2012) (with Kristine Huskey) (2012)

Private Force / Public Goods, 42 CONNECTICUT LAW REVIEW 853 (2010)

Closing the Loop on Guantanamo, 19 TULANE JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW 247 (2010) (with Josh Colangelo-Bryan)

International Law and Domestic Legitimacy, Remarks prepared for Lincoln's Constitutionalism in Time of War: Lessons for the Current War on Terror?, 12 CHAPMAN LAW REVIEW 489 (2009)

Rethinking Treaty Interpretation, 86 TEXAS LAW REVIEW 777 (2008)

Rational Interpretation in Irrational Times: The Third Geneva Convention and the “War on Terror,” 44 HARVARD INTERNATIONAL LAW JOURNAL 301 (2003) (with Neil MacDonald)

Changing the Premise of International Legal Remedies: The Unfounded Adoption of Assurances and Guarantees of Non-Repetition, 7 UCLA JOURNAL OF INTERNATIONAL LAW & FOREIGN AFFAIRS 265 (2003)

Selected Briefs

United States Supreme Court

Boumediene v. Bush, Co-author, El Banna Petitioners Merits and Reply Briefs, U.S. Supreme Court, September-October 2007.

Al Marri v. Spagnone, Signatory, Brief of Amici Curiae Experts in the Law of War, U.S. Supreme Court, January 2009.

United States Circuit Courts of Appeal

Shimari, et al. v. CACI International Inc., et al., Signatory, Brief of Amici Curiae International Human Rights Organizations and Experts in Support of Plaintiffs-Appellees, U.S. Court of Appeals for the Fourth Circuit, December 2011.

Saleh v. Titan Corporation, Signatory, Brief of Amici Curiae Experts in International Humanitarian Law, U.S. Court of Appeals for the District of Columbia Circuit, October 2008.

HONORS & AWARDS

Exemplary Placement, LSU Law Center Scholarship Award (2021, 2016, 2015)

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

J. William Fulbright Fellowship, 2001 – 2002

Thomas M. Mulroy Prize for Excellence in Appellate Advocacy, University of Chicago
School of Law, 1998

ADMISSIONS & QUALIFICATIONS

“Secret” Level National Security Clearance

Admitted to practice law in Illinois (inactive) and New York (active)

SELECTED LECTURES & PRESENTATIONS

“The Empirics of Criminal Federalism,” *Drugs and Public Safety: Exploring the Impact of Policy, Policing, and Prosecutorial Reforms*, Arizona State University Sandra Day O’Connor College of Law, March 2023.

“Surveilling States for Human Rights Abuses,” Jean Monnet Centre of Excellence for Law and Automation, Instituto Empresa, Madrid, Spain, September 2022.

“Criminal Procedure and the Roberts Court,” The Eric Vogelin Institute, September 21, 2021

“Authorizing Force in Syria and Beyond,” Judge Advocate General Legal Center, September 2018

“Redacted,” Antenna Gallery, New Orleans, December 2017

“Presumptions Against Domesticity,” King’s College, Dickson Poon School of Law (London), Fall 2017

“Imagined Communities and the Nation-State,” Tulane University, April 2, 2016

“Interdisciplinarity, Politics, and Advocacy,” Material Fair – Mexico City, February 6, 2016

“Military Force & Statutory Decay,” LSU Law Center, November 4, 2014

“The Future of the Foreign Commerce Clause,” Tulane University Law School, August 6, 2014

“A Case for New Constitutions,” with Sanford Levinson and Eileen Jarrett, LSU Law Center, March 27, 2014

“Protected Persons and Direct Participation in Hostilities,” The Rules of War: International Humanitarian Law Workshop, International Committee of the Red Cross, January 26, 2014

"Theater of War: Visual Data, Propaganda and Legal Norms," BUREAU of CHANGE, October 10, 2013

"Collectively Curating Customary Law," George Mason University School of Law, March 26, 2012

"Collectively Curating Customary Law," University of Arkansas School of Law, February 27, 2012

"Human Rights vs. Law of War," Loyola University College of Law, October, 25 2011

"Customary International Law 2.0," Santa Clara University School of Law, September 6, 2011

"Customary International Law 2.0," University of Oregon Law School, September 1, 2011

"The Response," Washington University – St. Louis School of Law, October 2010 (panelist).

National Security Law Forum, University of Texas School of Law, April 1-2, 2010 (paper commenter).

"Terrorism and Counterterrorism," Tulane Journal of International and Comparative Law Symposium, March 2010

"Cross-Currents in International Law, Human Rights Law, and National Security Law," American Association of Law Schools Annual Meeting, January 2010

"National Security Law and the New Administration: Examining Changes and Continuity from Bush to Obama / McCain," Southeastern Association of Law Schools Annual Meeting, August 2009

"Thinking About Treaties: Interpretation, in Force and Internet," American Association of Law Librarians (AALL) Annual Meeting, Washington, DC, July 2009

"Privatization of National Security Functions," National Security Law Faculty Forum, University of Texas School of Law, March 2009

"Suspending Rights to Sustain Public Safety: Deciphering Wartime Suspensions of the Writ of Habeas Corpus by Presidents Lincoln and Bush," Chapman Law Review Symposium, January 2009

"US Practice regarding Accountability of Private Military Contractors," European Journal of International Law Symposium: Private military contractors and international law, European University Institute, June 2008 (paper presentation).