

# MELISSA J. DURKEE

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## ACADEMIC APPOINTMENTS

### University of Georgia School of Law, Athens, GA

*Associate Dean for International Programs & Director, Dean Rusk International Law Center (2021-)*

*Allen Post Professor (2020-)*

*J. Alton Hosch Associate Professor, 2019-2020*

*Associate Professor, 2018-19*

*Courses:* Corporations, International Environmental Law, International Business Transactions,  
International and Comparative Law Journal

*Other Current Appointments:*

Courtesy Appointment, UGA Terry School of Business

Affiliate Professor, University of Washington School of Law

### University of Washington School of Law, Seattle, Washington

*Associate Professor (with tenure), 2017-18*

*Assistant Professor, 2013-17*

*Courses:* Business Organizations, International Law, Transnational Law, Comparative and  
International Law, Journal Seminar

*Honors and Awards:*

Richard O. Kummert Outstanding Contribution Award, Washington Law Review, 2018

Pacific Coast Banking School Award for Excellence in Faculty Scholarship, 2017

UW Faculty Scholarship Award for Excellence in Law Review Articles, 2016

### Columbia Law School, New York, NY

*Associate-in-Law, July 2011- July 2013*

*Course:* Legal Practice Workshop

## EDUCATION

### Yale Law School, J.D.

*Yale Law Journal*, Editorial Board

*Yale Journal of International Law*, Submissions Editor

*Universidad de Chile & Universidad Diego Portales (Yale Law School exchange)*

*Teaching Fellow*, Yale University Philosophy Department

*Course:* Ancient Philosophy

### Westmont College, B.A. in Philosophy & English, *summa cum laude*

Honors Thesis in Philosophy

Highest Departmental Honors in each major

Oxford University, Keble College, Oxford Honors Exchange Program

## PUBLICATIONS

### BOOK:

STATES, FIRMS, AND THEIR LEGAL FICTIONS: ATTRIBUTING IDENTITY AND RESPONSIBILITY TO ARTIFICIAL ENTITIES (forthcoming, Cambridge University Press)

### ARTICLES:

*The Pledging World Order*, 49 YALE J. INT'L L. \_\_ (forthcoming 2023) (there is an emerging order organized by voluntary pledges within a legal or “legal-ish” architecture of commitments)

*Industry Groups in International Governance: A Framework for Reform*, 13 J. HUM. RTS. & ENV'T \_\_ (in press, forthcoming 2022) (peer reviewed) (invited contribution to special issue on “States, Corporations and Commons: Dissonance & Discord”) ([SSRN](#))

*Interpretive Entrepreneurs*, 107 VA. L. REV. 431 (2021) (interpretation can be a form of “post hoc” international lawmaking; private entities participate) ([SSRN](#))

*Introduction to the Symposium on Frédéric Mégret, “Are There ‘Inherently Sovereign Functions’ in International Law?”*, 115 AJIL UNBOUND 299 (2021) ([SSRN](#))

*Welcoming Participation, Avoiding Capture: A Five-Part Framework*, 114 ASIL PROC. 39 (2021) ([SSRN](#))

*The Future of Space Governance*, 48 GA. J. INT'L & COMP. L. 711 (2020) ([SSRN](#))

*Interstitial Space Law*, 97 WASH U. L. REV. 423 (2019) (activities of private actors that are attributed to the state can have customary international lawmaking consequences) ([SSRN](#))

*Global Lawmakers: International Organizations in the Crafting of World Markets*, Susan Block-Lieb & Terence C. Halliday (Review) (2017), 113 AM. J. INT'L L. 422 (2019) ([SSRN](#))

*International Lobbying Law*, 127 YALE L.J. 1742 (2018) (diverse rules governing private sector access to international governance are best understood and reformed as a body of international lobbying law) ([SSRN](#))

*Astroturf Activism*, 97 STAN. L. REV. 201 (2017) (accreditation rules exclude businesses from consulting with international officials, with pernicious consequences) ([SSRN](#))

Featured on JOTWELL (*Journal of Things We Like (Lots)*): Verity Winship, *Business Lobbying Goes Global*, Jan. 18, 2017, at <http://intl.jotwell.com/business-lobbying-goes-global/>

*Industry Lobbying and “Interest Blind” Access Norms at International Organizations*, 111 AJIL UNBOUND 119 (2017) (standard rules international organizations use to govern lobbying access by industry associations and NGOs can have unexpected consequences) ([SSRN](#))

*Introduction to Symposium on Industry Associations in Transnational Legal Ordering*, 111 AJIL UNBOUND 103 (2017) (with Gregory Shaffer) ([SSRN](#))

*The Business of Treaties*, 63 UCLA L. REV. 264 (2016) (influence of business in international treaty-making is significant, sometimes beneficial, and under-regulated) ([SSRN](#))

Featured in *Dialectic: Discussing Treaties with Professor Melissa Durkee*, UCLA L. REV. (Mar. 30, 2016), <https://www.uclalawreview.org/episode-3-discussing-treaties-with-professor-melissa-durkee/>

*Persuasion Treaties*, 99 VA. L. REV. 63 (2013) (treaties have divergent compliance problems: “persuasion” treaties must attract support of relevant business entities) ([SSRN](#))

*Beyond the Guantánamo Bind: Pragmatic Multilateralism in Refugee Resettlement*, 42 COLUM. HUM. RTS. L. REV. 697 (2011) ([SSRN](#))

*Parsing Teleglobe: Attorney/Client Privilege Rules for Jointly Represented Corporate Entities*, WALL ST. LAWYER, Nov. 2007 (with Lisa M. Schweitzer), Reprinted in SEC. LITIG. REPORT, Jan. 2008 \*14

#### **IN PROGRESS:**

*The Logics of Inclusion and Exclusion in International Participatory Structures* (developing legal frameworks to allow and restrain the participation of market actors in international legal processes will require choosing between a logic of publicness and a logic of action)

*Interpretive Entrepreneurship: How firms use international legal interpretation to modify their compliance obligations* (firms seek to interpret international legal norms to shape their downstream compliance demands in a recursive process of legal production and consumption)

### **LEADERSHIP & APPOINTMENTS**

Board of Editors, *American Journal of International Law*, 2020-

Supervising Editor, AJIL UNBOUND, 2020-

Managing Editor, 2016-2018, Associate Managing Editor, 2015-16

Executive Council, American Society of International Law, 2020-23

Co-Chair, American Branch of the International Law Association’s International Law Weekend Centennial Conference, 2022

Vice-Chair, ASIL International Legal Theory Interest Group, 2020-23

Past American Society of International Law Appointments:

- Co-Chair, ASIL Climate Change Signature Topic Steering Committee, 2020-21
- Vice Chair, Membership Committee, 2019-20
- Book Awards Committee, 2017-18
- Site Selection Committee, 9th & 11<sup>th</sup> Annual Research Forums

- Co-Chair, 7<sup>th</sup> Annual Research Forum, 2016
- Program Committee, 110<sup>th</sup> Annual Meeting, 2016

Co-Chair, Junior International Law Scholars Association, 2014-16  
*Convener*, JILSA Annual Meeting, 2017

Referee, Law & Society Review, American Journal of International Law, Yale Law Journal, Stanford Law Review, Routledge Books, Social Problems

## PRESENTATIONS

*Presenter*, William & Mary Law School International Law Workshop (April 2022)

*Panelist*, Privatizing International Governance, American Society of International Law Annual Meeting, Washington DC (April 2022)

*Presenter*, International Lobbying by Industry and Trade Groups: Context, Laws, Reforms; North South University Faculty of Law, Dhaka, Bangladesh (virtual) (November 2021)

*Discussant*, Climate Change panel, American Society of International Law Midyear Research Forum (November 2021)

*Panelist, Moderator*, Outsourcing International Responsibility, American Branch of the International Law Association's International Law Weekend (October 2021)

*Convener, Moderator*, The Stockholm Declaration at 50: Reflecting on a Half-Century of International Environmental Law, American Society of International Law and UGA Law (October 2021)

*Presenter*, International Legal Interpretation as Lawmaking, International Society for Public Law Annual Conference: ICON-S Mundo (July 2021)

*Presenter*, Interpretive Entrepreneurs: Business, Interpretive Lobbying, and International Legal Change, Annual Meeting of the Law & Society Association (June, 2021)

*Presenter*, Interpretive Entrepreneurs, International Law Colloquium, St. John's University School of Law (November 2020)

*Panelist*, Business Engagement in Global Governance: Boon or Peril?, International Law Association's International Law Weekend (October 2020)

*Presenter*, Interpretive Entrepreneurs, International Law in Theory Panel, American Society of International Law Midyear Meeting (October 2020)

*Convener, presenter*, The Law and Logics of Attribution: Constructing the Identity and Responsibility of States and Firms, ASIL International Legal Theory Interest Group & UGA Law (September 2020)

*Presenter*, Interpretive Entrepreneurs, UGA-Emory Faculty Workshop (July 2020)

*Panelist*, Between Participation and Capture: Non-state Actor Participation in International Rule-Making, American Society of International Law Annual Meeting (June 2020)

*Panelist*, Accountability in Domestic & International Law, Annual Meeting on Law & Society (June, 2020)

*Discussant*, Global and Transnational Lawmaking, Annual Meeting on Law & Society (June, 2020)

*Presenter*, Interpretive Entrepreneurship, ASIL International Economic Law Interest Group Biennial Conference, “Designing International Economic Law: Challenges and Opportunities,” Miami (February 2020)

*Presenter*, Corporate Families Panel, International Law Association International Law Weekend, Fordham Law School (October 2019)

*Presenter*, Attributed Customary International Law: States, Corporations, and the Global Commons, International Environmental Law Interest Group Forum, ESIL Annual Meeting, Aristotle University, Greece (September 2019)

*Commentator*, ASIL Southeast, Junior-Senior Scholarship Workshop, Washington & Lee Law School (May 2019)

*Presenter*, Interstitial Space Law, Faculty Workshop, Notre Dame Law School (April, 2019)

*Presenter*, Interstitial Space Law, International Law Colloquium, Loyola University Chicago School of Law (April, 2019)

*Presenter*, Interstitial Space Law, International Law Colloquium, Temple University Beasley School of Law (April, 2019)

*Presenter*, Interstitial Space Law, Faculty Workshop, University of British Columbia Allard School of Law (January, 2019)

*Presenter*, Functional Sovereignty: Private Authority in Global Governance, Vanderbilt International Law Roundtable, Vanderbilt Law School (November, 2018)

*Presenter*, Functional Sovereignty: Private Authority in Global Governance, Brooklyn Law School International Business Roundtable, Brooklyn Law School (November, 2018)

*Presenter*, Functional Sovereignty: Private Authority in Global Governance, American Society of International Law Research Forum, UCLA School of Law (November, 2018)

*Presenter*, Functional Sovereignty: Private Authority in Global Governance, Private Law and Transnational Legal Ordering Panel, Annual Meeting on Law & Society, Toronto (June, 2018)

*Discussant*, Global Lawmakers: International Organizations in the Crafting of World Markets, Author-Meets-Reader book session, Annual Meeting on Law & Society, Toronto (June, 2018)

*Moderator/Discussant*, The Regulation of Corruption, Finance and Extractive Industries: The Transnational Context panel, Annual Meeting on Law & Society, Toronto (June, 2018)

*Presenter*, International Lobbying Law, Contemporary Scholars Workshop, Yale Law School (October, 2017)

*Presenter*, International Lobbying Law, American Society of International Law Seventh Annual Research Forum, Washington University School of Law, St. Louis (October, 2017)

*Discussant*, Non-State Actors Panel, American Society of Law Seventh Annual Research Forum, Washington University School of Law, St. Louis (October, 2017)

*Presenter*, International Lobbying Law, University of Georgia International Law Colloquium, University of Georgia School of Law (March, 2017)

*Presenter*, International Lobbying Law, UC Berkeley Colloquium on International Law & Politics, UC Berkeley School of Law (February, 2017)

*Presenter*, Astroturf Activism & International Lobbying Law, ASU International Law Colloquium, Arizona State University School of Law (February, 2017)

*Presenter*, Astroturf Activism, Brigham Young University Law, Entrepreneurship, and Innovation Colloquium, BYU Law School (February, 2017)

*Presenter*, International Lobbying Law, Junior International Law Scholars Association Annual Meeting, University of Washington School of Law (January, 2017)

*Host, Commentator*, Junior International Law Scholars Association Annual Meeting, University of Washington School of Law (January, 2017)

*Moderator/Discussant*, Treaties Panel, American Society of International Law Sixth Annual Research Forum, Seattle, Washington (November, 2016)

*Presenter*, Astroturf Activism, International Organizations & Governance Panel, American Society of International Law Seventh Annual Research Forum, Seattle, Washington (November, 2016)

*Presenter*, Astroturf Activism, Faculty Workshop, University of Illinois College of Law (October, 2016)

*Presenter*, Astroturf Activism, Plenary Session, Business and Human Rights Scholars Workshop, University of Washington School of Law (September, 2016)

*Panelist*, Industry Associations and Law Making, International Organizations Interest Group (IOIG) of the American Society of International Law and Rutgers Law School Center for Corporate Law and Governance: The Trade Associations and Transnational Governance Conference, Rutgers Law School (June, 2016)

*Presenter/Panelist*, Astroturf Activism, Rulemaking, National and International Panel, Corporate and Securities Law in Society Collaborative Research Network, Law and Society Association Annual Meeting, New Orleans, LA (June, 2016)

*Presenter*, Astroturf Activism, Faculty Colloquium, University of Washington School of Law (May, 2016)

*Co-Organizer/Commentator*, Junior International Law Scholars Association Annual Meeting, University of Pennsylvania School of Law (January, 2016)

*Presenter*, Astroturf Activism and the Business of Treaties, Junior International Law Scholars Association Annual Meeting, University of Pennsylvania School of Law (January, 2016)

*Presenter*, Law for the (Private) Lawmakers: Regulating Business Roles in Treaty-making, American Society of International Law Research Forum, Washington DC (October, 2015)

*Presenter*, The Business of Treaties, Faculty Workshop, Seattle University Law School (September, 2015)

*Delegate*, Law Schools Global League Plenary, University of Cape Town, South Africa (July, 2015)

*Presenter/Panelist*, The Business of Treaties, New Insights on Law and Regulation's Evolution and Efficacy Panel, Corporate and Securities Law in Society Collaborative Research Network, Law and Society Association Annual Meeting, Seattle, WA (May, 2015)

*Convener/Presenter*, International Law Scholarship Mentoring Session, ASIL Annual Meeting, Washington DC (April, 2015)

*Presenter*, The Business of Treaties, Northwest Junior Faculty Forum, Seattle University Law School (March, 2015)

*Co-Organizer/Commentator*, Junior International Law Scholars Association Annual Meeting, University of Miami (January, 2015)

*Presenter*, The Business of Treaties, Junior International Law Scholars Association Annual Meeting, University of Miami (January, 2015)

*Presenter*, The Business of Treaties, International Organizations Interest Group Workshop, American Society of International Law, Columbia Law School (December, 2014)

*Presenter*, International Congress of Comparative Law, Vienna, Austria (July, 2014)

*Discussant*, Emerging International and Corporate Law Questions panel, Corporate and Securities Law in Society Collaborative Research Network, Law and Society Association Annual Meeting, Minneapolis, MN (June, 2014)

*Convener/Presenter*, International Law Scholarship Mentoring Session, ASIL Annual Meeting, Washington DC (April, 2014)

*Moderator/Commentator*, Junior International Law Scholars Association Annual Meeting, UC Berkley School of Law (February, 2014)

*Presenter*, Corporate Chaos Theory, Associates & Fellows Workshop, Columbia Law School (January, 2014)

*Invited Participant*, International Business Transactions Roundtable, Washington & Lee School of Law (January, 2014)

*Presenter*, Persuasion Treaties, Expressive Meaning of Silence in International Law Panel, International Conference on Law and Society, Boston, MA (June, 2013)

*Discussant/Panel Chair*, Expressive Meaning of Silence in International Law Panel, International Conference on Law and Society, Boston, MA (June, 2013)

*Commentator*, Junior International Law Scholars Association Annual Meeting, New York, NY (February, 2013)

*Presenter*, Persuasion Treaties, Moot Camp Workshop, Yale Law School (September, 2012)

*Presenter*, Persuasion Treaties, Associates & Fellows Workshop, Columbia Law School (August, 2012)

*Presenter*, Treaty Commitments and Private Behavior, Associates & Fellows Workshop, Columbia Law School (February, 2012)

*Presenter*, Beyond the Guantánamo Bind: Pragmatic Multilateralism in Refugee Resettlement, Faculty Workshop, Chicago-Kent College of Law (February, 2011)

## **GRANT**

“Countering DPRK Missile and Nuclear Program,” U.S. Department of State, Office of Cooperative Threat Reduction, 2018, Faculty Researcher (PI: Joshua L. Darnell, UGA Center for International Trade and Security)

## **INSTITUTIONAL SERVICE**

### ***University of Georgia***

Advisory Committee, The Center for International Business Education, Terry College of Business (2021-)



Human Space Exploration Working Group (2019-)

***University of Georgia School of Law***

Associate Dean for International Programs and Director, Dean Rusk International Law Center (2021-)

Chair, Diversity of Faculty Strategic Planning Committee (2020-)

Chair, Rusk Center Committee (2021-)

Advisor, *Georgia Journal of International and Comparative Law* (2019-2021)

Convener, “The Future of Space Governance” conference (October, 2019)

Convener, “The 1972 Stockholm Declaration at 50: Reflecting on a Half-Century of International Environmental Law” (October 2021)

Advisor, Environmental Law Students Association (2020-2021)

Member, Appointments Committee (2020-2021; 2019-2020)

Member, Rusk Center Committee (2018-2021)

***University of Washington School of Law***

Chair, Faculty Colloquium Committee (2017-18)

Advisor, *Washington International Law Journal* (2015-18)

Advisor, *Global Business Law Program* (2016-18)

Member, Appointments Committee (2015-16)

Member, Faculty Colloquium Committee (2016-17; 2013-14)

Member, Curriculum Committee (2014-2015)

Member, Joan Fitzpatrick Fellowship Selection Committee (2015-18)

Member, Global Business Law Program Faculty Working Group (2014-15)

Member, Visiting Assistant Professor Program Ad Hoc Committee (2014-15)

Advisor, *Philip C. Jessup International Law Moot Court Team* (2015-16)

Dissertation Committees: Fnu Herliana

Yiwen Wang

Wen-Ning Chang

Huaxia Lai

***Columbia University School of Law***

Chair, Associates & Fellows Workshop

**LEGAL PRACTICE**

**Cleary Gottlieb Steen & Hamilton, LLP**, New York, NY

*Associate*, International Litigation and Arbitration, 2007-2011

Selected matters: Defended the Republic of Argentina in extensive sovereign debt litigation in U.S. federal court; litigated a \$40 billion attempted hostile takeover in Canada by the world’s largest mining company; represented Brazil Telecom in a corporate control dispute before an International Chamber of Commerce arbitral tribunal; represented a major energy company in a bankruptcy litigation challenging the transaction price of an oil and gas subsidiary; represented, pro bono, detainees held at the military base in Guantánamo Bay, Cuba.

**U.S. District Court for the SDNY**, New York, NY  
*Law Clerk* to Sidney H. Stein

**U.S. Court of Appeals for the 9th Circuit**, Pasadena, CA  
*Law Clerk* to Kim McLane Wardlaw

**Morrison & Foerster LLP**, New York, NY  
*Summer Associate*

**New York State Attorney General**, New York, NY  
*Legal Intern*, Environmental Protection Bureau

### **PROFESSIONAL AFFILIATIONS**

Admitted to Practice in New York & California

#### Memberships:

American Society of International Law (International Legal Theory, International Environmental Law, International Economic Law, International Organizations)  
Law and Society Association (Corporate and Securities Law in Society, Transnational and Global Legal Ordering)  
European Society of International Law (International Environmental Law, International Legal Theory)  
ICON Society  
American Branch of the International Law Association