

## EDWARD TERRELL SWAINE

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<b>EMPLOYMENT</b>	<p><b>GEORGE WASHINGTON UNIVERSITY LAW SCHOOL</b>  <i>Professor of Law</i> 2010-present  <i>Associate Professor</i> 2006-2010</p> <ul style="list-style-type: none"> <li>• Classes: Contracts I, II; International Law; U.S. Foreign Relations Law</li> <li>• Service: Appointments Committee; Faculty Senate (Executive Committee); prior service as Senior Associate Dean for Academic Affairs; Director, Competition Law Center; Co-Director, GW-Oxford Summer Human Rights Program</li> <li>• Visits: Goerg-August-Universität Göttingen (2010)</li> </ul> <p><b>U.S. DEPARTMENT OF STATE</b>  <i>Counselor on International Law</i> 2005-2006</p> <ul style="list-style-type: none"> <li>• Non-political appointment, on leave from University of Pennsylvania</li> <li>• Assisted Office of the Legal Adviser in providing legal advice to the Secretary of State; liaison to other government institutions on international law matters</li> </ul> <p><b>WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA</b>  <i>Associate Professor (with tenure)</i> 2004-2006  <i>Assistant Professor</i> 1997-2004</p> <ul style="list-style-type: none"> <li>• Classes: Law of Marketing and Antitrust (undergraduate/ MBA); Government and the Legal Environment of Business (MBA); Introduction to Law and Legal Process (undergraduate)</li> <li>• Visits: University of Chicago Law School (Fall 2002)</li> </ul> <p><b>UNIVERSITY OF PENNSYLVANIA LAW SCHOOL</b>  <i>Associate Professor of Law (secondary appointment)</i> 2004-2006  <i>Associate Professor of Law (visiting)</i> Fall 2003</p> <ul style="list-style-type: none"> <li>• Classes: Public International Law; Comparative and International Federalism</li> </ul> <p><b>CLEARY, GOTTLIEB, STEEN &amp; HAMILTON, Brussels, Belgium</b>  <i>Associate</i> 1995-1997</p> <ul style="list-style-type: none"> <li>• Practice involving European Community law; U.S. and European antitrust; international arbitration and litigation</li> </ul>
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<b>CENTRE FOR ADVANCED LEGAL STUDIES, KATHOLIEKE UNIVERSITEIT LEUVEN, Leuven, Belgium</b> <i>Research Fellow</i>	1995-1997
<b>U.S. DEPARTMENT OF JUSTICE, Washington, DC</b> <i>Attorney, Appellate Staff, Civil Division</i> • Briefed and argued cases, primarily in U.S. courts of appeals.	1990-1994
<b>JUDGE ALVIN B. RUBIN, U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT, Baton Rouge, LA</b> <i>Law clerk</i>	1989-1990
<b>TEMPLE, BARKER &amp; SLOANE (Mercer Management Consulting), Lexington, MA.</b> <i>Research Associate, Informational Technology Industries</i>	1985-1986

**EDUCATION**

**YALE LAW SCHOOL**  
J.D., 1989  
• Editor-in-Chief, Yale Law Journal  
• Co-Director, Jerome N. Frank Legal Services

**HARVARD COLLEGE**  
A.B. (Social Studies), *magna cum laude*, 1985  
• Winner, National Debate Tournament (1985)  
• Literary Editor, Harvard Lampoon

**MARQUETTE SENIOR HIGH SCHOOL, Marquette, MI**

**WORKS IN PROGRESS**

Co-Reporter, American Law Institute, Restatement of the Law (Fourth), The Foreign Relations Law of the United States: Treaties (with Curtis Bradley and Sarah Cleveland)

Co-Author, U.S Foreign Relations Law (with Sean Murphy)  
(tentative title; under contract with Oxford University Press)

**BOOKS**

Foreign Relations and National Security Law: Cases, Materials, and Simulations (with Thomas M. Franck (dec'd), Michael J. Glennon, and Sean D. Murphy) (4<sup>th</sup> ed., West Publishing, 2011)

U.S. Foreign Relations Law: Cases, Materials, and Simulations (with Thomas M. Franck (dec'd), Michael J. Glennon, and Sean D. Murphy) (4<sup>th</sup> ed., West Publishing, 2012) (derivative work)

U.S. National Security Law: Cases, Materials, and Simulations (with Thomas M. Franck (dec'd), Michael J. Glennon, and Sean D. Murphy) (4<sup>th</sup> ed., West Publishing, 2012) (derivative work)

More Common Ground for International Competition Law? (with Josef Drexler, Warren S. Grimes, Clifford A. Jones, and Rudolf J.R. Peritz, eds.) (Edward Elgar Publishing, 2011)

**ARTICLES AND  
BOOK  
CHAPTERS**

"Reservations," in The Oxford Guide to Treaties (Duncan Hollis, ed.) (Oxford University Press, 2012)

"Ersatz Treaties," 44 NYU J. Int'l L. & Pol. 833 (2012)

"Cooperation, Comity, and Competition Policy: United States," in Cooperation, Comity and Competition Policy (Andrew Guzman, ed.) (Oxford University Press, 2010)

"Bespoke Custom," 21 Duke J. Comp. & Int'l L. 201 (2010)

"The Political Economy of *Youngstown*," 83 S. Cal. L. Rev. 263 (2010)

"Putting *Missouri v. Holland* on the Map," 73 Mo. L. Rev. 1007 (2008)

"Taking Care of Treaties," 108 Colum. L. Rev. 331 (2008)

"*Medellín v. Texas*: Presidential Power and International Tribunals," 6 Georgetown J. L. & Pub. Pol. 129 (2008)

"Reserving," 31 Yale J. Int'l L. 307 (2006)

"Hail, No: Changing the Chief Justice," 154 U. Pa. L. Rev. 1709 (2006)

"The Constitutionality of International Delegations," 104 Colum. L. Rev. 1492 (2004) (cited in *NRDC v. EPA*, 464 F.3d 1 (D.C. Cir. 2006))

"Restoring (and Risking) Interest in International Law" (reviewing Jack L. Goldsmith & Eric A. Posner, *The Limits of International Law*), 100 Am. J. Int'l L. 259 (2006)

"Resisting Delegations," 97 Am. Soc'y Int'l L. Proc. 343 (2004)

"Perspectives on Empagran," The Antitrust Source, September 2004

- “Against Principled Antitrust,” 43 Va. J. Int’l L. 959 (2003)
- “Unsigning,” 55 Stan. L. Rev. 2061 (2003)
- “Does Federalism Constrain the Treaty Power?,” 103 Colum. L. Rev. 403 (2003) (cited in *United States v. Bond*, 581 F.3d 128, 135 (3d Cir. 2009), and subsequent decisions)
- “Rational Custom,” 52 Duke L.J. 559 (2002)
- “‘Competition, Not Competitors,’ Nor Canards: Ways of Criticizing the Commission,” 23 U. Pa. J. Int’l Econ. L. 597 (2002)
- “The Local Law of Global Antitrust,” 43 Wm. & Mary L. Rev. 627 (2001)
- “The Undersea World of Foreign Relations Federalism,” 2 Chicago J. Int’l L. 337 (2001)
- “Crosby as Foreign Relations Law,” 41 Va. J. Int’l L. 481 (2001)
- “Negotiating Federalism: State Bargaining and the Dormant Treaty Power,” 49 Duke L.J. 1127 (2000)
- “Subsidiarity and Self-Interest: Federalism at the European Court of Justice,” 41 Harvard Int’l L.J. 1 (2000)
- Book Review (reviewing Earl H. Fry, *The Expanding Role of State and Local Governments in U.S. Foreign Affairs*), 30 Publius 249 (2000)
- “The Triumph of Local Politics?,” 93 Am. Soc’y Int’l L. Proc. 247 (2000)
- “Pre-Deliberations Juror Misconduct, Evidential Incompetence, and Juror Responsibility” (student note), 98 Yale L.J. 187-206 (1988)

**SELECTED  
PROFESSIONAL  
ACTIVITIES  
(2000 –  
PRESENT)**

- Keynote Lecture: Nature and Sources of International Law, National Foreign Affairs Training Center (Foreign Service Institute) (May 2013)
- Panelist, Sharia and Foreign Law Bans in a State Near You? Legal Difficulties, Practical Problems, Center for American Progress (May 2013)
- Paper Presenter, Panel on Ratifying the Hague Choice of Court Convention, Sokol Colloquium on Foreign Court Judgments and the U.S. Legal System, University of Virginia Law School (April 2013)
- Speaker, International Law in Obama's Second Term: Problems and Priorities, George Washington University Law School/American Society of International Law (January 2013)
- Moderator, Is the Treaty of the Law of the Seas in the United States’ Interests?, World Affairs Council/American Academy of Diplomacy

(December 2012)

Discussant, Theories of Ratification, Compliance, and Reservation, ASIL Research Forum, University of Georgia Law School (October 2012)

Senior Commentator, Wharton-Colorado International Law Workshop, University of Colorado (Boulder) (September 2012)

Testimony before the Senate Committee on the Judiciary, Hearings on Holocaust-Era Claims in the 21<sup>st</sup> Century (June 2012)  
(<http://www.judiciary.senate.gov/hearings/hearing.cfm?id=5e7c78a35dfade0822c4ebc5992b5080>)

Faculty Member, Annual Academy of American and International Law (Center for American and International Law, Plano, Texas: June 2012, June 2011, June 2010, May 2009)

Commentator, International Delegations: Book Symposium for Bradley, *International Law in the U.S. Legal System*, Duke University Law School (March 2012)

Moderator, A Recap and Analysis of the Supreme Court Oral Arguments Addressing the Alien Tort Statute in *Kiobel v. Royal Dutch Petroleum*, (co-sponsored by American Society of International Law; the Washington Foreign Law Society; the DC Bar International Law Section; and the International Law and Environment, Energy, and Resources sections of the American Bar Association (March 2012)

Paper presenter, *States of Incorporation*, Human Rights Litigation In State Courts and Under State Law, University of California-Irvine (March 2012)

Commentator, Foreign Affairs and the States: Recent Developments in Federalism and International Law, Advisory Committee on International Law (Washington, DC, December 2011)

Speaker, Current Issues in International Dispute Resolution, American Society of International Law (Los Angeles, November 2011)

Paper presenter and panelist, *Ersatz Treaties*, Human Rights Law in Practice (NYU Journal of International Law and Policy, October 2011)

Participant and discussant, Temple International Law Roundtable on Dudziak, *War\*Time* (Philadelphia, PA, September 2011)

Speaker, U.S. Federalism and Private International Law, Advisory Committee on Private International Law/Georgetown University Law Center (Washington, DC, September 2011)

Instructor, Appreciation Course on Competition Law for Officers of the Indian Administrative Service (New Delhi, India, September 2011)

- Amicus, Brief for Professors of International Litigation and Foreign Relations Law in Support of Respondents, *Samantar v. Yousuf* (No. 08-1555) (filed January 2010)  
([http://www.cja.org/downloads/Samantar\\_Professors\\_Brief.pdf](http://www.cja.org/downloads/Samantar_Professors_Brief.pdf))
- Paper presenter and discussant, *Bespoke Custom*, Duke Law Scholarship Roundtable: Opting Out of Customary International Law, Duke University Law School (Durham, NC, January 2010)
- Co-organizer and discussant, Annual Meeting of ASIL International Law in Domestic Courts Interest Group (University of California-Hastings College of Law, December 2009)
- Panelist and presenter, The Role of Ethics in Public International Law (ASIL International Legal Theory Interest Group, Washington, DC, November 2009)
- Participant and discussant, Temple International Law Roundtable on Raustiala, *Does the Constitution Follow the Flag?* (Philadelphia, PA, October 2009)
- Instructor, Foundations of International Law (National Foreign Affairs Training Center, Washington, DC, May 2009)
- Co-Panelist and Commentator, Russia and the European Court of Human Rights (Program on Rule of Law in the Russian Federation, INDEM/Federal Judicial Center, Washington, DC, May 2009)
- Paper Presenter, *Youngstown's Seizure* (Washington & Lee Law School, Lexington, Virginia, September 2008; International Law in Domestic Courts Section, American Society of International Law, Philadelphia, PA, December 2008; Potomac Foreign Relations Law Roundtable, George Washington University Law School, Washington, DC, May 2009)
- Co-panelist, *Medellín v. Texas and the Self-Execution of Treaties* (Annual Meeting of the American Society of International Law, Washington, DC, March 2009)
- Co-presenter, Current Developments in Immunities Law, International Law in Domestic Courts Section Meeting, American Society of International Law, Washington, DC, March 2009)
- Co-presenter, Official Immunities in International Litigation (Judicial Advisory Board Meeting, American Society of International Law, Washington, DC, March 2009)
- Participant and discussant, Temple International Law Roundtable on Goodman and Jinks, *Socializing States* (Philadelphia, PA, October 2008)

- Paper presenter, *Non-Self-Execution and the Non-Separation of Powers*, Duke-Harvard Foreign Relations Law Workshop, September 2008)
- Moderator, Legal Expert, and Member of U.S. Delegation, 2008 Human Dimension Seminar: Constitutional Justice (Organization for Security and Co-operation in Europe, Warsaw, Poland, May 2008)
- Commentator on Duncan Hollis, *Unpacking the Compact Clause* (Potomac Foreign Relations Law Roundtable, George Washington University Law School, Washington, DC, May 2008)
- Co-Presenter (with Curtis Bradley), Current Issues in Treaty Practice: Signing, Unsigning, and Attaching Reservations to Treaties (Advisory Committee on International Law, U.S. Department of State, Washington, DC, March 2008)
- Paper presenter and panelist, *Putting Missouri v. Holland on the Map*, Return to Missouri v. Holland: A Symposium on Federalism and International Law, University of Missouri School of Law, Columbia, Missouri, February 2008)
- Commentator on Carlos M. Vázquez, *Treaties As Law of the Land: The Supremacy Clause and the Presumption of Self-Execution* (Temple Law School, Philadelphia, Pennsylvania, January 2008)
- Participant, American Society of International Law Interest Group on International Law in Domestic Courts Annual Workshop (Austin, Texas, December 2007)
- Co-Panelist, Supreme Court and International Law (American Society of International Law, Executive Council Luncheon, October 2008)
- Commentator, C-Span, Washington Journal (October 2007)
- Panelist, *Medellín v. Texas: Presidential Power and International Tribunals* (American Enterprise Institute, Washington, DC, September 2007)
- Participant, Private-Sector Roundtable on Arbitration Provisions in U.S. Tax Treaties (U.S. Senate Committee on Foreign Relations, June 2007)
- Paper presenter, *Taking Care of Treaties* (Potomac Foreign Relations Law Roundtable, May 2007; Duke-Harvard Foreign Relations Law Workshop, November 2006)
- Discussion Leader, International Delegations, Political Safeguards, and Constitutional Restraints (International Delegations and the U.S. Constitution, Duke-Harvard Foreign Relations Law Workshop, November 2006)
- Faculty Member and Panelist, International Law in the U.S. Courts: Current Issues, Future Trends (Program on International Law and Litigation for U.S. Judges, Federal Judicial Center/American Society of International

- Law, November 2006)
- Paper presenter, *Alien Authority?* (International works-in-progress colloquium at the University of Georgia Law School, April 2006)
- Paper presenter, *Taking Turns* (Conference on Delegating Sovereignty, Duke University, February 2006)
- Paper presenter, *Hail, No: Changing the Chief Justice* (Conference on the Chief Justice and the Institutional Judiciary, University of Pennsylvania Law Review, November 2005)
- Paper presenter, *Judicial States* (Roundtable on the Future of the State in International Law, University of Virginia Law School, October 2005)
- Commentator on Carlos Vazquez, *Whither Missouri v. Holland?* (Foreign Relations Law Conference, Harvard Law School, September 2005)
- Moderator and panelist, The Constitution at Home and Abroad (U.S. Department of State, September 2005)
- Paper presenter, *The Ratification of International Instruments by Federal States: The American Doctrine* (International Conference on Federalism, Brussels, Belgium, March 2005)
- Paper presenter, *Reserving* (Wharton School, March 2005; Georgetown Law Center, February 2005; Boalt Hall School of Law, January 2005; Vanderbilt University School of Law, November 2004; Temple Law School, October 2004)
- Panelist, International Ethics, *Contractarian Approaches to Business Ethics: The Evolution of Integrative Social Contracts Theory* (Carol and Lawrence Zicklin Center for Business Ethics Research, November 2004)
- Panelist, International Law, *What's At Stake in the November Election* (American Constitution Society, October 2004)
- Moderator, *The Supreme Court's Empagran Decision: How Does It Affect the Extra-Territorial Reach of the Sherman Act?* (American Bar Association, Antitrust Section, July 2004)
- Speaker, *Treaties within the U.S. Legal System* (Training Seminar, Office of the Legal Advisor, U.S. Department of State, May 2004)
- Co-Organizer and commentator, *International Law and Institutions* (Wharton Legal Studies Department Research Colloquium, May 2004)
- Panelist, *Treaties in U.S. Law: New Debates on Old Ideas?* (Annual Meeting, American Society of International Law, April 2004)
- Paper presenter, *How Can International Agreements Facilitate Federalism?* (Symposium on International Law and Practice in American



Constitutionalism, J.B. Moore Society of International Law, University of Virginia Law School, March 2004)

Commentator on Juan Rovira, *The World Bank's Policy Regarding Pricing of Medicines* (Symposium on Corporate and Legal Implications of Re-Pricing Medicines in Developing Nations, University of Pennsylvania Journal of International Economic Law/Institute for Law and Economics, February 2004)

Paper presenter, *From Delegation to Diffusion* (Academy of Legal Studies in Business, August 2003; University of Pennsylvania Law School, August 2003; Wharton School, October 2003; American Society of International Law, Interest Group on International Law in Domestic Courts, University of Maryland, December 2003)

Discussant, *How Should Cooperation Proceed: WTO, ICN or Bilateralism?* (University of California (Berkeley) Workshop on International Antitrust: Institute for European Studies and the Program in Law, Economics, and Institutions, June 2003)

Paper presenter, *Unsigning* (Program on International Politics, Economics, and Security, Harris School of Public Policy, University of Chicago, May 2003; Symposium on Treaties, Enforcement, and U.S. Sovereignty, Stanford Law School, March 2003)

Commentator on Avishalom Tor, *Developing a Behavioral Approach to Antitrust Law and Economics* (Loyola University of Chicago Third Annual Antitrust Colloquium, Institute for Consumer Antitrust Studies, April 2003)

Paper presenter, *Against Principled Antitrust* (Wharton Legal Studies Research Program, February 2003; Sokol Colloquium, University of Virginia Law School, October 2002)

Commentator on Paul B. Stephan, *A Becoming Modesty: U.S. Litigation in the Mirror of International Law* (American Society of International Law, Interest Group on International Law in Domestic Courts, Fordham University, December 2002)

Commentator on Welber Barral, *Antidumping Policy and Developing Countries*; Frank Garcia, *Beyond Special and Differential Treatment*; and Gregory Shaffer, *Reducing the Biases for International Trade Dispute Resolution: Imperfect Alternatives for a More Equitable International System* (American Society of International Law, International Economic Law Group, and the Program on International Business and Economic Law, Georgetown University Law Center, October 2002)

Paper presenter, *Does Federalism Constrain the Treaty Power?* (University of Chicago Law School, October 2002; Academy of Legal Studies in

Business Annual Meeting, August 2002, Las Vegas, NV; University of Pennsylvania Law School, August 2002; Temple Law School, August 2002)

Presenter and panelist, *International Law and the Legal Curriculum* (American Society of International Law, March 2002, Washington, DC)

Paper presenter, *Rational Custom* (Hurst Seminar, University of Florida/California State University (Long Beach), February 2002; University of Chicago International Law Workshop, November 2001)

Panel chair and commentator, *Markets and Antitrust Policy in the European Union* (European Community Studies Association Seventh Biennial Conference, May 2001, Madison, WI)

Paper presenter, *Subsidiarity and Sovereignty: European Regionalism and Globalized Legal Relations* (European Community Studies Association Seventh Biennial Conference, May 2001, Madison, WI)

Paper presenter, *The Undersea World of Foreign Relations Federalism* (American Enterprise Institute, American Sovereignty: Issues for the New Administration and the New Decade, April 2001, Washington, DC)

Paper presenter and panelist, *E-Commerce and the Robinson-Patman Act*, Annual Meeting of the American Bar Association, Antitrust Section (March 2001, Washington, DC)

Paper presenter, *Comities in Conflict: Reconciling International and Federal Antitrust* (Academy of Legal Studies in Business Annual Meeting, August 2000, Baltimore, MD)

Paper presenter, *European Regionalism and the Legal Trappings of Globalization* (Workshop on Regionalism and the EU: Interdisciplinary and Comparative Challenges, Institute of European Studies, The Queen's University of Belfast, June 2000, Belfast, UK)

**PROFESSIONAL  
AFFILIATIONS**

Co-Reporter (Treaties), American Law Institute, Restatement (Fourth), The Foreign Relations Law of the United States

Member, Advisory Committee on International Law, U.S. Department of State (2006-present)

Member, Executive Council, American Society of International Law (2011-present)

Chair, American Society of International Law Working Group on Implementation of the Convention on Choice of Courts Agreements (2010-2013)

Co-Chair, Interest Group on International Law in Domestic Courts, American Society of International Law (2009-2013)

Member, ABA-American Society of International Law Task Force on Treaties in U.S. Law (2008-2009)

Member, Research Advisory Committee, American Society of International Law (inactive)

Member, Editorial Advisory Committee, Benchbook of International Law (inactive)

Member, New York (1991), District of Columbia (1992), and U.S. Supreme Court (2010) bars

Reviewer, Oxford University Press; Journal of Legal Studies; Journal of Business Ethics; Business Ethics Quarterly; Publius; Marketing Science; American Business Law Journal