
ANNUAL REPORT 2015-2016



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ABOUT CERL

MISSION STATEMENT

CERL is a non-partisan interdisciplinary institute dedicated to the preservation and promotion of the rule of law in twenty-first century warfare and national security. The only Center of its kind housed within a law school, CERL draws from the study of law, philosophy, and ethics to answer the difficult questions that arise in times of war

and contemporary transnational conflicts. It represents the vision of its founder and director, Professor Claire Finkelstein, in uniting scholars and policymakers from various fields in a multi-disciplinary conversation on some of the most challenging issues of our time.

HOW CERL IS UNIQUE

Embracing the need for scholarship and discussion addressing ethical dilemmas in the national security space, CERL stands out as a leader among academic centers. By focusing on ethical and rule of law values, CERL has carved out a unique niche for itself among academic institutes focusing on national security law and policy. Both in the interdisciplinary methodology it uses, and in the subject matter it addresses, CERL has been successfully stimulating conversation across and within academia, government, and the private sector since its inception in 2012.

CERL's commitment to addressing practical and moral questions teaches academics and policymakers to work collaboratively to help safeguard the rule of law. Bridging theory and practice in an open and vibrant intellectual environment, CERL events provide an opportunity for intellectual exchange, as well as an avenue for networking

and professional development across multiple disciplines. CERL enjoys a particularly constructive partnership with the armed services, and its members are regularly invited to conduct briefings and consultations relating to military ethics. The interdisciplinary exchange CERL facilitates has the potential to impact policy at the highest levels.

Beyond building relationships with active practitioners, CERL solicits the expertise of scholars in a variety of academic fields, such as philosophy, political science, psychology, medicine, and engineering, among others. Additionally, CERL collaborates with actors in the private sector to understand the challenges faced by executives in the global defense industry. Establishing, maintaining, and expanding its network of relationships across many fields is the key to CERL's success.

CERL'S IMPACT

As it enters its fifth year of operation, CERL continues to expand its range of activities and programs. During the 2015-2016 season, CERL events explored topics such as violence against women in war, the effects of PTSD and moral injury on soldiers and communities, the ethical implications of negotiating with hostile non-state actors, among others. In the 2016-2017 season, CERL will further expand its range of topics. Conferences will address the characteristics and qualities of ethical leaders, how the legal system may be used to combat terror, and protecting cultural heritage in areas beset by war. By looking beyond the orthodox problems of war and national security, CERL produces unique scholarship and engaging exchanges between inspiring academics and practitioners at the highest levels.

CERL is well positioned to have a positive impact on policy at the national level. With an Executive Board comprised of top academics and practitioners, CERL increasingly engages policy-makers of significance within its areas of expertise. CERL events regularly attract military leaders, both domestic and foreign, prominent practitioners from the intelligence community, as well as military and civilian lawyers who have served the executive branch in a variety of roles. Through its activities and publications, CERL helps students, academics, practitioners, and the public at large to cultivate a clearer understanding of the rule of law.

LETTER FROM THE DIRECTOR & EXECUTIVE BOARD CHAIR

Dear Friends of CERL,

We are proud to present the 2016 Annual Report for The Center for Ethics and the Rule of Law (CERL). The Center has experienced tremendous growth since our last annual report, measured both by the scope of our activities and the reception of our efforts. We are pleased to say that CERL is now a much sought-after advisor on ethical matters, through its briefings on rule of law values in national security and ethics advice for public leaders. We are also proud to have expanded our work with veterans and veterans support organizations.

We have been fortunate to attract new members to our Executive Board of Directors, notably Mr. Alberto Mora, former General Counsel of the Navy, and we draw an increasingly prominent array of interdisciplinary scholars and practitioners to our conferences and other events. We are grateful for the support CERL's efforts receive from Penn Law's new dean, Ted Ruger, and are appreciative of his vision and his leadership of the Law School. We applaud Ted's support for veterans through his expansion of the Yellow Ribbon Program which enables veterans enrolling in Penn Law to benefit from extensive financial assistance.

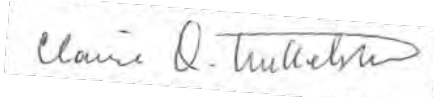
In the past year, CERL has been able to expand its interdisciplinary reach and visibility across campus through partnerships with the McNulty Leadership Program at Wharton, Penn's new Perry World House, and the Penn Museum, among others. We are looking forward to these collaborations and to bringing CERL's work on ethics and the rule of law to a wider audience. Finally, we are delighted that our Summer Internship Program attracted 11 excellent interns, whose research and briefing papers contributed greatly to CERL's efforts. We are proud of our student members and look forward to expanding CERL's outreach among law students and Penn's undergraduates.

During the 2015-16 academic year, CERL held two round-table conferences and two shorter events, as well as conducted three well-received military ethics briefings. Our conference last December on post-traumatic injury brought a wide array of mental health professionals, military lawyers, veterans and veteran's service providers to campus to discuss the unacknowledged costs of PTSI as a cost of war. Last spring, we partnered with the National Constitution Center for a conference on the ethics of negotiation, which shed interdisciplinary light on the Iran Deal as well as on critical issues such as the ethics and legality of negotiating with hostage takers. We held a timely and high-level panel discussion on the Iran Deal as a preliminary to that conference in mid-September. We were also delighted to have partnered with film producer Carla Solomon and Law School Board of Overseers member Nino Magliocco to bring a new film about combat trauma and moral injury called *Thank you for your Service* to Penn Law.

This past summer saw the expansion of CERL's internship program. As part of CERL's commitment to introducing rule of law values into educational programming, we welcomed students from a number of universities in a variety of fields, as well as Penn undergraduates, to Penn Law. Students gained valuable exposure to a variety of ethical challenges in national security, and were particularly enriched through their efforts to prepare CERL for two ethics briefings we conducted in July at the Pentagon.

Finally, we wish to thank Co-Founder and Executive Board member Bill Craven, for his extraordinary leadership of CERL's Executive Board over the past four years. Fortunately, Bill remains an active member of CERL's Board, and Paul G. Haaga, Jr. has taken the reigns as CERL's new Executive Board Chair, for which the Board is deeply appreciative. Paul looks forward to helping to expand CERL's impact and broadening its base of support. We are pleased that CERL is an increasingly respected voice in both academic and policy circles on ethical matters that arise in the context of national security law and practice. We are looking forward to an exciting 2016-17 season and look forward to working with many of you as we continue to heighten awareness of the critical importance of rule of law values in public life.

Sincerely,



Claire Finkelstein, Faculty Director & Paul Haaga, Executive Board Chair



PEOPLE

The foundation of CERL's success lies in its people. From Executive Board members, to CERL interns as well as staff, partners on Penn's campus, and conference participants, the Center relies on the expertise of many individuals to further its mission. Cultivating relationships across sectors and academic disciplines is central to CERL's commitment to creating diversified discourse on some of the most difficult issues of our time. The Center has become a facilitator of conversation and a bridge connecting the academic, private, and public communities. We owe this success to the energy and dedication of CERL's affiliates.



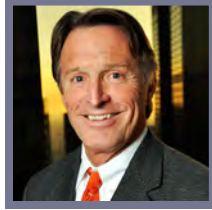
CERL Board Members from left: Kevin Govern, Stephen Xenakis, Christopher Morris, William Craven, Claire Finkelstein, Paul Haaga, Jules Zacher, Connie Rosati, Jens Ohlin, Arlene Fickler, and Duncan MacIntosh

EXECUTIVE BOARD



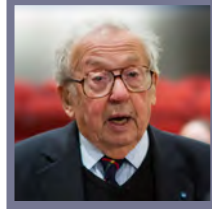
CLAIRE FINKELSTEIN

Founder and Director of CERL; Algernon Biddle Professor of Law and Professor of Philosophy



PAUL G. HAAGA, JR.

CERL Executive Board Chair; Retired, formerly the Chairman of the Board, Capital Research and Management Company



HON. HAROLD BERGER

Senior Partner and Managing Principal, Berger & Montague P.C.



WILLIAM CRAVEN

Chairman of Federal Systems; CERL Founding Executive Board Chair



AMBASSADOR DELL DAILEY

President of Dell Dailey and Family; CERL Executive Board Emeritus; Former Ambassador-at-Large, Department of State



ARLENE FICKLER

Partner, Schnader Harrison Segal & Lewis LLP



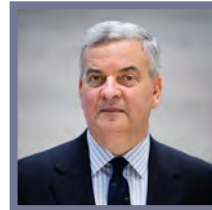
KEVIN GOVERN

Professor of Law, Ave Maria School of Law



DUNCAN MACINTOSH

Professor of Philosophy, Dalhousie University



ALBERTO MORA

Senior Fellow, Harvard Kennedy School, Carr Center for Human Rights Policy



CHRISTOPHER W. MORRIS

Professor of Philosophy and Chair of the Department of Philosophy, University of Maryland



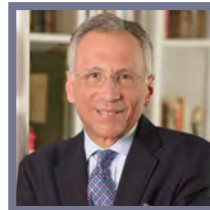
JENS OHLIN

Associate Dean for Academic Affairs and Professor of Law, Cornell University Law School



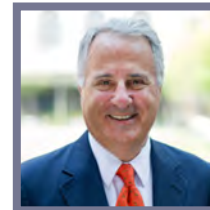
CONNIE ROSATI

Associate Professor of Philosophy, University of Arizona



BRIGADIER GENERAL STEPHEN XENAKIS

Brigadier General (Ret.) U.S. Army; Erik Erikson Scholar, The Austen Riggs Center



JULES ZACHER

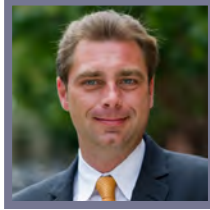
Attorney-at-Law; Board Member for the Council for a Livable World

ADVISORY COUNCIL



ANITA ALLEN

Henry R. Silverman Professor of Law and Professor of Philosophy; Vice Provost for Faculty, University of Pennsylvania



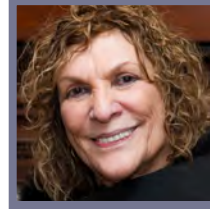
WILLIAM BURKE-WHITE

Richard Perry Professor and Inaugural Director, Perry World House; Professor of Law, University of Pennsylvania



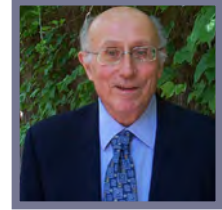
STUART DIAMOND

Emeritus Practice Professor of Legal Studies and Business Ethics, the Wharton School of the University of Pennsylvania



EDNA FOA

Professor of Clinical Psychology in Psychiatry; Director of the Center for the Treatment and Study of Anxiety, University of Pennsylvania



DAVID GAUTHIER

Professor Emeritus, Philosophy Department, University of Pittsburgh



MICHAEL C. HOROWITZ

Associate Professor of Political Science, University of Pennsylvania



DAVID S. JONAS

Partner, Fluet Huber & Hoang PLLC



FIROOZEH KASHANI-SABET

Robert I. Williams Term Professor of History; Director of the Middle East Center, University of Pennsylvania



VIJAY KUMAR

Nemirovsky Family Dean of Penn Engineering, University of Pennsylvania



MARTIN LEDERMAN

Associate Professor of Law, Georgetown University



SHARON LLOYD

Professor of Philosophy, Law, and Political Science, University of Southern California



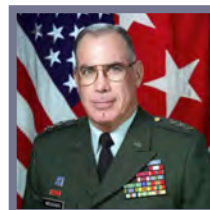
LARRY MAY

W. Alton Jones Professor of Philosophy, Professor of Law, Professor of Political Science, Vanderbilt University



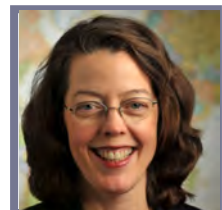
JEFF MCMAHAM

White's Professor of Moral Philosophy, University of Oxford



PAUL E. MENOHER, JR.

Lieutenant General (Ret.), US Army



MARY ELLEN O'CONNELL

Robert and Marion Short Professor of Law and Research Professor of International Dispute Resolution, University of Notre Dame Law School



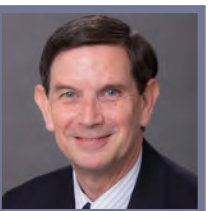
HARVEY RUBIN

Director of the Institute for Strategic Threat Analysis and Response (ISTAR); and Associate Dean for Student Affairs in the School of Medicine, University of Pennsylvania



STEPHEN SHELLER

Founding Partner, Sheller P.C.



ROGERS SMITH

Christopher H. Browne Distinguished Professor of Political Science, University of Pennsylvania

STAFF



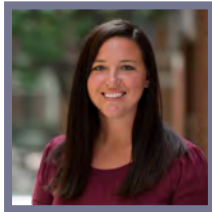
Andrew McAninch



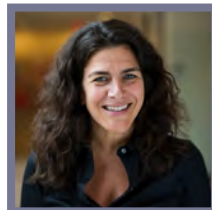
Andrea Cayley



Elisabeth Aulepp



Jennifer Evans



Debbie Rech

It is with the dedicated work of the Center and the Law School's support staff that CERL is able to host large scale events. Under the direction and coordination of Andrew McAninch, CERL Program Director 2015, and Andrea Cayley, CERL Director of Research 2015-2016, the Center has organized in the past year two multi-day conferences, four one day events, 55 speakers, and welcomed 900 conference attendees and experts to Penn Law. From event concept development, to sourcing interesting literature, and overseeing the student internship program, the success of CERL events depends on the efforts of its staff members.

Furthering CERL's success in executing major events is Penn Law's Faculty Support Staff (FSS). As part of Penn Law FSS, Elisabeth Aulepp, Jennifer Evans, and Debbie Rech are instrumental in managing the logistical aspects of producing events.

EVENTS 2015-2016

The Center hosts a number of events to further its mission of promoting and preserving rule of law values in war and national security. Events range from one-day public symposia, to three-day round-table conferences, to film screenings, and briefings at the Pentagon. The Center seeks to expand its activities in many areas and draws inspiration from a number of sources. This past academic year, CERL hosted events to address the Iran nuclear negotiations, combat trauma and moral injury, and the ethics of negotiations in armed conflict.



Claire Finkelstein speaks with Pamela Craven (CW '74, L '77), member of Penn Law Board of Overseers, at cocktail reception of Iran's Nuclear Chess: After the Deal panel discussion.



1



2

(1) Dave Jonas and General (Ret.) James “Hoss” Cartwright, (2) Students at CERL keynote address, (3) Colonel Kenneth Detreux at Invisible Wounds of War conference, and (4) Ilsa and Lisa Klinghoffer, daughters of terrorist victim Leon Klinghoffer, shared their story of suing the PLO at CERL’s Ethics of Negotiation conference



4

IRAN'S NUCLEAR CHESS: AFTER THE DEAL

SEPTEMBER 17, 2015

CERL's opening event for the 2015-2016 academic year illuminated the moral aspects of the negotiation of the Joint Comprehensive Plan of Action with the Islamic Republic of Iran. Discussions revolved around the ethical and strategic dilemmas that arise when democratic nations attempt to negotiate with states who reject democratic and rule of law values. In which circumstances is it ethically permissible to negotiate with such regimes? Is focusing on Iran's nuclear program while disregarding its connection with terrorism problematic from the standpoint of legitimizing and marginalizing such behavior? Is it strategically wise? How should lawmakers in a democracy respond to diplomatic efforts of this sort on the part of the executive branch? The wide ranging experience and expertise of CERL's distinguished guests enabled them to present their unique perspectives on these and related questions, furthering CERL's aim to revitalize the often neglected moral dimension of international diplomacy.



Clockwise from top left: Panelists and organizers Dave Jonas, Rangi-ta de Silva de Alwis, General (Ret.) James "Hoss" Cartwright, Claire Finkelstein, Firoozeh Kashani-Sabet, Robert Litwak, and Paul Haaga; Penn Law Dean Ted Ruger; and panelists discussing the negotiations with audience members.



CRITICAL GLOBAL CONVERSATIONS

Sponsored by the Center for Ethics and the Rule of Law and International Programs

Iran's Nuclear Chess: After the Deal

THURSDAY
SEPTEMBER 17

Fitts Auditorium

4:00 – 6:00 pm



Please join us for a vital conversation on the Iran Nuclear Deal

PANELISTS

General (ret) James "Hoss" Cartwright

Harold Brown Chair in Defense Policy Studies at the Center for Strategic and International Studies (CSIS), and the former Vice Chairman of the Joint Chiefs of Staff

Dr. Haleh Esfandiari

Public Policy Fellow at the Woodrow Wilson Center, and the Founding Director of the Center's Middle East Program

Professor David S. Jonas

Adjunct Professor at Georgetown University Law Center and George Washington University Law School, and the former General Counsel of the National Nuclear Security Administration (NNSA)

Dr. Robert Litwak

Vice President for Scholars and Director of International Security Studies at the Woodrow Wilson Center, and the Former Director for Nonproliferation at the National Security Council

MODERATOR

Professor Claire Finkelstein

Algernon Biddle Professor of Law and Professor of Philosophy, and Director of the Center for Ethics and the Rule of Law, University of Pennsylvania of Law

RSVP
to this event



Followed by cocktail reception



PREVENTING AND TREATING THE INVISIBLE WOUNDS OF WAR: COMBAT TRAUMA AND PSYCHOLOGICAL INJURY

DECEMBER 3-5, 2015

Thursday, December 3 Keynote Speech: Zainab Hawa Bangura, Special Representative to the Secretary General on Sexual Violence in Conflict

Friday, December 4 Session 1: The Nature of Combat Injury and Its Social Implications
Session 2: Understanding Trauma
Session 3: Combat Trauma As Moral Injury
Session 4: Keynote Panel Discussion with Dr. Edna Foa, Dr. Charles Hoge, and Mr. Eric Newhouse — Mental Health Injury as a Cost of War
Participant Dinner
Introductory Remarks: Captain Robert G. Fuller Jr.
Presentation: Mr. Eric A. Banrevy Guerra, Former Corporal, United States Marine Corps

Saturday, December 5 Session 5: Ethical Dilemmas in the Treatment and Prevention of PTSD
Session 6: Psychological Injury and Legal Responsibility
Lunchtime Keynote Speaker: Dr. Bessel van der Kolk , Neuroscience Research Clarifies the Nature of Traumatic Stress: Implications for Treatment and Intervention
Session 7: Post Bellum Obligations and The Duties We Owe to Soldiers



Eric Alexander Banrevy Guerra, former United States Marine Corps Corporal and infantry rifleman with 2/2 Golf Company, speaks of his experience with post traumatic stress injury following his tours of duty in Iraq

The Center for Ethics and the Rule of Law

presents:

PREVENTING AND TREATING THE INVISIBLE WOUNDS OF WAR: COMBAT TRAUMA AND PSYCHOLOGICAL INJURY



DECEMBER 4-5, 2015

Friday — 9:45 a.m. – 3:30 p.m. | Saturday — 9:30 a.m. – 3:30 p.m.

Singh Center for Nanotechnology | 3205 Walnut Street

The financial toll of post-traumatic stress disorder (PTSD) alone on the U.S. economy is estimated to range in the billions of dollars, however it fails to account for the full societal and moral impact of mental health-related combat injuries. Those suffering from such injuries often have difficulty finding gainful employment, are prone to violent outbursts and substance abuse, and exhibit suicidal tendencies. Further, psychological harm related to the conduct of hostilities impacts civilians, particularly women and children, increasing the collateral costs of war. Taking these and other consequences of combat trauma into account within traditional Just War Theory presents significant challenges. Should mental health costs to service members and civilians in areas of conflict be included in the calculations of governments contemplating whether to engage in an armed conflict? Should battlefield commanders assess potential mental harms to civilians as part of the proportionality analysis of “collateral damage” conducted prior to each military engagement? Additionally, when a service member witnesses or commits a transgression from deeply held moral beliefs and expectations, he or she may suffer from what has been termed “moral injury.” Should moral injury be recognized as a mental health concern that is distinct from PTSD? Are soldiers particularly vulnerable to moral injury while confronting non-state actors embedded in civilian population?

Further questions arise in considering possible measures to prevent and treat combat trauma. Inoculating soldiers to the horrors of warfare through pre-deployment battlefield simulations or pharmacological intervention may reduce the likelihood of trauma. Such programs, however, have been criticized as desensitizing soldiers to moral indignation and reducing their capacity for sound moral decision-making in combat. Similarly, PTSD treatment in the proximity of the battlefield facilitates expedient return to active duty, but may also decrease the potential of full long-term recovery. How should these aspects of prevention and treatment protocols be considered and weighed? Finally, there are important legal and ethical questions relating to criminal and civil liability of service members suffering from mental harms. For instance, should war-inflicted mental harms be taken into account in criminal trials, and to what extent? This conference will bring together policymakers and high-level experts from the military, academia, and the mental health community, to engage in a multifaceted conversation on the legal, moral, and practical dimensions of these dilemmas.

This program has been approved for 9.0 ethics CLE credits for Pennsylvania lawyers. CLE credit may be available in other jurisdictions as well. Attendees seeking CLE credit should bring separate payment in the amount of \$180 (\$90 public interest/non-profit attorneys) cash or check made payable to The Trustees of the University of Pennsylvania.



For more information contact cerl@law.upenn.edu

SEXUAL VIOLENCE & TRAUMA IN CONFLICT: RETHINKING THE COST OF WAR

DECEMBER 3, 2015



*Above: Claire Finkelstein with Zainab Hawa Bangura, Special Representative of the UN Secretary-General on Sexual Violence in Conflict
Below: Jens Ohlin, CERL Board Member, has questions for Zainab Hawa Bangura.*

CRITICAL GLOBAL CONVERSATIONS

Sexual Violence and Trauma in Conflict: Rethinking the Cost of War

THURSDAY
DECEMBER 3

Fitts Auditorium

4:30 p.m.



“Sexual violence in conflict is a great moral issue of our time”

-Under-Secretary-General Zainab Bangura addressing the UN Security Council

Zainab Hawa Bangura, the Under-Secretary-General and Special Representative of the Secretary-General on Sexual Violence in Conflict, will address wartime rape and other forms of conflict-related sexual violence as a “cost-free” and devastating weapon of war. She will discuss her visits to the Middle East and how ISIS uses sexual violence against women from Yazidi, Christian, and Turkmen Shia minorities as a “tactic of terrorism.” She will focus on her UN mandate challenging impunity in the Democratic Republic of the Congo (DRC) and South Sudan and the psycho-social support needed for survivors of violence in countries ranging from Iraq, Syria, Bosnia, DRC, Somalia and the Central African Republic.

Moderator: Claire Finkelstein, *Algernon Biddle Professor of Law*

With Opening Remarks: Rangita de Silva de Alwis, *Associate Dean for International Programs*

Reception to Follow.

This program has been approved for 1.5 ethics credits for Pennsylvania lawyers. CLE credits may be available in other jurisdictions as well. Attendees seeking CLE credit should bring separate payment in the amount of \$40.00 (\$20.00 public interest/non-profit attorneys) cash or check made payable to The Trustees of the University of Pennsylvania.



RSVP link



Co-Sponsored by:
International Programs
Center for Ethics and Rule of Law (CERL)
Evelyn Jacobs Ortner Center on Family Violence
Campaign for Community



*Above: Claire Finkelstein with conference sponsor Captain (Ret.) Robert G. Fuller Jr.
Below: Edna Foa delivers keynote speech in Fitts Auditorium at Penn Law*

The Center for Ethics and the Rule of Law

presents:

MENTAL HEALTH INJURY AS A COST OF WAR



FRIDAY, DECEMBER 4, 2015

4:00 p.m. – 6:00 p.m.

Fitts Auditorium, University of Pennsylvania Law School

The financial burdens of post-traumatic stress disorder (PTSD) alone on the U.S. economy are estimated to range in the billions of dollars. The financial toll of PTSD does not account for the full societal and moral impact of mental health-related combat injuries. Those suffering from PTSD and traumatic brain injury (TBI) often have difficulty finding gainful employment, are prone to violent outbursts and substance abuse, experience marital problems and exhibit suicidal tendencies. These behaviors have a disruptive effect on veterans' spouses, extended families, and communities as well. In addition, recent research suggests that PTSD is heritable through multiple generations, further expanding the long-term effects and costs of the condition. Further, psychological harm related to the conduct of hostilities impacts civilians, particularly women and children, increasing the collateral costs of war. Taking these and other consequences of combat trauma into account within traditional Just War Theory presents significant challenges for civilian and military leadership. Should mental health costs to service members and civilians in areas of conflict be included in the calculations of governments contemplating whether to engage in an armed conflict? Should battlefield commanders assess potential mental harms to civilians as part of the proportionality analysis of "collateral damage" conducted prior to each military engagement? Are mental harms commensurable with physical damage? By what metric they be included in an assessment of the costs of war?

PANELISTS

Dr. Edna Foa

*University of Pennsylvania,
Perelman School of Medicine*

Dr. Charles Hoge, M.D.

Colonel, U.S. Army (Ret.)

Mr. Eric Newhouse

Journalist

Dr. Steve Xenakis, M.D.

Brigadier General, U.S. Army (Ret.)

MODERATOR

Professor Claire Finkelstein

*Director, Center for Ethics and the
Rule of Law, University of
Pennsylvania Law School*

This program has been approved for 2.0 ethics CLE credits for Pennsylvania lawyers. CLE credit may be available in other jurisdictions as well. Attendees seeking CLE credit should bring separate payment in the amount of \$40 (\$20 public interest/non-profit attorneys) cash or check made payable to The Trustees of the University of Pennsylvania.

PLEASE RSVP

<http://bit.ly/1MPC9fJ>



THE ETHICS OF NEGOTIATIONS IN ARMED CONFLICT

APRIL 14-16, 2016

Thursday, April 14 Inaugural Keynote Panel: *Negotiating Hostage Situations in Transnational Conflict*
Panelists: Ambassador Daniel C. Kurtzer, Ambassador John Limbert, Dr. Adam Dolnik

Friday, April 15 Session 1: Bargaining with the Devil: When Is It Unethical to Negotiate?

Session 2: Negotiating with Non-State Actors

Lunch Keynote Address: Professor Steven Brams, New York University
The Win-Win Solution: Guaranteeing Fair Shares to Everybody

Session 3: Negotiating Across Religious, Cultural, and Moral Differences

Keynote Speaker: Ambassador Dennis Ross

Saturday, April 16 Session 4: The Utility and Morality of Secret Negotiations

Session 5: Preventive Diplomacy

Lunch Keynote Address: Mr. Niall O'Dowd, Founder of IrishCentral

Session 6: Negotiating Around Armageddon: Are Nuclear Negotiations Special?



Conference Participants at The Ethics of Negotiation Conference at the National Constitution Center

THE CENTER FOR ETHICS AND THE RULE OF LAW
presents

THE ETHICS OF NEGOTIATION IN ARMED CONFLICT



APRIL 15-16, 2016

**National Constitution Center
525 Arch Street | Philadelphia, PA 19106**

As the recent U.S.-Iran nuclear deal illustrates, conducting negotiations under the specter of armed conflict raises unique challenges. Does negotiating with rogue states legitimize practices we otherwise condemn? Do we have an obligation to negotiate when grave security issues are at stake, such as the use of weapons of mass destruction? Does negotiating with non-state armed groups undermine the international order by granting them a status traditionally conferred only to states? Should governments maintain a policy against negotiating with hostage-takers? Should they bar families of hostages from paying ransom to hostage-takers? In a democracy, what role should the public play in deciding whether to negotiate? Should negotiations be conducted transparently, or is secrecy necessary for effective negotiations in certain cases? This conference brings together an interdisciplinary field of experts to engage in a multifaceted conversation on the legal, ethical, and practical dimensions of negotiation in armed conflict.

By invitation only.
CLE text here

CO-SPONSORED BY PERRY WORLD HOUSE

NATIONAL CONSTITUTION CENTER





Above: Panelists Ambassador Daniel C. Kurtzer, Ambassador John Limbert, and Adam Dolnik, with Claire Finkelstein



Left: Audience members listen to panelists as they discuss the ethical implications of negotiating hostage situations

THE CENTER FOR ETHICS AND THE RULE OF LAW
presents



NEGOTIATING
HOSTAGE
SITUATIONS IN
TRANSNATIONAL
CONFLICT

THURSDAY, APRIL 14, 2016

4:30-6:30 p.m.

University of Pennsylvania Law School, Fitts Auditorium
3501 Sansom Street | Philadelphia, PA 19104

Addressing recent and historical cases concerning hostage situations, this expert panel will discuss the ethical and legal dimensions of negotiating with hostage-takers in the context of transnational conflict. Is it ethically permissible to negotiate with hostage-takers, or must we refuse to negotiate in the name of deterrence? Is the strategic or political motivation of the hostage-takers a relevant consideration? Does the act of negotiating with such groups lend legitimacy to their movements and organizations? What obligations does a nation owe its citizens or representatives when they are taken hostage? Do private citizens, family members, or associated organizations have the right to negotiate for those taken hostage?

PANELISTS

Ambassador Daniel C. Kurtzer
*S. Daniel Abraham Professor
of Middle East Policy Studies,
Woodrow Wilson School of Public
and International Studies,
Princeton University*

Ambassador John Limbert
*Distinguished Professor
of International Affairs,
United States Naval Academy*

Dr. Adam Dolnik
*International Hostage
Negotiator*

MODERATOR

Professor Claire Finkelstein
*Algernon Biddle Professor of Law and Professor of Philosophy
Founder and Director, Center for Ethics and the Rule of Law, University of Pennsylvania*

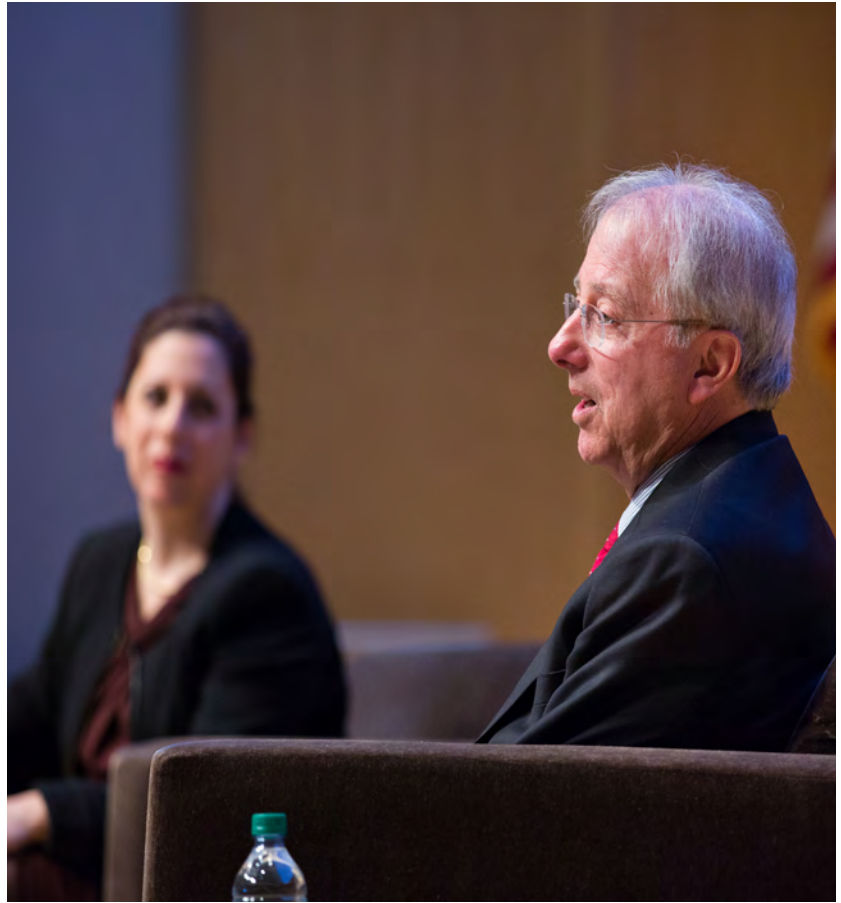
This event is free and open to the public
Public Reception to Follow
CLE text here
Please RSVP
<http://bit.ly/1ZzZean>

CO-SPONSORED BY PERRY WORLD HOUSE





Above: Ambassador Dennis Ross signing books at The Ethics of Negotiation conference



Right and Below: Claire Finkelstein with Dennis Ross at the Keynote speech for The Ethics of Negotiation conference, delivered at the National Constitution Center



THE CENTER FOR ETHICS AND THE RULE OF LAW

presents



AMBASSADOR DENNIS ROSS

WILLIAM DAVIDSON
DISTINGUISHED FELLOW AT
THE WASHINGTON INSTITUTE
FOR NEAR EAST POLICY

FRIDAY,
APRIL 15, 2016

3:00-5:00 p.m.

National Constitution Center
525 Arch Street
Philadelphia, PA 19106

For more than twelve years, Ambassador Ross played a leading role in shaping U.S. involvement in the Middle East peace process and dealing directly with the parties in negotiations. A highly skilled diplomat, Ambassador Ross was U.S. point man on the peace process in both the George H. W. Bush and Bill Clinton administrations. He was instrumental in assisting Israelis and Palestinians to reach the 1995 Interim Agreement; he also successfully brokered the 1997 Hebron Accord, facilitated the 1994 Israel-Jordan peace treaty, and intensively worked to bring Israel and Syria together.

A scholar and diplomat with more than two decades of experience in Soviet and Middle East policy, Ambassador Ross worked closely with Secretaries of State James Baker, Warren Christopher, and Madeleine Albright. Prior to his service as special Middle East coordinator under President Clinton, Ambassador Ross served as director of the State Department's Policy Planning Staff in the first Bush administration. In that capacity, he played a prominent role in U.S. policy toward the former Soviet Union, the unification of Germany and its integration into NATO, arms control negotiations, and the 1991 Gulf War coalition. Prior to returning to the Washington Institute in 2011, he served two years as special assistant to President Obama and National Security Council senior director for the Central Region, and a year as special advisor to Secretary of State Hillary Rodham Clinton.

He is the author of the book, *Doomed to Succeed: The U.S.-Israel Relationship from Truman to Obama* (Farrar, Straus, and Giroux, October 2015).

This event is free and open to the public.

Advance registration required. Please RSVP, <http://bit.ly/1RDfzeJ>

Ambassador Ross will sign copies of *Doomed to Succeed* after the talk. Please purchase your copy in advance, <http://bit.ly/1ZA9kYT>.

CLE text here

NATIONAL CONSTITUTION CENTER



AN EXCLUSIVE SCREENING OF THANK YOU FOR YOUR SERVICE

APRIL 20, 2016

CERL held an exclusive screening of the newly-released documentary *Thank you for Your Service*, directed by Tom Donahue. In a powerful statement, the film highlights our insufficient understanding of combat trauma, moral injury, and how the impact of trauma should figure in the costs of war.



Above: Panelists discuss *Thank You for Your Service* and (below) attendees enjoy cocktail reception following the screening

The Center for Ethics and the Rule of Law

presents

THANK YOU FOR YOUR SERVICE



WEDNESDAY, APRIL 20

4:30 p.m.

Fitts Auditorium, University of Pennsylvania Law School
3501 Sansom Street, Philadelphia, PA 19104

Please join us for a screening of *Thank You for Your Service* followed by a panel discussion and Q&A with the film's director, Tom Donahue, and others.

The U.S. military faces a mental health crisis of historic proportions. *Thank You for Your Service* takes aim at our superficial understanding of war trauma and the failed policies that result. Director Tom Donahue (Casting By) interweaves the stories of four struggling Iraq War veterans with candid interviews of top military and civilian leaders. Observing the systemic neglect, the film argues for significant internal change and offers a roadmap of hope.

4:30 p.m. – 6:00 p.m.

Screening of *Thank You for Your Service*

6:00 p.m. – 7:00 p.m.

Panel discussion and Q&A with:

Tom Donahue, Director, *Thank You for Your Service*

Dr. Stephen Xenakis, Brigadier Gen. (ret.), U.S. Army, combat trauma expert

Ben Richards, Major (ret.), U.S. Army

Dr. Mark Russell, Commander (ret.), U.S. Navy, military clinical psychologist

Moderator:

Professor Claire Finkelstein, Penn Law, Director and Founder, Center for Ethics and the Rule of Law

7:00 p.m. – 8:00 p.m.

Public cocktail reception

This event is free and open to the public.

A public reception will follow.

Please RSVP, <http://bit.ly/1W5AeYT>

cerl@law.upenn.edu
www.law.upenn.edu/institutes/cerl/

This program has been approved for 2.5 ethics CLE credits for Pennsylvania lawyers. CLE credit may be available in other jurisdictions as well. Attendees seeking CLE credit should bring separate payment in the amount of \$50.00 (\$25.00 public interest/non-profit attorneys) cash or check made payable to The Trustees of the University of Pennsylvania.

 CENTER for ETHICS and the RULE of LAW
UNIVERSITY of PENNSYLVANIA





EVENTS 2016-2017

The 2016-2017 academic year's conferences expand on the Center's scope to include the topic of ethical leadership, the use of the law as a vehicle to fight terror, and the preservation of art and culture in conflict zones. CERL continues to move beyond traditional themes of war and national security to explore every facet of conflict that impacts societies. CERL events place humans and how they are affected by conflict at the center of inquiry. CERL aims to build a better understanding of ethical practices at the highest levels of decision-making.

PRODUCING LEADERS OF CHARACTER AND INTEGRITY: INSTILLING VALUES INTO PUBLIC LIFE,
CO-SPONSORED BY THE VILLANOVA UNIVERSITY ETHICS PROGRAM

SEPTEMBER 15, 2016

This symposium will focus on concepts of ethical leadership and explore the contribution that educational, military, political, professional and business institutions can make towards the development of ethical leaders. CERL's contribution to this topic reflects its focus on rule of law values: where individuals have internalized respect for the rule of law their stewardship is both ethically grounded and maximally effective.

WHYY VOICES IN THE FAMILY: UNDERSTANDING TRAUMA IN SEX AND WAR

SEPTEMBER 22, 2016

In partnership with the Center for Ethics and the Rule of Law (CERL), Dr. Dan Gottlieb and a panel of experts will examine the impact of sexual violence and combat trauma. What do different types of trauma have in common? How are they different and what treatments are effective in each case? What are the signs and symptoms of post-traumatic stress and how should educational and military institutions deal with vulnerability to post-traumatic stress? Finally, when should sufferers of post-traumatic stress seek help and where should they seek it? This special will be recorded for broadcast at WHYY.

USING LAW TO FIGHT TERROR: LEGAL APPROACHES TO COMBATING VIOLENT NON-STATE ACTORS,
CO-SPONSORED BY THE PERRY WORLD HOUSE

OCTOBER 27-29, 2016

The central aim of this conference is to enhance the effectiveness of our current approach to combating violent extremism by (a) exploring the merits of different frameworks for responding forcefully to the threats posed by non-state actors while remaining constrained by ethical principles and rule of law values; (b) identifying the current challenges that confront us in our current reliance on military action; and (c) identifying alternative approaches to the security threat posed by non-state actors, ones developed within a legal framework, though perhaps implemented with military aid to civilian authorities.

PRESERVING ART AND CULTURE IN TIMES OF ARMED CONFLICT,
CO-SPONSORED BY THE PENN MUSEUM

APRIL 4-6, 2017

This conference will explore the distinctive ethical and legal questions raised by the preservation of historically, culturally, and artistically significant sites and artifacts in modern conflict. What value should we place on cultural heritage, and at what cost should we aim to preserve it in conflict? Should the preservation of ancient treasures place ethical or legal constraints on achieving military objectives? Should they figure in proportionality calculations? Can we weigh the value of artifacts against the value of lives? What ethical and legal norms govern the repatriation of art works pilfered in conflict, and what obligations do museums have in supporting repatriation efforts? Drawing on a panel of experts from the fields of archaeology, anthropology, art history, law, and ethics the goal of this conference is to develop a legal and ethical framework for responding to these challenges.

FOREIGN INTERFERENCE WITH DEMOCRATIC ELECTIONS,
CO-SPONSORED BY THE AMERICAN ENTERPRISE INSTITUTE (AEI)

APRIL 18, 2017

The discovery of widespread attempts to influence the 2016 Presidential election in the U.S. on the part of the Russians has sent shock waves through the public and has forced us to begin to re-evaluate the current nature of the threats to democratic values and adherence to the rule of law on behalf of foreign governments that do not share the U.S. commitments to the integrity of basic democratic institutions. Drawing lessons from the recent revelations of Russian cyber-hacking, as well as Russian involvement in the dissemination of fake news, there is a growing awareness that our reliance on computerized communications and data processing has created vulnerabilities to foreign interference that we had previously overlooked or underestimated. This half-day event is designed to deepen our understanding of the risks faced by the U.S. as well as other democratic nations from foreign interference in the democratic process, with a focus on cyber-interference.



SUMMER ACTIVITIES 2016

In conjunction with the CERL Summer Internship Program, CERL held a film series designed to explore ethical and rule of law issues in national security, armed conflict, and the lives of veterans through the lens of contemporary cinema. The use of film, and art more generally, to contemplate the themes of war is a vital means of public catharsis following devastating political events and art has the power to delve into an area typically avoided by academic journals, that of human emotion.

CERL also hosted eleven talented and upcoming students as part of its Summer Internship program. This internship demonstrates the Center's commitment to training the next generation of ethical leaders.

CERL 2016 SUMMER FILM SERIES

Building on the popularity of the *Thank You for Your Service* screening, the Center organized a summer film series to explore the challenging personal and political questions that arise in times of war.



Join the Center for Ethics and the Rule of Law (CERL) this summer as we explore ethical and legal issues concerning national security, armed conflict, and the lives of veterans through the lens of contemporary cinema. CERL will screen recent films exploring the challenging personal and political questions that arise in times of war. Topics include the controversy over the torture of U.S. detainees in Iraq (*Ghosts of Abu Ghraib*), the dynamics of leadership during wartime (*Lincoln*), and the impact of combat and post-traumatic stress on returning veterans and their families (*The Messenger*), among others. A brief discussion period with the audience will follow each screening. All screenings are free and open to the public.

The inaugural film screening of *Ghosts of Abu Ghraib* will be held on **Thursday, June 9, at 3:00 p.m., at the University of Pennsylvania, Gittis Hall 2** (in the basement).

Subsequent screenings will be held on **Tuesdays at 3:00 p.m. EST in the Fitts Auditorium**, University of Pennsylvania Law School.

SCHEDULE

DATE	FILM	UNIVERSITY OF PENNSYLVANIA LAW SCHOOL
Thursday, June 9, 3:00 p.m.	<i>Ghosts of Abu Ghraib</i> (2007)	Gittis Hall 2
Tuesday, June 14, 3:00 p.m.	<i>The Counterfeiters</i> (2007)	Fitts Auditorium
Tuesday, June 21, 3:00 p.m.	<i>Rules of Engagement</i> (2000)	Fitts Auditorium
Tuesday, June 28, 3:00 p.m.	<i>Lincoln</i> (2012)	Fitts Auditorium
Tuesday, July 5, 3:00 p.m.	<i>The Messenger</i> (2009)	Fitts Auditorium
Tuesday, July 12, 3:00 p.m.	<i>Woman in Gold</i> (2015)	Fitts Auditorium
Tuesday, July 19, 3:00 p.m.	<i>Eye in the Sky</i> (2015)	Fitts Auditorium

CERL is a non-partisan interdisciplinary institute dedicated to the preservation and promotion of the rule of law in twenty-first century warfare and national security. The only Center of its kind housed within a law school, CERL draws from the study of law, philosophy, and ethics to answer the difficult questions that arise in times of war and contemporary transnational conflicts. To learn more about CERL, please visit <https://www.law.upenn.edu/institutes/cerl/>. For questions please contact cerl@law.upenn.edu.



2016 CERL SUMMER INTERNSHIP

CERL's Summer Internship Program offers professional, graduate, and exceptional undergraduate students an opportunity to engage with efforts to promote and protect ethical principles and the rule of law in national and international security practice. Summer interns enhanced their theoretical and practical understanding of ethics and rule of law values in contemporary asymmetric warfare as well as addressed critical and cutting-edge problems facing national security experts today. Interns in the Program worked as a team under the supervision of CERL's leadership, and participated in CERL's on-going activities: assisting in the preparation of CERL's upcoming conferences, workshop and other public programs; contributing to CERL's academic publications; and drafting briefing papers for policymakers and media outlets, among other responsibilities. Interns met once a week for lunch as a group to hear presentations by guest speakers, discuss work in progress, and engage in planning activities relating to CERL's ongoing activities. The internship was highlighted by a presentation at the Pentagon by CERL's director, Professor Finkelstein, which focused on the ethics of interrogation. The interns' collaborative efforts and attendance at the presentation proved to be a valuable asset to CERL and a unique learning experience for the interns.

Quentin Fisher, *PhD Candidate, Philosophy, Georgetown University*
Michael Gonen, *US Military, JD Candidate, University of Pennsylvania Law School*
Carlton Haelig, *Master's Candidate, George Mason University*
Aadir Khan, *Bachelor's Candidate, Provost's Grant Recipient, University of Pennsylvania*
William Martin, *Master's Education, Harvard University*
Ojashwi Pathak, *Master's Candidate, Villanova University*
Vanessa Schuetz, *Master's Candidate, Rowan University*
Serena Tiberwala, *Bachelor's Candidate, University of Pennsylvania*
Hannah Victor, *Joint BSN/JD Candidate, University of Pennsylvania Law School*
Aaron Wolff, *Bachelor's Candidate, University of Pennsylvania*
Benjamin Yarter, *JD Candidate, Villanova Law School*



From left standing: Andrea Cayley, Michael Gonen, Aaron Wolff, Benjamin Yarter, Hannah Victor, Aadir Khan, Carlton Haelig, (seated from left) Quentin Fisher, Serena Tiberwala, Ojashwi Pathak, William Martin. Not pictured, Vanessa Schuetz

CERL gave me experience and insight into the workings and importance to international law of war. Exploring the meaning and implications of rules and history surrounding torture and treatment of detainees was particularly timely.

~Michael Gonen, US Military, JD Candidate, University of Pennsylvania Law School

My internship experience at CERL was very rewarding. I gained excellent experience in cross-disciplinary research and policy analysis while being afforded the opportunity to display my skills to high-level audiences. The work I did this summer continues to pay off academically and professionally to this day, as I'm sure it will well into the future.

~Carlton Haelig, Master's Candidate, George Mason University

Internship at CERL was an intellectually enriching experience for me. CERL provided an opportunity to understand the concept of the rule of law and exchange my ideas and opinions with other students and experts. It helped me understand the broader implications of the topic and how governments all over the world deal with the issues of the rule of law.

~Ojashwi Pathak, Master's Candidate, Villanova University

During my summer working at the Center for Ethics and the Rule of Law, I was exposed to a set of ethical issues—those surrounding war—that were new to me and yet familiar, for they drew upon basic ideas of human nature, decency, and rights. From torture to targeted killings and new terrorist threats, I grappled with balancing age-old legal norms against changing times, and caught a glimpse of the difficulties in determining what is right and true and good when faced with the worst of human nature. I'm so grateful for the opportunity to engage with scholars and literature on these issues.

~Hannah Victor, Joint BSN/JD Candidate, University of Pennsylvania Law School

The CERL internship gave me the opportunity to work on a wide array of interesting and important issues facing the American security establishment including the legal basis for targeted killings, American abuse of prisoners in Afghanistan, classified research at universities, the challenge of ethical leadership, and terrorist financing.

~Aaron Wolf, Bachelor's Candidate, University of Pennsylvania

My experience at CERL was invaluable. I had the chance to do legal research in areas that are highly relevant to what I'm studying in law school. I also got to meet many fascinating people, such as Alberto Mora, and I made a lot of great friends over the summer as well.

~Benjamin Yarter, JD Candidate, Villanova Law School

CERL ETHICS BRIEFINGS

PENTAGON BRIEFING

JULY 6 & 7, 2016

As part of CERL's commitment to promote rule of law values within the highest levels of government, Professor Finkelstein, accompanied by CERL's summer interns, briefed a large group of JAGs on the ethics of interrogation with a presentation entitled: "In the Wake of Torture: Enhanced Interrogation and the Rule of Law." Through a time-line, discussion, and hypotheticals Professor Finkelstein helped the military's top lawyers consider the ethical dilemmas that are raised by interrogation.

For the second day of presentations, Professor Finkelstein briefed the Joint Chiefs of Staff Middle East Division on the current state of ISIS financing. Together they explored the internal strength of ISIS' financial network and methods to block their financial growth.



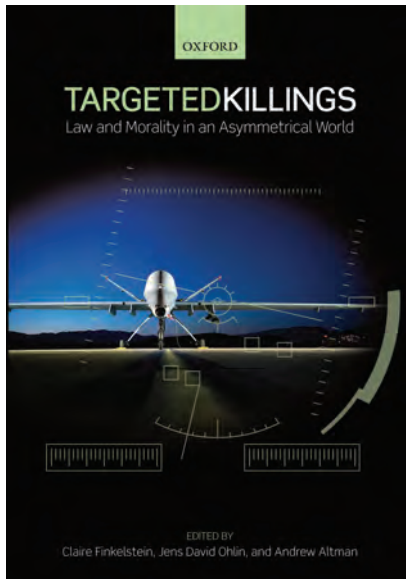
U.K. BRIEFING

MAY 17, 2016

Professor Claire Finkelstein spoke at a conference entitled *Drones, Robotics, Autonomous Systems, and Their Reception* to discuss the moral and legal posture of targeted killing, focusing on the permissibility of targeting outside of zones of armed conflict under the PPG. Participants included British and American Special-Operations forces. The event was sponsored by the Changing Character of War Programme at Oxford University. Professor Finkelstein has become a sought after lecturer and speaker, and regularly briefs military servicemen and women about the legal and ethical dimensions of prosecuting the war on terror.



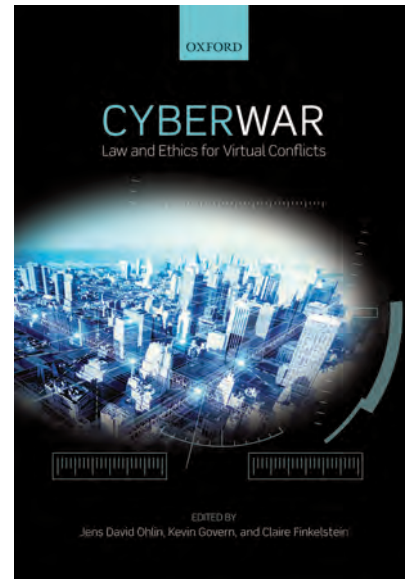
PUBLICATIONS



*Targeted Killing: Law and Morality in an
Asymmetrical World*

Oxford University Press, April 2012

Edited by Claire Finkelstein, Jens David
Ohlin, and Andrew Altman



*Cyberwar: Law and Ethics for
Virtual Conflicts*

Oxford University Press, May 2015

Edited by: Jens David Ohlin, Kevin
Govern, and Claire Finkelstein

FORTHCOMING PUBLICATIONS

SOVEREIGNTY AND THE NEW EXECUTIVE AUTHORITY

Edited by Claire Finkelstein and Michael Skerker
Oxford University Press, 2017

WEIGHING LIVES IN WAR: COMBATANTS AND CIVILIANS

Edited by Jens David Ohlin, Larry May, and Claire Finkelstein
Oxford University Press, 2017

ETHICAL DILEMMAS IN THE GLOBAL DEFENSE INDUSTRY

Edited by Kevin Govern and Claire Finkelstein
Oxford University Press, 2018

THE ETHICS OF AUTONOMOUS WEAPONS SYSTEMS

Edited by Claire Finkelstein, Duncan MacIntosh, and Jens Ohlin

**PREVENTING AND TREATING THE INVISIBLE WOUNDS OF
WAR: COMBAT TRAUMA AND PSYCHOLOGICAL INJURY**

Edited by Claire Finkelstein, Evan R. Seamone, and Steven Xenakis

CERL BENEFACTORS

CERL is grateful to the many individuals and organizations for their generous support over the years. Their financial contributions enable CERL to hold conferences and events, produce written work for publication, and provide stipends for CERL interns. This support allows CERL to continue its many activities in advancing its mission of defending the rule of law. The Center owes a particular debt of gratitude to Penn Law School Dean Ted Ruger for his continued partnership and support. Thank you to all those who have helped CERL reach its fifth year of operation.



From left: CERL Co-Founder William Craven, Penn Law Dean Ted Ruger, and CERL Executive Board Chair Paul Haaga Jr.

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