

Praise for *Law, War and the Penumbra of Uncertainty*

In this innovative, inter-disciplinary and imaginative study, Sam Selvadurai asks how much the prior strategic and ethical views of international lawyers, as well as their general approach to law, influence their views on the use of force. He offers suggestions drawn from risk management and strategic assessment to help them to navigate their way through hard cases.

*Sir Lawrence Freedman, Emeritus Professor of War Studies,
King's College London*

Selvadurai's seminal book on the law of force navigates skilfully and elegantly between empirical, theoretical and doctrinal arguments to produce an informed and original analysis of decision-making cultures on the use of force. Drawing on interviews and surveys, this book makes important claims about what ought to be required in decisions about resort to force, claims that will no doubt advance discourse in international law, foreign policy and legal philosophy alike.

Professor Guglielmo Verdirame, King's College London

The book takes a unique approach, subjecting doctrinal legal questions to a forensic examination of how they are interpreted and applied in practice. It provides a bridge between law and policy, uncovering the reality of how States formulate their legal position on use of force. As such, it will be of much interest to scholars of law as well as those seeking to understand policy and decision-making in this area.

Professor Noam Lubell, University of Essex

At a time when the *jus ad bellum* is under strain and having to demonstrate its relevance to new challenges, Selvadurai's book provides an insightful and compelling inter-disciplinary investigation into the particularly problematic issues of legal and factual uncertainty that perennially plague assessments regarding the decision to resort to war.

Professor Christian Henderson, University of Sussex

'Hard cases make bad law' as they say, but Sam Selvadurai analyses precisely these 'hard cases' to show that the law on the use of force, the *jus ad bellum*, is necessarily indeterminate, what he terms the 'penumbra of uncertainty'. This is an interdisciplinary work that is impressive in its breadth and scope, but also in its depth of analysis, which is supported by a number of structured interviews with practitioners.

*Dr Natasha Kuhrt, Department of War Studies,
King's College London*

Dr Selvadurai's book offers an insightful and skilful analysis and explanation of how legal decisions about the use of force are made in situations of legal and factual uncertainty by using innovative methods of inquiry, combining legal risk management and strategic intelligence analysis. The proposed risk management framework provides a systematic guide for assessing the merits of alternative choices and possible outcomes. This is very much a book about the law and politics underpinning use of force decisions and, for this reason, it is a 'must-read' for government lawyers, judges and scholars.

Professor Nicholas Tsagourias, University of Sheffield

This is a monumental, interdisciplinary volume that confirms how law cannot be separated from politics in international affairs and how black letter law, despite the naive expectations of some, is impossible in matters of war and peace. Strategy and the legitimacy of international law are deeply intertwined in a hazy twilight of interpretative and factual uncertainty. But, crucially, as this brilliant analysis uniquely shows, lawyers' contrasting interpretations on the use of force are politically, ethically and culturally embedded; to echo the great Bradley F. Smith on the Nuremberg judges, international lawyers cannot escape their prejudices and these both shape their legal opinions and fuel continuing uncertainty. This rich study blends law, politics, ethics and strategy to chart the way forward.

*Professor James Gow, Professor of International Peace and Security,
King's College London*

In a masterly manner, this book, by examining the decision-making processes actually used, seeks to answer how decisions are taken on the use of force, amidst the uncertainty of facts and law, and recommends best practice. A 'must read' for those involved in such decisions.

*Professor Charles Garraway, Fellow, Human Rights Centre,
University of Essex*

His curiosity aroused by service in the UK's FCO, Dr Selvadurai has written a brilliant and startlingly original text on *jus ad bellum*, the law of war. He draws on analytical philosophy on 'vagueness', and on close analysis of 15 scholarly texts, and interviews with 31 scholars and practitioners, to develop a framework with which to challenge the claim that international law is fatally undermined by indeterminacy. Essential reading.

Professor Bill Bowring, Birkbeck College, University of London

Dr Selvadurai's book deserves praise because it does what other studies of the *jus ad bellum* have not done yet: it explores how legal reasoning works in this area of law by also using concepts and methods from other disciplines,

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Sam Selvadurai
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including interviews and surveys with UK-based international lawyers. The result is a fascinating inside look into the uncertainties and subjectivities of the law governing the use of force and its ‘specifically indeterminate’ nature. Not to be missed.

Professor Marco Roscini, University of Westminster

LAW, WAR AND THE PENUMBRA OF UNCERTAINTY

This book argues that lawyers must often rely on contestable ethical and strategic intuitions when dealing with legal and factual uncertainties in 'hard cases' of resort to force. This area of international law relies on multiple tests which can be interpreted in different ways, do not yield binary 'yes/no' answers, and together define 'paradigms' of lawful and unlawful force. Controversial cases of force differ from these paradigms, requiring lawyers to assess complex, incomplete factual evidence, and to forecast the immediate and long-term consequences of using and not using force. Legal rules cannot resolve such uncertainties; instead, techniques from legal risk management, strategic intelligence assessment and political forecasting may help. This study develops these arguments using the philosophy of knowledge, socio-legal, politico-strategic and ethical theory, structured interviews and a survey with thirty-one UK-based international lawyers, and systematic analysis of key International Court of Justice cases and scholarly assessments of US-led interventions.

Sam Selvadurai is Visiting Senior Research Fellow at the Department of War Studies in King's College London. He has worked in the Foreign, Commonwealth and Development Office since 1993.

Law, War and the Penumbra of Uncertainty

LEGAL CULTURES, EXTRA-LEGAL REASONING
AND THE USE OF FORCE

SAM SELVADURAI
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