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## International Law in Crisis: Foreword

Michael P. Scharf

Adam Centner

Kara McClain

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## FOREWORD: INTERNATIONAL LAW IN CRISIS

*Michael P. Scharf*<sup>\*</sup>  
*Adam Centner*<sup>†</sup>  
*Kara McClain*<sup>‡</sup>

### I. INTRODUCTION

2011 has been compared to 1848 as one of the most turbulent years in modern history. As students of history will recall, in 1848, a series of revolutions against autocratic regimes spread across the continent of Europe. On the eve of these uprisings, historian and diplomat Alexis de Tocqueville cautioned the French Parliament: “Gentlemen, I warn you. Though the violence is not yet upon us, we are sleeping on a volcano.”<sup>1</sup> The violence that spread that year from Berlin to Budapest, Venice to Vienna, and Paris to Prague prompted Karl Marx’s opening words of *The Communist Manifesto*: “A specter is haunting Europe.”<sup>2</sup> The immediate effects of these revolts were dramatic: Louis Philippe abdicated in France, Frederick William III acceded to a new constitution in Germany, and the Hapsburgs were forced to relocate from Vienna to Innsbruck. Yet in the end, the ruling regimes brutally and successfully fought back, killing tens of thousands of revolutionaries in the process of regaining power and control.<sup>3</sup> Historian A.J.P. Taylor has called 1848 a moment when “history reached a turning point and failed to turn.”<sup>4</sup>

Would things have turned out differently under the modern system of international law and institutions? That question is not just a hypothetical. For, some one hundred and sixty years later, a widely disseminated cell phone video of a Tunisian vegetable vendor’s self-immolation sparked an

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\* John Deaver Drinko – Baker & Hostetler Professor of Law and Director of the Frederick K. Cox International Law Center, Case Western Reserve University School of Law.

† Managing Editor, Case Western Reserve Journal of International Law, JD expected 2012.

‡ Symposium Editor, Case Western Reserve Journal of International Law, JD expected 2012.

<sup>1</sup> Robert Freeman, *2011 is 1848 Redux. But Worse*, COMMONDREAMS (Mar. 6, 2011), <http://www.commondreams.org/view/2011/03/06-3>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Anne Applebaum, *Every Revolution is Different*, SLATE (Feb. 21, 2011), [http://www.slate.com/articles/news\\_and\\_politics/foreigners/2011/02/every\\_revolution\\_is\\_different.html](http://www.slate.com/articles/news_and_politics/foreigners/2011/02/every_revolution_is_different.html).

uprising in Tunisia that spread to Egypt, Bahrain, Libya, Syria, and touched nearly all of the twenty-two Arab states.<sup>5</sup> Shortly after Tunisian revolutionaries forced the corrupt Zine El Abidine Ben Ali into exile in January 2011, Egypt's Hosni Mubarak was toppled by popular revolt, shaking the foundations of the special U.S.-Egyptian relation.<sup>6</sup> Meanwhile in Bahrain, when the Shiite majority population staged protests against the Sunni monarchy, the Bahrain government, assisted by 2,000 troops from Saudi Arabia and the UAE, responded harshly to thwart another Arab uprising.<sup>7</sup>

By March, the so-called "Arab Spring" uprisings had spread to Syria, where President Bashar al-Assad tried to follow Bahrain's lead by brutally cracking down on the growing protest movement.<sup>8</sup> As this issue goes to press, the international community faces a stalemate on responding to Assad's crimes against humanity, with Russia and China vetoing a series of U.N. Security Council resolutions calling for humanitarian intervention and regime change.<sup>9</sup>

In contrast, the Security Council garnered the necessary votes to authorize military force to protect civilian protestors and rebels in Libya who were under attack by the government of Moammar Gadhafi. With NATO air support, the rebels drove Gadhafi from power in August, and killed him upon capture on October 20, 2011.<sup>10</sup> Now, the international community is engaged in a challenging nation-building exercise in an effort to transition Libya into a peaceful democracy.

While working to assist Libya with its post-revolution transition, on October 21, 2011, President Obama announced that the remainder of U.S. troops would be withdrawn from Iraq by January 1, 2012. His announcement has engendered mixed reactions, with many experts fearing the troop drawdown will result in an Iraqi backslide into radicalism and sectarian violence while opening the door to expansion of Iran's influence in the region.<sup>11</sup> In that regard, in 2011, Iran stepped up its pursuit of producing nuclear weapons. In response—at the time of this writing—Israel is openly

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<sup>5</sup> Jessica Rettig, *Arab Spring: Fall Update*, U.S. NEWS & WORLD REP. (Oct. 21, 2011), <http://www.usnews.com/news/articles/2011/10/21/arab-spring-fall-update>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Reuters, *China Lays Out Stance on Syria, Rejects "Interference,"* CHI. TRIB. (Mar. 4, 2012), <http://www.chicagotribune.com/sns-rt-syria-chinastatement-update-315e8e30bt-20120303,0,7629722.story>.

<sup>10</sup> *Id.*

<sup>11</sup> Mark Landler, *Last U.S. Soldiers to Exit from Iraq in 2011*, N.Y. TIMES, Oct. 21, 2011, at A1.

considering launching air strikes to destroy the Iranian nuclear processing plants.<sup>12</sup>

With respect to the “war on terrorism,” the killing of Osama bin Laden on May 2, 2011, brought an end to the decade-long manhunt for the 9/11 mastermind. However, the operation, which was conducted by U.S. Special Forces in Pakistan without the Pakistan government’s permission, may have significantly damaged the already fragile relations between the two countries and complicated U.S. efforts to withdraw from neighboring Afghanistan.<sup>13</sup> Escalating U.S. Predator Drone strikes in Afghanistan, Pakistan, Yemen, and elsewhere have also engendered protests and criticism.<sup>14</sup> At the same time, under pressure from Congress, President Obama reversed his decision to close the U.S. terrorist detention centre at Guantanamo Bay, Cuba, and decided to expand the use of military commissions beyond those captured in Afghanistan.<sup>15</sup>

While the war on terrorism had reached a milestone, maritime piracy returned with gusto after hundreds of years of dormancy. Rivaling the plundering Vikings and 17th-century raiders who pillaged Spanish galleons, modern day Somali pirates have recently seized over 120 ships and garnered some 150 million dollars in ransoms.<sup>16</sup> They present a substantial problem for commercial shipping in one of the world’s busiest trade routes, while also frustrating attempts to provide needed food aid to starving populations in Africa.

2011 also witnessed a serious financial crisis in Europe, with banking collapses, austerity programs, and bailouts of struggling economies sapping the European countries’ ability to respond with military force and economic assistance to the spate of geopolitical challenges described above. One of the casualties of the European financial crisis has been the implementation of measures necessary to respond to the threat of global warming. As former President of Ireland and U.N. High Commissioner for Human Rights, Mary Robinson, has pointed out, “[a]ction cannot be put off until the economic storm has passed.” Robinson quotes studies indicating that “un-

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<sup>12</sup> Howard LaFranchi, *Time to Attack Iran? Obama-Netanyahu Summit Could Make Fateful Decision*, CHRISTIAN SCI. MONITOR (Mar. 4, 2012), <http://www.csmonitor.com/USA/Foreign-Policy/2012/0304/Time-to-attack-Iran-Obama-Netanyahu-summit-could-make-fateful-decision>.

<sup>13</sup> *The Death of Osama bin Laden*, N.Y. TIMES (Mar. 4, 2012), [http://topics.nytimes.com/top/reference/timestopics/people/b/osama\\_bin\\_laden/index.html](http://topics.nytimes.com/top/reference/timestopics/people/b/osama_bin_laden/index.html).

<sup>14</sup> *Predator Drones and Unmanned Aerial Vehicles*, N.Y. TIMES (Mar. 5, 2012), [http://topics.nytimes.com/top/reference/timestopics/subjects/u/unmanned\\_aerial\\_vehicles/index.html](http://topics.nytimes.com/top/reference/timestopics/subjects/u/unmanned_aerial_vehicles/index.html).

<sup>15</sup> *Guantanamo Bay Naval Base*, N.Y. TIMES (Feb. 9, 2012), <http://topics.nytimes.com/top/news/national/usstatesterritoriesandpossessions/guantanamobaynavalbasecuba/index.html>.

<sup>16</sup> *Piracy at Sea*, N.Y. TIMES (Jan. 25, 2012), [http://topics.nytimes.com/top/reference/timestopics/subjects/p/piracy\\_at\\_sea/index.html](http://topics.nytimes.com/top/reference/timestopics/subjects/p/piracy_at_sea/index.html).

checked climate change could reduce global output by up to 20%. This would dwarf our current troubles.”<sup>17</sup>

With these dramatic events as a backdrop, on September 9, 2011, Case Western Reserve University School of Law hosted a symposium designed to examine both the application of international law in times of crisis and whether these events are pushing international law itself to the brink of crisis. The Conference, which served as the International Law Association’s “International Law Weekend Midwest,” was funded by a grant from the Wolf Family Foundation, organized by the Frederick K. Cox International Law Center, and co-sponsored by the International Association of Penal Law, the American Society of International Law, the Inamori International Center for Ethics and Excellence, and the Public International Law and Policy Group.

The Symposium began with an opening lecture by Ruth Wedgwood, President of the American Branch of the International Law Association and featured a keynote lunch speech by Richard Goldstone, who served as a Justice of the South African Constitutional Court, Chief Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, and Chairman of the UN Commissions on Kosovo and the Gaza conflict. Symposium panels, featuring two-dozen leading experts from government, international organizations, private practice, non-governmental organizations, and academia, focused on developments in Northern Africa and the Middle East, climate change, international economic law, piracy, international law in U.S. courts, the war on terrorism, and universal jurisdiction.

This Symposium issue of the *Case Western Reserve Journal of International Law* contains nineteen articles generated from the “International Law in Crisis” conference, followed by the text of the annual Klatsky Lecture on Human Rights, which was delivered on November 20, 2011, by ICC Judge Christine Van den Wyngaert.

## II. SUMMARY

This issue begins with three articles analyzing the current and ever-changing state of international law. The Honorable Richard Goldstone leads off by noting that international law in recent years has been relied upon more than ever before and continues to be an essential tool in combating many world issues.<sup>18</sup> Justice Goldstone focuses on the increasing role of international courts, tribunals, and non-governmental organizations in ad-

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<sup>17</sup> Mary Robinson, *The G20 Must Tackle Climate Change*, GUARDIAN (Nov. 3, 2011), <http://www.guardian.co.uk/global-development/poverty-matters/2011/nov/03/g20-tackle-climate-change>.

<sup>18</sup> See Honorable Richard Goldstone, *The Crisis in the Implementation of International Law*, 44 CASE W. RES. J. INT'L L. 13 (2012).

addressing problems facing the global community.<sup>19</sup> His contribution concludes with a question-and-answer segment discussing topics ranging from the uprising in Libya to the current state of international criminal courts.<sup>20</sup> Michael J. Kelly, Associate Dean at Creighton University School of Law, then turns to a discussion of the evolution of international law.<sup>21</sup> Prof. Kelly traces the history and various cycles of modern international law from the Peace of Westphalia through the election of Barack Obama.<sup>22</sup> Based on this history, Kelly argues that while international law is constantly adapting to various crises, it is rarely in a state of crisis itself.<sup>23</sup> Next, David Crane, professor at Syracuse University College of Law and the founding Chief Prosecutor of the Special Court for Sierra Leone, makes eight observations on the challenges that he believes will threaten the foundation of international law in the near future.<sup>24</sup> These challenges include the rise of China and Russia, U.S. exceptionalism, the confused direction of the International Criminal Court, and the declining availability of natural resources, including oil and potable water.<sup>25</sup> Professor Crane also notes that not all is bleak in international law, as just this year, social media, amongst other factors, facilitated the overthrow of several non-democratic regimes, and the international community has shown an increasing willingness to hold heads of state accountable for their crimes.<sup>26</sup>

The Symposium issue then turns to the challenge of terrorism on the ten-year anniversary of the September 11 attacks. First, John F. Murphy, professor at Villanova University School of Law, examines what he calls the “new terrorism” that emerged from 9/11, as well as the shift from treating terrorism as a criminal law matter to relying on the use of military means.<sup>27</sup> In this connection, Professor Murphy provides a compelling analysis of the legality of the U.S. killing of Osama bin Laden.<sup>28</sup> Murphy argues that the “new terrorism” and rapid changes in warfare have created a crisis in international law evidenced by international institutions and the law itself

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See Michael J. Kelly, *The Evolution of International Law: Arcs and Cycles*, 44 CASE W. RES. J. INT'L L. 41 (2012).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See David Crane, *An Age of Extremes: International Law in Crisis: Eight Challenges*, 44 CASE W. RES. J. INT'L L. 47 (2012).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> See John F. Murphy, *International Law in Crisis: Challenges Posed by the New Terrorism and the Changing Nature of War*, 44 CASE W. RES. J. INT'L L. 59 (2012).

<sup>28</sup> *Id.*

having struggled to keep pace.<sup>29</sup> Next, Louis René Beres, professor of political science and international law at Purdue University, addresses circumstances in which anticipatory self-defense—including assassinations, targeted killings, and cyber war—may be necessary.<sup>30</sup> While these preemptive actions are not jurisprudentially correct, Prof. Beres argues that they can be indispensable, and he examines such options from an informed jurisprudential perspective with special consideration given to Northern Africa and the Middle East.<sup>31</sup> Finally, Major General Gill P. Beck of the United States Army Reserve presents a unique perspective, praising the critical role that the Army Judge Advocates have played on the frontlines of the U.S. war on terror in the decade since 9/11.<sup>32</sup> Major General Beck discusses the responsibilities of Army lawyers and their successful adaptations to the requirements of a demanding operational environment.<sup>33</sup> He notes that while 9/11 was a horrific attack on America, it brought out the best in the U.S. Army, and he proposes that continued emphasis be placed on the development of Army lawyers as military leaders.<sup>34</sup>

The next series of articles examines the role that domestic courts play in international law. Professor Cassandra Burke Robertson of Case Western Reserve University School of Law, discusses the effect third-party financing has on transnational litigation and how this might impact litigation in the future.<sup>35</sup> In analyzing the growth and incentives of third-party financing, Prof. Robertson notes that the market for lawsuit investment is already quite robust in several countries, including the United States, and she predicts that the number of lawsuits and the settlement value of those lawsuits will continue to grow as third-party investment proliferates.<sup>36</sup> Next, Steven M. Schneebaum, a prominent litigator as well as a professor at John Hopkins University's School of Advanced International Studies, asks a straight forward question: Is it sensible, and is it right, for a U.S. court to use its time and resources to hear cases regarding violations of international

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<sup>29</sup> *Id.*

<sup>30</sup> See Louis René Beres, *After Osama bin Laden, Assassination, Terrorism, War, and International Law*, 44 CASE W. RES. J. INT'L L. 93 (2012).

<sup>31</sup> *Id.*

<sup>32</sup> See Major General Gill P. Beck, *United States Army Reserve: A Ten Year Retrospective on the Law and the War on Terrorism: The Role of Army Reserve Citizen-Lawyers*, 44 CASE W. RES. J. INT'L L. 149 (2012).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> See Cassandra Burke Robertson, *The Impact of Third-Party Financing on Transnational Litigation Incentives*, 44 CASE W. RES. J. INT'L L. 159 (2012).

<sup>36</sup> *Id.*

law arising abroad?<sup>37</sup> Using his personal experiences litigating international cases in U.S. courts as a vehicle for exploration into this matter, Prof. Schneebaum examines the history and application of the Alien Tort Statute and various policy rationales in searching for his answer.<sup>38</sup> He concludes that domestic courts should indeed hear these cases, as international law is part of U.S. law and it provides for the rights of individuals wherever they may be located.<sup>39</sup> In concluding this section, Emory Law Professor Laurie R. Blank examines when and how U.S. courts apply international humanitarian law.<sup>40</sup> Specifically, identifies a number of factors that are helpful in determining if a court will apply this body of law, and if so, to what extent.<sup>41</sup> Prof. Blank also discusses how courts contribute to the development of international humanitarian law through its application or, conversely, how courts stunt its development by refusing to recognize or apply new areas of the law.<sup>42</sup>

The issue then turns to the question of how recent developments in Northern Africa and the Middle East are affecting international law and global stability. Dr. Paul R. Williams and Colleen “Betsy” Popken, both of the Public International Law & Policy Group, celebrate what they consider to be a high point for international law: the resolution authorizing humanitarian intervention in Libya adopted by the Security Council in March 2011.<sup>43</sup> Dr. Williams and Ms. Popken suggest that the intervention was characterized by swift action by the Security Council, a well-drafted resolution, and aggressive implementation by an international coalition.<sup>44</sup> This remarkable Security Council resolution, they argue, prevented an impending massacre and should serve as a blueprint for future effective humanitarian intervention.<sup>45</sup> Next, Amos N. Guiora, professor at the University of Utah’s S.J. Quinney College of Law, examines the Obama Administration’s Middle East policy.<sup>46</sup> He argues that the policy has been particularly troublesome because of its inconsistency in determining when and to what extent

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<sup>37</sup> See Steven M. Schneebaum, *What is This Case Doing Here? Human Rights Litigation in the Courts of the United States*, 44 CASE W. RES. J. INT’L L. 183 (2012).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Laurie R. Blank, *Understanding When and How Domestic Courts Apply IHL*, 44 CASE W. RES. J. INT’L L. 205 (2012).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> See Paul R. Williams & Colleen “Betsy” Popken, *Security Council Resolution 1973 on Libya: A Moment of Legal & Moral Clarity*, 44 CASE W. RES. J. INT’L L. 225 (2012).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> See Amos N. Guiora, *Intervention in Libya, Yes; Intervention in Syria, No: Deciphering the Obama Administration*, 44 CASE W. RES. J. INT’L L. 251 (2012).

intervention is justified, as well as the dissonance between expectations and actual delivery.<sup>47</sup> Prof. Guiora suggests a framework by which President Obama can apply the principles of international humanitarian intervention in a manner that will restore international confidence in his leadership and set an example of consistency and stability.<sup>48</sup> Finally, Ori Nir, spokesperson for Americans for Peace Now and the former Washington bureau chief of Israel's *Haaretz* newspaper, highlights a unique form of terrorism in Israel.<sup>49</sup> In his article, Mr. Nir documents the violent tactics employed by young militant Jewish settlers to prevent Israeli law enforcement authorities from removing illegally-built Israeli settlements in the West Bank.<sup>50</sup> He describes how an unpopular and inept form of government resistance—including attacks on Palestinians and their property as well as Israeli military and police officers—has morphed into a popular and very effective campaign to prevent Israel from entering into an Israeli-Palestinian peace agreement that entails removing settlements from the West Bank.<sup>51</sup>

The issue's next section addresses the challenges of modern maritime piracy and the international community's response. Milena Sterio, professor at Cleveland-Marshall College of Law, begins by summarizing the steps that the international community has taken in an effort to reduce piracy and prosecute pirates.<sup>52</sup> Prof. Sterio maintains that increased prosecutions and developing new fora for prosecutions is critical to preventing the proliferation of piracy.<sup>53</sup> Sandra L. Hodgkinson, who has held high ranking positions at both the Pentagon and State Department, continues with an assessment of current state-led prosecutions of Somali pirates and analyzes proposals for specialized piracy courts.<sup>54</sup> Ms. Hodgkinson proposes, instead of a specialized international court, a prosecutorial model analogous to a specialized panel within a domestic court system.<sup>55</sup> Finally, Jennifer Landside, Attorney-Adviser in the State Department's Office of the Legal Adviser, analyzes the U.S. government's approach to piracy and summarizes past

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<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> See Ori Nir, *West Bank Settlers' Terrorizing of Palestinians to Deter Israeli Government Law Enforcement*, 44 CASE W. RES. J. INT'L L. 277 (2012).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> See Milena Sterio, *International Law in Crisis: Piracy off the Coast of Somalia*, 44 CASE W. RES. J. INT'L L. 291 (2012).

<sup>53</sup> *Id.*

<sup>54</sup> See Sandra L. Hodgkinson, *International Law in Crisis: Seeking the Best Prosecution Model for Somali Pirates*, 44 CASE W. RES. J. INT'L L. 303 (2012).

<sup>55</sup> *Id.*

successes and failures in the prosecution of Somali pirates.<sup>56</sup> Ms. Landside calls for enhanced domestic and international measures addressing piracy and emphasizes the need for international commitment to efficient prisoner transfers and the creation and maintenance of sufficient prisons.<sup>57</sup> As an appropriate ending to this segment, Ms. Landside agrees with the other authors in suggesting that one or more specialized piracy courts are needed.<sup>58</sup>

The next series of articles debate whether international economic law is in crisis. First, Raj Bhala, Associate Dean for International and Comparative Law and professor at the University of Kansas School of Law, analyzes the Doha Round, its initial goals, and the unique role played by China.<sup>59</sup> Professor Bhala concludes that the Round has failed to successfully address poverty, trade liberalization, and the risks posed by violent extremist organizations.<sup>60</sup> The next article in this section addresses the question of whether international economic law is in crisis in a completely different manner.<sup>61</sup> Joel P. Trachtman, professor at The Fletcher School of Law and Diplomacy, asserts that international law is currently in the midst of a “Kuhnian scientific revolution” and therefore, in a sense, the current crisis is an intellectual crisis with real-world effects.<sup>62</sup> In his ambitious article, Professor Trachtman describes the existing paradigm, the growing pressure on this paradigm, and proposes a new paradigm which he labels “social science functionalism.”<sup>63</sup>

The next segment explores international law in relation to climate change. Hari Osofsky, professor at the University of Minnesota Law School, explains how international law faces a serious crisis in dealing with global warming.<sup>64</sup> She maintains that climate change is a particularly complex issue for international law because it involves many levels of government, multiple governmental and nongovernmental actors, and difficult

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<sup>56</sup> See Jennifer Landside, *Enhancing International Efforts to Prosecute Suspected Pirates*, 44 CASE W. RES. J. INT'L L. 317 (2012).

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> See Raj Bhala, *Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part Two of a Trilogy – Non-Agricultural Market Access and Services Trade*, 44 CASE W. RES. J. INT'L L. 325 (2012).

<sup>60</sup> *Id.*

<sup>61</sup> See Joel P. Trachtman, *The Crisis of International Law*, 44 CASE W. RES. J. INT'L L. 407 (2012).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> See Hari Osofsky, *Climate Change and Crises of International Law: Possibilities for Geographic Reenvisioning*, 44 CASE W. RES. J. INT'L L. 423 (2012).

areas of scientific, technical, and legal uncertainty.<sup>65</sup> Prof. Osofsky explores the failure of nations to tackle climate change effectively and describes the efforts put forth by emerging actors not traditionally visible in international lawmaking.<sup>66</sup> She recognizes the complex dynamic arising between state and non-state actors and suggests that the traditional Westphalian model is not effective in the face of this urgent crisis.<sup>67</sup> Deepa Badrinarayana, professor at Chapman University School of Law, concludes this section by identifying three overlapping areas of crises: normative, economic order, and legitimacy.<sup>68</sup> Prof. Badrinarayana argues that the world must utilize a “moral compass” when addressing the multifaceted communal problem of climate change if we are to have any hope of effectively responding to the crisis.<sup>69</sup>

2011 also marked the 50th anniversary of the trial of Adolf Eichmann, which was historically significant for authoritatively establishing the right of domestic courts to prosecute war crimes and crimes against humanity under universal jurisdiction. This precedent has become increasingly controversial, however, and the African Union has recently called for greater constraints on the exercise of universal jurisdiction.<sup>70</sup> To commemorate the Eichmann case and its continuing legacy, the issue includes an article by Ruth Bettina Birn, the former Chief Historian of the Canadian Department of Justice’s War Crimes and Crimes Against Humanity Section.<sup>71</sup> Ms. Birn critically analyzes opinions about the Eichmann trial encountered throughout literature in light of new archival findings and reports from both a trial observer and a prosecutor with experience in the investigation of Holocaust crimes.<sup>72</sup>

Following the Symposium articles, the issue includes the text of the Klatsky Endowed Lecture presented by Judge Christine Van den Wyngaert of the International Criminal Court (ICC).<sup>73</sup> Judge Van den Wyngaert is the only person in the world to have served as a judge at the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia,

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> See Deepa Badrinarayana, *Three Climate Crises*, 44 CASE W. RES. J. INT’L L. 435 (2012).

<sup>69</sup> *Id.*

<sup>70</sup> Amnesty Int’l, *Universal Jurisdiction: UN General Assembly Should Support This Essential International Justice Tool*, AI Index IOR 53/015/2010, Oct. 5, 2010.

<sup>71</sup> See Ruth Bettina Birn, *Fifty Years After: A Critical Look at the Eichmann Trial*, 44 CASE W. RES. J. INT’L L. 443 (2012).

<sup>72</sup> *Id.*

<sup>73</sup> See Christine Van den Wyngaert, *Victims Before International Criminal Courts: Some Views and Concerns of an ICC Trial Judge*, 44 CASE W. RES. J. INT’L L. 475 (2012).

and the ICC. In her exceptional lecture, Judge Van den Wyngaert presents a powerful critique of Victims Participation before the ICC—an issue that may reach crisis proportions if reforms are not quickly adopted.

Finally, this issue concludes with a Note by Helena Traner, a student at Case Western Reserve University School of Law.<sup>74</sup> In *Resolving Arctic Sovereignty from a Scandinavian Perspective*, Ms. Traner addresses the “race to claim Arctic resources” and the resulting legal framework that has developed.<sup>75</sup> She argues that the current legal framework is inadequate with regard to resolving conflicts over claims and ensuring equal protection for the states involved.<sup>76</sup> Ms. Traner, addressing this issue from a Scandinavian perspective, asserts that Scandinavian states are currently disadvantaged as a result of the current governing framework.<sup>77</sup> In sum, she describes how Scandinavian states, in order to preserve their interests in the environment, their security, and the maintenance of their indigenous groups, should lead the way in developing a working group within the Arctic Council.<sup>78</sup>

### III. CONCLUSION

2011 also marks the 20<sup>th</sup> anniversary of the endowment of the Frederick K. Cox International Law Center, which serves as the hub for Case Western Reserve’s nationally ranked international law program. It is appropriate that the occasion should be marked by the publication of such an important Symposium Issue of the *Journal*.

We live in extraordinary times, but the articles contained in this issue of the *Journal* illustrate that international law is elastic enough to play an important role in responding to today’s international crises. We are extremely grateful to the experts who participated in the “International Law in Crisis” conference, the Wolf Family Foundation whose generous support made the conference possible, and the student editors of this issue who worked diligently on the preparation of this publication.

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<sup>74</sup> See Helena Traner, *Resolving Arctic Sovereignty from a Scandinavian Perspective*, 44 CASE W. RES. J. INT’L L. 495 (2012).

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*