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# International Justice and Shifting Paradigms: Foreward

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## FOREWORD: INTERNATIONAL JUSTICE AND SHIFTING PARADIGMS

*James T. Tsai* \*

To commemorate Human Rights Day, United Nations Secretary General Kofi Annan delivered an emotional speech and described the importance of prosecuting violators of human rights.<sup>1</sup> He emphasized that modern-day states have a responsibility to advance peace and stability worldwide by protecting nations in turmoil. “We must develop the responsibility to protect into a powerful international norm that is not only quoted but put into practice, whenever and wherever it is needed.”<sup>2</sup> His remarks highlight the significance of seeking justice for international human rights violations and the shifting paradigm toward a new norm of responsibility to protect those who cannot protect themselves.

This special issue of the *Case Western Reserve Journal of International Law* is the wellspring of several articles derived from two international law conferences at the Washington University School of Law (“Paradigms of International Justice”) and Case Western Reserve University School of Law (“Sexual Assaults of International Consequence: A Symposium on the Suppression of International Crimes Against Women”). The symposia reflect Annan’s goal of defining new paradigms for international justice. Both conferences sought to explore the evolution of international law and current standards of international crimes. The articles in this special issue represent a sampling of the topics covered at the conferences.

In *Breaking the Silence: Rape as an International Crime*, Mark Ellis, Executive Director of the International Bar Association, describes the development of an international definition for the crime of rape, tracing the concept from post-World War II war crimes trials to the modern day International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal of Rwanda (ICTR). He demonstrates how the decisions of the ad hoc tribunals have set the standard for rape to “be prosecuted as a subset of a war crime, as a crime against humanity, or as genocide.” Additionally, the emergence of the International Crimes Court (ICC)

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<sup>1</sup> U.N. Secretary General, Kofi Annan, Remarks at Human Rights Day, Dec. 10, 2006, <http://www.un.org/events/humanrights/2006/sg-remarks.shtml>.

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

has expanded the potential for prosecuting the crime of rape under international law.

Susan W. Tiefenbrun discusses the efficacy of the 2000 Trafficking Victims Protection Act (TVPA). She asserts that the TVPA has successfully impacted domestic and foreign policy surrounding sex trafficking victims through its imposition of stiffer penalties for offenders and its creation of immigration opportunities to the United States on the T visa. Professor Tiefenbrun's study utilizes a methodology of examining factors developed by government agencies to determine a country's compliance with the TVPA and the number of sex trafficking incidents.

Ariel Meyerstein delves into the philosophical and legal implications of transitional justice and peace in the Middle East. His article examines "the relationships between justice, peace, truth, and reconciliation in post-conflict situations." Arguing that there is a difficulty in achieving peace in the form of a single-state, Meyerstein advocates for a truth commission in Israel/Palestine.

Karima Bennoune explores gender-specific provisions in international humanitarian law during armed conflict in her article, *Do We Need New International Law to Protect Women in Armed Conflict?* She examines a range of views: on the one hand, the prosecution of gender-specific crimes serves to strengthen international law, while on the other, some feminists and scholars claim these crimes reflect archaic and even damaging stereotypes of women. Professor Bennoune offers possible solutions to reconcile the divergent views.

To complete this issue, Harper Jean Tobin provides an extensive comparative study of current international law in the area of transgender law in her article, *Against the Surgical Requirement for Change of Legal Sex*. Examining the legal requirements for sex reassignment surgery in various jurisdictions around the world, Tobin argues against any requirement for such surgery and proposes model legislation for gender recognition.

The collective work of *Case Western Reserve Journal of International Law* editors of past years made this special issue possible—from the 2002–2003 staff who assisted in coordinating the conference at Case Western Reserve University School of Law to the subsequent editors of this journal who prepared the articles for publication. The editorial board of 2006–2007 worked tirelessly to complete the editing and research necessary to publish this issue. We are pleased to offer readers the opportunity to revisit the important issues presented at the noteworthy conferences.