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## INTERNATIONAL CRIMES AGAINST WOMEN: AN INTRODUCTION

*Hiram E. Chodosh*<sup>†</sup>

On behalf of the Journal of International Law and the Frederick K. Cox International Law Center at Case School of Law, I would like to introduce you to this special symposium issue, entitled *International Crimes against Women*. The brainchild of students and faculty in 2001 and complemented by a special course in international human rights by the same name, this symposium aimed to focus scholarly attention on a set of profound problems that are as insurmountable in their eradication as they are unfathomable in their horror: the use of rape as a tool of war, trafficking in forced prostitution, female infanticide, “honor” killings, and genital mutilation.

In pursuit of this objective, we invited many of the world’s leading experts to advance our understanding of these crimes against women. Committed to many years of work on these issues, we hoped to develop a body of scholarship that will sensitize readers to the experience of victims and help to diagnose the psyche and behavior of the offenders. We sought to understand the role and limits of law both to suppress these offenses and to impress upon global society those social norms and behaviors that will lead to their eradication.

This volume records the observations and opinions of several leading voices: Professor Harold Hongju Koh of Yale Law School, who served in the Clinton administration as Assistant Secretary of State for Democracy, Labor, and Human Rights; the Honorable Richard J. Goldstone (Ret.) of the South African Supreme Court, who served as the first Chief Prosecutor in the International Criminal Tribunals for the Former Yugoslavia (ICTY); Patricia Viseur Sellers, the Legal Adviser for Gender Related Crimes, Office of the Prosecutor at the ICTY and the International Criminal Tribunal for Rwanda; Peggy Kuo, a former prosecutor at the ICTY; Martina Vandenberg, a former Europe researcher at Human Rights Watch. We have also included an essay by on *The Legacy of Nuremberg*<sup>1</sup> by Professor Henry T. King, Jr., a former Nuremberg prosecutor who is on the faculty here at Case and directs our Canada-U.S. Law Institute.

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<sup>1</sup> Henry T. King, Jr., *The Legacy of Nuremberg*, 34 CASE W. RES. J. INT’L L. 335 (2002).

In his special contribution to this symposium, *Why America Should Ratify the Women's Rights Treaty (CEDAW)*,<sup>2</sup> Professor Koh draws heavily on his experience in the Clinton Administration. He implores the Bush administration to ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). He forcefully explains how the treaty advances the country's prior commitments to eliminate gender discrimination, why failure to ratify it is a source of national disgrace, and why concerns expressed by the treaty's detractors are unfounded.

In *Prosecuting Rape as a War Crime*,<sup>3</sup> Justice Goldstone notes the historic recognition of rape as a crime against humanity in the ICTY and ICTR, in contrast to the tribunals at Nuremberg and Tokyo. He applauds broadening the categories of international crime to include sexual assaults as a momentous advance in international humanitarian law from impunity to prosecution and accountability, if not deterrence. Justice Goldstone tells a compelling inside story of groundbreaking prosecutions and champions the explicit treatment of these crimes in the statute for the International Criminal Court as a positive sign for the future.

In *Sexual Violence and Peremptory Norms*,<sup>4</sup> Patricia Sellers addresses the question of whether the international law on gender crimes has reached a peremptory (*jus cogens*) status. She inquires broadly whether rape should be elevated to the level of slavery, genocide, and torture as peremptory norms. She notes the relationship between rape and these other international offences. Ms. Sellers admirably rejects "legal piggybacking" as a fundamental basis for this classification however, and concludes that her exhaustive search for evidence of this heightened status leads to a profound and disconcerting gap.

In *Prosecuting Crimes of Sexual Violence in an International Tribunal*,<sup>5</sup> Peggy Kuo gives an inside account of the prosecution of rape as a war crime in the Foca trials, and takes a candid look at how much progress the international community has really made in response to these horrific offenses. She draws attention not only to the advances (the influence of NGOs, the progressive doctrines of the tribunals, the effective

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<sup>2</sup> Harold Hongju Koh, *Why America Should Ratify the Women's Rights Treaty (CEDAW)*, 34 CASE W. RES. J. INT'L L. 263 (2002).

<sup>3</sup> Hon. Richard J. Goldstone, *Prosecuting Rape as a War Crime*, 34 CASE W. RES. J. INT'L L. 277 (2002).

<sup>4</sup> Patricia Viseur Sellers, *Sexual Violence and Peremptory Norms*, 34 CASE W. RES. J. INT'L L. 287 (2002).

<sup>5</sup> Peggy Kuo, *Prosecuting Crimes of Sexual Violence in and International Tribunal*, 34 CASE W. RES. J. INT'L L. 305 (2002).

ways to deal with witnesses and their testimony) but also to the limits of criminal trials (in particular the small number in contrast to the unthinkable large number of crimes).

In *Complicity, Corruption, and Human Rights: Trafficking in Human Beings*,<sup>6</sup> Martina Vandenberg turns our attention to crimes against women beyond the context of war in foreign countries. In particular, she relates personal accounts of women here and abroad who have endured forced prostitution, debt bondage, and modern forms of slavery. She candidly exposes the common complicity and corruption of public officials in these crimes, as well as the self-defeating features of a law enforcement approach to the problem that treats victims as criminals.

These writings advance small steps by equally brilliant and committed experts on a steep incline of daunting problems. They leave us inspired yet frustrated, hopeful yet overwhelmed, rewarded yet reminded of the need to do much, much more toward the eradication of international crimes against women.

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<sup>6</sup> Martina Vandenberg, *Complicity, Corruption, and Human Rights: Trafficking in Human Beings*, 34 CASE W. RES. J. INT'L L. 323 (2002).

