

# Foreword

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*“I have heard there are troubles of more than one kind.  
Some come from ahead and some come from behind.  
But I’ve bought a big bat. I’m all ready you see.  
Now my troubles are going to have troubles with me!”*

*~Theodor Seuss Geisel.*

The eleventh issue of the San Diego International Law Journal is composed of articles examining the world’s reaction to conflict and globalization. The news of the past months has shown us that the spread of ideas throughout the world can bring about major shifts in socio-political thought by challenging the status quo, often resulting in conflict within or among nations.<sup>1</sup> As the world becomes a more interconnected society<sup>2</sup> these international issues become more important within U.S. and International jurisprudence. The authors within this issue explore the myriad of responses a nation may take when presented with a potential conflict.

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1. See Robert F.Worth & Nazila Fathi, *Iran Opposition Protests Hard-Liner’s Re-election*, N.Y. TIMES, June 14, 2009, at A1; see also Marcus Walker & Almut Schoenfeld, *World Leaders Revisit Berlin Wall’s Fall—On the 1989 Anniversary, Merkel and Her Guests Step Across Remnants of the Divider of Europe*, WALL ST. J., Nov. 10, 2009, at A12.

2. See Brad Stone & Noam Cohen, *Social Networks Spread Iranian Defiance Online*, N.Y. TIMES, June 16, 2009, at A11.

In their article, *The Gaza War of 2009: Applying International Humanitarian Law to Israel and Hamas*, Justus Reid Weiner and Avi Bell explore the many international legal issues raised by the Palestinian–Israeli tension along the Gaza Strip’s borders. They first examine legal issues raised by Palestinian conduct and then turn to legal issues raised by Israeli conduct. Their conclusion shows that criticisms of Israeli behavior lack any basis in international law, while Palestinian behaviors that are rarely criticized constitute severe violations of international law.

Larry Alexander provides a discussion of the necessity for the authoritative settlement of moral controversies within a community, and then applies his findings to the field of international law in his article, *Constitutions, International Law, and the Settlement Function of Law: A Schema for Further Reflection*. He explores the nature of international treaties and their relationship to the boundaries of the U.S. Constitution as well as briefly discussing the norms of customary international law.

De-cloaking Torture: *Boumediene* and the Military Commissions Act, by Alan W. Clarke, begins with a discussion of the Supreme Court’s ruling in *Boumediene v. Bush*<sup>3</sup> and the effect it had on the Military Commissions Act of 2006. He then explores the basis of the issue with a review of the actions the United States took following the attacks of September 11, 2001, and the creation of what Clarke calls a “torture culture.” He then examines various actions taken by the administration and legislature which limited judicial review of interrogation tactics of detainees. Clarke’s conclusion shows how the Court’s ruling in *Boumediene* alters the situation such that no administration can any longer effectively hide torture.

In her article, *Silencing the Silk Road: China’s Language Policy in the Xinjiang Uyghur Autonomous Region*, Aurora Elizabeth Bewicke examines China’s language policy as it affects the Uyghurs, the indigenous population of China’s Xinjiang Uyghur Autonomous Region (XUAR). After describing the particular historical context and modern realities of China’s language policy in the XUAR, she reviews the status of language policy in the broader arena of international law. Bewicke concludes by showing how China’s language policy violates human rights standards and proposes that the international community has a duty to take action in order to prevent the further destruction of Uyghur culture.

Roosbeh (Rudy) B. Baker discusses the topic of how transitioning societies cope with a legacy of atrocity and criminality which often accompanies an authoritarian rule in his article, *Towards A New*

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3. *Boumediene v. Bush*, 128 S. Ct. 2229 (2008).

Transitional Justice Model: Assessing the Serbian Case. Baker first examines the structural, ethical, legal, and political problems faced during such transitions through a survey of the key episodes of transitional justice in various countries since the 1970s. He then applies the lessons gleaned to the transition of Serbia during the first five years following the deposition of authoritarian ruler Slobodan Milošević in October 2000, and the subsequent establishment of democratic rule.

In her article, Making Transfer of Clean Technology Work: Lessons of the Clean Development Mechanism, Mei Gechlik analyzes Clean Development Mechanism (CDM) projects in China and explores the issue of what actually drives the transfer of clean technologies to China and will, therefore, help design an effective post-Kyoto framework to facilitate international diffusion of clean technologies. The article concludes by previewing those lessons that other developing countries and the international community could learn from China's experiences in order to create favorable international and domestic environments for the transfer of clean technologies.

An International Perspective on Battling the Bulge: Japan's Anti-Obesity Legislation and its Potential Impact on Waistlines Around the World, a comment by Christin Lawler, analyzes Japan's new "Metabo" legislation which attempts to curb obesity and obesity related illnesses and predicts that the new legislation is likely to succeed in decreasing Japanese obesity. She then proceeds to explore the possibility of exporting the new "Metabo" legislation to the United States but finds that due to lack of similar cultural and structural elements it is highly unlikely that the United States will follow Japan's lead in adopting similar legislation.

Finally, in her comment, Copyright or Trademark? Can One Boy Wizard Prevent Film Title Duplication?, Anna Phillips explores the issue of film titles and whether they are protected internationally. With the globalization of the entertainment industry, she argues that countries should use a combination of copyright and trademark law to govern titles of creative film works so as to provide the maximum intellectual property protection for film titles.

There are endless possibilities to the ways in which a nation can respond to a particular source of conflict, be it waistlines or war. When considering such reactions to conflict, it is important to discuss the legality of various responses in order to strengthen the international approach to governing a world rife with conflict and ever-shrinking due

to an increasing globalized perspective, and it is the mission of the San Diego International Law Journal to provide a forum for such discussions.