

# Foreword

LESLIE A. ROBINSON\*

Less than 6 months old, 2006 is shaping up as a watershed in geopolitical affairs. In the United States, the daily news is permeated with international events. The three-year-old war in Iraq has claimed 2395 American casualties,<sup>1</sup> and cost the lives of an estimated 35,000 Iraqi civilians;<sup>2</sup> a nuclear crisis between Iran and the U.N. is looming;<sup>3</sup> domestically, the inflation-adjusted price of gasoline is approaching all-time highs,<sup>4</sup> while oil companies are reporting windfall quarterly profits,<sup>5</sup> and hundreds of thousands of pro-immigrant marchers have taken to the streets nationwide in protest over proposed anti-immigrant legislation.<sup>6</sup>

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\* Editor-in-Chief, 7 SAN DIEGO INT'L L.J. (2006). J.D. candidate 2006, University of San Diego School of Law.

1. Iraq Coalition Casualty Count, (Apr. 26, 2006), [http://icasualties.org/oif/BY\\_DOD.aspx](http://icasualties.org/oif/BY_DOD.aspx) (last visited Apr. 27, 2006) (listing U.S. casualties confirmed by the U.S. Department of Defense).

2. Iraq Body Count, <http://www.iraqbodycount.net/> (reporting an Iraqi civilian death toll between 34,512 and 38,661 persons) (last visited Apr. 27, 2006).

3. *IAEA: Iran defies U.N. demands*, CNN (online), Apr. 28, 2006, available at <http://www.cnn.com/2006/WORLD/meast/04/28/iran.nuclear.ap/>.

4. Inflation Adjusted Gasoline Prices Near all-time Highs (Apr. 24, 2006), [http://inflationdata.com/Inflation/Inflation\\_Rate/Gasoline\\_Inflation.asp](http://inflationdata.com/Inflation/Inflation_Rate/Gasoline_Inflation.asp); see also Bureau of Labor Statistics, Consumer Price Index Summary, Apr. 19, 2006, available at <http://www.bls.gov/news.release/cpi.nr0.htm>.

5. See, e.g., Jeffrey Ball, *Exxon's \$8.4 Billion Net Faces Fire on All Fronts*, WALL. ST. J., Apr. 28, 2006, at A2.

6. Allan Chernoff, *Rallies across U.S. call for illegal immigrant rights*, CNN (online), Apr. 10, 2006, available at <http://www.cnn.com/2006/POLITICS/04/10/immigration/>. Europe has its own immigration woes, a factor that exacerbated recent French protests over proposed labor law reforms. See Molly Moore, *French Students Hit Streets to Protest New Labor Law*, WASH. POST, Mar. 17, 2006, at A13. The labor unrest in France follows on the heels of riots in mainly North African immigrant ghettos outside Paris that occurred in the fall of 2005. See *Many held as French riots spread*, BBC (Int'l ed.) Nov. 5, 2005, available at <http://news.bbc.co.uk/2/hi/europe/4407688.stm>.

American foreign policy has long been characterized by cycles of isolationism and internationalism.<sup>7</sup> A Pew survey of U.S. opinion leaders and the general public released in November 2005, found that the public was shaken by the war in *Iraq* and the increasing anti-American sentiment worldwide, resulting in “a revival of isolationist feelings among the public similar to the sentiment that followed the Vietnam War in the 1970’s and the end of the Cold War in the 1990’s.”<sup>8</sup>

A retreat into isolationism would be disastrous for the United States in the long-term, by jeopardizing vital U.S. economic and political interests that depend on maintaining a global web of strategic alliances. Nor can the United States afford to act unilaterally in matters of international affairs. Instead, the United States must embrace the multilateral framework of international relations that has developed in recent decades.<sup>9</sup> Whatever the shortcomings of such agreements, U.S. participation contributes to global and national security, while their rejection makes America less secure.

This issue of the *San Diego International Law Journal* contains articles spanning a wide range of topics in international and comparative law. David Barnum cogently discusses the history of the “clear and present danger” test in the United States, and its increasing role in cases involving the advocacy of unlawful action before the European Court of Human Rights. This topic is of particular relevance today, as the war on terror requires us to make difficult choices in balancing protection of Constitutional liberties with national security. Jae Sung Lee explores the proposed multilateral framework on competition policy from the perspective of developing countries, concluding that such a policy is ultimately in their interest, and provides possible approaches to revive the stalled WTO negotiations.

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7. Distrust of foreign involvement in U.S. affairs is deeply engrained. As George Washington advised in his Farewell Address in 1796, “It is our true policy to steer clear of entangling alliances with any portion of the foreign world.” Available at <http://usinfo.state.gov/usa/infousa/facts/democrac/49.htm>

8. Meg Borten, *Survey Shows a Revival of Isolationism in U.S.*, N.Y. TIMES (online ed.), Nov. 17, 2005, <http://www.nytimes.com/2005/11/17/national/17cnd-survey.html>.

9. See Fareed Zakaria, *Bush’s Quiet Multilateralism*, NEWSWEEK (U.S. ed.), May 10, 2004, available at <http://www.fareedzakaria.com/articles/newsweek/051004.html>. Zakaria noted,

The Bush administration accepts the loss of sovereignty on trade, but it rejects it almost everywhere else. . . . Actually there are lots of areas where an agreement among several countries will produce benefits for all. . . . Even on a national-security issue like global terrorism, a crucial solution involves creating common standards and procedures across the world to search people and goods, share information, shut down bank accounts and make arrests. Otherwise terrorists will simply relocate to the weak point in the system.

*Id.*

Also in this issue, Lior Zemer, Eyal Kimel and Sharon Pardo compare the role of Israel's Speaker of the Knesset with European parliamentary speakers, and propose ethical rules to address conflicts of interests that arise out of the Israeli Speaker's multiple duties. Carole Scott presents a comparative analysis of U.S. and French labor law in the context of acquisitions and reductions-in-force, and discusses the underlying policy rationales that support each country's labor laws. Finally, Martin Lee argues that the Law of the Sea Convention has achieved the status of customary international law, binding on all states.

Because of the critical importance of the subject matter, this issue also contains the first-ever publication by *SDILJ* of an advocacy piece—an amicus brief filed with the Special Court for Sierra Leone on November 4, 2003. The brief and cover article by Noah Novogrodsky, Director of the Faculty of Law International Human Rights Clinic at the University of Toronto, describe the horrific human rights abuses suffered by child soldiers recruited in Sierra Leone's conflict, and argue that such recruitment constitutes a violation of both conventional and customary international law.

The issue concludes with Comments by Joshua Kagan, arguing for an international obligation to use force to stop acts of genocide; Amber Ward, discussing the enforcement of U.S. treaty obligations under the New York Convention; Allan Segal, on the future of the TRIPS Agreement and the status of intellectual property law in China; and Emily Grant, proposing an international agreement on rights of publicity.

