



HARVARD HUMAN RIGHTS JOURNAL

20th Anniversary

Twentieth Anniversary Reflections

Jimmy Carter

Makau Mutua

Henry J. Steiner

Mohammad-Mahmoud Ould Mohamedou

James A. Goldston

Martha Nussbaum

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Articles

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Cluster Munitions Convention

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Notes

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Behind a New Standard for Psychological Abuse

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Jasmine Marwaha

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Zinaida Miller

Recent Developments

Book Notes



Volume Twenty
Spring 2007
ISSN 1057-5057

TWENTIETH ANNIVERSARY REFLECTIONS

1

Jimmy Carter	Martha Nussbaum
Makau Mutua	Alex de Waal
Henry J. Steiner	Maria Foscarinis
Mohammad-Mahmoud Ould Mohamedou	Amr Shalakany
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ARTICLES

The Time Is Now: A Historical Argument for a Cluster Munitions Convention	53
Bonnie Docherty	

Playing by Our Own Rules: How U.S. Marginalization of International Human Rights Law Led to Torture	89
Jamie Mayerfeld	

"Courageous Explorers"? Education Litigation and Judicial Innovation in China	141
Thomas E. Kellogg	

"Calling in the Troops": The Uneasy Relationship Among Women's Rights, Human Rights, and Humanitarian Intervention	189
Karen Engle	

With Revolutionary Rage and Rancor: A Preliminary Report on the 1988 Massacre of Iran's Political Prisoners	227
Kaveh Shahrooz	

NOTES

Prolonged Mental Harm: The Torturous Reasoning Behind a New Standard for Psychological Abuse	263
Kate Riggs	
Richard Blakeley	
Jasmine Marwaha	

Settling With History: A Hybrid Commission of Inquiry for Israel/Palestine	293
Zinaida Miller	

RECENT DEVELOPMENTS

Military Commissions Act of 2006	325
Arsalan M. Suleman	

<i>Hamdan v. Rumsfeld</i> : Implications for the Geneva Conventions Regina Fitzpatrick	339
BOOK NOTES	349

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The *Harvard Human Rights Journal* is published annually by Harvard Law School students. The views expressed in the *Journal* are those of the authors and do not necessarily reflect the views of the editorial board.

Submissions: The editors welcome manuscripts concerning human rights issues. Manuscripts received by August 1 will be considered for publication the following spring; those received after this date will be considered for later volumes. Submissions by mail should be typed, double-spaced, and accompanied by a C.V. and a diskette containing the submission in Microsoft Word. Submissions by e-mail should be attached as a Microsoft Word document; and the text of the e-mail should include the author's complete contact information. Footnotes should comply with *The Bluebook: A Uniform System of Citation* (18th ed. 2005).

Subscriptions: Subscription rates for the 2007 volume (Volume 20) are \$19.00 domestic; \$22.00 foreign surface mail (\$23.00 to Canada); \$28.00 foreign airmail. All correspondence concerning subscriptions should be addressed to the Subscriptions Manager, Publications Center, Harvard Law School, 1541 Massachusetts Avenue, Cambridge, MA 02138, (617) 495-3694. E-mail: ssullivan@law.harvard.edu. Unless otherwise requested by the subscriber, the *Journal* is mailed at bulk rate. For some overseas subscribers, delivery via airmail may be more reliable than standard surface rate service. Claims for missing issues of Volume 20 will be honored only until January 2008.

Back Issues: Past volumes are available exclusively from William S. Hein & Co., Inc., 1285 Main St., Buffalo, NY, 14209, 1-800-828-7571, wsheinco@class.org. Contact William S. Hein & Co. for information on prices for bound volumes.

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Acknowledgements: Boundless thanks for their help to Elaine McArdle, Rob Dobson, Sandra Sullivan, Elena Kagan, Martha Minow, Karin Ryan, Gangqiao Wang, Michael Jones, Anne Marie Calareso, Katie Smith, and Terri Gallego-O'Rourke, each of whom substantially improved the quality of this publication.

Editors' Note

On the occasion of the tenth anniversary of this publication and as I begin my term in office, I would like to reaffirm my fundamental faith in human rights. The rights to life, freedom from torture, equality before the law, and freedom of expression are basic rights that require constant protection and promotion. They derive from the intrinsic value and dignity of each and every human being, without any distinction as to race, sex, language, or religion.

—Kofi Annan, Former United Nations Secretary-General
Harvard Human Rights Journal, Volume 10

Twenty years ago, the first editors of the nascent *Harvard Human Rights Yearbook* wrote: "We are dedicated to having the *Yearbook* serve as a forum for scholarly discussion of human rights issues. . . . The sole concern is that the pieces appearing in each issue contribute to the field. We have also left open the much-debated definition of 'human rights.' We felt that the *Yearbook* is better suited as a forum for scholars to develop and debate these definitions than as an arbiter." Two decades later these words continue to ring true. While much has changed from the time of their writing—including the name of this publication—our fundamental mission remains the same: to provide a forum for reflection and debate over critical human rights issues.

In this volume, we celebrate our twentieth anniversary by reflecting on the past two decades in the field of human rights. In this vein, we have commissioned ten short pieces to reflect on the changes in the human rights world and the challenges that lie ahead. We are deeply honored to have former President Jimmy Carter, a true life-long champion of human rights, write for the *Journal* once again. The thoughts of a broad spectrum of human rights practitioners and scholars join President Carter's words; many of these contributors are longtime friends of the *Journal*, and all responded to one or multiple of the following prompts:

- What do you feel have been one or two of the most significant human rights developments over the past two decades?
- How have human rights been important to your life/career?
- Is there a current issue involving human rights that you feel does not receive the attention it deserves?
- What do you think will be one or two of the most significant human rights challenges in the next two decades?

- Do you have a role model or hero in the human rights world? If so, who and why?

The responses traverse the worlds of Darfur and Egypt; celebrate the entrenchment of human rights in legal education, the institutionalization of human rights discourse, and the establishment of the Capabilities Approach to human rights; lament the need for a truly universal movement, highlighting the post-9/11 challenges to the rule of law; and, ultimately, radiate a message of hope both for the potential of transitional justice to heal distant countries and for the promise international human rights law offers to remedy economic and social injustice in the United States.

As we leave behind the last twenty years in human rights, we continue the march forward into the next twenty. Volume 20 features five important full-length articles at the frontier of the field. Bonnie Docherty vividly details the tragic harm inflicted by the continued use of cluster bombs and draws on historical precedent to argue that the time is ripe for a convention on cluster munitions. Jamie Mayerfeld traces the United States' long-standing involvement with torture and shows how the failure to embrace international human rights law facilitated the recent outbreak of torture incidents. Thomas Kellogg writes the first full-length English analysis of education law in China, surveying a number of recent cases to demonstrate how judicial innovation can enhance rights like due process and equal protection for Chinese citizens. Karen Engle critiques the increasing consensus of forceful military humanitarian intervention as an emerging norm for addressing human rights violations, focusing on the context of women's human rights and warning of the dangers inherent in equating rape with genocide. Finally, Kaveh Shahrooz offers a detailed narrative of the largely ignored brutal Iranian prison massacre of 1988 and outlines a preliminary legal case against the perpetrators in urging human rights defenders to hold them responsible.

In our continued tradition of publishing outstanding student writing, Volume 20 includes two Student Notes, as well as our traditional Recent Developments and Book Notes sections. The first Note by Kate Riggs, Richard Blakeley, and Jasmine Marwaha carries the discussion of torture one step further, arguing against the adoption of the 2006 Military Commissions Act ("MCA") and its definition of mental torture requiring a separate showing of "prolonged mental harm." Our second Student Note, authored by Zinaida Miller, urges the formation of a hybrid commission to investigate the events of 1948 in Israel/Palestine and the creation of the Palestinian refugee population, and offers preliminary structural suggestions drawing on the experiences of El Salvador, South Africa, and East Germany. A deeper analysis of the MCA, as well as the Supreme Court's *Hamdan v. Rumsfeld* decision and its implications for the Geneva Conventions, continues in our Recent Developments section.

On the occasion of our tenth anniversary, former Secretary-General Annan reaffirmed his fundamental faith in human rights, including "rights to life, freedom from torture, equality before the law, and freedom of expres-

sion." Now, on the occasion of our twentieth anniversary and with the publication of Volume 20, we hope to once again reaffirm this faith in human rights. As the first editors of the then-*Yearbook* indicated, the precise definition of human rights has been and will continue to be highly contested. Yet a common thread runs through these discussions, one which recognizes "the intrinsic value and dignity of each and every human being." As the *Journal* enters its third decade, we hope it will continue to serve as a forum for reflection and debate in the future as it has in the past.

—Stacy Humes-Schulz and Brandon Weiss
Editors-in-Chief, Volume 20