

# INTRODUCTION

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The impunity project has been developed by the International Human Rights Law Institute of DePaul University (“IHRLI”) and the International Institute of Higher Studies in Criminal Sciences (“ISISC”). Its goal has been to mobilize world public opinion against states’ practice of impunity for major international crimes and serious violations of fundamental human rights, and to develop international guidelines against that practice.

By working toward the elimination of impunity, it is believed that prevention and deterrence will be enhanced. Thus, future harm arising out of the commission of international crimes such as genocide, crimes against humanity, war crimes, and torture can be reduced.

The practice of impunity has all too frequently been the result of *Realpolitik*. At times it is rationalized as a necessary evil, which is indispensable to achieving peace. While this is true in some cases, in most cases it is a cynical manipulation by governments of people’s expectations that both peace and justice can be attained. In the judgment of many, peace and justice are mutually exclusive, but complementary. Indeed many believe that if you want peace, you must work for justice.

The impunity project, of which this publication is a part, was funded by the John D. & Catherine T. MacArthur Foundation and the Open Society Institute and was implemented in several phases. The first phase was the preparation of thirteen research papers by some of America’s leading experts on international criminal justice and human rights. These papers were first presented on April 13, 1997, at a meeting of more than sixty renowned U.S. experts at the U.S. Holocaust Memorial Museum in Washington, D.C. The Holocaust Museum was also a co-sponsor of that meeting. The authors thereafter revised their papers and submitted them for publication to this journal.

These thirteen articles represent a comprehensive collection of in-depth scholarly presentations. They advance the level of knowledge that we have about the questions addressed. The distinguished authors who bring constructive insights and workable solutions to the questions posed by impunity are to be congratulated for their important contributions.

The issue is further enriched by the inclusion of recent reports of two United Nations Special Rapporteurs on the subjects of impunity and victim

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compensation: Mr. Louis Joinet's report on the administration of justice and the human rights of detainees, and Mr. Theo van Boven's report on the study concerning the right to restitution, compensation, and rehabilitation for victims of gross violations of human rights and fundamental freedoms.<sup>1</sup>

This Symposium will no doubt prove itself to be a major addition to the study of this complex subject. In order to give the works contained herein major international dissemination, IHRLI and ISISC will distribute copies to the 400 invitees to the Siracusa Impunity Conference described below. To further disseminate the contents of this issue, the proceedings of the Siracusa conference will be published by ISISC in a volume that will include the articles published in this journal with, of course, appropriate credit to the journal.

The international conference, *Reining in Impunity for International Crimes and Fundamental Violations of Fundamental Human Rights*, was held at ISISC in Siracusa, Italy on September 17-21, 1997, and was co-sponsored by twenty-three of the world's leading non-governmental organizations: American Refugee Committee; Amnesty International; Arab Organization for Human Rights; Association Internationale de Droit Penal; The Balkan Institute; Carnegie Endowment for International Peace, Public International Law and Policy Group; Central & East European Law Initiative, American Bar Association; College of William and Mary, Bill of Rights Institute and Reves Center of International Studies; Duke University School of Law; Federation Internationale des Droits de l'Homme; Human Rights Watch; Instituto Interamericano de Derechos Humanos; International Commission of Jurists; International Committee of the Red Cross; International Human Rights Law Group; IHRLI; Inter-Parliamentary Union; ISISC; Lawyer's Committee for Human Rights; No Peace Without Justice; Open Society Institute; Parliamentarians for Global Action; and Physicians for Human Rights.

More than 120 of the world's leading human rights and international criminal law experts from thirty-nine countries participated in four days of extensive, enlightening, and stimulating experience-sharing and discussions about the practices of impunity and how to prevent such practices in the future. Among the high-ranking personalities attending were His Excellency Arthur N.R. Robinson, President of the Republic of Trinidad and Tobago; a representative for His Excellency Lamberto Dini, Minister of Foreign Affairs of Italy; high-level representatives of U.N. Secretary-General Kofi Annan and Former President Jimmy Carter; His Excellency Faustin Ntezilyayo, Minister of Justice of Rwanda; and Hon. Dawit Yohannes, Speaker of the House of People's Representatives of Ethiopia. The distinguished participants also included high officials from Argentina, Bosnia, Chile, Croatia, El Salvador, Ethiopia, Guatemala, Haiti, Rwanda, South Africa, and other countries that have faced the complex issues of how to deal with perpetrators of genocide, crimes against humanity, war crimes, torture and serious violations of human rights. At the Siracusa In-

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1. See Appendices B and C, respectively.

ternational conference, like at the Washington meeting of American experts, the idea of guidelines against impunity and their contents were discussed.

Following the Washington meeting, an informal working group on guidelines was developed consisting of Madeline Morris (chair), Mark Ellis, Michael Scharf, Paul Williams, and myself, with the advice of Diane Orentlicher and Neil Kritz. This group met several times in order to elaborate the draft guidelines. The work of that group continued at a conference on post-conflict justice hosted by the Stanley Foundation in October 1997, and co-chaired by Mark Ellis and Paul Williams. The draft guidelines that came out of these meetings have been circulated to all the Siracusa Impunity conference participants for their input. Thereafter, they will be submitted to the co-sponsoring organizations of the Siracusa Impunity conference for their approval, after which they will be formally submitted to the United Nations.

Lastly, special thanks to Madeline Morris, who is the Duke faculty sponsor of this volume, and Theresa Newman, also at the law school, who oversaw its publication. Our appreciation also goes to the student editors of this volume who worked diligently on the preparation of this publication, and to the faculty board of editors of *Law and Contemporary Problems*.