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## FOREWORD

Tara McKelvey<sup>†</sup>

Ten years after 9/11, one of the most significant legacies that has been left by the terrorist attacks is the way that Americans see their role in the world. Today, international issues are personal: A government in Somalia that fails to meet the needs of its people may end up creating space for a terrorist group such as al Shabaab to grow in strength and influence, and also to ramp up anti-Americanism and recruit new fighters who could someday lead another attack on this country. For that reason, Americans are much more likely to allow for tough counterterrorism strategies in countries such as Somalia, as a way to tamp down the threat of terrorism.

Yet the impact of 9/11 has been felt just as acutely within the United States, and the essays in this issue address the various ways that the terrorist attacks have changed this nation, ranging from the way that government officials are now working to prepare for another attack and to plan for disasters that could befall the United States, to the campaign of drone strikes against terrorists in Somalia and other countries, to the way that terrorism cases are now being prosecuted here and abroad and how that has affected the judicial system and our nation's security.

This issue presents a series of essays that seek to answer five uniquely pertinent questions on U.S. national security. As the authors of these essays show, the effects of the terrorist attacks have been far-reaching, both externally and internally. One crucial aspect of post-9/11 America, for example, is a heightened level of anxiety: "[T]he domestic legacy of 9/11 is perhaps best epitomized by a culture of fear and distrust that pervades American society a decade after the attacks," writes John Hursh. The fear is felt in the way that Americans see people who are from other countries and

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are living here now, and also in the way that Americans see foreign affairs, since they have a heightened sense of their own vulnerability.

Co-authors Harvey Rishikof and Bernard Horowitz also take a careful look at some of the aftereffects of the terrorist attacks on this country, focusing on how the attacks have shifted the way that government officials conduct their work in Washington. “The 9/11 attacks violently changed the national security reform political environment from gridlock to perceived need for institutional changes,” Rishikof and Horowitz write, explaining that officials in the Bush White House “eventually felt compelled to work with Congress and make structural changes, but bureaucratic forces resistant to centralized control were able to maintain power and influence. Continuing control of budgets and authorities allowed the traditional ‘cylinders of excellence’ or ‘silos of power’ to resist centralized reform.” These problems have persisted during the Obama administration, and counterterrorism officials have struggled to ensure that the intelligence community is functioning smoothly.

Beyond the “Five Questions” essays, this issue also addresses several important developments in national security policy in greater depth. For example, Laurie R. Blank’s article examines a startling shift in counterterrorism strategy—the use of aerial drones to hunt down al Qaeda commanders—as well as the legal justifications for the use of targeted strikes and how CIA officers decide whom to kill. “For the past several years, the United States has relied on both armed conflict and self-defense as legal justifications for targeted strikes outside of the zone of active combat in Afghanistan. A host of interesting questions arise from both the use of targeted strikes and the expansive U.S. justifications for such strikes, including the use of force in self-defense against non-state actors, the use of force across state boundaries, the nature and content of state consent to such operations, the use of targeted killing as a lawful and effective counterterrorism measure and others,” she writes.

This issue also raises questions about the United States’ reliance on the state secrets privilege and secrecy generally in the “war on terror.” In an essay that compares two recent books on the topic of secrecy in counter-terrorism, co-authors Lawrence Friedman and Victor Hansen examine issues of transparency and accountability that this reliance on secrecy raises. In another

article, Sudha Setty examines how state secrets jurisprudence has evolved in the United States and how this evolution compares to the use of this doctrine in other countries.

Such comparisons between policies and procedures in the United States and other nations provide useful lessons as we move forward in this post-9/11 world. Kent Roach examines the different approaches to terrorism prosecution in the United States and Canada: "The close connection between American and Canadian counter-terrorism makes it important to have a better understanding of each country's distinct national security traditions. Given the nature of national security matters, this requires an understanding of each country's constitution, including not only its text, but history and practice. Such understanding will not avoid conflicts, but will assist in placing them in a broader context."

It is doubtless true that the events of 9/11 have profoundly transformed the past ten years and will continue to animate debates about the role the law should play in making our nation, and the world, a safer place. The articles in this journal bring to this debate fresh perspectives and valuable scholarship to enhance our understanding of our post-9/11 world.