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Foreword to the Symposium

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AUSTRALIA'S *TAMPA* INCIDENT: THE CONVERGENCE OF INTERNATIONAL AND DOMESTIC REFUGEE AND MARITIME LAW IN THE PACIFIC RIM

FOREWORD TO THE SYMPOSIUM

Rescuing migrants at sea is not a new phenomenon; yet, increased mobility and worsening humanitarian disasters, along with recent security concerns prompted by September 11, 2001, have brought to the forefront issues of state sovereignty, refugee protection, people smuggling, migration, the duty to rescue, and jurisdiction. States that produce refugees, states that receive refugees, states that process refugees, states whose ships rescue refugees, and states through which refugees transit temporarily all have a stake in the outcome of the debate. International organizations such as the United Nations High Commissioner for Refugees, the International Organization for Migration, Human Rights Watch, Amnesty International, the International Maritime Organization, and the various Protection and Indemnification ("P&I") clubs that insure the world's ship owners, also have a vested interest. Of course, not all of these interests are aligned, which is what makes the issue of migrant rescue so intriguing.

The "*Tampa* Incident" (alternatively "*Tampa* Affair") refers to the events surrounding Australia's refusal to accept more than four hundred Afghan and Iraqi asylum seekers who were rescued from a sinking Indonesian ferry by a Norwegian vessel (the *M/V Tampa*) on August 26, 2001. Ultimately, after an eight-day standoff during which multiple states, the United Nations, and international organizations weighed in, the asylum seekers were transferred to the island nation of Nauru for refugee claim processing. Following the rescue, Australia instituted retroactive legislation to establish mandatory sentencing for people smugglers, restrict the legal rights of refugees, instate new temporary visas for "illegal" migrants (those who arrive without legal visas), and excise external territories from Australia's migration zone.

The *Tampa* Incident has been a catalyst for identifying and evaluating legal obligations of states and principals of states, formulating and assessing comprehensive plans to address the issue of migration and migrant rescue at sea, and clarifying the law to prevent protracted ad hoc decisions.

In April 2002, the Pacific Rim Law & Policy Journal hosted an international symposium to address some of the issues raised by the *Tampa*

Incident. The Articles composing this issue were first presented in the April 2002 Symposium, the fourth international symposium in a series of international conferences organized by the Journal.¹ These Articles are a product of the exchange of ideas that came out of this Symposium.²

The Symposium was initiated under the leadership of Kelly Thomas, Editor-in-Chief, 2001-2002 and Carmel Morgan, Associate Editor-in-Chief, 2001-2002. The Symposium would not have been possible without the enthusiastic support of the Journal's membership for the academic years 2001-2002 and 2002-2003. Emily Peyser and Amber Dufseth merit particular mention for their contributions in coordinating many of the logistics. The Journal would also like to acknowledge former Assistant Dean Paula Littlewood, who in addition to providing guidance in her administrative capacity, also added invaluable perspective and institutional memory as the former Editor-in-Chief of the Journal in 1997-1998, when the Journal last produced a symposium.

The Faculty and Administration of the University of Washington School of Law were invaluable throughout the process in assisting us in identifying speakers, advising us on how to produce an international symposium, and directing us towards funding sources. Three professors at the Law School deserve particular mention, not just for their advisory contributions but also for their presentations at the Symposium: Craig H. Allen, Joan M. Fitzpatrick, and Veronica Taylor. The Journal is also grateful to Dean W.H. Knight, Jr. for his support, encouragement and opening address at the Symposium.

The Journal is also appreciative of our speakers, many of whom traveled great distances to speak in Seattle in April. Irene Khan, Secretary-General of Amnesty International, Professor Guy S. Goodwin-Gill of Oxford University, and Professor Mary Crock of University of Sydney addressed the international refugee issues. Professor Martin Davies of Tulane Law School, and Commander Fred Kenney of the U.S. Coast Guard addressed the maritime issues. Although Dean Knight and Professors Allen,

¹ The prior three symposia were: Symposium, *Competition and Trade Policy: Europe, Japan and the United States*, 4 PAC. RIM L. & POL'Y J. 1 (1995); Symposium, *Security Regulation in the APEC Countries*, 4 PAC. RIM L. & POL'Y J. 569 (1995); and Symposium, *Emerging Land Use Law in the Pacific Rim*, 7 PAC. RIM L. & POL'Y J. 479 (1998).

² Two other student-written pieces were published in an earlier issue of the Journal as a preview to the Tampa Symposium: Emily C. Peyser, Comment, "*Pacific Solution*"? *The Sinking Right to Seek Asylum in Australia*, 11 PAC. RIM L. & POL'Y J. 431 (2002); and Jessica E. Tauman, Comment, *Rescued at Sea, but Nowhere to Go: The Cloudy Legal Waters of the Tampa Crisis*, 11 PAC. RIM L. & POL'Y J. 461 (2002).

Fitzpatrick, and Taylor trekked only a short distance across campus, their contributions were no less significant.

Finally, this Symposium could not have been possible without the generous support of our various donors. In alphabetical order, the Journal would like to recognize and thank: Asian Law Center; Comparative Commercial Law Institute; Condon-Falknor Lectureship Fund; Graduate and Professional School Senate; LexisNexis, a division of Reed Elsevier, Inc.; Student Bar Association; Ted Stein Memorial Fund; Washington Law School Foundation; and University of Washington School of Law.

On Behalf of the Editorial Board,
Jessica Tauman Hamilton
Editor-in-Chief, 2002-2003

