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Foreword

David M. Wilkins

Jessica Sleater

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FOREWORD

“Looking at foreign law for support is like looking out over a crowd and picking out your friends,” Chief Justice John Roberts made this statement in response to a question during his confirmation hearing in front of the Senate Judiciary Committee. Associate Supreme Court Justice Stephen Breyer countered the Chief Justice’s perspective at the 97th Annual Meeting of the American Society of International Law “I recognize that some of my colleagues believe that comparative analysis is ‘inappropriate to the task of interpreting a constitution, though it was of course quite relevant to the task of writing one.’ But comparative use of foreign constitutional decisions will not lead us blindly to follow the foreign court. As I have said before – ‘[o]f course, we are interpreting our own Constitution, not those of other nations, and there may be relevant political and structural differences between their systems and our own. But their experience may nonetheless cast an empirical light on the consequences of different solutions to a common legal problem.’” This ongoing debate on the Supreme Court begs the question that as the United States becomes increasingly involved in international affairs, and as other constitutional democracies develop and prosper throughout the world, what role, if any, should foreign law play in interpreting our Constitution? Today’s debate comes at a time in which the role of the judiciary is of significant political importance in this country, and foreign law’s function in interpreting our Constitution serves as a frontline in an ideological battle in shaping that role.

We have an excellent selection of authors to present different and related perspectives to some of the issues that manifest from the intersection of international law and constitutional law. First, we are very pleased to publish a speech authored by Associate Supreme Court Justice Ruth Bader Ginsburg. The speech discusses her views on the role of developing constitutional law with an eye to what other countries are doing. To discuss the role of the Supreme Court in constitutional adjudication in regard to individual rights, we are pleased to have Professor Robert Farrell’s article. Mugambi Jouet writes about the evolving International Criminal Court and the role of victims may play in a prosecution while also balancing defendants’ rights. Finally, Michael Paisner discusses the role of constitutional law in fighting the international War on Terror in light of recent decisions and in regard to the great writ of habeas corpus.

The *Saint Louis University Public Law Review* would like to take this opportunity to thank all of the authors who shared their talents with us and all of the *Public Law Review* staff and board who helped turn this idea into a reality. Special thanks must go to Susie Lee who again kept us on track as much as she could with this publication. We hope you enjoy this issue.

DAVID M. WILKINS
MANAGING EDITOR

JESSICA SLEATER
EDITOR-IN-CHIEF