Anton's Weekly Digest of International Law Scholarship*

Vol. 1, No. 3
(26 Nov 2010)

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I. SSRN Legal Scholarship Network & bepress Legal Repository

(Abstracts in this Bulletin have been significantly edited for brevity)

The Future of International Economic Law: A Research Agenda

Ernst-Ulrich Petersmann
European University Institute - Department of Law (LAW)
EUI Working Papers LAW No. 2010/06

Abstract:
. . . The various private and public, constitutional, administrative, international and cosmopolitan conceptions of international economic regulation complement each other without addressing the most important challenge of IEL in the 21st century, i.e. how global public goods can be collectively protected more effectively. [I]n citizen-driven areas like IEL and environmental pollution - the 'collective action problems' impeding effective protection of 'global public goods' require strengthening the 'cosmoplitan', rights-based foundations of IEL. The chapter identifies research questions meriting further research in order to make IEL a more effective instrument for promoting and protecting not only economic and human welfare, but also human rights, international rule of law and other international public goods beneficial for all human beings. . . .

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Comparative International Law? Roots, Pitfalls, Methods

Boris N. Mamlyuk
Ohio Northern University - College of Law
Ugo Mattei
University of California - Hastings College of Law
Brooklyn Journal of International Law, Vol. 36, No. 2, 2011

Abstract:
This Article examines the emerging field of study called "comparative international law," first generally and then by specific examination into historical comparative international law

* Donald K. Anton, The Australian National University College of Law. This digest draws on independent research together with information gleaned from the RSS feeds of a host of international law publishers, law libraries, and blogs, especially Jacob Katz Cogan's International Law Reporter and Lawrence Solum's Legal Theory Blog.

traditions. We map out historical precedents of comparative international law to find and to create patterns, which is important to render future CIL projects coherent and relevant to policymakers. . . .

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A Comparitive Analysis Between the League Covenant and U.N. Charter

Neetij Rai
affiliation not provided to SSRN

Abstract:
The purpose of this paper is to compare the League Covenant and U.N. Charter textually. The two documents are in fact the most important ones as they are the foundations of two of the most important World Organizations. U.N. Charter and League Covenant resembles in many aspects and differ too. This paper only analyzes the important aspects of the two documents. U.N. Charter, the most important document today for humankind has its foundation in the League Covent and the paper elucidates it.

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Compliance with Decisions of International Courts as Indicative of Their Effectiveness: A Goal-Based Analysis

Yuval Shany
Hebrew University of Jerusalem - Faculty of Law and Institute of Criminology
Hebrew University of Jerusalem Faculty of Law Research Paper No. 04-10

Abstract:
The paper, which is part of the author's broader work in the field of assessing the effectiveness of international courts, seeks to ascertain the manner in which compliance with the remedies provided by a number of international courts is indicative of their goal-attainment. In doing so, it revisits certain conventional assumptions about the relationship between rates of compliance with judicial remedies (remedy compliance) and international Court effectiveness. . . . I argue that (a) correlation between state practice and judicial remedies tells us little about the impact that courts actually have. . . .; (b) remedy compliance is only meaningful from an effectiveness viewpoint, if it is discussed in the context of goal attainment – that is, the degree in which the judgment, any remedies ordered thereby and compliance therewith, contribute to promoting primary norm compliance, resolving disputes, supporting and legitimizing international norms and institutions, etc. Hence, compliance rates are in themselves a poor proxy for judicial effectiveness.

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Overcoming the Limitations of Environmental Law in a Globalised World

Jonathan M. Verschuuren
Tilburg University - Center for Transboundary Legal Development; Tilburg Sustainability Center
Tilburg Law School Research Paper No. 020/2010

Abstract:
Globalisation has negative side effects on the environment, especially as a consequence of the growing opportunities for businesses to avoid strict national environmental laws by moving operations (or waste) to places in the world where strict environmental legislation is either absent or remains unenforced. National environmental laws indeed have a fundamental flaw because they basically only regulate activities within the national territory of that state. . . .Slowly but surely, national courts are extending their grip on illegal activities outside the national territory. Again, this process can be facilitated by the legislature, for instance through creating liberal standing rules and by instituting a system of legal aid that facilitates victims of

environmental pollution from developing countries to sue polluters' headquarters in the developed world.

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Dispute Settlement in the WTO and NAFTA: A Comparative Evaluation

Ajibola Asolo
affiliation not provided to SSRN

Abstract:
Trade agreement frameworks are generally aimed at liberalising markets. Broadly, there are two approaches to constituting such agreements: the multilateral approach and the regional approach. The World Trade Organisation, whose rules are increasingly becoming framework rules for almost all trade activities (lex generalis) between countries, best exemplifies - or, indeed, is - the multilateral approach, while the North American Free Trade Agreement is an example of a strong Regional Trade Agreement. It is a particularly interesting one because it incorporates the perspective of developed economies on the one hand (U.S. and Canada) and a developing economy on the other (Mexico). This work compares the fulcrums of the dispute settlement contraptions in both frameworks, in addition to the theoretical and conceptual inclinations which constitute the foundation of their unique approaches.

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Human Rights in Cyberspace

Audrey Guinchard
University of Essex - School of Law
Society of Legal Scholars Conference (SLS) 2010

Abstract:
. . . Contrary to original hopes, Governments have . . . invested cyberspace, trying to reinstate borders on a space that was thought borderless. They now use cyberspace to conduct warfares, to monitor conduct data and content data, to censor, to open (e-mail) correspondence. The old struggle against States powers finds new expressions with many challenges to the rule of law as it came to be defined with the Enlightenment. Maybe more importantly, new struggles arise, with the growing power of private companies. Data mining and profiling of consumers/users, the ambiguous position of online service providers 'torn apart' between the necessity to make profits and the call for ethical conduct when precisely are at stake human rights, the hunt some private companies conduct to fight what they present as a threat of intellectual property rights, the temptation to collude or surrender to Governments' will, are all current issues that question the accountability not necessarily of Governments, but of private companies or lobbies using cyberspace. How can one articulate human rights in this new geography of power? Should it be? Does the protection of human rights rest ultimately on educating citizens so that they have the basic computer literacy skills to understand what technology does and how it can be manipulated to infringe their privacy and their anonymity by the old and new powers of the time?

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Law, Politics and Fact-Finding: Assessing the Impact of Human Rights Reports

Louise Mallinder
Transitional Justice Institute, University of Ulster
Journal Human Rights Practice, Vol. 1, No. 4, 2010

Abstract:
Investigating, collating, corroborating, and publicizing information on human rights violations is central to the work of many national and international human rights organisations. Drawing on

three reports published by Human Rights Watch focusing on Afghanistan, Nepal and Peru, this essay will consider the goals and strategies employed by HROs, before assessing the context, content, and objectives that inspired the publication of each report. The essay will then conclude by outlining the contrasting impact of the reports in Afghanistan and Peru to evaluate how far they contributed to HRW's objectives.

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An African Expert Study on the African Union Concerns about Article 16 of the Rome State of the International Criminal Court

Dapo Akande
University of Oxford - Public International Law
Max Du Plessis
Institute for Security Studies (ISS); University of KwaZulu-Natal - Faculty of Law
Charles C. Jalloh
University of Pittsburgh - School of Law
Institute of Security Studies Position Paper, Pretoria, South Africa, October 2010

Abstract:
This unprecedented African expert study on the African Union's (AU) concerns about article 16 of the Rome Statute of the International Criminal Court (ICC) seeks to articulate a clearer picture of the law and politics of article 16 deferrals within the context of the AU's repeated calls to the United Nations Security Council (UNSC) to invoke article 16 to suspend the processes initiated by the ICC against President Omar al-Bashir of Sudan. . . .

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The Prevention of Torture Bill, 2010: A Briefing Document

Arghya Sengupta
University of Oxford
Sanhita Ambast
Fletcher School of Law and Diplomacy
Prasan Dhar
Harvard University - Harvard Law School
Mihir Naniwadekar
Unaffiliated Authors
V. Niranjan
Magdalen College, University of Oxford

Abstract:
The Prevention of Torture Bill, 2010 is a legislation which primarily aims to provide for punishment for acts of torture committed or abetted or consented to, by public servants. As stated both in the Preamble, as well as in the Statement of Objects and Reasons, the ostensible rationale for its formulation is the fulfilment of the requirement of an enabling legislation, necessary if India is to ratify the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1975. Accordingly, the Bill defines torture, prescribes necessary punishment and provides certain procedural safeguards relating to the process of investigation. The precise enumerations of these aspects in the Bill however have attracted considerable popular criticism. In this report, we undertake a detailed legal analysis of the provisions of the Bill, an approach we believe will further inform the already vibrant public debate . . ..

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Guantanamo as Outside and Inside the U.S.: Why is a Base a Legal Anomaly?

Ernesto Hernandez Lopez
Chapman University School of Law

American University Journal of Gender, Social Policy, & the Law, Vol. 18, pp. 471-501, 2010

Abstract:
Guantanamo's historic role in empire explains why the base remains anomalously inside and outside US jurisdiction. Produced by historic empire, the base's legal anomaly permits for detaining over 150 men, eight years after detentions began and over a year and half after President Obama ordered detentions to end. . . . This Essay is part of larger project examining the base and current empire as space, markets, and culture. The notion of empire explains why Guantanamo's anomaly is not an aberration but instead is an intended legal objective.

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Cecelia Goetz, Woman at Nuremberg

Diane Marie Amann
Professor of Law & Martin Luther King, Jr. Hall Research Scholar, University of California, Davis - School of Law

International Criminal Law Review, Forthcoming

Abstract:
Among the many women who played a role in the post-World War II trials of former Nazis and Nazi collaborators was a 30-year-old American, Cecelia Goetz. This essay, part of ongoing research on women at Nuremberg, to be published in "Women and International Criminal Law," a forthcoming special issue of the International Criminal Law Review, discusses Goetz. Included are not only details on how and why she became a prosecutor in the Krupp trial at Nuremberg, but also a life story marked by many "first woman" chapters, on law review, at the Department of Justice, and, after Nuremberg, in the federal judiciary.

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The Prosecution and Elimination of Piracy on the High Seas by the United States in the Twenty-First Century

James J. Woodruff II
Florida Coastal School of Law

Abstract:
A review of the law regarding piracy on the high seas and the American experience since the nation's founding. This article discusses various methods for dealing with the problem of piracy and concludes that an effective means of prosecuting and eliminating piracy on the high seas will require the use of the courts, commercial shipboard deterrence measures, and small-scale regional stabilization leading to statehood.

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The Right to Democracy

Rory O'Connell
Queen's University Belfast - School of Law - Human Rights Centre

PROBLEMS OF DEMOCRACY, Nico Bechte and Gabriele De Angelis, eds., InterDisciplinary Press, 2010

Abstract:
This paper presents connections between the law of the European Convention on Human Rights and different models of democracy.

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Law and Culture in a Global Context: Interventions to Eradicate Female Genital Cutting

Elizabeth Heger Boyle
University of Minnesota - Twin Cities
Amelia Cotton Corl
University of Minnesota - Twin Cities

Annual Review of Law and Social Science, Vol. 6, pp. 195-215, 2010

Abstract:
Female genital cutting practices (FGCs) provide a contemporary lens into the relationship between law and culture in a global context. In this discussion, we take both legal and cultural pluralism seriously to illustrate how laws and cultures interact to create or resist change. We consider law and culture at the international, national, and community levels. . . . Ultimately, to determine the impact of international and national laws, scholars need to look at development efforts as well as anti-FGC statutes.

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Environmental Law and Native American Law

Eve Darian-Smith
University of California, Santa Barbara

Annual Review of Law and Social Science, Vol. 6, pp. 359-386, 2010

Abstract:
This review seeks to engage two bodies of scholarship that have typically been analyzed as discrete areas of enquiry—environmental law and American Indian law. In the twenty-first century, native peoples' involvement in environmental politics is becoming more assertive. In this context it is necessary to think about the impact indigenous involvement may have in shaping future U.S. environmental agendas and regulations. . . . The review concludes by reflecting on the future of U.S. environmental law in the context of increasing pressure being exerted by international environmental law and global indigenous politics.

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The Primacy of Regional Organizations in International Peacekeeping: The African Example

Suyash Paliwal
Columbia Law School

Virginia Journal of International Law, Forthcoming

Abstract:
Under the United Nations Charter, regional arrangements or agencies have primacy over pacific dispute settlement measures. But in the recent decades, regional organizations, rather than the UN Security Council, have also taken a first-instance role in peacekeeping involving the use of force. . . . The regional organizations on the African continent have led the charge in this development. This Note first reviews the legal issues raised by these actions in relation to the UN Charter framework, followed by an appraisal of the practice of Africa's prominent regional organizations. This Note then addresses three pressing questions regarding the international law of regional organizations: (1) how can a regional organization's primary role in peacekeeping be reconciled with its member states' Charter obligations? (2) do regional organizations have a right to humanitarian intervention in their region? and (3) are regional organizations under a responsibility to protect?

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Tipping the Balance: International Courts and the Construction of International and Domestic Politics

Karen J. Alter
Northwestern University - Department of Political Science

Northwestern University Buffett Center for International and Comparative Studies Working Paper No. 10-003

Abstract:
Most international relations approaches expect that states have unique preferences that international courts (ICs) must satisfying in order to be effective. Starting from the premise that states have within numerous conflicting preferences, I argue that ICs can act as tipping point actors, building and giving resources to compliance constituencies - coalitions of actors within and outside of states - that favor policies that happen to also be congruent with international law. . . .

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Israel's Seizure of the Gaza-Bound Flotilla: Applicable Laws and Legality

Craig Scott
York University - Osgoode Hall Law School

Osgoode CLPE Research Paper No. 42/2010

Abstract:
The present working paper analyzes the applicable laws and legality of Israel's naval blockade on Gaza and of the enforcement of that blockade through the seizure of a number of vessels, notably the Mavi Marmara, on May 31, 2010. It includes a comparison between that analysis and the analysis of the just-released (September 27, 2010) Report of the international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance. . . . Suggestions are made about questions of law to which two remaining panels or commissions of inquiry may wish to give special attention. One such question is whether or not a belligerent right of visit of vessels for purposes of arms interdiction requires a naval blockade first to be in place. A second question meriting further attention is how to think about the interaction of personal rights of self-defence of both the passengers aboard the ships and the soldiers ordered to seize the ships, in terms of the analysis of the necessity and proportionality of specific actions taken by Israeli soldiers. A third question is whether, without addressing the matter in any detail, the Hudson-Phillips report unhelpfully blurred the jus in bello right of visit within the laws of war and the jus ad bellum right of states to self-defence. . . .

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Resistance to Regional Human Rights Cooperation in the Asia-Pacific: Demythologising Regional Exceptionalism by Learning from the Americas, Europe, and Africa

Ben Saul
University of Sydney - Faculty of Law
Jacqueline Mowbray
University of Sydney - Faculty of Law
Irene Baghoomians
University of Sydney - Faculty of Law

HUMAN RIGHTS IN THE ASIA-PACIFIC REGION: TOWARDS INSTITUTION BUILDING, H. Nasu, B. Saul, eds., Routledge-Cavendish, Forthcoming
Sydney Law School Research Paper No. 10/107

Abstract:
Asia and the Pacific are the only regions in the world which are yet to establish cooperative

regional mechanisms for the promotion and protection of human rights. This article briefly outlines the existing scope of human rights protections in the region. It then interrogates common explanations for the Asia-Pacific's reluctance to institutionalise regional protection of human rights, including that the region is too diverse for uniform standards; contrarily, that 'Asian values' differ from western 'international human rights standards'; that principles of sovereignty and non-intervention preclude external scrutiny; and that Asians have a cultural preference for conciliation over adjudication, ruling out quasi-judicial methods for protecting human rights. This article draws upon the experiences of establishing regional mechanisms in the Americas, Europe and Africa to demonstrate that claims about the uniqueness of the Asian experience are often exaggerated or inaccurate. Asian exceptionalism on human rights questions is often more fruitfully explained as an expression of strategic policy choices by Asian governments to avoid strengthening human rights protections, rather than by any inherent truths about the unsuitability of rights and institutions to Asian traditions, values, diversity or cultural preferences. This article draws lessons from other regions concerning the prospects for regional and institutional cooperation on human rights in the Asia-Pacific, including as regards the establishment of regional charters, commissions and courts.

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The Transnational Use of Torture Evidence

Kai Ambos
affiliation not provided to SSRN

Israel Law Review, Vol. 42, No. 2, pp. 362-397, 2009
Hebrew University International Law Research Paper No. 02-10

Abstract:
From an international criminal law perspective the question of torture has two aspects. The first is substantive: is the use of torture in all situations, even in the most extreme ones, where torture is applied to save the lives of innocents ("preventive torture"), unlawful and must the torturer always be punished? I have tried to find a differentiated answer to this question elsewhere. The second aspect is a procedural one: can evidence obtained by means of torture ("torture evidence") be used in criminal trials? In states governed by the rule of law and fair trial, the answer is a simple and clear "no" if torture was applied by national authorities and the torture evidence is meant to be used in a subsequent criminal trial. In this situation, of "direct use of torture evidence," national procedural norms provide explicit prohibitions. These national prohibitions are based on human rights law, in particular Article 15 of the UN Convention Against Torture (CAT). A more complex question also analyzed in this Article is whether such prohibitions also apply to the transnational use of torture evidence, i.e. situations in which torture evidence is obtained in one country and is used in another.

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Three Obstacles to the Promotion of Corporate Social Responsibility by Means of the Alien Tort Claims Act: the Sosa Court's Incoherent Conception of the Law of Nations, the 'Purposive' Action Requirement for Aiding and Abetting, and the State Action Requirement for Primary Liability

David A. Dana
Northwestern University - School of Law
Michael Barsa
affiliation not provided to SSRN

Fordham Environmental Law Journal, Forthcoming
Northwestern Public Law Research Paper No. 10-84

Abstract:
The ATCA could be a powerful tool to promote corporate CSR, especially in developing countries where local legal restraints are weak. But despite the good normative reasons why the ATCA

should be used in this way, serious obstacles remain. The Supreme Court's ahistorical and incoherent formulation of the "law of nations" fails to promote the development of the ATCA in ways that would cover even serious environmental harm. Also, the federal courts' confused jurisprudence concerning aiding and abetting and state action creates too many loopholes through which egregious corporate behavior may slip unpunished. In order to overcome these obstacles, we argue that the "law of nations" should not be read so restrictively, that a "purposive" aiding and abetting standard should be adopted, and that the requirement of state action be minimized or eliminated altogether. . . .

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Designing Bespoke Transitional Justice: A Pluralist Process Approach

Jaya Ramji-Nogales
Temple University - James E. Beasley School of Law

Michigan Journal of International Law, Vol. 32, No. 1, 2010

Abstract:
This article offers a novel pluralist process theory of transitional justice. The theory leads to a prescriptive recommendation: institutions that account for mass violence should be primarily locally controlled and always precisely tailored to particular societies through an inclusive constitutive process. . . . To craft effective transitional justice mechanisms, the article offers design principles that aim to buttress the legitimacy of the source, procedure, and substance of these institutions, as well as evidence-based and locally grounded methods to implement these principles. This pluralist process design may more effectively reconstruct norms in societies afflicted by mass violence. This approach suggests a new direction for public international law, in which "international" is interpreted as pluralist rather than universalist and "law" is viewed as process rather than mandated content.

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Realizing Access to Sexaul Health Information and Services for Adolescents through the Protocol to the African Charter on the Rights of Women

Ebenezer Tope Durojaye
University of the Free State

Washington and Lee Journal of Civil Rights and Social Justice, Vol. 16, No. 1, pp. 135-172, 2009

Abstract:
This article examines the factors limiting access to comprehensive sexual health information and services for adolescents in Africa. It then examines the relevance of human rights provisions contained in the African Charter on the Rights and Welfare of the Child (African Children's Charter), the African Charter on Human and Peoples' Rights (African Charter) and the latest human rights instrument in the region, the Protocol to the African Charter on the Rights of Women (African Women's Protocol) in advancing the sexual health of adolescents in the region. The article argues that, these regional human rights instruments have provisions that can be invoked to advance access to sexual health information and services for adolescents. . . .

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Americanisation of International Law

Apoorva Anubhuti
West Bengal National University of Juridical Sciences; Oil and Natural Gas Corporation (ONGC)

Abstract:
The study of America's dominance in the legal realm today assumes special relevance in the study of Development of International Laws in the 21st century. The development of laws, today in the 21st century differs greatly from the preceding times, as this era embodies the existence of a world characterized with the phenomenon of Globalization or more particularly that of

Americanisation. . . . Debates have now arisen on the standard of legality of acts being adopted by countries acting on behalf of the world, that are seemingly in violation of International Law. The legitimacy of the new imposed law is being questioned on grounds of Cultural Relativism. The question raised in the previous era, of what is International Law is not being discussed now; rather what is being questioned now is the consensual aspect of International Law. Who has drafted these laws or how have they come into existence is the question haunting the legal minds and common folk alike especially those who are being imposed to the 'new' laws in the name of globalisation. This paper is an attempt at addressing these questions.

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Bucking the Kuznets Curve: Designing Effective Environmental Regulation in Developing Countries

Michael G. Faure
University of Maastricht - Faculty of Law, Metro; Erasmus University Rotterdam (EUR) - Erasmus School of Law
Morag Goodwin
Tilburg University; Tilburg Institute for Law, Technology and Society
Franziska Weber
Rotterdam Institute of Law and Economics (RILE)

Virginia Journal of International Law, Vol. 15, p. 95, 2010

Abstract:
This Article suggests that in addressing problems of environmental degradation in developing countries, policymakers and scholars have neglected the important question of regulatory design. . . . Much of the research into the failures of environmental regulation has focused on implementation and enforcement problems, but we argue that one of the primary reasons for such regulatory failure is that policymakers have not paid enough attention to designing regulation appropriate to the legal, economic, political, and social situations in which they must function. After providing background on the historical approach to environmental regulation in developing countries and offering our thoughts on why such efforts have not succeeded, we consider what lessons we can draw from the fields of law and economics and law and development in attempting to formulate a new, more particularized approach. We conclude by recommending a set of concrete indicators for how best to construct effective environmental regulation in developing countries.

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Corporations that Kill: Prosecuting Blackwater

David Kinley
University of Sydney - Faculty of Law
Odette Murray
University of Sydney - Faculty of Law

SHOOT TO KILL: THE LAW GOVERNING THE USE OF LETHAL FORCE IN CONTEXT, S. Bronitt, M. Gani, eds., Hart Publishing, 2010
Sydney Law School Research Paper No. 10/129

Abstract:
The deaths of 17 civilian Iraqis in Baghdad's Nisour Square in September 2007 at the hands of Blackwater (now Xe) personnel was as notable for the horrifying manner in which the 17 died as it was for revealing the abject lack of effective regulation and accountability mechanisms that exist for private military corporations engaged in lethal actions. How did this circumstance come to be? What are the dimensions of the growing phenomenon of security and military privatization? What ought to be the framework within which the exercise of public power in private hands is regulated when the power in question is in extremis? And what are the

challenges in establishing such control? This article addresses these questions working through the prism of the Nisour Square massacre and its aftermath. It concludes that even if some progress can be made through private sector initiatives, the filling of the current regulatory lacunae must be seen as primarily a task of the contracting-out states themselves, and it is to them that we must look to lobby for change.

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The UN is Bound by Human Rights: Understanding the Full Reach of Human Rights, Remedies, and Nonimmunity

Jordan J. Paust
University of Houston Law Center

Harvard International Law Journal Online, Vol. 51, p. 1, 2010
University of Houston Law Center No. 2010-A-38

Abstract:
Is the United Nations, including the various entities that comprise the organization, bound to observe customary human rights? If so, what provisions of the United Nations Charter form the basis for such an obligation? Are the United Nations, its entities and personnel also bound by human rights jus cogens? In time of armed conflict, does the law of war override the reach of human rights law? Does potential liability for human rights violations exist for the U.N. and its entities, the state, and the individual, and if so, should the U.N. be immune? These are some of the important questions raised by Tom Dannenbaum's article in the Harvard Journal and addressed in this on-line essay.

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Legal Pluralism and the Rule of Law: Can Indigenous Justice Survive?

David Pimentel

32(2) Harv. Int'l Rev. 32 (2010)

If . . . non-Western legal systems are to maintain their relevance and vitality, if they are even to have a place in the new global community, they will need to resist the pressures to simply import or impose Western law and instead adapt to minimum international norms on their own terms.

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Struggling for Democracy and Human Rights – Cosmopolitanism in Transitional Democracies

Lucas Entel
Yale University - Department of Political Science

Abstract:
Since the Universal Declaration of Human Rights, global society has been characterized by a transition from international law, based on treaties among states, to cosmopolitan law, which endows individuals with rights in a way that challenges established forms of sovereignty. Most debates on the challenges posed by cosmopolitanism have presupposed a stable institutional framework in which the principles of sovereignty and democracy coincide, thus obscuring the role played by the state. In this paper, I analyze these challenges from the point of view of weak, transitional democracies in which sovereignty remains in tension with the demands of both democracy and human rights. I then attempt to reformulate Seyla Benhabib's notion of the "democratic paradox", based on the tension between universal rights and sovereign self-determination, and focus on the democratic decision made by transitional regimes of whether or not to prosecute past human rights abuses. . . .

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Rehabilitating Territoriality in Human Rights

Austen Parrish
Southwestern Law School

Cardozo Law Review, Forthcoming
Southwestern Law School Working Paper No. 1025

Abstract:
For many years, territorial principles anchored an international system organized around nation-states. Recently, however, the human rights movement has sought to change the state-centric focus of international law and overcome the limitations of a system where the territorial state is the primary actor. . . . Prevailing wisdom in the human rights community, at least among academic scholars, now suggests that non-territorial models of governance are better in protecting and enforcing human rights. This article challenges that wisdom. Globalization and territorial governance can be consistent in the field of human rights. . . .

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Arctic Ocean Choke Points and the Law of the Sea

Donald R. Rothwell
Australian National University (ANU) - College of Law

ANU College of Law Research Paper No. 10-81
2010 Canadian Council of International Law Annual Meeting, Ottawa, October 28-30, 2010

Abstract:
As the international law of the sea has developed throughout the centuries, and there has been a growing acceptance of the legitimacy of a range of maritime zones, there has been a need to provide certainty with respect to the freedom of navigation through certain waters. The initial focus was to assure freedom of navigation in the territorial sea, and this saw the gradual recognition of innocent passage which guaranteed rights of navigation by foreign-flagged vessels. . . . However, as the territorial sea regime became more accepted as a part of customary international law, and then was recognised in the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone, it was evident that the particular issues that arose concerning navigation through straits would have to be addressed.

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A Pragmatic Approach to International Trade-Human Rights Linkages

Mihir Kanade
Human Rights Centre, UN mandated University for Peace

WTO AND CHALLENGES TO HUMAN SECURITY, UNU Press, 2011

Abstract:
Ever since the inception of the WTO, the linkages between international trade and human rights have been a subject of increasing scrutiny. All members of the WTO are also members of the UN. While States operate at the UN, they are bound by the human rights treaties. Unfortunately, the same members, developed and developing States alike, while operating at the WTO, tend to treat human rights obligations as extraneous to the WTO processes. As a result, some trade agreements and policies at the WTO have raised serious human rights concerns amongst activists. At the heart of activism by human rights organizations is an argument that human rights are hierarchically superior to trade laws and, therefore, the latter must be superseded by the former in case of a conflict. This paper highlights the fallacy of this argument, while at the same time espousing a more pragmatic approach towards reconciling these apparently conflicting normative values. . . .

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Loose Canons: International Law and Statutory Interpretation in the Twenty-First Century

William S. Dodge
University of California - Hastings College of the Law

Abstract:
This short paper discusses international law and statutory interpretation in the Supreme Court's recent decisions. It argues that the last decade has been one of ferment. Some Justices, most prominently Breyer and Ginsburg, have invented new canons to determine the extraterritorial reach of statutes. Other Justices, most prominently Scalia and Thomas, have relied on the presumption against extraterritoriality, though shifting it in important ways. Neither camp has made much use of the Charming Betsy canon because it would allocate prescriptive jurisdiction in a way that neither finds desirable. . . .

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Reconceptualising the Debate on Intellectual Property Rights and Economic Development

Bryan Christopher Mercurio
Chinese University of Hong Kong - Faculty of Law
The Law and Development Review, Vol. 3, No. 1, pp. 65-107, 2010

Abstract:
This article argues that IP is critical to full-scale technological and economic development for developing countries. Linking IPRs and economic development is not often a popular perspective, but it is clear that developing countries must now operate from the perspective of TRIPs being the minimum level of protection mandated by the international community - substantially deviating from the TRIPs standard is not a viable option. With IPRs and protection being raised in almost every free trade agreement negotiated by developed countries, as well as through the negotiation of new multilateral treaties, such as the proposed Substantive Patent Law Treaty and the Anti- Counterfeiting Trade Agreement, the time is ripe for developing countries to revisit the role of IP and economic development. . . .

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The Law on Research with Humans – The Emergence of Norms in the Context of Soft Law, International Agreements and Statutes (Recht der Forschung am Menschen – Normgenese im Kontext von Soft Law, internationalen Abkommen und Gesetz) (German)

Anne Peters
University of Basel - Faculty of Law
Peter Bürkli
University of Basel - Faculty of Law
Zeitschrift für Schweizerisches Recht, Vol. 129, No. 4, pp. 367-390, 2010

Abstract:
The legal landscape on research with humans is characterised by a mixture of norms of differing nature. Besides statutory provisions, we find self-regulation of professional associations and guidelines of private organisations. On the international level, besides the CoE Convention on Human Rights and Biomedicine, a great number of normative frameworks issued by diverse standard-setting institutions exist. Many of those norms might be qualified as soft law. As such, these are legally relevant even if not strictly legally binding. Because the state occupies a position which is both in factual and in normative terms special, the quality of state-made norms as 'law' should be presumed. In contrast, non-state made norms are presumably not 'law,' but may be so under certain conditions.

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A Permanent Hybrid Court for Terrorism

Erin Creegan
affiliation not provided to SSRN

American University International Law Review, Forthcoming

Abstract:
. . . As a response to the international and national equities in effective prosecution of terrorism, this article proposes the creation of a permanent hybrid court that will mix international and national laws. Temporary hybrid courts have been used in the past in response to specific atrocities; a permanent hybrid court would be the first of its kind. A permanent hybrid court could either define the crime of terrorism once and for all, or incorporate numerous existing treaties on terrorism by reference. A permanent hybrid court need not even be utilized for terrorism alone, as suggested in this paper, it could be adapted to handle all kinds of "transnational crime." This article details several suggested parameters for a "Special Court for Counterterrorism," from the selection of judges to issues of jurisdiction, and includes a full draft statute.

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The Prosecution of Human Rights Violations

Melissa Nobles
Massachusetts Institute of Technology (MIT)

Annual Review of Political Science, Vol. 13, pp. 165-182, 2010

Abstract:
This article analyzes the central arguments and findings of transitional justice? the study of how incoming rulers address the human rights abuses of outgoing regimes. A scholarly consensus suggests the balance of political power matters most for explanations of transitional justice decision making. However, other important influences include international factors and the passage of time combined with democratic governance and/or emotions. Our review finds no consensus on the efficacy of transitional justice measures, in part because few studies currently exist. However, existing studies suggest that trials and truth commissions neither destabilize democracy nor foster animosity, respectively. Finally, this article considers whether restricting the study of transitional justice to third-wave democracies is appropriate in light of recent developments in long-established democracies.

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Transitional Jurisprudence and the ECHR: Justice, Politics and Rights

Michael Hamilton
Central European University - Department of Legal Studies; Transitional Justice Institute
Antoine Buyse
Netherlands Institute of Human Rights (SIM)

Transitional Justice Institute Research Paper No. 10-19

Abstract:
The jurisprudence of the permanent regional human rights courts in Europe, Africa and the Americas is profoundly shaping and enriching the law of transitional justice. This book is concerned with the role and contribution of these courts to refounding domestic rights commitments in societies emerging from conflict or authoritarian rule. Contributors from a variety of disciplinary backgrounds analyze the regional case law – primarily, that of the European Court of Human Rights – to illuminate the ways in which human rights norms obtain

traction in situations where national legal institutions have either been complicit in, or powerless to halt, violations of core rights. . . .

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Ways of Seeing in Environmental Law: How Deforestation Became an Object of Climate Governance

William Boyd
University of Colorado Law School

Ecology Law Quarterly, Vol. 37, No. 843, 2010

Abstract:
. . . Too often, the study and practice of environmental law and governance take the object of governance - be it climate change, water pollution, biodiversity, or deforestation - as self-evident, natural, and fully-formed without recognizing the significant scientific and technological investments that go into making such objects and the manner in which such investments shape the possibilities for response. This Article seeks to broaden environmental law's field of vision, replacing the tendency to naturalize environmental problems with an exploration of how particular scientific and technological knowledge practices make environmental problems into coherent objects of governance. Such knowledge practices, or ways of seeing, are instrumental in shaping regulatory possibilities and must be interrogated directly as key constituents of particular forms of governance. . . .

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Global Climate Governance to Enhance Biodiversity & Well-Being: Integrating Non-State Networks and Public International Law in Tropical Forests

Andrew Long
Florida Coastal School of Law

Environmental Law, Vol. 41, No. 1, 2011

Abstract:
Environmental governance frequently represents a leading edge of global regulation. The climate regime even continues to create new modes of regulation despite a negotiation impasse. . . . [P]rivate networks play an increasingly important role in global environmental governance, as illustrated most directly by forest certification that was developed to fill a gap left by negotiation failures of the 1990s. . . .[T]his article proposes a novel hybrid public-private governance approach to REDD that can encourage maximum emissions reductions while also effectively promoting a broad array of benefits for biodiversity and human well-being. In so doing, the article also offers an innovative and generalizable model for combining private market finance and public funding to increase the coherence and effectiveness of global environmental regulation.

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International Legal Regimes to Balance the Protection of Prairies and Grasslands with Their Agricultural Use Part One – Grasslands at Risk

John W. Head
University of Kansas - School of Law

Center for International Trade and Agriculture (CITA) Working Paper No. 1-2010

Abstract:
Grasslands abound on Earth, but humans have damaged them profoundly. This paper – part of a book project focusing on the international legal regimes needed to strike an appropriate balance between the protection of grassland areas and their use for agricultural production – identifies where grasslands are located, what makes them distinct parts of our natural order, how they

have been degraded, and why that matters. . . . The condition and use of grasslands around the world have a direct bearing on agricultural production and on the international trade in agricultural commodities that is essential for the Earth's future. Hence this paper offers a factual foundation for legal and policy discussions; one or more later papers by the same author will contribute further to those discussions.

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Whither International Law? Security Certificates, the Supreme Court, and the Rights of Non-Citizens in Canada

Graham Hudson
Ryerson University

Refuge, Vol. 26, No. 1, p. 172, 2009

Abstract:
In this paper, the author examines the role of international law on the development of Canada's security certificate regime. On the one hand, international law has had a perceptible impact on judicial reasoning, contributing to judges' increased willingness to recognize the rights of non-citizens named in certificates and to envision better ways of balancing national security and human rights. On the other hand, the judiciary's attitudes towards international law as non-binding sources of insight akin to foreign law has reinforced disparities in levels of rights afforded by the Canadian Charter of Rights and Freedoms and those afforded by international human rights. Viewed skeptically, one might argue that the judiciary's selective result-oriented use of international law and foreign law helped it spread a veneer of legality over an otherwise unaltered and discriminatory certificate regime.

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Breaking New Ground in International Criminal Law and Philosophy

Michelle Madden Dempsey
Villanova University School of Law

Transnational Legal Theory, Vol. 1, No. 3, p. 453, 2010
Villanova Law/Public Policy Research Paper No. 2010-21

Abstract:
This is a book review of Larry May and Zachary Hoskins, eds., International Criminal Law and Philosophy (Cambridge University Press, 2010) 258 pp.

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Realizing Access to Sexaul Health Information and Services for Adolescents through the Protocol to the African Charter on the Rights of Women

Ebenezer Tope Durojaye
University of the Free State

Washington and Lee Journal of Civil Rights and Social Justice, Vol. 16, No. 1, pp. 135-172, 2009

Abstract:
This article examines the factors limiting access to comprehensive sexual health information and services for adolescents in Africa. It then examines the relevance of human rights provisions contained in the African Charter on the Rights and Welfare of the Child (African Children's Charter), the African Charter on Human and Peoples' Rights (African Charter) and the latest human rights instrument in the region, the Protocol to the African Charter on the Rights of Women (African Women's Protocol) in advancing the sexual health of adolescents in the region. The article argues that, these regional human rights instruments have provisions that can be invoked to advance access to sexual health information and services for adolescents. . . .

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Sex Work and Human Rights in Africa

Chi Mgbako
affiliation not provided to SSRN
Laura A. Smith
affiliation not provided to SSRN

Fordham International Law Journal, Vol. 33, p. 1178, 2010
Fordham Law Legal Studies Research Paper

Abstract:
This Article serves as the first law review essay to engage the feminist debates regarding sex work and human rights in the African context. The Article surveys "antiprostitution" and "pro-sex-worker" feminist arguments and activities in sub-Saharan Africa; explores the debate surrounding the legal frameworks of legalization, decriminalization, prohibition, and abolition of prostitution . . .; and calls for the empowerment of African sex workers by arguing for a human rights-based transformation in African governments' legal and policy posture towards sex work.

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The Precedent of Pretrial Release at the ICTY: A Road Better Left Less Traveled

Megan Fairlie
Albany Law School; Florida International University (FIU)

Fordham International Law Journal, Vol. 33, p. 1101, 2010
Albany Law School Research Paper No. 28

Abstract:
In August 2009 the International Criminal Court (ICC) granted the interim release of the Congolese alleged warlord, Jean-Pierre Bemba, who has been accused of war crimes and crimes against humanity in the Central African Republic. This decision left Bemba poised to become the first ICC accused ever to enjoy pre-trial release. Of comparable significance, because the decision draws upon relevant jurisprudence from the International Criminal Tribunal for the former Yugoslavia (ICTY), it highlights the potentially powerful influence of ICTY precedent upon a growing field of international and internationalized criminal justice institutions. . . . This article anticipates future reliance on ICTY provisional release practices but questions their precedential value by noting instances of internal inconsistency, misleading pronouncements and often sharp variances with international standards. . . .

II. Books

Research Handbook on International Environmental Law
(Edward Elgar, 2010)
Edited by Malgosia Fitzmaurice, Queen Mary, University of London, David Ong, University of Essex and Panos Merkouris, Queen Mary, University of London, UK

This wide-ranging and comprehensive *Handbook* examines recent developments in international environmental law (IEL) and the crossover effects of this expansion on other areas of international law, such as trade law and the law of the sea.

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Dispute Settlement at the WTO: The Developing Country Experience
Gregory C. Shaffer & Ricardo Meléndez-Ortiz

- David Evans & Gregory Shaffer, Introduction
- Gregory Shaffer, Michelle Ratton Sanchez & Barbara Rosenberg, Winning at the WTO: the development of a trade policy community within Brazil
- José L. Pérez Gabilondo, Argentina's experience with WTO dispute settlement: development of national capacity and the use of in-house lawyers
- Han Liyu & Henry Gao, China's experience and challenges in utilising the WTO dispute settlement mechanism
- Biswajit Dhar & Abhik Majumdar, Learning from the India-EC GSP dispute: the issues and the process
- Pornchai Danvivathana, Thailand's experience in the WTO dispute settlement system: challenging the EC sugar regime
- Mohammad Ali Taslim, How the DSU worked for Bangladesh: the first least developed country to bring a WTO claim
- Gustav Brink, South Africa's experience with international trade dispute settlement
- Magda Shahin, WTO dispute settlement for a middle-income developing country: the situation of Egypt
- David Ouma Ochieng & David S. Majanja, Sub-Saharan Africa and WTO dispute settlement: the case of Kenya
- David Evans & Gregory Shaffer, Conclusion

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Law of the Sea in Dialogue
(Springer 2011)
Holger Hestermeyer, Nele Matz-Lück, Anja Seibert-Fohr, & Silja Vöneky, eds.

- Christian Tomuschat, Global Warming and State Responsibility
- Michael Bothe, Measures to Fight Climate Change – A Role for the Law of the Sea?
- Jutta Brunnée, An Agreement in Principle? The Copenhagen Accord and the Post-2012 Climate Regime
- Fred L. Morrison, The Reluctance of the United States to Ratify Treaties
- Gerhard Hafner, The Division of the Commons? The Myth of the Commons: Divide or Perish
- Tullio Treves, Judicial Action for the Common Heritage
- Mahnoush H. Arsanjani & W. Michael Reisman, East African Piracy and the Defense of World Public Order
- Thomas A. Mensah, Piracy at Sea – a New Approach to an Old Menace
- Jochen Abr. Frowein, The Security Council and the Security on the Seas

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Legal Responses to Climate Change
(Federation Press, 2010)
Nicola Durrant

The challenges of climate change pose problems requiring new and innovative legal responses by legal practitioners, government officials and corporate officers. This book addresses a broad range of topic areas where climate change has impact and systematically analyses the key legal responses to climate change, both at the international level and within Australia at federal, State and local levels. In particular, it critically examines:

- the rights, duties and market mechanisms established under the international climate change regime

- the effect of climate change policies on the implementation of environmental and planning laws
- new regimes for the implementation of renewable energy and energy efficiency initiatives
- legal frameworks for the implementation of biological and geological sequestration projects (including forest projects and carbon rights); and
- legal principles for the design of an effective carbon trading scheme for Australia

It also considers the role of the common law including:

- the likely response of the law of torts to emerging forms of climate change harm; and
- potential liabilities for professionals who must take climate change into account in their decision-making and advice

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The Genocide Convention Sixty Years after its Adoption
(T.M.C. Asser Press 2010)
Christoph Safferling (Philipps-Universität Marburg) & Eckart Conze (Philipps-Universität Marburg)

In 1948 the Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the General Assembly of the United Nations. Thereby genocide was defined as an international crime. Sixty years after its adoption, the prosecution of the crime of genocide still raises multiple questions. Although genocide was not a crime during the Nuremberg Trial its historic roots rest with the persecution of Jews and other minorities by Nazi-Germany. Because of this historic focus the legal definition of genocide is difficult to apply to other conflicts. Bringing together scholars and practitioners, this volume of essays examines the Genocide Convention from historic, legal and social science perspectives. Contemporary witnesses also report on their experiences of the Nuremberg, the Eichmann and the Auschwitz trials.

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Making Transnational Law Work in the Global Economy: Essays in Honour of Detlev Vagts (Cambridge Univ. Press 2010)
Pieter H.F. Bekker, Rudolf Dolzer & Michael Waibel (eds)

- Harold Hongju Koh, The transnationalism of Detlev Vagts
- Pieter Bekker, Rudolf Dolzer & Michael Waibel, Introduction. A festschrift to celebrate Detlev Vagts' contributions to transnational law
- William Alford, Detlev Vagts and the Harvard Law School
- Henry Steiner, Constructing and developing transnational law: the contribution of Detlev Vagts
- Anthony Anghie, 'Hegemonic international law' in retrospect
- Andrea Bianchi, Textual interpretation and (international) law reading: the myth of (in) determinacy and the genealogy of meaning
- Jost Delbrück, The changing role of the State in the globalizing world economy
- Bardo Fassbender, Sources of human rights obligations binding the UN Security Council
- Daniel Kalderimis, Is transnational law eclipsing international law?
- Juliane Kokott, Participation in WTO and foreign direct investment – national or community competences
- Andreas Paulus, From dualism to pluralism: the relationship between international law, European law and domestic law
- Anne Peters, Transnational law comprises constitutional, administrative, criminal, and quasi-private law
- Siegfried Wiessner, Founding myths, international law and voting rights in the District of Columbia
- Jan Wouters, The tormented relationship between international law and EU law

- Andreas Zimmermann, International law scholarship in times of dictatorship and democracy – exemplified by the life and work of Wilhelm Wengler
- Olivier De Schutter, Sovereignty-plus in the era of interdependence: toward an international convention on combating human rights violations by transnational corporations
- Jean Nicolas Druey, The noisy secrecy: Swiss banking law in international dispute
- Werner Ebke, Not-for-profit Organizations, conflicts of laws, and the right of establishment under the EC treaty
- Barton Legum & Caline Mouawad, The meaning of 'investment' in the ICSID convention
- George Nnona, Toward a proper perspective of the private company's distinctiveness
- Hernán Pérez Loose, Administrative law and international law: the encounter of an odd couple
- Jeswald Salacuse, Making transnational law a reality through regime-building: the case of international investment law
- Michael Waibel, Creditor protection in international law
- David Westbrook, Stability, integration, and political modalities: some American reflections on the European project after the financial crisis
- Pieter Bekker, Diffusion of law: the world court as a court of transnational justice
- Charles Brower & Stephan Schill, Regulating counsel conduct before international arbitral tribunals
- Jan Dalhuisen, International arbitrators as equity judges
- William Dodge, Customary international law in United States courts: the origins of the later-in-time rule
- Peter Murray, Mediation and civil justice: a public-private partnership?
- William Park, The borders of bias: rectitude in international arbitration
- Julia Ya Qin, Managing conflicts between rulings of the WTO and regional trade tribunals: reflections on the Brazil-Tyres case
- Catherine Rogers, Cross-border bankruptcy as a model for the regulation of international attorneys

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Power and the Governance of Global Trade: From the GATT to the WTO
(Cornell Univ. Press 2010)
Soo Yeon Kim

In *Power and the Governance of Global Trade*, Soo Yeon Kim analyzes the design, evolution, and economic impact of the global trade regime, focusing on the power politics that prevailed in the regime and shaped its distributive impact on global trade. Using documents now available from the archives of the General Agreement on Tariffs and Trade (GATT), Kim examines the institutional origins and critical turning points in the evolution of the GATT, as well as preferences of the lesser powers of the developing world that were the subject of heated debate over the International Trade Organization (ITO), which failed to materialize. Using quantitative analysis, Kim assesses the impact of the global trade regime on international trade and finds that the rules of trade forged by the great powers resulted in a developmental divide, in which industrialized countries benefited from trade expansion but developing countries reaped far fewer gains. The findings indicate that a successful conclusion to the Doha Round of the World Trade Organization (WTO) is urgently needed to mitigate the developmental divide by increasing trade between the industrialized and developing worlds.

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International Criminal Procedure: A Clash of Legal Cultures
(T.M.C. Asser Press 2010)
Christine Schuon

The procedures used by international criminal courts blend elements of civil law and common law procedures. This mixture causes disputes between civil and common law lawyers which are hard to resolve while the disputants remain philosophically bound by the premises of their native legal systems. As these disputes frequently arise in the everyday practice of the international criminal courts, this book applies a systematic method of contextual legal comparison and a focus on characteristics of international criminal trials which may help to overcome the civil law-common law divide. This book will be of great interest for scholars and practitioners working in international criminal law and is a most valuable point of reference for practitioners at the ICC now and in the future.

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Routledge Handbook of International Criminal Law (Routledge 2010)
William A. Schabas & Nadia Bernaz

International criminal law has developed extraordinarily quickly over the last decade, with the creation of ad hoc tribunals in the former Yugoslavia and Rwanda, and the establishment of a permanent International Criminal Court. This book provides a timely and comprehensive survey of emerging and existing areas of international criminal law.
The *Handbook* features new, specially commissioned papers by a range of international and leading experts in the field. It contains reflections on the theoretical aspects and contemporary debates in international criminal law.

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Legal Protection of Social and Economic Rights of Children in Developing Countries: Reassessing International Cooperation and Responsibility
(Intersentia 2010)
Michael Wabwile

Here's the abstract:
One of the trends in the twentieth century international law-making is the proliferation of legal norms that recognise economic and social rights. Among the landmark developments in this process was the enactment of the UN Convention on the Rights of the Child 1989. . . . This study examines the scope of obligations and responsibility for the fulfilment of children's social and economic rights under international law. It argues that in addition to the domestic/vertical obligations of states parties to regimes of human rights law, international law on the protection and promotion of the social and economic rights of children as recently interpreted and applied by states parties entrenches binding external/diagonal obligations of states to support global fulfilment of these rights. Besides recognising their external diagonal obligations, states have adopted legal instruments assigning duties to non-state actors to contribute to the universal fulfilment of children's social and economic rights. The present study interrogates these developments and explores how the emerging jurisprudence on states' extra-territorial obligations regarding children's social and economic rights and the responsibilities of non-state actors can be further mainstreamed in the legal discourse on international protection of economic and social rights.

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40 Years of the Vienna Convention on the Law of Treaties
Alexander Orakhelashvili & Sarah Williams
(British Institute of International and Comparative Law 2010)

- Sarah Williams, Introduction
- Alan Boyle, Reflections on the Treaty as a Law-making Instrument
- Jan Klabbers, Not Re-visiting the Concept of Treaty
- Anthony Aust, Amendment of Treaties
- Malgosia Fitzmaurice, Dynamic (Evolutive) Interpretation of Treaties and the European Court of Human Rights
- Richard Gardiner, The Role of Preparatory Work in Treaty Interpretation
- Alexander Orakhelashvili, The Recent Practice on the Principles of Treaty Interpretation
- Paul Eden, Plurilingual Treaties: Aspects of Interpretation
- Mary E Footer, International Organizations and Treaties: Ratification and (Non)-implementation of the Other Vienna Convention on the Law of Treaties

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The Reality of Precaution: Comparing Risk Regulation in the United States and Europe
Edited By Jonathan B. Wiener, Michael D. Rogers, James K. Hammitt, and Peter H. Sand

Abstract
The "Precautionary Principle" has sparked the central controversy over European and U.S. risk regulation. The Reality of Precaution is the most comprehensive study to go beyond precaution as an abstract principle and test its reality in practice. This groundbreaking resource combines detailed case studies of a wide array of risks to health, safety, environment and security; a broad quantitative analysis; and cross-cutting chapters on politics, law, and perceptions. The authors rebut the rhetoric of conflicting European and American approaches to risk, and show that the reality has been the selective application of precaution to particular risks on both sides of the Atlantic, as well as a constructive exchange of policy ideas toward "better regulation." The book offers a new view of precaution, regulatory reform, comparative analysis, and transatlantic relations.

III. Law Journals

Public International Law eJournal
Vol. 5, No. 151, Nov. 24, 2010
Alan O. Sykes, ed.
(items above and previously included in this Digest omitted)

Throwing Stones at Streetlights or Cuckolding Dictators? Australian Foreign Policy and Human Rights in the Developing World
Ben Saul, University of Sydney - Faculty of Law

The Role of Membership Rules in Regional Organizations
Judith G. Kelley, Duke University - Trinity College of Arts & Sciences

A Critique of the National Security Policy: Towards 'Human Security' in Ethiopia
Alemayehu Fentaw Weldemariam, Jimma University (JU) - Faculty of Law

Economic Sanctions and Trade Diversions in Sudan
Khalid Hassan Ali Siddig, University of Khartoum

The Status of Private Military Contractors Under International Humanitarian Law
Won Kidane, Seattle University School of Law

Responses to Tax Treaty Shopping: A Comparative Evaluation
David G. Duff, UBC Faculty of Law

The Unsolved Riddle of International Constitutionalism
Ignacio de la Rasilla del Moral, Harvard Law School, Royal Complutense College in Harvard

Aid Efficiency in the Socio-Political Instability Context Case of Burundi: A Granger Causality Approach
Nkunzimana Leonard, *affiliation not provided to SSRN*

The Ghost in the Global War on Terror: Critical Perspectives and Dangerous Implications for National Security and the Law
Nick J. Sciullo, West Virginia University College of Law

'They Use It Like Candy' - How the Prescription of Psychotropic Drugs to State-Involved Children Violates International Law
Angela Olivia Burton, CUNY School of Law

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Public International Law eJournal
Vol. 5, No. 150, Nov. 23, 2010
Alan O. Sykes, ed.
(items above and previously included in this Digest omitted)

Migrating to Australia with Disabilities: Non-Discrimination and the Convention on the Rights of Persons with Disabilities
Ben Saul, University of Sydney - Faculty of Law

Corporate Social Responsibility and Firm Compliance: Lessons from the International Law - International Relations Discourse
Christiana Ochoa, Indiana University Maurer School of Law

Are Corporations 'Subjects' of International Law?
Jose E. Alvarez, New York University - School of Law

National and Global Responsibilities for Health
Lawrence O. Gostin, Georgetown University Law Center - O'Neill Institute for National and Global Health Law
Gorik Ooms, Institute of Tropical Medicine (ITM)
Anand Grover, United Nations Special Rapporteur on the Right to Health
John-Arne Røttingen, *affiliation not provided to SSRN*
Mark Heywood, Section27
Wang Chenguang, Tsinghua University - Department of Automation

The Rise and Fall of Universal Jurisdiction
Luc Reydams, University of Notre Dame

International Influences on Election Quality and Turnover
Judith G. Kelley, Duke University - Trinity College of Arts & Sciences

Precedent on International Courts: A Network Analysis of Case Citations by the European Court of Human Rights
Yonatan Lupu, University of California, San Diego - Department of Political Science
Erik Voeten, Georgetown University - Edmund A. Walsh School of Foreign Service (SFS)

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Public International Law eJournal
Vol. 5, No. 149, Nov. 22, 2010
Alan O. Sykes, ed.
(items above and previously included in this Digest omitted)

On Legal Subterfuge and the So-Called 'Lawfare' Debate
Leila N. Sadat, Washington University School of Law in St. Louis
Jing Geng, *affiliation not provided to SSRN*

Kenya's Piracy Prosecutions
James Thuo Gathii, Albany Law School

Introduction and Overview: Biotechnology, Risk Regulation, and the Failure of Cooperation
Mark A. Pollack, Temple University - Department of Political Science
Gregory Shaffer, University of Minnesota - Twin Cities - School of Law

Illustrating Illegitimate Lawfare
Michael A. Newton, Vanderbilt Law School

Legal Control of Regulatory Bodies: Principle, Policy and Teleology
Paul P. Craig, University of Oxford - Faculty of Law

Collective Labor Rights and the European Social Model
Diamond Ashiagbor, SOAS, University of London

Non-State Actor Participation in International Law and the Pretense of Exclusion
Jordan J. Paust, University of Houston Law Center

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Public International Law eJournal
Vol. 5, No. 148, Nov. 18, 2010
Alan O. Sykes, ed.
(items above and previously included in this Digest omitted)

Bendable Rules: The Development Implications of Human Rights Pluralism
David Kinley, University of Sydney - Faculty of Law

A Rawlsian Approach to International Criminal Justice and the International Criminal Court
Leila N. Sadat, Washington University School of Law in St. Louis

Free Speech and International Obligations to Protect Trademarks
Lisa P. Ramsey, University of San Diego School of Law

Hyperbole, Hypocrisy, and Hubris in the Aid-Corruption Dialogue

Bruce W. Bean, Michigan State University - College of Law

The Global Financial Crisis and the Financial Stability Board: Hardening the Soft Law of International Financial Regulation?
Douglas W. Arner, Asian Institute of International Financial Law, University of Hong Kong - Faculty of Law
Michael Taylor, International Monetary Fund (IMF) - Monetary and Exchange Affairs Department

Superpowers and Great Powers
Jörg Kammerhofer, University of Erlangen-Nuremberg, Department of Law

The Legacy of the Climate Talks in Copenhagen: Hopenhagen or Brokenhagen?
Meinhard Doelle, Dalhousie Law School

The Rise (and Fall?) of Defamation of Religions
Lorenz Langer, Yale Law School

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Law & Society: International & Comparative Law eJournal
Vol. 3, No. 93, Nov. 24, 2010
Christina Ochoa, ed. (select article & repeats in this Digest omitted)

Budget Analysis and Economic and Social Rights: A Review of Selected Case Studies and Guidance
Eoin Rooney, Queen's University Belfast
Aoife Nolan, Durham University Law School
Rory O'Connell, Queen's University Belfast - School of Law - Human Rights Centre
Mira Dutschke, Queen's University Belfast
Colin Harvey, Queen's University Belfast - School of Law

Budgeting for Economic and Social Rights: A Human Rights Framework
Mira Dutschke, Queen's University Belfast
Aoife Nolan, Durham University Law School
Rory O'Connell, Queen's University Belfast - School of Law - Human Rights Centre
Colin Harvey, Queen's University Belfast - School of Law
Eoin Rooney, Queen's University Belfast

From Fiduciary States to Joint Trusteeship of the Atmosphere: The Right to a Healthy Environment Through a Fiduciary Prism
Evan Fox-Decent, McGill University - Faculty of Law

Constitutional Justice and the Perennial Task of 'Constitutionalizing' Law and Society Through 'Participatory Justice'
Ernst-Ulrich Petersmann, European University Institute - Department of Law (LAW)

Introduction and Overview: Biotechnology, Risk Regulation, and the Failure of Cooperation
Mark A. Pollack, Temple University - Department of Political Science
Gregory Shaffer, University of Minnesota - Twin Cities - School of Law

The Kafka-esque Case of Sheikh Mansour Leghaei: The Denial of the International Human Right to a Fair Hearing in National Security Assessments and Migration Proceedings in Australia
Ben Saul, University of Sydney - Faculty of Law

Procedural Rights as a Crucial Tool to Combat Climate Change
Svitlana Kravchenko, University of Oregon

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Law & Society: International & Comparative Law eJournal
Vol. 3, No. 91, Nov. 22, 2010
Christina Ochoa, ed. (select article & repeats in this Digest omitted)

How Does International Law Work: What Empirical Research Shows
Tom Ginsburg, University of Chicago Law School
Gregory Shaffer, University of Minnesota - Twin Cities - School of Law

Subsequent Practice and Evolutive Interpretation: Techniques of Treaty Interpretation over Time and Their Diverse Consequences
Julian Arato, New York University School of Law

Sanitary, Phytosanitary and Technical Barriers to Trade in the Economic Partnership Agreements between the European Union and the ACP Countries
Denise Prevost, Institute for Globalisation and International Regulation, Maastricht University

David Kennedy – Sketch for a Portrait of the Global Jurist (In Spanish)
Ignacio de la Rasilla del Moral, Harvard Law School, Royal Complutense College in Harvard

The Right to Democracy
Rory O'Connell, Queen's University Belfast - School of Law - Human Rights Centre

Aid and Democratization in the Transition Economies
Jac C. Heckelman, Wake Forest University - Department of Economics

Economic and Social Rights: The Role of Courts in China
Randall Peerenboom, La Trobe University, Faculty of Law and Management, Oxford University Centre for Socio-Legal Studies

Understanding Market Access: Exploring the Economic Rationality of Different Conceptions of Free Movement Law
Gareth T. Davies, Free University of Amsterdam - Faculty of Law

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Law & Society: International & Comparative Law eJournal
Vol. 3, No. 90, Nov. 18, 2010
Christina Ochoa, ed. (select articles & repeats in this Digest omitted)

The Prevention of Torture Bill, 2010: A Briefing Document
Arghya Sengupta, University of Oxford
Sanhita Ambast, Fletcher School of Law and Diplomacy
Prasan Dhar, Harvard University - Harvard Law School
Mihir Naniwadekar, Unaffiliated Authors
V. Niranjan, Magdalen College, University of Oxford

Coffee and Chocolate – Can We Help Developing Country Farmers Through Geographical Indications?
Justin Hughes, Benjamin N. Cardozo School of Law

Right to Environment, Right to Life and Exposure to a Carcinogenic Work Environment
Rohan Price, University of Tasmania - Faculty of Law

Begging the Question? The Kosovo Opinion and the Reformulation of Advisory Requests
Jörg Kammerhofer, University of Erlangen-Nuremberg, Department of Law

The Future of Welfare Law in a Changing World: Lessons from Australia and Singapore?
Terry Carney, University of Sydney - Faculty of Law

Public Consultations on Net Neutrality 2010: USA, EU and France
Sulan Wong, University of Coruña - Faculty of Law
Julio Rojas-Mora, University of Barcelona - Department of Business Economics and Organization
Eitan Altman, Institut National de Recherche en Informatique et Automatique (INRIA)

The Compliance with the Law Requirement in International Investment Law
Rahim Moloo, Vale Center at Columbia University, University of Central Asia
Alex Khachaturian, White & Case LLP - Washington, D.C. Office

Human Rights and the WTO: Issues for the Pacific
Sarah Joseph, Monash University - Faculty of Law

Human Rights and the Royal Assent (on Sark): A Case Comment on R (on the Application of Barclay) v. Secretary of State for Justice and the Lord Chancellor
Stuart Lakin, University of Reading

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International Environmental Law eJournal
Vol. 2, No. 47, Nov. 18, 2010
David D. Caron & Tseming Yang, eds.
(items above and previously included omitted)

Water as a Public Good: The Status of Water Under the General Agreement on Tariffs and Trade
Bryant Walker Smith, *affiliation not provided to SSRN*

Stakeholder Reaction to Emissions Trading in the United States, the European Union, and the Netherlands
Bryant Walker Smith, *affiliation not provided to SSRN*

Meaningful Participation in a Global Climate Regime
Bryant Walker Smith, *affiliation not provided to SSRN*

———

Environmental Law & Policy eJournal
Vol. 2, No. 73, Nov. 22, 2010
Holly Doremus, John P. Dwyer, Peter S. Menell, eds.
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Environmental Federalism in the European Union and the United States
David J. Vogel, University of Califonria, University of California, Berkeley - Business & Public Policy Group
Michael W. Toffel, Harvard Business School (HBS) - Technology & Operations Management Unit
Diahanna Post, *affiliation not provided to SSRN*
Nazli Uludere, *affiliation not provided to SSRN*

Seeing the Global Forest for the Trees: How US Federalism can Coexist with Global Governance of Forests
Blake Hudson, Stetson University - College of Law
Erika Weinthal, Duke University - Nicholas School for the Environment

_____

Human Rights & the Global Economy eJournal
Vol. 4, No. 103, Nov. 19, 2010
Hope Lewis, Wendy E. Parmet & Rashmi Dyal-Chand, eds.

International Migration and Human Rights
Gordon H. Hanson, University of California, San Diego - Graduate School of International Relations and Pacific Studies (IRPS), National Bureau of Economic Research (NBER)

Transnational Human Rights: Exploring the Persistence and Globalization of Human Rights
Heinz Klug, University of Wisconsin Law School

Economic and Social Rights: The Role of Courts in China
Randall Peerenboom, La Trobe University, Faculty of Law and Management, Oxford University Centre for Socio-Legal Studies

A Pragmatic Approach to International Trade-Human Rights Linkages
Mihir Kanade, Human Rights Centre, UN mandated University for Peace

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International Economic Law eJournal
Vol. 5, No. 78: Nov. 22, 2010
Alan O. Sykes, ed.
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Enforcement of Arbitral Awards in Sub-Sahara Africa
Emilia Onyema, University of London, School of Oriental and African Studies (SOAS), School of Law

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Bryant Walker Smith, *affiliation not provided to SSRN*

WTO Law and Human Rights: Bringing Together Two Autopoietic Orders
Peter Hilpold, University of Innsbruck

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National Security & Foreign Relations eJournal
Vol. 7, No. 68: Nov. 22, 2010
Oren Gross, ed.

A Rawlsian Approach to International Criminal Justice and the International Criminal Court
Leila N. Sadat, Washington University School of Law in St. Louis

The Emerging International Law of Terrorism
Ben Saul, University of Sydney - Faculty of Law

Illustrating Illegitimate Lawfare
Michael A. Newton, Vanderbilt Law School

Confrontation and Hearsay Issues in Federal Court Terrorism Prosecutions of Gitmo Detainees - Moussaoui and Paracha as Harbingers
Norman Abrams, UCLA Law School

Deputizing Homeland Security
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Rahul Mishra, affiliation not provided to SSRN

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Public Health Law & Policy eJournal
Vol. 2, No. 86: Nov. 24, 2010
Scott Burris, ed.
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National and Global Responsibilities for Health
Lawrence O. Gostin, Georgetown University Law Center - O'Neill Institute for National and Global Health Law
Gorik Ooms, Institute of Tropical Medicine (ITM)
Anand Grover, United Nations Special Rapporteur on the Right to Health
John-Arne Røttingen, *affiliation not provided to SSRN*
Mark Heywood, Section27
Wang Chenguang, Tsinghua University - Department of Automation

An International Legal Framework for the Sharing of Pathogens: Issues and Challenges
Frederick M. Abbott, Florida State University College of Law

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  - Akbar Rasulov, 'The Nameless Rapture of the Struggle': Towards a Marxist Class-Theoretic Approach to International Law

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- René Urueña, In the Search of International Homo Economicus: Individual Agency and Rationality in Global Governance

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- Pavel Šturma, The Case of Kosovo and International Law
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- Anna Jasińska, International legal issues in the case of the Prussian Trust (Preussische Treuhand) against the Republic of Poland before the European Court of Human Rights

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Melbourne Journal of International Law
Vol. 11-1
Opinio Juris Online Symposium

We are delighted to introduce the second online symposium issue of the *Melbourne Journal of International Law* hosted by *Opinio Juris*. This week will feature three pieces published in our most recent issue — issue 11(1). The issue was generalist in its focus and saw articles on topics as diverse as the law of space tourism, the right to cross-examine prosecution witnesses in international criminal courts and the nature of legal inquiry in the Mekong River basin. Three of the authors published in 11(1) will be contributing to this online symposium.

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Leiden Journal of International Law
Volume 23 - Issue 04

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Rosanne Van Alebeek, The Immunity of States and Their Officials in International Criminal Law and International Human Rights Law, Oxford: Oxford University Press, 2008, ISBN 9780199232475, £76.95, 449 pp. (hb).
Roger O'Keefe
Leiden Journal of International Law, Volume 23, Issue 04 , pp 955 -960

Patrick Capps, Human Dignity and the Foundations of International Law, Oxford: Hart Publishing, 2009, ISBN 9781841133577, 306 pp., £40.00 (hb).
Stephen Allen
Leiden Journal of International Law, Volume 23, Issue 04 , pp 960 -966

Victor Kattan, From Coexistence to Conquest – International Law and the Origins of the Arab–Israeli Conflict, 1891–1949, London: Pluto Press, New York: Palgrave Macmillan, 2009, 456 pp, ISBN 9780745325781, £26.50/$54.95 (pb).
Paul de Waart
Leiden Journal of International Law, Volume 23, Issue 04 , pp 967 -970

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Asian Journal of International Law
First View Article
Published online by Cambridge University Press 19 Nov 2010

Climate Change and Reduction of Emissions of Greenhouse Gases from Ships: An Appraisal
Saiful Karim and Shawkat Alam

Abstract
Article 2(2) of the Kyoto Protocol imposes an obligation only on certain developed countries, working through the International Maritime Organisation (IMO), to pursue the reduction of greenhouse gas (GHG) emissions from marine bunker fuels. The IMO recently took the initiative to adopt a new legal instrument for the reduction of ship-generated greenhouse gas emissions.

Some developing countries have suggested that the proposed IMO initiative should strictly adhere to Article 2(2) of the Kyoto Protocol and the principle of Common but Differentiated Responsibility (CBDR). Against this backdrop, this article intends to review the extent to which it is possible to propose an international legal instrument for the reduction of GHG emissions from marine bunker fuels which is applicable only to ships from developed countries considering the complex characteristics of the international shipping industry. This article also examines how far this approach is justifiable even within the framework of the CBDR principle.

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Exploring the Curious Lenience of International Criminal Law:
Case Comment on Case 001 of the Extraordinary Chambers in the Courts of Cambodia
Ryan Y. Park

The decision of the Extraordinary Chambers in the Courts of Cambodia to sentence Duch, the brutal Chairman of S-21 and the Killing Fields at Choeung Ek, to a mere nineteen years in prison exemplifies the disturbing tendency of international criminal tribunals to issue sentences of pedestrian severity to the world's very worst criminals. This article examines the sociopolitical roots of this phenomenon. Drawing on insights from the political science literature to engage in a comparative analysis of the relationship between democracy and punishment, the article concludes that international criminal tribunals' lenience likely stems, at least in part, from excessive insulation from, and insensitivity to, democratic pressures. The experiences of the United States—where democratic participation in the machinery of punishment and excessively punitive sentencing have gone hand in hand—counsel against allowing popular sentiment to directly dictate the terms of punishment. Yet international jurists could arrive at a more just sentencing framework by incorporating popular preferences and values into their decision-making processes.

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Asian Journal of International Law
First View Article
Published online by Cambridge University Press 17 Nov 2010

International Law in a Kaleidoscopic World
Edith Brown Weiss

Abstract
International law is developed and implemented today in a complicated, diverse, and changing context. Globalization and integration, fragmentation and decentralization, and bottom-up empowerment are arising simultaneously among highly diverse peoples and civilizations. Most importantly, this period is characterized by rapid and often unforeseen changes with widespread effects. Advances in information technology make possible ever shifting ad hoc coalitions and informal groups and a myriad of individual initiatives. The resulting kaleidoscopic world faces global problems that affect everyone: climate change, financial crises, health threats, communication disruptions and cyber attacks, ethnic and other conflicts, among many others. These cannot be managed solely by one state or a handful of states, or solely by non-state actors. Some of these problems erupt quickly and are not easily contained. Others, like climate change, have inherently long time-horizons and affect the welfare of future generations. One of the most pressing problems is poverty, with more than 1.4 billion people existing on less than US$1.25 per day in 2008 and another 1.2 billion people on less than US$2.00 per day. This kaleidoscopic world both offers opportunities for international law to become more relevant and central and poses significant dangers for its relevance and effectiveness. This article provides an initial analysis of the significance of the kaleidoscopic world for international law.

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Journal of International Criminal Justice
Volume 8 Issue 5 November 2010

Leonie von Holtzendorff
The Kampala Compromise on the Crime of Aggression
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Whither National Courts? The Rome Statute's Missing Half: Towards an Express and Enforceable Obligation for the National Repression of International Crimes
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Some Remarks on in Absentia Proceedings before the Special Tribunal for Lebanon in Case of a State's Failure or Refusal to Hand over the Accused
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Katrina Gustafson
ECCC Tackles JCE: An Appraisal of Recent Decisions
J Int Criminal Justice (2010) 8(5): 1323-1332 doi:10.1093/jicj/mqq067
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Katharina Margetts and Katerina I. Kappos
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Chinese Journal of International Law
First View Article
Published online by Cambridge University Press 16 Nov 2010

The International Tribunal for the Law of the Sea: Activities in 2009
Philippe Gautier

Abstract
This paper gives an overview of the activities of the International Tribunal for the Law of the Sea in 2009. It provides information on the 19th Meeting of States Parties (2009), organizational developments, the jurisdiction of the Tribunal and cases before it.

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- Building Transitional Justice Mechanisms without a Peace Settlement: A Critical Appraisal of Recent Case law of the Strasbourg Court on the Cyprus issue (Nikos Skoutaris) p.720

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Changing character: The Ramsar Convention on Wetlands and climate change in the Murray-Darling Basin, Australia (Jamie Pittock, Max Finlayson, Alex Gardner and Clare McKay) p.401

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- Bonita Meyersfeld, Africa-based International Law Projects (2 parts), Intlawgrrls (Nov. 24, 2010)

- Ilya Somin, UN General Assembly Committee Passes New Version of Resolution Urging Nations to Forbid Defamation of Religion, The Volokh Conspiracy (Nov. 25, 2010)

- Melbourne Journal of International Law, Vol. 11-1, Opinio Juris Online Symposium (Nov. 22, 2010)(follow the threads)

- Mark Leon Goldberg, Responsibility to Protect and South Sudan, UN Dispatch (Nov. 22, 2010)

- Frédéric Mégret and Alexandra Harrington, The Rise and Fall of Eunomia – Episode 1: Eunomia Rising, EJIL Talk! (Nov. 22, 2010)
- Duncan Hollis, The End of Treaties?, Opinio Juris (Nov. 22, 2010)
- Olivia Swaak-Goldman, Opening of Trial in Prosecutor v. Jean-Pierre Bemba – Perspectives from the ICC Office of the Prosecutor, Intlawgrrls (Nov. 21, 2010)
- Kenneth Anderson, Microfinance as Subprime, Volokh Conspiracy (Nov. 20, 2010)
- PILPG, Peace Negotiations Watch, Vol. IX, No. 43 (Nov. 19, 2010)
- Dapo Akande, ICJ Decision Helps to End Environmntal Dispute Between Argentina and Uruguay, EJIL Talk! (Nov. 20, 2010)
- Jaya Ramji-Nogales, Designing Bespoke Transitional Justice, Intlawgrrls (Nov. 19, 2010)
- Dapo Akande, More on Congo v. France Discontinued, EJIL Talk! (Nov. 19, 2010)
- Kenneth Anderson, Lindsey Graham on All Options Open re Iran and Nukes, Opinio Juris (Nov. 18, 2010)
- Benjamin Wittes & Robert Chesney, Politics of the Ghailani Verdict, Lawfare (Nov. 17, 2010)

V. Gray Literature/Press Releases

- Foundation for International Environmental Law, From Copenhagen to Cancun: Challenges and Prospects for the UNFCCC Negotiations (Nov. 24, 2010)
- Open Society Justice Initiative, From Judgment to Justice: Implementing International and Regional Human Rights Decisions (Nov. 2010)
- OHCHR, UN rights chief hails coming into force of new treaty on disappearances (24 Nov. 2010)
- Columbia Center for Climate Change Law, EPA's Impending Greenhouse Gas Regulations: Digging through the Morass of Litigation (Nov. 23, 2010)
- UNIFEM, Resources on Women, Peace & Security (Nov. 2010)
- Refugees International, Confronting Climate Displacement: Learning from Pakistan's Floods (Nov. 22, 2010)
- Martin Stadelmann, J. Timmons Roberts, Axel Michaelowa, Keeping the Big Promise: Options for Baselines to Assess "New and Additional" Climate Finance, CIS Working Paper No. 66 (Nov. 18, 2010)
- Cecil Aptel, The UN Mapping Report Documenting Serious Crimes in the Democratic Republic of Congo, ASIL Insight (Nov. 17, 2010)
- Barbara Crossette, Khmer Rouge Tribunal in Jeopardy, The Nation (Nov. 15, 2010)

- Giacomo Rambaldi, Indigenous Peoples and the European Union, PPgis.net Blog (Nov. 12, 2010)

- Nathalie Bernasconi-Osterwalder, Testimony at European Parliament Hearing on Foreign Direct Investment, International Institute for Sustainable Development (Nov. 2010)

- Robert L. Bernstein, Human Rights in the Middle East, The Shirley and Leonard Goldstein Lecture on Human Rights University of Nebraska at Omaha November 10, 2010, UN Watch (Nov. 10, 2010)

- UNEP RISØ Centre, Pathways for Implementing REDD+ (8 Nov. 2010)

VI. Documents

- CAT, Concluding observations adopted by Committee Against Torture at its 45th session (1-19 Nov. 2010)

- HURIDOCS, The decisions of the African Commission on Human and Peoples' Rights are now available on-line through an advanced tool called the African Human Rights Case Law Analyser (22 Nov. 2010)

- Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, Draft Guiding Principles for the Implementation of the United Nations "Protect, Respect and Remedy" Framework (22 Nov. 2010)

- UNEP, The Emissions Gap Report (Nov. 2010)

- UNHCR, Protection Policy Paper: The return of persons found not to be in need of international protection to their countries of origin: UNHCR's role (Nov. 2010)

- Report of the Secretary-General, "Oceans and the law of the sea", Addendum, U.N. Doc A/65/69 Add.2 (31 August 2010)

- Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights, Implementation of Judgments of the European Court of Human Rights, 7th Report (9 Nov. 2010)

- Explanation of Position by Laurie S. Phipps, Advisor, of the Universal Realization of the Right of Peoples to Self-determination Resolution (A/C.3/65/L.51), Third Committee

- Explanation of Vote by Laurie S. Phipps, Advisor, of the Inadmissibility of Practices that Contribute to Fueling Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance Resolution (A/C.3/65/L.50), Third Committee

- Explanation of Position by Laurie S. Phipps, Advisor, of the Human Rights and Extreme Poverty Resolution (A/C.3/65/L.36), Third Committee

- Explanation of Vote by Laurie S. Phipps, Advisor, Regarding the Moratorium on the Use of the Death Penalty Resolution (A/C.3/65/L.23), Third Committee