

Anton's Weekly Digest of International Law Scholarship*

**Vol. 1, No. 4
(Abbreviated Edition - 29 Nov 2010)**

= Because I will be in Yangon the week of week of 29 Nov,
the next edition of the Digest will not likely appear until 10 Dec 2010 =

Contents (*click on heading to navigate*)

- I. SSRN Legal Scholarship Network & bepress Legal Repository**
- II. Books**
- III. Law Journals**
- IV. Blogs/News Papers (Select Entries)**
- V. Gray Literature**
- VI. Documents**

I. SSRN Legal Scholarship Network & bepress Legal Repository

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

On the Threshold of Law: A Review of 'On the Law of Peace' by Christine Bell

[Illan Rua Wall](#)

Oxford Brookes University - Department of Law

Irish Yearbook of International Law, 2010

Abstract:

Engaging with Christine Bell's thesis in *On the Law of Peace*, this extended review examines the relations between conflict (resolution) and the constitutionalist debate surrounding constituent power. Ultimately, it draws its conclusions for an international law of peace-making, Bell's 'Lex Pacificatoria'.

The Appeal of the Project of Global Constitutionalism to Public International Lawyers

[Christine E. J. Schwöbel](#)

affiliation not provided to SSRN

Abstract:

The discourse on global constitutionalism has been gaining momentum with public international lawyers. This paper endeavors to understand the discourse by zooming in on international lawyers themselves and seeks to explain what it is that draws international lawyers to the

* 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](#).

debate. It emerges that the idea of global constitutionalism embodies important concerns of public international lawyers about the current status of their field ensued by globalisation. There are three principal motivations that reveal the tenacity of the debate: First, international lawyers are interested in the allocation of power in the international sphere. . . . Second, international lawyers have a deeply entrenched interest in seeing the regulation of international society through law. . . . Third, a strong motivation to engage in global constitutionalism is that it may be a means of ensuring the legitimation of international law itself. Global constitutionalism appears to offer the irresistible prospect of awarding legitimacy to the field by providing it with a legal framework with moral authority. . . . Lastly, it is considered just how irresistible the idea of global constitutionalism is to international lawyers: Is it an appeal in the sense of an attraction, is it a survival tactic, or is it a symptom of an addiction for order?

Introduction: Mapping 21st Century International Legal Positivism

[Jörg Kammerhofer](#)

University of Erlangen-Nuremberg, Department of Law

[Jean D'Aspremont](#)

University of Amsterdam

INTERNATIONAL LEGAL POSITIVISM IN A POST-MODERN WORLD, Jean d'Aspremont, Jörg Kammerhofer, eds., Forthcoming

Abstract:

This paper will form the introductory chapter of a research project the authors are presently directing, entitled International Legal Positivism in a Post-Modern World. . . . The core idea of the project is that positivism as family of theoretical approaches to international law has radically transformed itself in the 21st century, not least because of the critique leveled at 'classical' forms of international legal positivism. This 'post-modern' positivism is different, because it takes into account the arguments of inter alia the Critical Legal Studies movement while departing from it with respect to its own constructive project. The project introduced here will seek to carry out an in-depth scholarly study of where the positivist approach to international legal scholarship stands at the end of the first decade of the 21st century and whether it can be sustainable. . . .

The Market for Treaties

[Natasha Affolder](#)

University of British Columbia - Faculty of Law

[Chicago Journal of International Law, Vol. 11, No. 1, p. 160, 2010](#)

Abstract:

Corporations are consumers of treaty law. In this article, I empirically examine three biodiversity treaty regimes - the Convention on Biological Diversity, Ramsar Convention, and World Heritage Convention - to demonstrate that corporations implement or internalize treaty norms in a variety of ways that are not captured by the dominant model of treaty implementation - national implementation. As an exegetical model, I explore how corporations use biodiversity treaties as a source of private environmental standards. I focus on the interactions between mining and oil and gas companies and biodiversity treaties, as revealed through transactional documents, corporate reports, security law filings, and treaty secretariat reports. My central claim is that treaties provide a vital, but overlooked, point of interaction between intergovernmental environmental law and transnational law as developed by private actors. . . .

The United States and the International Criminal Court Post-Bush: A Beautiful Courtship but an Unlikely Marriage

Megan Fairlie

Florida International University (FIU); Albany Law School

Berkeley Journal of International Law (BJIL), Forthcoming

Abstract:

The relationship between the United States and the International Criminal Court (ICC or Court) has recently come full circle. The United States has transitioned from being an ICC supporter to opponent and back again at full steam. . . . This Article first critiques the changing U.S. approach toward the Court, isolating those aspects central to prior U.S. opposition to the ICC. It then assesses the relevance of these concerns in light of the Court's work to date. . . . It analyzes the amendments made to the Court's Statute regarding the controversial crime of aggression and explains why these new provisions are not likely to impede U.S. ratification. As its final area of inquiry, this Article examines the early work of the ICC in order to determine whether the institution is in fact fulfilling its mission to act as a "court of last resort." Determining that the ICC's present approach to case admissibility neither provides evidence that the Court is on a path that assures its anti-impunity goal nor comports with the U.S. preference to see justice performed at the national level, this Article concludes by noting the changes that will have to be made before U.S. accession can become a possibility.

Addressing Climate Change Through the Norwegian Sovereign Wealth Fund

Anita Margrethe Halvorsen

University of Denver

International and Comparative Corporate Law Journal, Forthcoming

University of Oslo Faculty of Law Research Paper No. 2010-06

Abstract:

The Norwegian Government Pension Fund - Global (GPGF), a sovereign wealth fund (SWF), was set up in 1990 to ensure that the country's oil wealth can benefit all generations of Norwegians. This long term goal is to be reached in accordance with sustainable development principles, taking into account economic, social, and environmental concerns. . . . The purpose of this paper is to examine how the Norwegian government is trying to resolve the challenge of balancing financial returns with sustainable development in regulating the GPGF and the possibility of applying this model to other sovereign wealth funds (SWFs) and institutional investors in general. Also, I posit that sustainable development needs to be included in the newly adopted Generally Accepted Principles and Practices (GAPP/ Santiago Principles) for SWFs. Furthermore, I also argue that this effort will encourage the corporations in which the SWFs are investing, especially multinationals, to take environment, social, and governance (ESG) issues into account into their decision-making process.

The African Union Convention on Internally Displaced Persons: Its Codification Background, Scope and Enforcement Challenges

Allehone Mulugeta Abebe

University of Bern

Refugee Survey Quarterly, Vol. 29, No. 3, p. 28, September 2010

Abstract:

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa is the first ever binding legal instrument dealing with internal displacement. It is

universally praised and recognized as an essential step in filling existing legal gaps with respect to the protection of and assistance to internally displaced persons. It covers all causes and stages of internal displacement. Decades of coordinated effort in sharpening the normative and institutional responses to internal displacement at the international and regional levels created favourable conditions for the realisation of this key codification process. The Convention's codification history reveals an attempt by the African Union and its Member States to complement the provisions of the Guiding Principles on Internal Displacement and cast them in the African context. It also uncovers a synergy between international actors, namely, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, international organizations, and the African Union to address the legal challenge of internal displacement. . . .

Asean's Constitutionalization of International Law: Challenges to Evolution Under the New ASEAN Charter

[Diane Alferez Desierto](#)

Yale Law School; Institute of International Legal Studies; UP College of Law
[Columbia Journal of Transnational Law, Forthcoming](#)

Abstract:

This Article discusses the normative trajectory of international obligations assumed by Southeast Asian countries (particularly the Organizational Purposes that mandate compliance with international treaties, human rights, and democratic freedoms), and the inevitable emergence of a body of discrete "ASEAN law" arising from the combined legislative functions of the ASEAN Summit and the ASEAN Political, Economic and Social Communities. I discuss several immediate and short-term challenges from the increased constitutionalization of international obligations, such as: 1) the problem of incorporation . . . ; 2) the problem of hybridity and normative transplantation . . . ; and 3) the problem of diffuse or insufficient judicial oversight within ASEAN, seen through lingering dependence on national court implementation despite the regional effort at standardization of legal norms on specific areas of trade, security and human rights. I conclude that leaving these problems unaddressed could impede Southeast Asia's vast potential to contribute to the project of constitutionalization of international law.

Swimming Against the Tide: Why a Climate Change Displacement Treaty is Not the Answer

[Jane McAdam](#)

University of New South Wales (UNSW) - Faculty of Law

Abstract:

Drawing on field work in Tuvalu, Kiribati and Bangladesh, this article argues that advocacy for a new treaty to address climate-related movement is presently misplaced for a number of reasons. The article does not deny the real impacts that climate change is already having on communities, or that migration is a normal adaptive response to such change. Rather, it queries the utility – and, importantly, the policy consequences – of pinning 'solutions' to climate change-related displacement on a multilateral instrument, in light of the likely nature of movement, the desires of communities affected by it, and the fact that a treaty will not, without wide ratification and implementation, 'solve' the humanitarian issue. The argument is developed by examining some conceptual and pragmatic difficulties in attempting to construct a refugee-like instrument for people fleeing the effects of climate change, and by critiquing whether there are legal benefits, as opposed to political benefits, to be gained by advocating for such an instrument.

Canada's Refugee Determination System and the International Norm of Independence

[Gerald Heckman](#)

University of Manitoba

Refuge, Vol. 25, No. 2, 2010

Abstract:

Refugee protection decisions engage migrants' fundamental life, liberty and security of the person interests. As a result, refugee protection claimants enjoy institutional and procedural rights under conventional international law. These include the right to a fair adjudication of their protection claims by an independent tribunal. To be independent, a tribunal must meet the formal guarantees of security of tenure, financial security and administrative independence and must actually be independent, in appearance and practice, from the executive and legislature, particularly in the appointments process. . . . The Canadian refugee protection system fails, in certain respects, to meet international standards of independence. The Canadian Immigration and Refugee Board's Refugee Protection Division enjoys statutory, objective badges of independence and appears to operate independently of the executive. However, the independence of Canadian officials engaged in eligibility determinations and in pre-removal risk assessments is very much in question because they have a closer relationship to executive law enforcement functions.

Reflexive Regulation of CSR to Promote Sustainability: Understanding EU Public-Private Regulation on CSR Through the Case of Human Rights

[Karin Buhmann](#)

University of Copenhagen, Institute of Food & Resource Economics - Division of Consumption, Health and Ethics - Law Unit

[International and Comparative Corporate Law Journal, Forthcoming](#)
[University of Oslo Faculty of Law Research Paper No. 2010-07](#)

Abstract:

This article discusses Corporate Social Responsibility (CSR) from the perspective of governmental regulation as a measure to promote public policy interests through public-private regulation intended to influence firms' self-regulation. Presenting a 'government case' for CSR, the connection between climate change and environmental sustainability, and social, economic and other human rights lend human rights as part of CSR a potential for meeting some environmental and climate concerns and handling adverse side-effects. The article analyses two EU initiatives: The EU Multi-Stakeholder (MSF) on CSR and the EU CSR Alliance. Focusing on human rights based in international law, it analyses the patterns of negotiation in the MSF and the background for the launch of the CSR Alliance. . . .

Climate Change and Environmental Security: Bringing Realism Back In

[Joshua Chad Gellers](#)

University of California, Irvine

Abstract:

In international relations theory literature, realist scholars maintain a traditional view of security based on fear and the attainment of survival through power maximization in an anarchic world, achieved exclusively through military prowess. Liberal scholars of international relations contend that the realist conception of security is unnecessarily limited, and call for the broadening of

security to include concerns such as economic security, human security, and environmental security. However, is realism inherently incompatible with the concept of environmental security? I argue that by stretching the conceptual limits of realism it becomes possible to account for security concerns related to the environment and climate change. In this paper I seek to incorporate environmental security into the broader framework of realism by analyzing the extent to which environmental problems pose a threat to the survival of major states. I conclude by calling for the development of a grand conceptual approach to environmental security and more empirical research to be conducted on issues that exist at the nexus between security and the environment.

Corporate Social Responsibility and its Implications for Public International Law

[Shin-ichi Ago](#)

Kyushu University Graduate School of Law
Public Interest Rules of International Law, 2009

Abstract:

The paper examines the importance of international labour standards in the globalized society, with a special emphasis on Asia. It also critically observes the emergence of new "legal" vehicle called CSR.

Beyond Euroscepticism: On the Choice of Legal Regimes as Empowerment of Citizens

[Jan M. Smits](#)

Maastricht University Faculty of Law - Maastricht European Private Law Institute (M-EPLI);
University of Helsinki - Center of Excellence in Foundations of European Law and Polity
[Utrecht Law Review, Vol. 6, No. 3, 2010](#)

Abstract:

This contribution aims to show that Euroscepticism is based on a particular view of how citizens' interests are represented in the European Union. This view should be replaced with a different type of thinking about ensuring citizens' participation in the European integration process. In this alternative view, the possibility of citizens choosing legal regimes other than their 'own' (and States being explicit about the limits of exercising such an enhanced party autonomy) is seen as a method of empowering citizens in fields that matter to them the most. Typically, these fields relate to (but are not limited to) what is known as 'private law', the law that deals with how private parties can shape their own private, professional and business lives.

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.

EU Law on Nuclear Safety

[Ana Stanic](#)

University of London - School of Oriental and African Studies (SOAS) - School of Law
Journal of Energy & Natural Resources Law, Vol. 28, No. 1, pp. 145-158, 2010
[SOAS School of Law Research Paper No. 12/2010](#)

Abstract:

The European Union (EU) is the first major regional nuclear actor to provide a binding legal framework on nuclear safety. The EU Council unanimously adopted Directive 2009/71 establishing a Community framework for the safety of nuclear installations in June 2009. The Directive builds primarily on the safety standards developed by the International Atomic Energy Agency and the provisions of the 1994 Convention on Nuclear Safety. Nuclear safety standards are now part of EU law and are enforceable before the European Court of Justice and national courts of EU Member States. Importantly, the Directive represents the first step towards the harmonisation of safety standards across the EU and should contribute to improving public confidence in the nuclear sector across the EU.

The COMESA Common Investment Area: Substantive Standards and Procedural Problems in Dispute Settlement

[Peter Muchlinski](#)

University of London - School of Oriental and African Studies (SOAS)
[SOAS School of Law Research Paper No. 11/2010](#)

Abstract:

The Common Market for Eastern and Southern Africa (COMESA) is an organisation of 20 African states established in 1994, replacing the previous Preferential Trade Area between the members. Since its inception COMESA has taken an active role in the economic integration of its members. In 2000 the COMESA Free Trade Area was established. . . . It is the purpose of this paper to examine the new CCIA Agreement and the investor-state dispute settlement mechanism that this treaty has put in place. . . .

Hard Cases Under the Convention on the International Sale of Goods: A Proposed Taxonomy of Interpretive Challenges

[H. Allen Blair](#)

Hamline University - School of Law
[Duke Journal of Comparative & International Law](#), 2010

Abstract:

CISG was formally uniform at the time of its adoption. It used the same words in all of the jurisdictions adopting it. But uniform words are not enough to guarantee uniform application. For many commentators, in fact, the most significant impediment to the continued existence or efficacy of the CISG is the lack of uniform interpretive outcomes in hard CISG cases – cases where a CISG provision is vague either on its face or in its application. Without greater uniformity of interpretive outcomes, these commentators suggest, the CISG will, over time, fail to supply standard solutions to similar contracting problems and thus fail to supply the predictability that parties need. . . . Contrary to the standard conception of CISG interpretation,

uniformity of interpretive outcomes is an improper goal with respect to CISG provisions cast as open-textured standards, and any effort to harden these standards into rigid rules could, in fact, undermine the efficiency goals of contracting parties.

**NGO Monitor Submission to the International Criminal Court Office of the Prosecutor
Regarding the 'Situation in Palestine'**

[Anne Herzberg](#)

NGO Monitor

Abstract:

This paper argues that the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) should immediately reject the attempt of the Palestinian Authority to accede to the jurisdiction of the court. On January 21, 2009, Ali Khashan, Minister of Justice for the "Palestinian National Authority" (PNA) submitted a declaration to the OTP purporting to accept the ICC's jurisdiction under Article 12(3) of the Rome Statute. Article 12(3) referrals, however, can only be effected by States and the PNA has not yet achieved the status of statehood nor claims to be a state. Nevertheless, supporters of the PNA declaration have argued that the court should take an "expansive approach" in "interpreting the meaning of 'state'" solely for purposes of the Rome Statute. This position, known as the "teleological approach," must be rejected because it is nothing more than a thinly veiled attempt to transform the ICC into a court of universal jurisdiction – an approach that was expressly rejected by the drafters of the Statute. . .

The Concept of Special Custom in International Law

[Anthony D'Amato](#)

Northwestern University - School of Law

American Journal of International Law, Vol. 63, p. 211, 1969

[Northwestern Public Law Research Paper No. 10-86](#)

Abstract:

General customary international law contains rules, norms, and principles that seem applicable to any state and not to a particular state or an exclusive grouping of states. . . . By contrast, special customary international law deals with non-generalizable topics such as title to or rights in specific portions of world real estate (e.g., cases of acquisitive prescription, boundary disputes, and so-called international servitudes), or with rules expressly limited to countries of a certain region (such as the law of asylum in Latin America). The line separating general from special custom is similar to that in English common law, where a particular custom "must apply to a definitely limited though indeterminate class of persons" and to a limited geographic area; if the usage is laid in too wide a geographic area, for example, it is taken out of the realm of custom and must be pleaded as an ordinary claim at law.

India-ASEAN Free Trade Agreement: A Sectoral Analysis

[Shahid Ahmed](#)

Central University - Jamia Millia Islamia (JMI), New Delhi - Department of Economics

Abstract:

This study investigates the sectoral dimensions of India–ASEAN Free Trade Agreement as a result of tariff liberalization. This study reveals that both India and ASEAN gains in terms of welfare while a term of trade for India deteriorates. The present study reveals that processed

food products, grain crops, textile and wearing apparel, light manufacturing and heavy manufacturing sectors are expected to be affected significantly and differently. However, results indicate a surge of ASEAN's exports of processed food items, agricultural products and fisheries which might have adverse impact on employment and wages of Indian working class. This study also revealed that the present FTA will have adverse impact on trade balance and the revenue losses for India which might affect public health, education and government procurement holding for a significant share of national budgets having multiple development dimensions.

Regulatory Cosmopolitanism: Clubs, Commons, and Questions of Coherence

[Roger Brownsword](#)

affiliation not provided to SSRN

Tilburg University TILT Law & Technology Working Paper No. 018/2010

Abstract:

The purpose of this TILT Working Paper is to elaborate the idea of regulatory cosmopolitanism and to defend its coherence against three particular sceptical challenges. . . .

Impediments to the Expulsion of Non-Nationals: Substance and Coherence in Procedural Protection Under the European Convention on Human Rights

[Ian Bryan](#)

Lancaster University

[Peter Langford](#)

Edge Hill University College

[Nordic Journal of International Law, Vol. 79, No. 4, 2010](#)

Abstract:

This article offers a critical assessment of the interpretative positions adopted by the European Court of Human Rights as to the applicability of Convention rights and freedoms to the deportation of "aliens" resident in the territory of a Contracting State. The article considers inconsistencies in the Court's jurisprudence and argues that these inconsistencies are a result of the characterisation of deportation proceedings as administrative events. The authors also explore the nature of Contracting States' deportation procedures and examine key features of the procedural guarantees afforded to non-nationals under the Convention and its Protocols. In addition, the authors consider the extent to which Convention notions of due process and natural justice are deemed germane to deportation proceedings. The article contends that disparities in the procedural protections accorded to nationals when compared with resident non-nationals conflict with the purpose of the European Convention on Human Rights are an avertable consequence of the primacy of State sovereignty.

Book Review: Human Rights and Climate Change

[Jolene Lin](#)

University of Hong Kong - Faculty of Law

Journal of Human Rights and the Environment, Forthcoming

Abstract:

This working paper is the first draft of a review of Stephen Humphreys (ed) "Human Rights and Climate Change" (Cambridge University Press, 2010).

II. Books

[The Rule of Law in International and Comparative Context](#)

(British Institute of International and Comparative Law 2010)

Robert McCorquodale, ed.

- Tom Bingham, The Rule of Law in the International Legal Order
- Mary Robinson, Business and Human Rights
- Robert McCorquodale, Business, the International Rule of Law and Human Rights
- Tim Cowen, 'Justice Delayed is Justice Denied': The Rule of Law, Economic Development and the Future of the European Community Courts
- Philip Marsden, Checks and Balances: European Competition Law and the Rule of Law
- L Yves Fortier, Investment Protection and the Rule of Law: Change or Decline?
- Norah Gallagher, Investment Protection and the Rule of Law: Change or Decline?
- Jane Stapleton, Benefits of Comparative Tort Reasoning: Lost in Translation
- Duncan Fairgrieve, Comparing Tort Law: Some Thoughts
- Keir Starmer, International Cooperation and the Modern Prosecutor
- Sarah Williams, International Cooperation: A Challenge for the Modern International Prosecutor

[Globalisation And Natural Resources Law: Challenges, Key Issues and Perspectives](#)

(Edward Elgar, Feb. 2011)

Elena Blanco and Jona Razzaque

Contents: Introduction Part I: Theories, Principles and Key Issues 1. Globalisation and Natural Resources: Themes, Challenges and Dilemmas 2. Globalisation and Natural Resource Management: Principles and Approaches 3. Legal Framework Guiding Natural Resource Management Part II: Challenges 4. Global Governance and Sustainable Natural Resource Management through States and International Institutions 5. Multinational Corporations, Civil Society and Non-state Actors: Participation, Governance and Accountability 6. Compliance 7. Water Governance Part III: Approaches 8. Water Resources 9. Renewable Energy 10. Biological Resources.

[European Immigration and Asylum Law: A Commentary](#)

(Hart, November 2010)

Edited by Kay Hailbronner

The EU has usurped essential parts of the national laws of immigration and asylum. Hence, European Directives and Regulations have become more important for the immigration departments and administrative tribunals. From German Courts alone, more than five referrals on the interpretation of Directives, especially in the area of the so-called Qualification-Directive (criteria for the recognition as a refugee,) have been made to the European Court of Justice. The immigration departments, too, are obliged to interpret national law, according to European Directives and Regulations. Accordingly, in most of the European member states numerous courts are required to decide on the basis of the European law in the field of immigration and asylum.

The Viability of Territorial Leases in Resolving International Sovereignty Disputes
(L'Harmattan 2010)

Michael J. Strauss

States often lease territory from each other for economic or military reasons, but on rare occasions leases have been made with the objective of settling disputes about sovereignty. This book offers the first collective examination of cases in which states have attempted to resolve territorial conflicts this way. It assesses their success and examines the broader potential for leases where sovereignty is contested, particularly in the frontier zones of adjacent states.

Yearbook of the European Convention on Human Rights/Annuaire de la convention europeenne des droits de l'homme

Volume 52 (2009)(Brill, Jan. 2011)

Edited by Direct. General of Human Rights and Lega

The Yearbook of the European Convention on Human Rights, edited by the Directorate General of Human Rights and Legal Affairs, is an indispensable record of the development and impact of the world's oldest binding international human rights treaty. It reviews the implementation of the Convention both by the European Court of Human Rights and in national legislation and practice. The Yearbook includes: Full text of any new protocols to the Convention as they are opened for signature, together with the state of signatures and ratifications. Full listing of Court judgments; judgments broken down by subject-matter; and extensive summaries of key judgments handed down by the Court during the year. Selected human rights (DH) resolutions adopted as part of the Committee of Ministers' work supervising the execution of the Court's judgments. Enquiries by the Secretary General carried out under Article 52 of the Convention. Other work of the Council of Europe connected with the European Convention on Human Rights, carried out by the Committee of Ministers, the Parliamentary Assembly, and the Directorate General of Human Rights. A summary survey of the implementation in certain member states of the Convention in the form of both legislation and case-law. Bibliographic information from the library of the European Court of Human Rights. The Yearbook is published in an English-French bilingual edition.

Making Sense of Peace and Capacity-Building Operations: Rethinking Policing and Beyond

(Brill, January 2011)

Edited by Bryn Hughes, Charles T. Hunt and Boris Kondoch

The realm of international peace and capacity development operations is a critical and contested space. The international community has increasingly focused on this area, relying upon these endeavours to not only bring lasting peace, but also to provide sustainable development for some of the most troubled places on earth. Efforts to date have failed to meet expectations. The nexus between practitioners and those whose job it is to theorise ways to improve practice is deficient. Making Sense of Peace and Capacity-Building Operations was derived from an international workshop which brought these often disconnected communities together. Taking on the breadth of issues across the security-development spectrum, this volume challenges much of the heretofore conventional wisdom on the topic, while also pointing to ways in which improvements can be realised in this crucial space.

Readership: All those interested in international peace operations, post-conflict peacebuilding and development programming, particularly issues relating to the rule of law as well as police and Security Sector Reform and capacity-development.

Dokdo:
Historical Appraisal and International Justice

(Brill, February 2011)

Edited by Seokwoo Lee and Hee Eun Lee

Dokdo: Historical Appraisal and International Justice concerns a highly contentious territorial dispute between Korea and Japan that threatens the security of Northeast Asia. Dokdo, the rocky islet in the East Sea (Sea of Japan), is currently disputed between Korea and Japan. The various issues surrounding Dokdo are complex and multilayered, and thus require an interdisciplinary approach. The determination of Dokdo's ownership is, however, not the sole purpose of this book. Beyond the question of Dokdo's ownership, this volume provides a broad framework for understanding the territorial disputes that bedevil the East Asian region. Readers will find balanced perspectives on this important issue in Northeast Asia utilizing international law, international relations, and history from highly qualified experts and scholars.

WTO - Trade in Goods

(Brill, February 2011)

Edited by Rüdiger Wolfrum, Peter-Tobias Stoll and Holger Hestermeyer
Max Planck Commentaries on World Trade Law, 5

The GATT is the historical origin of the World Trade Organization and to this day remains one of its core agreements. In force for over 60 years its rules have provided a framework for trade in goods which has seen such trade grow to unprecedented size. The Agreement has been referred to in roughly 200 disputes initiated under GATT 1947 and many of the currently roughly 400 WTO disputes. Its provisions have inspired similar rules in many other agreements. A thorough knowledge of the GATT is indispensable for practitioners and scholars alike. Article-by-article this volume explains the GATT 1994, its Introductory Note and Annexes, the Understandings on Arts II:1 lit. b, XVII, XXIV and XXVIII GATT, the Understandings on Balance-of-Payments Provisions and Waivers of Obligations, the Enabling Clause and the Waiver on Preferential Tariff Treatment for Least-Developed Countries. It also covers the Agreements on Customs Valuation, Preshipment Inspection and Rules of Origin. The format allows the reader quick and easy access and reference both with respect to provisions which would otherwise require the parsing of innumerable documents and with respect to provisions hitherto neglected. Written by distinguished practitioners and scholars, the volume is an indispensable reference work for everyone working on or interested in international trade – trade practitioners, diplomats, scholars and activists alike.

Max Planck Yearbook of United Nations Law, Volume 14 (2010)

(Brill, February 2011)

Edited by Armin von Bogdandy and Rüdiger Wolfrum

"World Wide Warfare – Jus ad bellum and the Use of Cyber Force", one of the most hotly debated issues of this time, is just one out of a variety of interesting topics being dealt with in Vol. 14 (2010) of the Max Planck Yearbook of United Nations Law. As in previous years the Yearbook offers in-depth articles on issues such as Human Rights, UN organs and Commissions

as well as questions of international law in connection with the United Nations. The core of authors proves to be a well balanced mix between young scholars and professors from all over Europe.

III. Law Journals

Public International Law eJournal

Vol. 5, No. 152, Nov. 25, 2010

Alan O. Sykes, ed.

(items above and previously included in this Digest omitted)

[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

[Reconceptualising the Debate on Intellectual Property Rights and Economic Development](#)
[Bryan Christopher Mercurio](#), Chinese University of Hong Kong - Faculty of Law

[Aid and Democratization in the Transition Economies](#)
[Jac C. Heckelman](#), Wake Forest University - Department of Economics

[Conspiracy in International Law](#)
[Jens Meierhenrich](#), Harvard University - Department of Government

Human Rights & the Global Economy eJournal

Vol. 4, No. 105, Nov. 26, 2010

Hope Lewis, Wendy E. Parmet & Rashmi Dyal-Chand, eds.
(select articles)

[The Vulnerable Subject and the Responsive State](#)
[Martha Albertson Fineman](#), Emory University School of Law

[The Reserve of the Possible and the Social Setback Prohibition \(Da Reserva do Possível e da Proibição de Retrocesso Social\)](#)
[Julio Pinheiro Faro](#), Faculdade de Direito de Vitória (FDV)

[The African Charter on Human and Peoples' Rights 1981](#)
[Raya Hazarika](#), Indian Law Society (ILS) Law College

[Unilateral Exceptions to International Law: Systematic Legal Analysis and Critique of Doctrines that Seek to Deny or Reduce the Applicability of Human Rights Norms in the Fight Against Terrorism](#)

[Martin Scheinin](#), European University Institute
[Mathias Vermeulen](#), European University Institute

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

[Human Rights and Genetic Discrimination: Protecting Genomics' Promise for Public Health](#)

[Michael Stein](#), William & Mary Law School, Harvard Law School

[Anita Silvers](#), San Francisco State University - Department of Philosophy

[The Human Rights of Non-Citizens: A New Unified Domain? Book Review of David Weissbrodt's 'The Human Rights of Non-Citizens'](#)

[Caroline Bettinger-Lopez](#), University of Miami - School of Law

[Bassina Farbenblum](#), University of New South Wales (UNSW)

[Bendable Rules: The Development Implications of Human Rights Pluralism](#)

[David Kinley](#), University of Sydney - Faculty of Law

[Human Rights Quarterly](#)

Volume 32, Number 4, November 2010

Inscribing Abortion as a Human Right: Significance of the Protocol on the Rights of Women in Africa

[Charles G. Ngweni](#) pp. 783-864

► [HTML Version](#) | ► [PDF Version \(411k\)](#) | ► [Summary](#)

State Neutrality in Public School Education: An Analysis of the Interplay Between the Neutrality Principle, the Right to Adequate Education, Children's Right to Freedom of Religion or Belief, Parental Liberties, and the Position of Teachers

[Jeroen Temperman](#) pp. 865-897

► [HTML Version](#) | ► [PDF Version \(216k\)](#) | ► [Summary](#)

Mugabe's Zimbabwe, 2000-2009: Massive Human Rights Violations and the Failure to Protect

[Rhoda E. Howard-Hassmann](#) pp. 898-920

► [HTML Version](#) | ► [PDF Version \(173k\)](#) | ► [Summary](#)

International Forensic Investigations and the Human Rights of the Dead

[Adam Rosenblatt](#) pp. 921-950

► [HTML Version](#) | ► [PDF Version \(197k\)](#) | ► [Summary](#)

The Interplay Between Global and Regional Human Rights Systems in the Construction of the Indigenous Rights Regime

[Mauro Barelli](#) pp. 951-979

► [HTML Version](#) | ► [PDF Version \(187k\)](#) | ► [Summary](#)

The Justice Balance: When Transitional Justice Improves Human Rights and Democracy

[Tricia D. Olsen](#)

[Leigh A. Payne](#)

[Andrew G. Reiter](#) pp. 980-1007

► [HTML Version](#) | ► [PDF Version \(232k\)](#) | ► [Summary](#)

Science and Human Rights: A Bridge Towards Benefiting Humanity

[Jeffrey H. Toney](#)

[Hank Kaplowitz](#)

[Rongsun Pu](#)

[Feng Qi](#)

[George Chang](#) pp. 1008-1017

► [HTML Version](#) | ► [PDF Version \(697k\)](#) | ► [Summary](#)

Subject Headings:

[Human Rights Law Review](#)

Volume 10 Issue 4 December 2010

Special Issue: Human Rights and New Technologies

Articles

Thérèse Murphy and Gearóid Ó Cuinn

Works in Progress: New Technologies and the European Court of Human Rights

Human Rights Law Review (2010) 10(4): 601-638 doi:10.1093/hrlr/ngq038

[Abstract](#) [Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Richard E. Ashcroft

Could Human Rights Supersede Bioethics?

Human Rights Law Review (2010) 10(4): 639-660 doi:10.1093/hrlr/ngq037

[Abstract](#) [Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Mark L. Flear and Anastasia Vakulenko

A Human Rights Perspective on Citizen Participation in the EU's Governance of New Technologies

Human Rights Law Review (2010) 10(4): 661-688 doi:10.1093/hrlr/ngq039

[Abstract](#) [Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Noel Whitty

Soldier Photography of Detainee Abuse in Iraq: Digital Technology, Human Rights and the Death of Baha Mousa

Human Rights Law Review (2010) 10(4): 689-714 doi:10.1093/hrlr/ngq041

[Abstract](#) [Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Recent Developments

Morten Bergsmo, Olympia Bekou, and Annika Jones

New Technologies in Criminal Justice for Core International Crimes: The ICC Legal Tools Project

Human Rights Law Review (2010) 10(4): 715-729 doi:10.1093/hrlr/ngq042

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Shawn Pelsinger

Liberia's Long Tail: How Web 2.0 is Changing and Challenging Truth Commissions

Human Rights Law Review (2010) 10(4): 730-748 doi:10.1093/hrlr/ngq036

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Kerstin Mechlem

Agricultural Biotechnologies, Transgenic Crops and the Poor: Opportunities and Challenges

Human Rights Law Review (2010) 10(4): 749-764 doi:10.1093/hrlr/ngq035

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Amrei Müller

Remarks on the Venice Statement on the Right to Enjoy the Benefits of Scientific Progress and its Applications (Article 15(1)(b) ICESCR)

Human Rights Law Review (2010) 10(4): 765-784 doi:10.1093/hrlr/ngq033

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Book Reviews

Sabrina Gilani

Viktor Mayer-Schönberger, Delete: the Virtue of Forgetting in the Digital Age

Human Rights Law Review (2010) 10(4): 785-789 doi:10.1093/hrlr/ngq032

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Sanyu Awori

Henk A.M.J. ten Have and Michele S. Jean (eds), The UNESCO Universal Declaration on Bioethics and Human Rights: Background, Principles and Application

Human Rights Law Review (2010) 10(4): 789-792 doi:10.1093/hrlr/ngq031

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Gavin McLeod

Benjamin J. Goold and Daniel Neyland (eds), New Directions in Surveillance and Privacy

Human Rights Law Review (2010) 10(4): 792-796 doi:10.1093/hrlr/ngq030

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Emilie Hunter

Richard Susskind, The End of Lawyers? Rethinking the Nature of Legal Services

Human Rights Law Review (2010) 10(4): 797-801 doi:10.1093/hrlr/ngq034

[Full Text \(HTML\)](#) [Full Text \(PDF\)](#)

Asia Pacific Journal on Human Rights and the Law

Volume 11, Number 1, 2010

[The Abolition of the Death Penalty in Taiwan: Why a de Facto Moratorium was Established and Lost](#)

pp. 1-22(22)

Author: Liao, Fort Fu-Te

[Indian Anti-Beggary Laws and their Constitutionality Through the Prism of Fundamental Rights, with Special Reference to Ram Lakhan V. State](#)

pp. 23-38(16)

Author: Goel, Ashish

[Cultural Genocide in Tibet? A Look at China's Linguistic Policies and Possible Breaches on International Law](#)

pp. 39-55(17)

Author: Chaim, Chatterley

[ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers](#)

pp. 56-59(4)

[Concluding Statement of the 6th Annual Meeting of ASEAN NHRI Forum](#)

pp. 60-62(3)

[2010 South East Asia National Human Rights Institutions Forum \(SEANF\) Paper on Migrant Workers](#)

pp. 63-98(36)

[Universal Declaration of Human Rights in \(Panay\)](#)

pp. 99-106(8)

[Journal of Conflict Resolution](#)

(Vol. 54, no. 5, December 2010)

- Matthew Fuhrmann & Sarah E. Kreps, Targeting Nuclear Programs in War and Peace: A Quantitative Empirical Analysis, 1941-2000
- Joe Clare & Vesna Danilovic, Multiple Audiences and Reputation Building in International Conflicts
- Nils B. Weidmann & Michael D. Ward, Predicting Conflict in Space and Time
- Tim Krieger & Daniel Meierrieks, Terrorism in the Worlds of Welfare Capitalism
- Seung-Whan Choi, Fighting Terrorism through the Rule of Law?

IV. Blogs/News Papers (Select Entries)

- Tobias Thienel, Bayatyan v Armenia: The Right of Conscientious Objection before the Grand Chamber, [Invisible College Blog](#) (Nov. 27, 2010)
- Frédéric Mégret and Alexandra Harrington, The Rise and Fall of Eunomia – Episode 2: A Movement is Born, [EJIL Talk!](#) (Nov. 26, 2010)
- Jaya Ramji-Nogles, Building Barricades to Protection, [Intlawgrrls](#) (Nov. 26, 2010)
- John B. Bellinger, III, A Counter-Terrorism Law in Need of Updating, [Washington Post](#) (Nov. 26, 2010)
- Benjamin Wittes, Medill Discussion on Targeted Killing and the Law, [Lawfare](#) (Nov. 26, 2010)
- Antoine Buyse, Interpretive Authority of ECtHR Judgments, [ECHR Blog](#) (26 Nov. 2010)
- Judge Hanqin Xue, Transboundary Damage in International Law, [U.N. Audio Visual Library of International Law](#) (Nov. 24, 2010)
- Lawrence Friedman & Victor Hansen, The Ghailani Trial: Justice Served, [Jurist Forum](#) (Nov. 24, 2010)
- Benjamin Davis, Ghailani Verdict: A Victory for American Justice, [Jurist Forum](#) (Nov. 24, 2010)

- Interamerican Association for Environmental Defense, Indigenous and Riverbank Communities Call on the Inter-American Commission on Human Rights to Suspend the Massive Belo Monte Dam in the Brazilian Amazon, [AIDA](#) (Nov. 11, 2010)

V. Gray Literature/Press Releases

- European Topic Centre, [Guiding principles for adaptation to climate change in Europe](#) (Nov. 2010)
- ITLOS, [Saint Vincent & The Grenadines Institutes Proceedings Against Spain regarding the Vessel MV Louisa](#) (25 Nov. 2010)

VI. Documents

- UN High Commissioner for Refugees, [Background Paper, 2010 High Commissioner's Dialogue on Protection Challenges, "Protection Gaps and Challenges"](#) (22 Nov. 2010)
- [Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention](#) (advance, unedited text – 2 Nov 2010)
- UNGA Second Committee, [Protection of the Global Climate for Present and Future Generations of Humankind](#), Draft Resolution submitted by the Vice-Chair of the Committee, UN Doc. A/C.2/65/L.51 (22 November 2010)
- UNFCCC, [The Contribution of the Clean Development Mechanism under the Kyoto Protocol to Technology Transfer](#) (Nov. 2010)