Anton's Weekly Digest of International Law Scholarship*

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I. SSRN Legal Scholarship Network/bepress Legal Repository/NELLCO Legal Scholarship Repository/Publishers Advances

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

International Law and Rawls' Theory of Justice

Anthony D'Amato
Northwestern University - School of Law
Denver Journal of International Law and Policy, Vol. 5, p. 525, 1975
Northwestern Public Law Research Paper No. 10-90

The complexity of present-day international law stands in an uneasy relation to the scheme of justice propounded by Rawls. The problems facing international lawyers may pose a conceptual threat to some of the fundamental bases upon which Rawls builds his entire theoretical edifice.

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The Strange Death of the International Liberal Order

Kanishka Jayasuriya
University of Adelaide
Economic and Political Weekly, Vol. 55, No. 23, pp. 75-85, 2010

The paper provides a historical context for recent changes in global and national governance in terms of the various models of social citizenship or what I call social constitutionalism. Using Hobsbawm's notion of the 'short twentieth century' we argue that the twentieth century was not so much a struggle between different state forms but rather needs to be understood in the way these state

* 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.

forms reflect differing responses to the underlying social conflicts stemming from the development of capitalism and the emergence of working class and socialist movements. We argue that the post war liberal order can be identified in terms of a form of social constitutionalism that reflected twin social settlements: within advanced industrial countries and within the structures of the global multilateral system. The end of these two twin settlements has ushered in more coercive and regulatory global order and in this context the death of the post war liberalism can only be understood in terms of the collapse of the broader project of social democratisation that marked the short twentieth century.

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Sustainability Discourses in International Courts: What Place for Global Justice?

Tim Stephens
University of Sydney - Faculty of Law

GLOBAL JUSTICE AND SUSTAINABLE DEVELOPMENT, pp. 39-56, D. French, ed., 2010
Sydney Law School Research Paper No. 10/146

In discussing sustainable development it is not possible to avoid fundamental questions of justice, such as how we might achieve an equitable distribution among all peoples of the public goods that the natural environment provides. Sustainable development has been the dominant global environmental policy since the 1980s not only because it holds out the tantalising prospect that economic development might be reconciled with environmental protection, but also because it is a pliable concept that embraces quite different views about its ethical content. Although this flexibility has frustrated efforts to entrench sustainable development as a binding norm, it has meant that sustainability as a discourse has retained ongoing relevance. This chapter surveys the contribution made by international judicial decisions and arbitral awards to debates surrounding the ethics of sustainability, explaining that international courts are international legal institutions in a unique position to drive normative and conceptual development towards an ethic of sustainability in a manner that is widely accepted as legitimate.

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Nanotechnology and the International Law of Weaponry: Towards International Regulation of Nano-Weapons

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Hitoshi Nasu
Australian National University (ANU) - College of Law

Journal of Law, Information and Technology, Vol. 20, pp. 21-54, 2010

The development of nanotechnology for military application is an emerging area of research and development, the pace and extent of which has not been fully anticipated by international legal regulation. Nano-weapons are referred to here as objects and devices using nanotechnology or causing effects in nano-scale that are designed or used for harming humans. Such weapons, despite their controversial human and environmental toxicity, are not comprehensively covered by specific, targeted regulation under international law. This article critically examines current international humanitarian law and arms control law regimes to determine whether significant gaps exist in the regulation of nanotechnology focused on offensive military application. . . .

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Beyond Exclusion: A Review of Peter J. Spiro's 'Beyond Citizenship'

Jeff Redding
Saint Louis University School of Law

Minnesota Law Review Headnotes, Vol. 95, p. 29, 2010

In a disorienting world where many non-Americans (and Americans) no longer recognize or identify with the United States, Peter J. Spiro's "Beyond Citizenship: American Identity After Globalization"

intervenes with a timely and provocative discussion of the issues, problems, and dilemmas that accompany twenty-first century American identity, and its articulation in U.S. citizenship law. . . . As I argue in this Review, however, Spiro's arguments about religious and national communities' shared need to exclude outsiders and also insist upon internal conformity in order to become "meaningful" communities are often quite simplistic. This is especially so where Spiro premises his arguments on unsupportable generalizations about religion writ large, and under-theorizes the foundational ideas of "community" and "meaningfulness." In fact, Spiro ultimately undermines his ambitious and thought-provoking arguments connecting religious and national communities by relying on narrow and inaccurate accounts of what counts as a real or meaningful "religion" or "nation" in the first place. Ultimately, these problems undermine his overarching account concerning American community, including his account of how an over-inclusive U.S. citizenship regime has seriously diluted American national identity.

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Australia's 'Safe Third Country' Provisions: Their Impact on Australia's Fulfillment of the Non-Refoulement Obligations Imposed by the Refugee Convention, the Torture Convention and the ICCPR

Savitri Taylor
La Trobe University - School of Law
University of Tasmania Law Review, Vol. 15, pp. 196-235, 1996

This article examines the safe third country provisions now contained in the Migration Act in light of the relevant principles of international law. The article demonstrates that these safe third country provisions are not a legitimate application of the customary international law principle of 'safe third country' because they place Australia in danger of breaching one or more of the non-refoulement obligations it has undertaken pursuant to three treaties to which it is a party. The article also suggests ways in which the safe third country provisions can be amended so that Australia's fulfillment of its non-refoulement obligations is no longer jeopardized.

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Exclusion from Protection of Persons of 'Bad Character' is Australia Fulfilling Its Treaty-Based Protection Obligations?

Savitri Taylor
La Trobe University - School of Law
Australian Journal of Human Rights, Vol. 8, No. 1, pp. 83-106, 2002

Australia has undertaken non-refoulement obligations under the Refugees Convention, CAT and the ICCPR. However, Australia's interpretations of its non-refoulement obligations are so narrow, and its law and policy allowing visa refusals on bad character grounds is so sweeping, as to create a real possibility that Australia may return some asylum seekers to their countries of origin in breach of its international obligations.

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Kiobel V. Royal Dutch Petroleum Co.: Corporate Liability Under the Alien Torts Statute

Eric Engle
Universität Bremen; Pericles

Kiobel v. Royal Dutch Petroleum Co., (2d. Cir.) overruled numerous 2d circuit decisions and contradicts sister federal appellate courts in other circuits, finding that corporate liability in international law is not a sufficiently specific norm to support a finding of liability under the Alien Tort Statute. That decision is clearly erroneous. Kiobel violates the general principle of legality, immunizing corporate conduct from liability even in cases where States would be liable for violating jus cogens norms and thus also violates the principle of sovereign equality of States due to principles of comity and res judicata. Kiobel also is an abnegation by the U.S. of U.S. obligations under international law.

While no state is obliged to remedy jus cogens violations, each state is obliged to respect them. Because Kiobel reflects a deep and significant split at the circuit courts, because it concerns U.S. international legal obligations, because the stakes, in human and financial terms are high, because it was so obviously wrongly decided, the split that Kiobel represents will surely eventually reach the U.S. Supreme Court. This article explains precisely why the court's decision in Kiobel misapprehends the structure and sources of international law and consequently reaches the wrong result for the wrong reasons. The U.S. Supreme Court will likely conclude that the ATS governs jus cogens claims against natural and artificial persons without a showing of state action, but requires state action or complicity with state action otherwise.

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The 'Culture and Trade Debate' Continues: The UNESCO Convention in Light of the WTO Reports in China - Publications and Audiovisual Products: Between Amnesia or Déjà-Vu?

Rostam J. Neuwirth
University of Macau - Faculty of Law
Journal of World Trade, Vol. 44, p. 1333, 2010

This article looks at the present state of the 'culture and trade debate' by tracing the developments that have taken place since the adoption and entry into force of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions on 18 March 2007. It examines whether actual progress has been made in the regulatory field addressing the issues of trade liberalization, on the one hand, and cultural diversity, on the other. Against a strong sentiment of a déjá vu, the evaluation is based on scholarly writings on the expected legal impact of the Convention as well as novel regulatory problems in the field of the cultural industries. It also briefly looks at the work of the bodies established under the UNESCO Convention and, last but not least, reviews it in light of the recent Appellate Body Report in China - Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products.

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The Establishment of the SADC Tribunal: Troubled Beginnings

T. Hondora
affiliation not provided to SSRN

This article assesses whether the Southern Africa Development Community Tribunal (SADC Tribunal) was enabled to, and consequently whether it should, operate as a court. It argues that: (i) the 14 August 2001 amendments to the SADC Treaty did not bring the Protocol on the Tribunal into force, despite vociferous arguments to the contrary, (ii) since the Protocol on the Tribunal was not brought into force in accordance with the peremptory provisions of the SADC Treaty, the Tribunal cannot lawfully operate as a court of law; (iii) the SADC Treaty should be amended to resolve the disputes that have arisen over the legal competency of the Tribunal to act as the regional bloc's dispute resolution mechanism; (iv) the Tribunal should be split into two, with one Court having human rights jurisdiction and the other jurisdiction over all other specified disputes; and (v) legal instruments providing for both Courts should clearly prescribe the normative legal framework underpinning each of them.

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Combating Exclusion: Why Human Rights are Essential for the MDGs

Amnesty International
affiliation not provided to SSRN
Sur - International Journal on Human Rights, Vol. 7, No. 12, p. 54, June 2010

The Millennium Development Goals (MDGs) represent a global consensus on the need to tackle poverty. While the MDGs have played an important role in focusing international attention on issues of development and poverty reduction, this article argues that the MDGs do not fully reflect the

ambition of the Millennium Declaration, which promised to strive for the protection and promotion of all human rights - civil, cultural, economic, social and political - for all. This article outlines some of the aspects in which the MDG framework, while covering areas where states have clear obligations under international human rights law such as food, education and health, fails to reflect these standards. It focuses on three main issues - gender equality (Goal 3), maternal health (Goal 5) and slums (Goal 7) - as illustrative examples of the gaps between MDG commitments and human rights standards. It argues that this gap is also one of the main factors behind the lack of equitable progress on the MDGs. The article stresses the importance of ensuring that all efforts towards all the MDGs are fully consistent with human rights standards, and that non-discrimination, gender equality, participation and accountability are at the heart of all efforts to tackle poverty and exclusion.

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Climate Change and the Millennium Development Goals: The Right to Development, International Cooperation and the Clean Development Mechanism

Marcos Orellana
affiliation not provided to SSRN
Sur - International Journal on Human Rights, Vol. 7, No. 12, p. 144, June 2010

This paper explores the linkages between human rights and the MDGs, international cooperation regarding climate change, and the Clean Development Mechanism (CDM). The paper uses criteria of the right to development to analyze CDM. CDM provides a clear example of an international partnership between the global South and the industrialized North to achieve the twin objectives of promoting sustainable development and mitigating climate change. The CDM is thus directly relevant to MDG 8 regarding global partnerships and technology transfer, as well as to the other MDGs directly affected by climate change. In addition, a focus on the CDM also raises issues concerning investments and resource flows, technology transfer, environmental integrity, and the meaning and operationalization of a rights-based approach to development, all of which are central to effective and equitable climate change mitigation and to the attainment of the MDGs.

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Five Views of the Great Lakes and Why They Might Matter

A. Dan Tarlock
Illinois Institute of Technology
Minnesota Journal of International Law, Vol. 15, No. 1, 2006

Compared to many of the world's contested international watersheds such as the Amu Darya in Central Asia, the Colorado River, or the Nile Basin, the Canadian-United States Great Lakes Basin is a paradox: the level of controversy about the management and use of the waters is inverse to the

amount of water in the basin. The lakes themselves contain twenty percent of the world's fresh water). However, comparatively little of this water is currently withdrawn, and only about five percent of that amount is consumed and not returned to the watershed. In 2002, the International Joint Commission (IJC), the Canadian-United States body which administers the 1909 Boundary Waters Treaty, revised its previous consumptive use estimates downward by eighteen percent. Out-of-basin diversions are even smaller. The major transbasin diversion is the Chicago diversion. Chicago and its lakeshore suburbs are authorized by a United States Supreme Court decree to with-draw 3,200 cubic feet per second from Lake Michigan. Only the fact that the Mississippi watershed encompasses most of the metropolitan Chicago area makes this a transbasin diversion. The other major transwatershed diversion, the Long Lake and Ogoki diversions, actually add water to Lake Superior. However, despite the modest levels of present and projected consumptive use and the vast amount of water in the lakes, fears about future in-basin consumptive uses and transbasin diversions have been a major political and legal issue in the basin for more than two decades.

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Multilevel Governance of GMO and Non-GMO Coexistence: Filling the Gap in the EU Regulatory Regime on Agricultural Biotechnology

Thijs F.M. Etty
VU University Amsterdam - Institute for Environmental Studies (IVM), and VU Law Faculty, Transnational Legal Studies Department

2009 Amsterdam Conference on 'Human Dimensions of Global Environmental Change: Earth System Governance: People, Places and the Planet', Panel Architecture 12: Governing Biotechnology, Amsterdam/Volendam, The Netherlands, December 2-4, 2009

The dense network of EU law and policy on agricultural-biotechnology and GMOs is widely considered to be the world's most comprehensive and stringent regulatory regime. Yet, closer inspection reveals a regulatory gap at this regime's heart. Contrary to longstanding trends of growing centralization and increasingly exhaustive harmonization for GMO-regulation generally, cultivation of GM-crops has been left largely un-regulated at EU-level. The resultant legislative-lacuna centers on the concept of 'coexistence', referring to regulatory and technical-agronomic measures to ensure that GM-crop cultivation can 'peacefully coexist' with established conventional/non-GMO and organic farming-practices, and prescriptions on who will bear responsibility for calamities. Due to GMO-labeling-requirements and consumer-skepticism, Europe has both market-demand and regulatory need for segregation between GM and non-GM supply-chains. Since total isolation of transgenic-material is practically impossible, and some admixture inevitable, it is now broadly accepted coexistence cannot simply be left to the market, but requires some form of organization, if not government regulation. Distinctly less consensual and straightforward are questions of who should regulate coexistence, and how. This paper analyses how this central regulatory gap is currently being filled. Constructive critique of tensions between national-autonomy/subsidiarity and centralization/harmonization, and 'hard' and 'soft' law approaches feeds into policy-recommendations to overcome these pressing dilemmas.

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Regulating GMO Coexistence in the EU: Moving Beyond 'Subsidiarity vs. Harmonization' Towards Synergetic Governance

Thijs F.M. Etty
VU University Amsterdam - Institute for Environmental Studies (IVM), and VU Law Faculty, Transnational Legal Studies Department

4th International Conference on Coexistence between Genetically Modified (GM) and Non-GM based Agricultural Supply Chains (GMCC'09), Melbourne, Australia, November 10-12, 2009

This paper assesses the Commission's strategy for regulating coexistence from procedural and substantive perspectives, applying analytical lenses of 'multi-level' and 'reflexive/new governance'. It challenges ruling impressions of Member State-driven coexistence policy, by scrutinizing the

discrepancy between the Commission's formal reliance on subsidiarity-based diversity and its de facto practice of substantially circumscribing Member States' broad legal mandate for national coexistence policies, signalling 're-Europeanization' of coexistence-governance. Recommendations are made towards 'synergetic-governance', combining national/regional flexibility with minimum EU-harmonization of the basic parameters for conceptualization and proportionality of coexistence, enhancing the legitimacy of subsidiarity-based coexistence policy in Europe, integrally with the overall agbiotech-regulation regime.

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The International Joint Commission and Great Lakes Diversions: Indirectly Extending the Reach of the Boundary Waters Treaty

A. Dan Tarlock
Illinois Institute of Technology

The 1909 Boundary Waters Treaty (Treaty) is a model of, international water resources cooperation because it provides a permanent dispute mechanism, the six member International Joint Commission (IJC). Thus, both Canada and the United States have much to celebrate on the 100th anniversary of the Treaty. However, the most interesting aspect of the Treaty is the regime's ability to evolve through state practice beyond its original dispute resolution function, despite the inconsistent support for IJC involvement in transboundary water issues of the United States. The Treaty has been severely criticized by governments and non-governmental organizations (NGOs), especially in, Canada, for its limitations. Taking the Great Lakes alone, the area is too large and the resource management issues too complex to permit a single governance regime. Nonetheless, the LTC has been able to use the reference process to adapt "the spirit of the Treaty" to the new resource challenges, primarily environmental, that the Great Lakes face. This Article offers an example of the power of the IJC to overcome the Treaty's limitations by using its status as an international body to constructively influence the development of a new and important Great Lakes-management regime outside of the Treaty framework.

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Beyond Ratification: The Future for U.S. Engagement on International Tobacco Control

Thomas J. Bollyky
affiliation not provided to SSRN
Center for Strategic and International Studies, Global Health Policy Center Report, November 2010

Tobacco use is arguably the greatest threat to global health. Tobacco use and secondhand smoke kill more people annually than HIV/AIDS, tuberculosis, and malaria combined. Yet, tobacco use is also one of the most preventable threats to global health. Cost-effective, evidence-based tobacco control programs have succeeded in developed and developing countries alike. The Framework Convention on Tobacco Control (FCTC) - the first treaty developed and adopted pursuant to the authority of the World Health Organization (WHO) - provides a blueprint for tobacco control programs and a platform for their monitoring and implementation. Despite its widespread adoption, however, FCTC implementation has largely stalled globally. The United States should itself ratify the FCTC, but must not wait to do so before increasing its support for low- and middle-income countries' FCTC implementation. This approach would accomplish the same objective - to meaningfully demonstrate U.S. commitment and leadership - and do more to advance global tobacco control. To accomplish those goals, the United States should engage in a four-part strategy described in this paper to help provide the resources, incentives, and technical support necessary for developing countries' implementation of the FCTC and halt an otherwise expanding global tobacco epidemic.

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Article IX's Principle of Due Regard and International Consultations: An Assessment in Light of the European Draft Space Code-of-Conduct

Michael C. Mineiro
McGill University Faculty of Law

Proceedings of the 5th E. Galloway Symposium on Critical Issues in Space Law, Washington, D.C., December 2, 2010

Recently the question of Article IX of the Outer Space Treaty and in particular the nature of its obligation for States to undertake appropriate international consultations has been the subject of considerable discourse. In large part flowing from recent ASAT activities, but also deriving from foresight on the increasing importance of this provision due to a combination of proliferating space actors and a growing diversity in the number and nature of planned activities and experiments in outer space. Two years ago I wrote an article examining the FY-1C and USA-193 ASAT activities in light of Article IX. The culmination of my research was published in the Journal of Space Law. In that article, I undertook a jurisprudential historical study of Article IX, examining its political and technical origins. I also undertook a legal analysis of Article IX obligations. Th[is] paper . . . builds upon my earlier research, delving deeper into the nexus between Article IX general principles and the obligation and right of appropriate international consultations, examining the international legal and political ramifications of States Party breaching their obligation to consult, forecasting future application of the consultation provisions in light of maintaining international peace and security, and assessing the European Draft Code-of-Conduct's effectiveness in furthering the principle of Due Regard and the obligation to undertake international consultation. Reference will be made to my previous publication in the Journal of Space Law to explain the conditions that trigger the Article IX legal obligation to consult and to define appropriate international consultations.

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Combating Exclusion: Why Human Rights are Essential for the MDGs

Amnesty International
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Sur - International Journal on Human Rights, Vol. 7, No. 12, p. 54, June 2010

The Millennium Development Goals (MDGs) represent a global consensus on the need to tackle poverty. While the MDGs have played an important role in focusing international attention on issues of development and poverty reduction, this article argues that the MDGs do not fully reflect the ambition of the Millennium Declaration, which promised to strive for the protection and promotion of all human rights - civil, cultural, economic, social and political - for all. This article outlines some of the aspects in which the MDG framework, while covering areas where states have clear obligations under international human rights law such as food, education and health, fails to reflect these standards. It focuses on three main issues - gender equality (Goal 3), maternal health (Goal 5) and slums (Goal 7) - as illustrative examples of the gaps between MDG commitments and human rights standards. It argues that this gap is also one of the main factors behind the lack of equitable progress on the MDGs. The article stresses the importance of ensuring that all efforts towards all the MDGs are fully consistent with human rights standards, and that non-discrimination, gender equality, participation and accountability are at the heart of all efforts to tackle poverty and exclusion.

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Determining Defeat: The PRC, the ICCPR, and the Interim Obligation

Nicholas Hernandez
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The Vienna Convention on the Law of Treaties codifies in Article 18 the duty not to defeat the object and purpose of a treaty after signature but before ratification. This duty has become known as the interim obligation and has undergone substantial scholarship evaluating its scope and extent. In fact several tests have been developed to identify the enigmatic nature of this obligation, which in the

forthcoming paper are addressed. More specifically however, this paper evaluates the actions of the PRC since signature of the ICCPR to determine defeat of the interim obligation.

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Proportional Sentences at the ICTY

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Cornell Law School

THE LEGACY OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, Bert Swart, Göran Sluiter, Alexander Zahar, eds., Oxford University Press, 2011

Sentences handed down at the ICTY have generally been lower than sentences handed down by the ICTR or by many domestic penal systems punishing individuals for domestic crimes. In this contribution to an OUP volume assessing the legacy of the ICTY, I argue that this disparity stems from a conflict between two different ideas of proportionality: defendant-relative proportionality and offence gravity proportionality. . . .

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Reflections on the Role of the United Nations Permanent Forum on Indigenous Issues in Relation to the Millennium Development Goals

Victoria Tauli-Corpuz
affiliation not provided to SSRN

Sur - International Journal on Human Rights, Vol. 7, No. 12, p. 78, June 2010

Indigenous peoples are one of the strongest critics of the dominant paradigm of development because of how this has facilitated the violation of their basic human rights, which includes their rights to their lands, territories and resources, their cultures and identities. So-called "development" also has led to the erosion and denigration of their indigenous economic, social and governance systems. Ten years after the MDGs came into being, it is about time to see whether these have taken indigenous peoples into account and whether the implementation of these have led to changes in the way development work is done . This paper examines the relationship of the Millenium Development Goals to the protection, respect and fulfillment of indigenous peoples' rights as contained in the UN Declaration on the Rights of Indigenous Peoples. It analyzes whether the MDGs as constructed and implemented have the potential to contribute towards a more dignified life for indigenous peoples. . . .

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The Commonwealth of Nations: Intergovernmental and Nongovernmental Strategies for the Protection of Human Rights in a Post-Colonial Association

Richard Bourne
affiliation not provided to SSRN

Sur - International Journal on Human Rights, Vol. 7, No. 12, p. 36, June 2010

Is there a role for machinery to promote and protect human rights which is neither universal, nor regional? The case of the Commonwealth of Nations, which originated in the British Empire but where the majority of members are now developing states, offers an insight into possibilities at both intergovernmental and nongovernmental levels. This article focuses on the way in which rules of membership for the Commonwealth have come to play a decisive part in defining it as an association of democracies and, more cautiously, as committed to human rights guarantees for citizens. The progress has been uneven, driven by political crises, and limited by the small resources available to an intergovernmental Secretariat. Simultaneously, the Commonwealth Human Rights Initiative, a strong nongovernmental body, based in New Delhi and initially launched as a coalition of London-based Commonwealth associations, has been coordinating international pressure on Commonwealth governments to live up to their declarations. It has also been running programmes of its own for the right to information, and accountable policing.

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The United Nations and Conflict Resolution: The Case of Western Sahara (In Portuguese)

Maria João Barata
affiliation not provided to SSRN

Relações Internationais, No. 18, pp. 91-111, June 2008

The case of Western Sahara shows how the United Nations operate in the area of conflict resolution. In its efforts to reach an agreement, the United Nations are hostage to contrasting and multidimensional logics and interests which in turn make it very difficult to impose a settlement that is in accordance with international law.

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Human Genetic Manipulation and the Right to Identity: The Contradictions of Human Rights Law in Regulating the Human Genome

Norberto Nuno Gomes de Andrade
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SCRIPT-ed, Vol. 7, No. 3, December 2010

This paper analyses an overlooked tension between the right to personal identity and the collective right to human identity in the context of human rights law as it applies to prospective human genetic modification. While the right to personal identity may justify a valid interest in the modification of one's individual genome, the collective right to identity defends a global interest in the preservation of the human genome. Taking this tension into account, the article identifies a number of contradictions and problematic issues in the current international legal regulation of the human genome that undermine the right to personal identity. These are the cases of the notion of the human genome as common heritage of humanity and the unfounded idea of species integrity, among others. The article also argues that the Universal Declaration on the Human Genome and Human Rights (UDHGHR) and the Oviedo Convention, together with the UNESCO Bioethics Committee, adopt a "geneticist-identity framework" which favours a conception of human identity solely based on genetic components. By prohibiting any change to the constitution of that shared genetic inheritance, those international legal instruments place an unjustified brake on the possibility for human genetic modification. This, as the article explains, is at odds with the "personality-identity framework" of the European Convention on Human Rights Law (ECHR), which privileges a narrative and developmental idea of individual identity.

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Internal Review of EU Environmental Measures. It's True: Baron Van Munchausen Doesn't Exist! Some Remarks on the Application of the So-Called Aarhus Regulation

Gertjan Harryvan
Department of Administrative Law & Public Administration, Faculty of Law, University of Groningen
Jan H. Jans
University of Groningen - Department of Administrative Law and Public Administration, Faculty of Law

This contribution discusses, critically, the application of the so called Aarhus Regulation. This regulation enables environmental NGOs to request an internal review under environmental law of acts adopted, or omissions, by EU institutions and bodies. It emerges that this internal review procedure does not function adequately at all. It can be concluded from the small number of requests that have been lodged since the entry into force of the regulation, that the procedure is not very popular. It appears that in the few cases in which a request for internal review has been lodged, this, leaving aside one single case, did not lead to a substantive assessment of the request. The vast majority of the requests were declared inadmissible. The authors propose that the conditions in the Regulation for admissibility should be interpreted and applied more in conformity with the Aarhus Convention. And that only 'legislative acts' within the meaning of Articles 289-292 TFEU should be excluded from the internal review procedure of the Regulation.

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Water Security, Fear Mitigation and International Water Law (Symposium)

A. Dan Tarlock
Illinois Institute of Technology
Hamline Law Review, Vol. 31, pp. 703-728, Summer 2008

Water lawyers, courts, and others in the water community are fond of quoting the quip attributed to Mark Twain, "whiskey is for drinking and water is for fighting over." Not only is there no evidence that Twain ever uttered these words, but the quote has taken on a life of its own which grossly distorts the nature of water competition disputes, especially state to state competition. Both whiskey and water are for human benefit and exist in sufficient quantities throughout the world to satisfy present and future demand. Meeting these demands will be challenging because water must be managed to counter the problems of mal-distribution in certain places. Nonetheless, the idea that water conflict can and will lead to violence is so powerful that the term "war" is often applied to intense but nonviolent conflicts over the use of water. The war metaphor implies that water conflicts are irresolvable unless one party totally prevails over the other. In reality, water violence happens; when it does, it is generally localized, although water facilities have been military targets. This said, many water disputes, especially international ones, simmer unresolved for decades. Festering disputes are cause for concern because the ultimate driver in many water conflicts, both peaceful and potentially violent, is the fear of drought.

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The Concepts and Methods of Reasoning of the New Public Law: Legitimacy

Carol Harlow
London School of Economics - Law Department
LSE Legal Studies Working Paper No. 19/2010

In the context of rule-making by transnational bodies, this paper explores the concept of legitimacy in the literature of law and political science. The European Union, the most institutionally developed form of transnational governance, with lawmaking structures in place that can be characterised as 'legislative', is throughout taken as paradigm. . . . The paper concludes that the many challenges for legal theorists and practitioners stemming from the rapid growth of norm-producing international bodies are more likely to be resolved by the application of ideas of legal pluralism than through the concept of legitimacy, central to political science but likely to remain peripheral to law.

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Restructuring Global and EU Financial Regulation: Capacities, Coordination and Learning

Julia Black
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LSE Legal Studies Working Paper No. 18/2010

It is said that 'generals fight the last war'. Regulators can do the same. The question is whether in the plethora of reforms that are being developed, the financial regulators are building the regulatory equivalent of the Maginot Line or whether they are devising strategies that will enable them to counter, or at the very least anticipate, the next crisis. The paper focuses on regulators' capacities for anticipation rather than resilience per se. It argues that for these capacities to be developed, the current mechanisms by which the financial regulators learn of their own and each others' performance need to be quite fundamentally reoriented and regulators need to build in stronger mechanisms for cognitive challenge. . . .

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Support for Anti-Corruption Reform: UNDP in the People's Republic of China

Xiaohui Wu
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KNOWLEDGE, COMMITMENT, ACTION AGAINST CORRUPTION IN ASIA AND THE PACIFIC, pp. 77-82, 2006

In many countries including China, fighting corruption is a central part of the institutional reform and democratic governance agenda, which require long-term, constant effort. The paper introduces the cooperation projects between the UNDP and the Chinese Government on anti-corruption and touches upon lessons learned through UNDP's experience worldwide and cooperation with the Chinese Government. It concludes that there is no one model for fighting corruption, and although "best practices" exist and can provide guidance, they are not automatically applicable to all countries. Reform must also integrate the efforts of the judicial, legislative, and executive branches into a holistic approach that is actually implemented and applied.

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Derogation and Transition

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December 16, 2010
Transitional Jurisprudence and the ECHR, Justice, Politics and Rights
Transitional Justice Institute Research Paper No. 10-23

. . . [T]his essay explores the extent to which an extensive jurisprudence of emergency powers in the European system contains recognition of or interfaces with the thematic and structural aspects of transitional justice discourse. In one sense the resort to the exceptional state of emergency constitutes a transition in itself, a move from norm to exception. In this broader conceptual framework, the European Court of Human Rights has recognized the significance of the move involved – and, at least in theory the aberrational nature of the shift is affirmed through judicial language emphasizing temporality, exception and the need to revert to a status quo ante. This essay explores the extent to which a broad notion of transition (a move "from" and "to") can be adduced from the Court's jurisprudence on exceptionality. The analysis then moves to assess the more common frame of reference for transitional justice, namely its overlap with the shift from either repressive or authoritarian forms of governance and/or the move from violence to peaceful co-existence in societies that have experienced political violence or armed conflict within the definitions of international humanitarian law. . . . I articulate concerns about the extent to which the need for rule of law reform and confidence building in the transitional phase can be undercut by continuing resort to exceptionality through derogation.

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Transnational Mass Claim Processes (TMCPs) in International Law and Practice

Jason Palmer
Stetson University College of Law
Arturo Carrillo
George Washington University - Law School

Berkeley Journal of International Law (BJIL), Vol. 28, No. 2, p. 343, 2010
Stetson University College of Law Research Paper No. 2010-05

This article recognizes a growing overlap in the literature between international mass claims processes ("IMCPS") and transitional justice claims processes ("TJCPs"), i.e. domestic reparations programs adopted by successor governments in the wake of mass atrocity. This convergence is reflected in a number of recent publications in both fields that promote the comparative analysis of IMCPs and TJCPs, which in turn, leads to the conclusion that the two processes share a number of analogous characteristics. . . . Building on an in-depth study of seminal IMCP and TJCP experiences,

Professor Palmer and Professor Carrillo conduct a comprehensive analysis of the two categories to provide answers to key questions [and] exposes a number of inherent limitations to the comparison of IMCPs and TJCPs that to date have remained unaddressed. . . .

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The Right of Self-Determination: Legal and Human Rights Dimension of the Palestinian-Israeli Conflict

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The IUP Journal of International Relations, Vol. 4, No. 4, pp. 7-13, October 2010

The principle of self-determination enshrined in Woodrow Wilson's 14 Points after World War I, generated controversy and resulted in the break-up of empires and states in Europe. An attempt is made to analyze the legal and human rights dimension of the Palestinian-Israeli conflict and the various processes to resolve the conflicts and dynamics of the Palestinian society characterized by factionalism and gang violence as a result of the emergence of Islamic fundamentalism. The basic question is how to reconcile the seeming demands for access to power, government and territory. This requires compromises on the issues of equality, sovereignty, territorial integrity and recession. These issues are discussed in the context of the Palestinians' demand for the right of self-determination as most of the territories of Palestine are under Israeli occupation. In 1947, Palestine was partitioned into the Jewish state of Israel and the Arab state of Palestine which resulted in several wars between the Jewish state of Israel and Palestine. So far the Palestinian-Israeli conflict has not been resolved. There are many hurdles and obstacles in the way of resolving the conflict through negotiations for peace and stability in the Middle East. The US foreign policy under various Presidents and their diplomatic initiative for dialogue for peaceful negotiation has been examined.

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The Impact of Development on CO_2 Emissions: A Case Study for Bangladesh Until 2050

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Bangladesh Development Research Center (BDRC); American University

Bangladesh Development Research Working Paper Series (BDRWPS) No. 10

Bangladesh, a country with a population of 160 million, is currently contributing 0.14 percent to the world's emission of carbon dioxide (CO_2). However, mostly due to a growing population and economic growth (which both lead to an increase in energy consumption), Bangladesh's share in CO_2 emissions is – despite the increasing use of alternative energy – expected to rise sharply. This study uses the example of Bangladesh to illustrate the impact of low-income countries' energy neutral development on global CO_2 emissions in 2050 by using a set of alternative assumptions for population growth and GDP growth. It also shows how complex the determinants for (a) gains in energy efficiency and (b) changes in carbon intensity are in low-income countries.

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A Welfare Model for a Global Carbon Market Under Uncertain Information

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Université de Nice Sophia Antipolis
Tiziana Pagano
Technofi

USAEE-IAEE Working Paper No. 10-062

In the transition to a sustainable global economy, market organization is challenged by the recent financial and economic crises. However, at the instance of the European Union's Emission Trading Scheme (EU ETS) [2] accounting for 66% of all dioxide of carbon (CO2) traded worldwide - major players recognise the role of market mechanisms in the fight against climate change. This paper presents a Welfare model in the context of a global carbon market with uncertain information. The

objective is to analyse whether a global carbon market could achieve a fair distribution of resources and risks in the framework of four sets of energy and climate scenarios at 2030 and 2100 time horizons: A1 scenarios of rapid economic growth and efficient technology spread worldwide; A2 scenarios of slower and more fragmented technological changes and improvements of per capita income with a regionally-oriented economic development; B1 scenarios of a more integrated and more ecologically friendly world; B2 scenarios of a more divided, but more ecologically friendly world.
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The Invention of the Public Interest: About Public Health, Sustainable Development and Patent Law (De Uitvinding van het Algemeen Belang: Over Volksgezondheid, Duurzame Ontwikkeling en Octrooirecht) (Dutch)

Geertrui Van Overwalle
Leuven University; Tilburg University

LIBER AMICORUM LUDOVIC DE GRYSE, pp. 321-330, Brigitte Dauwe, Bruno De Gryse, Eric De Gryse, Bruno Maes, Kristien Van Lint, eds., Larcier, 2010

Traditionally, economic progress is considered to be one of the common interpretations of public interest. Recently, consensus has grown that public interest also includes public health objectives. The present paper examines to what extent the concept of public interest can be understood to encompass sustainable development goals in the framework of climate change as well.

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Subsidizing Carbon Capture and Storage Demonstration through the EU ETS New Entrants Reserve: A Proportionality Test

Marijn Holwerda
University of Groningen

Carbon and Climate Law Review, pp. 215-218, No. 3/2010

Upon its adoption in the Directive revising the European Greenhouse Gas Emission Trading Scheme (Directive 2009/29), Article 10(a)8 was heavily criticized by a number of environmental organizations and legal scholars for disturbing the EU ETS' market mechanism. Article 10(a)8 provides for the possibility to co-finance the up to 12 planned European Carbon Capture and Storage (CCS) demonstration projects as well as innovative renewable energy demonstration projects through the EU ETS new entrants reserve. The criticism of Article 10(a)8 raises doubts as to the article's consistency with the EU ETS (and its overarching goals) as such and, in essence, questions the measure's proportionality. It is not unthinkable that the EU law principle of proportionality will in future be used to challenge the validity of Article 10a(8). This article argues that it is in that case unlikely that the Court of Justice of the European Union would declare Article 10a(8) to infringe the principle of proportionality.

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Language, Legal Origins, and Culture before the Courts: Cross-Citations between Supreme Courts in Europe

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Fordham University School of Law; European Corporate Governance Institute (ECGI)
Mathias M. Siems
University of East Anglia (UEA) - School of Law; University of Cambridge - Centre for Business Research

Fordham Law Legal Studies Research Paper No. 1719183

Should courts consider cases from other jurisdictions? The use of foreign law precedent has sparked considerable debate in the United States, and this question is also controversially discussed in Europe. In this paper and within the larger research project from which it has developed, we study the

dialogue between different European supreme courts quantitatively. . . . In the present paper we show that citation of foreign law by supreme courts is not an isolated phenomenon in Europe, but happens on a regular basis. . . . [W]e have been able to identify that the population of the cited country and a low level of corruption, native languages and language skills, legal origins and families, and cultural and political factors all matter for which courts are likely to be cited. More specifically, knowledge of the language of the cited court appears to be a more important factor driving cross-citations than legal traditions, culture or politics. . . .

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The Two Liberalisms of International Criminal Law

Darryl Robinson
Queen's University (Canada) Faculty of Law

FUTURE PERSPECTIVES ON INTERNATIONAL CRIMINAL JUSTICE, C. Stahn, L. van den Herik, eds., 2010

. . . The focus of this chapter is not any particular doctrinal controversy; rather, it is an inquiry into the methods of reasoning commonly employed in international criminal law (ICL) discourse. Many of our familiar methods of analysis and argumentation are riddled with contradictions. These contradictions reflect the heritage of ICL – a fusion of important liberal projects that prove on closer inspection to have incompatible aspects. These contradictions manifest, for example, in ICL discourse declaring important liberal principles but then reasoning in ways that lead to contraventions of the stated principles. These incongruities can be found in our methods of interpretation, our embrace of transplanted norms, and ideological assumptions that inform our reasoning. The chapter aims to contribute to ICL discourse by drawing attention to these incongruities, instilling awareness of the need for more sophisticated discourse, and encouraging reflection on how best to resolve such contradictions.

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International Human Rights Law and the Determination of Cultural Identity (L'Identité Culturelle À L'Épreuve du Droit International des Droits de L'Homme) (French)

Julie Ringelheim
University of Louvain (Belgium) - Center for Philosophy of Law

As a consequence of the development of minority protection, indigenous peoples' rights and the right not to be discriminated against based on race or ethnicity, there has been a multiplication of situations where legal institutions are called upon making a decision on the cultural, ethnic or religious identity of an individual. Whereas there has been ample discussion in the international human rights literature on how to define minority and indigenous groups, much less attention has been paid to the question how to assess an individual's affiliation with a group. This is the subject of this paper. . . .

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Sovereign Immunity as a Matter of Responsibility

Adam Schulman
affiliation not provided to SSRN

Sovereign immunity is a much-impugned doctrine. This essay analyzes the customary criticisms and offers a responsive normative justification for sovereign immunity that can withstand the force of these criticisms. The thrust of the paper is that sovereign immunity could be justified as a repudiation of collective responsibility and relatedly, as an endorsement of individual responsibility.

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Multilateralism, bilateralism and unilateralism: a critical commentary on the EU's triple-track approach to the international dimension of competition policy

Davison, Leigh; Johnson, Debra

European Business Review
Volume 14, Number 1, 2002 , pp. 7-19(13)

Demonstrates that the European Union (EU) has moved from a twin-track to a triple-track approach to the vetting of cross-border competition concerns. The twin-track approach is based on co-operation at the multilateral and bilateral levels. The new third track, not based on co-operation, is the legal right to unilaterally apply competition instruments extraterritorially. The EU has pushed to establish a multilateral approach through the auspices of the World Trade Organisation. Although there has been some support for this, the reservations from the USA and others make this track unfeasible for the foreseeable future. In the absence of any significant multilateral progress, the EU has concluded bilateral agreements with major partners, but the approach has its limitations - the EU can only deal with the countries with which it has such an agreement. The Commission's third track unilaterally applies EU competition instruments extraterritorially using the effects doctrine.

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The International Court of Justice's Advisory Opinion on Kosovo's Declaration of Independence: An Exercise in the Art of Silence

Pippan Christian
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European Journal of Minority Issues, Vol. 3, pp.145–166, 2010

On 22 July 2010 the International Court of Justice (ICJ) presented its advisory opinion on the accordance of Kosovo's unilateral declaration of independence (UDI) with international law. Though the Court's opinion marks a further milestone in the international community's engagement with Kosovo and the so-called "status question", it remains to be seen whether it will go down in the history of the ICJ as a "groundbreaking decision" or, rather, an "exercise of mechanical jurisprudence" (Simma). In the view of the author, the substance of the opinion is neither spectacular nor particularly controversial. Most notably, assertions according to which the opinion provides "a guide and instruction manual for secessionist groups the world over" (Koroma), seem greatly exaggerated. The ICJ deliberately leaves open whether Kosovo's UDI has led to the creation of a new state. Likewise, it does not take any position on the legality under international law of the acts of recognition hitherto extended to Kosovo. . . .

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International Human Rights Law and the Determination of Cultural Identity (L'Identité Culturelle À L'Épreuve du Droit International des Droits de L'Homme) (French)

Julie Ringelheim
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Application of Foreign Law in French Law - Litigation System (Aplicación De La Ley Extranjera En El Derecho Francés. Régimen Procesal)

Samuel Lemaire
affiliation not provided to SSRN
Daniel Rojas
affiliation not provided to SSRN

Revista de Derecho Privado, No. 19, 2010

The private international law systems seek, inter alia, the coordination of different legal systems. Success in this endeavor, and its effectiveness, depends in some measure to ensure that the designated law is actually applied. Despite the litigation system of foreign law in France is characterized by pragmatism, the French jurisprudence and doctrines have built the system responding two theoretical questions: should the court automatically apply the rule of conflict? To whom the burden of proof of foreign law? . . .

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International and Comparative Indigenous Rights via Videoconferencing

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The University of Queensland - T.C. Beirne School of Law
Bradford W. Morse
University of Ottawa - Faculty of Law
Lindsay Robertson
University of Oklahoma
Melissa Castan
Monash University - Faculty of Law
David Yarrow
Monash University - Faculty of Law
Ruth Thompson
University of Saskatchewan - College of Law

Legal Education Review, Vol. 19, No. 2, p. 238, 2009
Monash University Faculty of Law Legal Studies Research Paper No. 2010/13

The authors are a team of legal academics who deliver an internationally comparative Indigenous rights course to students in Canada, the United States, Aotearoa/New Zealand and Australia simultaneously via videoconferencing technology. The international universities involved include: University of Ottawa, University of Saskatchewan, University of Oklahoma, University of Auckland, Monash University and the University of Queensland. Situated in six sites in different parts of the globe and in various time zones, teaching together demonstrates the commonality of Indigenous issues. The four countries involved in the course share a similar history of British colonisation and a similar legacy of English common law, yet each country has, in relation to its Indigenous peoples, developed differently from that same origin. The course not only explores similarities and differences in the experiences of the four jurisdictions, but also challenges both students and teachers to understand why those differences have occurred. This article introduces and reviews the experience of videoconference teaching in a comparative Indigenous law course. . . .

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Defining and Defending the Human Right to Water and its Minimum Core: Legal Construction and the Role of National Jurisprudence

George S. McGraw
United Nations Mandated University for Peace

This article attempts to contribute to the ongoing academic dialogue surrounding water and its centrality to human life. Its purpose is to provide insight into what may be the most notable water management innovation in human history: the universal human right to water. Specifically, this essay

seeks to outline the source and content of the right to water and that right's "minimum core" – both concepts that have reached the level of positive international law. It will then summarize the recent work of numerous national courts "giving content" to the human right to water, addressing the ways in which the international legal norm is strengthened or challenged by this jurisprudence. Without an international body capable of enforcement, the human right to water depends on this activity of national courts to make its philosophical "universality" a matter of legal fact.

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All Done and Dusted? Reflections on the EU Standard of Judicial Protection Against UN Blacklisting after the ECJ's Kadi Decision

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affiliation not provided to SSRN
Valentina Azarov
affiliation not provided to SSRN

Hanse Law Review, Vol. 5, No. 1, pp. 99-114, 2009

On 3 September 2008 the European Court of Justice (ECJ) handed down its decision in the joint cases of Kadi and Al Barakaat (C-402/05 P and C-415/05 P). With this decision the ECJ annulled Council Regulation 881/2002 implementing a UN Security Council Resolution on terrorist blacklists for not complying with the EU's fundamental rights standard. It is clear now that EU legal acts implementing measures adopted by the UN Security Council do not escape the jurisdiction of the European judiciary. . . . In the aftermath of the ECJ's Kadi Decision, the EU institutions have adopted certain procedural changes of the blacklisting procedure, but the blacklists persist to remain in force and the applicants fail to be de-listed. The present article therefore analyses the concrete standard of protection of those whose names have been put on the lists. . . .

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The ECJ Decision in Spector Photo Group and the Presumption of Use of Inside Information: A Blessing for the Administrative Enforcement of Market Abuse in the EU?

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Universiteit Gent - Financial Law Institute
Elke Vandendriessche
Ghent University - Financial Law Institute

Financial Law Institute, Working Paper 2010-17

In its Spector judgment, the Court of Justice of the EU held that a primary insider is presumed to have used inside information as soon as he has effected a securities transaction while in possession of inside information. This presumption can however be rebutted under circumstances where, in view of the purposes of the Market Abuse Directive, the transaction does not constitute an unfair use of inside information. In this contribution, we analyse the implications of the Spector judgment for the enforcement of the insider dealing prohibition. Furthermore, we highlight the difficulties raised by the practical application of the conditions under which the ECJ allows to rebut the presumption of use of inside information. We illustrate this with reference to the operation of stock option plans in listed companies.

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

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University of the Free State

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

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. It particularly argues that given the fact that female adolescents are more disposed to sexual ill health in the region than their male counterparts; the African Women's Protocol provides a very unique opportunity to address the sexual health needs of female adolescents. The article concludes that the success or otherwise of the application of the African Women's Protocol to meet the challenges of female adolescents in the region, depends largely on the commitment of African governments.

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Will in the World: Kymlicka's Global Odyssey

Shlomi Segall
Hebrew University of Jerusalem - Department of Political Science
Jerusalem Review of Legal Studies, Vol. 2, pp. 55-64, 2010

This is Shlomi Segall's contribution to the symposium on Will Kymlicka's book "Multicultural Odysseys."

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A Path Not Taken: Hans Kelsen's Pure Theory of Law in the Land of the Legal Realists

D. A. Jeremy Telman
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HANS KELSEN ANDERSWO/HANS KELSEN ABROAD, pp. 353-376, Robert Walter, Clemens Jabloner & Klaus Zeleny, eds., Hans Kelsen Institute/Manzsche Verlags-und Universitatsbuchhandlung, 2010

This Essay is a contribution to a volume on the influence of Hans Kelsen's legal theory in over a dozen countries. The Essay offers four explanations for the failure of Kelsen's pure theory of law to take hold in the United States. Part I covers the argument that Kelsen's approach failed in the United States because it is inferior to H. L. A. Hart's brand of legal positivism. Part II discusses the historical context in which Kelsen taught and published in the United States and explores both philosophical and sociological reasons why the legal academy in the United States rejected Kelsen's approach. Part III addresses the pedagogical obstacles to bringing Kelsen's Pure Theory into classrooms in the United States. The final section addresses the U.S. legal academy's continuing resistance to the pure theory of law. The vehemence with which legal scholars within the United States rejected Kelsen's philosophy of law is best understood as a product of numerous factors, some philosophical, some political and some having to do with professional developments within the legal academy itself. Because the causal significance of philosophical and political opposition to Kelsen's legal philosophy has been overstated, this Essay supplements those explanatory models with a sociological account of the U.S. legal academy's rejection of Kelsen's pure theory of law.

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Climate as an Innovation Imperative: Federalism, Institutional Pluralism and Incentive Effects

William W. Buzbee
Emory University School of Law
Emory Public Law Research Paper No. 10-125
Emory Law and Economics Research Paper No. 10-82

To combat climate change successfully will require innovations in regulatory design and technology. This article was prepared for the September 2010 Yale Law School and Unitar Conference on "Strengthening Institutions to Address Climate Change and Advance a Green Economy." The article

focuses on the innovation incentive effects of national legislation that could, in the alternative, either preempt or displace climate-related actions of state and local governments or federal officials under other laws, or welcome climate actions by others. These are choices regarding federalism and institutional pluralism (or diversity). The challenge is to create effective climate regulation and a robust trading market in GHG allowances without the risks of reliance on a single regulator. Compared to an institutionally diverse regulatory regime, a unitary climate regulator would be more vulnerable to implementation failures, rigidity, and loss of legal authority. Regulatory failure and risks of regulatory instability could undercut confidence in carbon markets and thereby deter essential investments in governmental implementation of climate laws, in technological innovation, energy efficiency, green economy businesses and other means to combat climate change.

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Do as I Say (Not as I Did): Putative Intellectual Property Lessons for Emerging Economies from the Not so Long Past of the Developed Nations

Llewellyn Joseph Gibbons
University of Toledo - College of Law; Fellow, Intellectual Property Rights Center

. . . This article presupposed a utilitarian justification for intellectual property protection, and concludes that properly managed piracy in the developing world does not affect the practical incentives provided by intellectual property rights in the developed world and its markets. If the developing country's domestic-use market can be properly differentiated or segmented from the export, gray market, or parallel import markets in developed countries then developing countries may follow the rich example of the developed world and enjoy a sustained period of an intellectual property rights subsidy without affecting intellectual property's utilitarian incentive structure. A period of intellectual property piracy seems to be a natural developmental stage on the road to becoming a developed nation, and once those goals have been met, the former outlaw pirate nation then becomes a zealous advocate for strong intellectual property protection internationally and domestically thus making strict adherence the norm. In the sum, this article merely encourages developed countries and rights holders in developed countries to be tolerant of a limited scope of intellectual property piracy in developing countries for just a little while longer.

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Human Rights and Remedial Equilibration: Equilibrating Socio-Economic Rights

Margaux J. Hall and David C. Weiss (Wilmer, Cutler, Pickering, Hale, & Dorr LLP and Skadden, Arps, Slate, Meagher & Flom LLP)
(Brooklyn Journal of International Law, Vol. 36, 2011) on SSRN. Here is the abstract:

Human rights law guarantees fundamental rights, except when it doesn't. The conventional understanding of human rights – and particularly descriptions of socio-economic rights – characterizes rights as universally agreed-upon norms, representing value choices, the frameworks for which states agree to and which courts or international tribunals define. Efforts to create remedies for human rights violations, in this account, stumble over practical realities such as political and budgetary constraints. This conventional description of human rights thus treats the challenge of designing remedies as a problem separable from that of discerning the content of rights. This account echoes "rights essentialism," in which judges intuit a pure right that is often corrupted when the government translates the right into a remedy. Rights essentialism similarly dominated U.S. constitutional discourse for decades, though it has recently been discredited (or at least challenged). Yet a rights essentialist view of human rights persists in current human rights discourse. . . .

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The Challenge for Asian Jurisdictions in the Development of International Criminal Justice

Mark Findlay
University of Sydney - Institute of Criminology
Singapore Journal of Legal Studies, pp. 37-27, July 2010

The paper reviews the different frameworks for international criminal justice in which China's influence can be measured, or should be present, looking specifically at procedural traditions on which international criminal lawand its jurisprudence are said to be based. Understanding China as a transitional hybrid criminal justice model undergoing radical transformation in its justice delivery and discourse, it is argued, assists significantly in forecasting where the synthesis of international criminal procedure may be heading. Attached to a re-interpretation and critique of individualised liability is the unpacking of China's in principle commitment to communitarian rights and social protection as a foundation for its criminal justice model. How might a similar normative direction influence the diversification and 'rights' perceptions of international criminal justice? In particular, in today's China, which is experiencing a rapid and relentless reconfiguration of communitarian identity and obligation, will collective rights commitments survive to influence the development of domestic criminal justice?

II. Books

Debating Social Rights
(Hart, Dec. 2010)
Conor Gearty and Virginia Mantouvalou

Debating Law is a new series that gives scholarly experts the opportunity to offer contrasting perspectives on significant topics of contemporary, general interest. In this second volume of the series, Conor Gearty argues that for rights to work effectively in the wider promotion of social justice, they need to be kept as far away as possible from the courts. He acknowledges the value of rights language in legal and political debate and accepts that human rights are not solely civil and political, with social rights language clearly having a progressive, emancipatory dimension. However he says that lawyers -- even well-intentioned lawyers -- damage the achievability of the kind of radical transformation in the priorities of states that a genuine commitment to social rights surely necessitates. Virginia Mantouvalou argues that social rights, defined as entitlements to the satisfaction of basic needs, are as essential for the well-being of the individual and the community as long-established civil and political rights. The real challenge, she suggests, is how best to give effect to social rights. Drawing on examples from around the world, she argues for their 'legalisation', and examines the role of courts and the role of legislatures in this process, both at a national and a international level.

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The Philosophical Foundations of Extraterritorial Punishment
(Oxford Univ. Press 2010)
Alejandro Chehtman

. . . This book provides the first full account, explanation, and critique of extraterritorial punishment in international law. Extraterritoriality is deeply entrenched in the practice of legal punishment in domestic legal systems and, in certain circumstances, an established principle of public international law. Often, States claim the right to punish certain offences provided for under their own domestic laws even when they are committed outside their territorial boundaries. Furthermore, extraterritoriality is one of the most remarkable features of international criminal law. Many individuals have been prosecuted in different parts of the world for crimes against humanity, war crimes, genocide, etc. before tribunals which are often located outside the territorial boundaries of

the state in which the offences were perpetrated. Finally, the issue of extraterritorial punishment is of pressing importance because of the emergence of new forms of globalized crime, such as transnational terrorism, drug-trafficking, trafficking of human beings, and so on. . . .

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Global Climate Governance Beyond 2012:
Architecture, Agency and Adaptation
Cambridge: Cambridge University Press. 2010
Biermann, Frank., Philipp Pattberg, and Fariboz Zelli (editors)

A cutting-edge assessment of policy options for future global climate governance, written by a team of leading experts from the European Union and developing countries. Global climate governance is at a crossroads. The 1997 Kyoto Protocol was merely a first step, and its core commitments expire in 2012. This book addresses three questions which will be central to any new climate agreement. What is the most effective overall legal and institutional architecture for successful and equitable climate politics? What role should non-state actors play, including multinational corporations, non-governmental organizations, public-private partnerships and market mechanisms in general? How can we deal with the growing challenge of adapting our existing institutions to a substantially warmer world? This important resource offers policy practitioners in-depth qualitative and quantitative assessments of the costs and benefits of various policy options, and also offers academics from wide-ranging disciplines insight into innovative interdisciplinary approaches towards international climate negotiations.

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

This examination of the law in action of WTO dispute settlement takes a developing-country perspective. Providing a bottom-up assessment of the challenges, experiences and strategies of individual developing countries, it assesses what these countries have done and can do to build the capacity to deploy and shape the WTO legal system, as well as the daunting challenges that they face. Chapters address developing countries of varying size and wealth, including China, India, Brazil, Argentina, Thailand, South Africa, Egypt, Kenya and Bangladesh. Building from empirical work by leading academics and practitioners, this book provides a much needed understanding of how the WTO dispute settlement system actually operates behind the scenes for developing countries.

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The Idea of Home in Law:
Displacement and Dispossession
(Ashgate, Dec. 2010)

The Idea of Home in Law: Displacement and Dispossession explores an important set of legal and policy issues surrounding the concepts of home and homelessness, taking a growing area of legal scholarship into the new arena of human rights and international law. The collection considers the ideas concerning home - both in the sense of the dwelling place as a special type of property, and territorial claims to homeland - which underpin many contemporary legal problems, by examining a range of contexts where people are displaced or dispossessed from their homes. . . .

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The Political Uncommons:
The Cross-Cultural Logic of the Global Commons
(Ashgate, Dec. 2010)

In The Political Uncommons, Kathryn Milun presents a cultural history of the global commons: those domains, including the atmosphere, the oceans, the radio frequency spectrum, the earth's biodiversity, and its outer space, designated by international law as belonging to no single individual or nation state but rather to all humankind. From the res communis of Roman property law to early modern laws establishing the freedom of the seas, from the legal battles over the neutrality of the internet to the heritage of the earth's genetic diversity, Milun connects ancient, modern, and postmodern legal traditions of global commons. Arguing that the logic of legal institutions governing global commons is connected to the logic of colonial doctrines that dispossessed indigenous peoples of their land, she demonstrates that the failure of international law to adequately govern the earth's atmosphere and waters can be more deeply understood as a cultural logic that has successfully dispossessed humankind of basic subsistence rights. The promise of global commons, Milun shows, has always been related to subsistence rights and an earth that human communities have long imagined as 'common' existing alongside private and public domains. Utilizing specific case studies, The Political Uncommons opens a way to consider how global commons regimes might benefit from the cross-cultural logics found where indigenous peoples have gained recognition of their common tenure systems in Western courts.

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Legal and Institutional Aspects of the European Anti-Fraud Office (OLAF). An Analysis with a Look Forward to a European Public Prosecutor
(Europa Law Publishing, Dec. 2010)
by J.F.H. Inghelram

The European Anti-Fraud Office (OLAF) was created in 1999, in the wake of the political crisis which led to the collective resignation of the European Commission. It has operated for more than ten years in a specific legal and institutional environment, which, in turn, has been affected by the entry into force of the Treaty of Lisbon. The latter put an end to the pillar structure of the EU, turned the Charter of Fundamental Rights into a binding legal instrument and laid the foundation for the establishment of a European Public Prosecutor's Office (EPPO). Starting from the broader context of the protection of EU financial interests and touching upon the circumstances surrounding OLAF's creation, the book provides an in-depth analysis of OLAF's position in this environment. . . .

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Refugees in International Relations
(Oxford, Nov. 2010)
Edited by Alexander Betts and Gil Loescher

Drawing together the work and ideas of a combination of the world's leading and emerging International Relations scholars, this book provides a comprehensive and challenging overview of the international politics of forced migration.

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The Lisbon Treaty:
Law, Politics, and Treaty Reform
(Oxford, Nov. 2010)
Paul Craig

This book offers an overview of the principal reforms to the European Union brought about by the Lisbon Treaty. The book gives an account of the extended Treaty reform process, analyses in detail the main legal and governance changes effected by the Treaty, and examines these against the background political forces that shaped the new provisions.

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From Data to Celebration of Cultural Heritages: Preservations, Acquisitions, and Intellectual Property Regulations
Hokky Situngkir, Bandung Fe Institute, Indonesian Archipelago Cultural Initiatives (IACI)

Towards an International Dialogue on the Institutional Side of Antitrust
Phil Weiser, University of Colorado Law School

The Fractal Process of European Integration: A Formal Theory of Recursivity in the Field of European Security
Gregoire Mallard, Northwestern University - Department of Sociology
Martial Foucault, University of Montreal, Center for Interuniversity Research and Analysis on Organization (CIRANO)

Jus Ad Bellum: Comparing the 1979 Soviet-Afghan and 2003 US-Iraq Wars
Hassan Ahmad, Osgoode Hall Law School - York University

The Arms Trade: No Cause for a Treaty
Tony Rock, affiliation not provided to SSRN

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PUBLIC INTERNATIONAL LAW eJOURNAL
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ALAN O'NEIL SYKES, EDITOR
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China's Policies on its Borderlands and the International Implications
Yufan Hao, University of Macau
Bill K.P. Chou, University of Macau - Social Sciences & Humanities

Member States Liability for Legislative Injustice. National Procedural Autonomy and the Principle of Equivalence; Going Too Far in Transportes Urbanos?
Carmen Plaza, Universidad de Castilla-La Mancha

Internal Review of EU Environmental Measures. It's True: Baron Van Munchausen Doesn't Exist! Some Remarks on the Application of the So-Called Aarhus Regulation
Jan H. Jans, University of Groningen - Department of Administrative Law and Public Administration, Faculty of Law
Gertjan Harryvan, Department of Administrative Law & Public Administration, Faculty of Law, University of Groningen

Jagged-Edged Jigsaw: The Limits of Multi-Speed Integration & Policy Choices of Ireland and the UK
Elaine Fahey, European University Institute - Robert Schuman Centre for Advanced Studies (RSCAS)

International Tribunals and the Right to a Speedy Trial: Problems and Possible Remedies
David Tolbert, affiliation not provided to SSRN
Fergal Gaynor, affiliation not provided to SSRN

The Principle of Proportionality Under International Humanitarian Law and Operation Cast Lead
Robert Perry Barnidge, University of Reading - School of Law

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LAW & SOCIETY: INTERNATIONAL & COMPARATIVE LAW eJOURNAL
Sponsored by: Indiana University Maurer School of Law
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Arbitration Agreement, MDR Clauses and Relation Thereof to Nature of Jurisdictional Decisions on the Break of Legal Cultures
Alexander J. Belohlavek, affiliation not provided to SSRN

Fee Shifting in Investor-State Arbitration: Doctrine and Policy Justifying Application of the English Rule
David P. Riesenberg, Unaffiliated Authors

Rwanda: Government 'Manipulates' Genocide Memory
Chi Mgbako, Fordham University - School of Law

Case Note: China-Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products
Xiaohui Wu, Wuhan University Institute of International Law

The Local Impact of 'UN-Accountability' under International Law: The Rise and Fall of the UNMIK Human Rights Advisory Panel
Aleksandar Momirov, Erasmus University Rotterdam (EUR) - Erasmus School of Law

A Call for Sex Workers' Rights in Africa
Chi Mgbako, Fordham University - School of Law

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Sierra Leone Youth Call for End to Female Genital Mutilation
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Six Minutes to Midnight – Can Intellectual Property Save the World?
Peter Drahos, Queen Mary University of London, School of Law

Impact of Insolvency of a Party on Pending Arbitration Proceedings in Czech Republic, England and Switzerland and Other Countries
Alexander J. Belohlavek, *affiliation not provided to SSRN*

Introduction: Comparative Criminal Law
Kevin Jon Heller, Melbourne Law School
Markus D. Dubber, University of Toronto - Faculty of Law

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Joris Larik, European University Institute - Department of Law (LAW), Dresden University of Technology

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Martin Senftleben, VU University Amsterdam, Faculty of Law

Satisfaction and Guarantees of Non-Repetition in the Practice of the Inter-American Court of Human Rights (Satisfaction Et Garanties de Non-Répétition Dans La Pratique de la Cour Interaméricaine des Droits de L'Homme) (French)
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Foreign State Immunity and Foreign Government Controlled Investors
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Colin R.G. Murray, Newcastle Law School

The Iraq-US Agreements of 17 November 2008 Establishing the Legal Framework of the Cooperation between the Two States (Les Accords Du 17 November 2008 Établissant le Cadre Juridique de la Présence Américaine en Irak) (French)
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LEGAL SCHOLARSHIP NETWORK: LAW & ECONOMICS RESEARCH PAPER SERIES
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Uses and Limits of Conventional Corporate Governance Instruments: Analysis and Guidance for Reform (Integrated version)
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USA WEB ALERT
U.S. Reference Service, Public Affairs Section
U.S. Embassy in Australia
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INTERNATIONAL RELATIONS
Briefing on Release of the First Quadrennial Diplomacy and Development Review (QDDR)
Briefing, U.S. Dept of State, December 15, 2010
http://www.state.gov/r/pa/prs/ps/2010/12/152935.htm
Remarks by U.S. Secretary of State Hillary Rodham Clinton and others are at
http://www.state.gov/secretary/rm/2010/12/152934.htm
and the text of the QDDR, with related material, is at
http://www.state.gov/s/dmr/qddr/
Quadrennial Diplomacy and Development Review (QDDR) Telephone Briefing
Remarks by Anne-Marie Slaughter, Director of Policy Planning, U.S. Dept of State, and Donald K. Steinberg, Deputy Administrator of the U.S. Agency for International Development (USAID), hosted by the Foreign Press Center, U.S. Dept of State, December 17, 2010
http://fpc.state.gov/153086.htm
WikiLeaks and Other Global Issues
Briefing by U.S. Assistant Secretary of State Philip J. Crowley, December 7, 2010
http://fpc.state.gov/152475.htm

Restoring America's Leadership of the Democratic World
Remarks by U.S. Deputy Secretary of State James B. Steinberg to the Foreign Policy Initiative Forum, November 16, 2010
http://www.state.gov/s/d/2010/152284.htm

ASIA and the PACIFIC
Trilateral Statement: Japan, Republic of Korea, and the United States
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http://www.state.gov/r/pa/prs/ps/2010/12/152431.htm
North Korea: U.S. Relations, Nuclear Diplomacy, and Internal Situation
Congressional Research Service, November 10, 2010
http://fpc.state.gov/documents/organization/152629.pdf
North Korea's 2009 Nuclear Test: Containment, Monitoring, Implications
Congressional Research Service, November 24, 2010
http://fpc.state.gov/documents/organization/152614.pdf
Indonesia: Follow-up to the President's Cairo Speech
White House, November 9, 2010
http://www.whitehouse.gov/the-press-office/2010/11/09/indonesia-follow-president-s-cairo-speech

AFGHANISTAN and PAKISTAN
An Overview of the Afghanistan and Pakistan Annual Review
White House, December 16, 2010
http://www.whitehouse.gov/the-press-office/2010/12/16/overview-afghanistan-and-pakistan-annual-review
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http://www.whitehouse.gov/the-press-office/2010/12/16/statement-president-afghanistan-pakistan-annual-review
and there is a press briefing at
http://www.whitehouse.gov/the-press-office/2010/12/16/press-briefing-press-secretary-robert-gibbs-secretary-state-clinton-secr
Forging a Four-Sided Afghan Deal
Interview with Stephen Biddle, Council on Foreign Relations, December 17, 2010
http://www.cfr.org/publication/23659/
Americans Less Pessimistic about Progress in Afghanistan
Gallup, November 29, 2010
http://www.gallup.com/poll/144944/Americans-Less-Pessimistic-Progress-Afghanistan.aspx
Jamming the IED Assembly Line: Impeding the Flow of Ammonium Nitrate in South and Central Asia
Hearing before the U.S. Senate Committee on Foreign Relations, November 18, 2010
http://foreign.senate.gov/hearings/hearing/?id=8ac24943-5056-a032-52c6-7e2e2b48e1b6
Flooding in Pakistan: Overview and Issues for Congress
Congressional Research Service, November 18, 2010
http://fpc.state.gov/documents/organization/152616.pdf

CENTRAL ASIA
Remarks by U.S. Secretary of State Hillary Rodham Clinton with President Otunbayeva of Kyrgyzstan
Bishkek, December 2, 2010
http://www.state.gov/secretary/rm/2010/12/152274.htm
Remarks by U.S. Secretary of State Clinton with Kazakhstan Foreign Minister Saudabayev
Astana, December 1, 2010
http://www.state.gov/secretary/rm/2010/12/152212.htm

Remarks at OSCE Intervention
Remarks by U.S. Secretary of State Hillary Rodham Clinton, in Astana, December 1, 2010
http://www.state.gov/secretary/rm/2010/12/152167.htm
Town Hall on Empowering Civil Society for Central Asia's Future
Remarks by U.S. Secretary of State Hillary Rodham Clinton in Astana, Kazakhstan, November 30, 2010
http://www.state.gov/secretary/rm/2010/11/152169.htm
Central Asia: Regional Developments and Implications for U.S. Interests
Congressional Research Service, updated November 22, 2010
http://fpc.state.gov/documents/organization/152625.pdf
Astana on the Atlantic: Transatlantic Strategy in Central Asia and the OSCE
Damon Wilson and Ross Wilson, Eurasia Task Force, Atlantic Council of the U.S., November 2010
http://www.acus.org/files/publication_pdfs/403/112210_ACUS_AstanaAtlantic.pdf
Top

RUSSIA
Russia's Prospects in Asia
Stephen J. Blank, Strategic Studies Institute, U.S. Army War College, December 2010
http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=1032
A Reset for the U.S.-Russia Values Gap
Matthew Rojansky and James F. Collins, Carnegie Endowment for International Peace, November 2010
http://carnegieendowment.org/files/russia_values_gap.pdf
There is a summary at http://carnegieendowment.org/publications/index.cfm?fa=view&id=42039

EUROPE
Briefing on European and Eurasian Summits
Briefing by U.S. Assistant Secretary of State Philip H. Gordon, December 7, 2010
http://www.state.gov/p/eur/rls/rm/2010/152582.htm
U.S. European Command and NATO Supreme Allied Command Europe Update
Briefing by Admiral James Stavridis USN, Commander, U.S. European Command and NATO Supreme Allied Commander Europe, at the Foreign Press Center, U.S. Dept of State, November 24, 2010
http://fpc.state.gov/151924.htm
President Obama's Participation in the NATO Summit Meetings in Lisbon
White House fact sheet, November 20, 2010
http://www.whitehouse.gov/the-press-office/2010/11/20/fact-sheet-president-obamas-participation-nato-summit-meetings-lisbon
NATO in Lisbon: A Moderate Success
David J. Smith, Atlantic Council of the United States, December 3, 2010
http://www.acus.org/new_atlanticist/nato-lisbon-moderate-success
U.S.-U.K. Relationship
Remarks by U.S. Assistant Secretary of State Philip H. Gordon, November 10, 2010
http://www.state.gov/p/eur/rls/rm/2010/150889.htm
The Western Balkans: Developments in 2010 and Hopes for the Future
Hearing before the Commission on Security and Cooperation in Europe (U.S. Helsinki Commission), December 8, 2010
http://csce.gov/index.cfm?FuseAction=ContentRecords.ViewDetail&ContentRecord_id=491&Region_id=0&Issue_id=0&ContentType=H,B&ContentRecordType=H&CFID=45803284&CFTOKEN=94314721
European Union Enlargement: A Status Report on Turkey's Accession Negotiations
Congressional Research Service, November 2, 2010
http://fpc.state.gov/documents/organization/152041.pdf

MIDDLE EAST and NORTH AFRICA

United Nations Security Council High Level Meeting on Iraq
White House fact sheet, December 15, 2010
http://www.whitehouse.gov/the-press-office/2010/12/15/fact-sheet-un-security-council-high-level-meeting-iraq
Remarks by U.S. Vice President Biden at the meeting are at
http://www.whitehouse.gov/the-press-office/2010/12/15/remarks-vice-president-a-meeting-united-nations-security-council

Implementing Tougher Sanctions on Iran: A Progress Report
Hearing before the U.S. House Committee on Foreign Affairs, December 1, 2010
http://foreignaffairs.house.gov/hearing_notice.asp?id=1215
For transcripts, please go to http://foreignaffairs.house.gov/schedule.asp and scroll down.

Engagement, Coercion, and Iran's Nuclear Challenge
Report of a Joint Study Group on U.S.-Iran Policy, U.S. Institute of Peace and Henry L. Stimson Center, November 2010
http://www.usip.org/files/resources/Engagement_Coercion_and_Irans_Nuclear_Challenge.pdf
There is a summary at
http://www.usip.org/publications/engagement-coercion-and-iran-s-nuclear-challenge
and a news release at
http://www.usip.org/newsroom/news/engaging-iran?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+usip-news-releases+%28News+Releases%29

Remarks at the Saban Center
Remarks by U.S. Secretary of State Hillary Rodham Clinton at the Brookings Institution's Saban Center for Middle East Policy Seventh Annual Forum, December 10, 2010
http://www.state.gov/secretary/rm/2010/12/152664.htm
In these remarks the Secretary of State discusses the quest for peace between Israel and the Palestinians.

U.S. Assistance to the Palestinian Authority
Fact sheet, U.S. Dept of State, November 10, 2010
http://www.state.gov/r/pa/prs/ps/2010/11/150812.htm

Algeria: Current Issues
Congressional Research Service, November 22, 2010
http://fpc.state.gov/documents/organization/152624.pdf

LATIN AMERICA

Latin America in 2010: Opportunities, Challenges, and the Future of U.S. Policy in the Hemisphere
Hearing before the U.S. Senate Committee on Foreign Relations, December 1, 2010
http://foreign.senate.gov/hearings/hearing/?id=28bfd63d-5056-a032-522a-f15cc4df8ef0

Remarks at Organization of American States Human Rights Event
Remarks by U.S. Under Secretary of State Maria Otero, December 15, 2010
http://www.state.gov/g/153005.htm

Building a More Resilient Haitian State
RAND, December 2010
http://www.rand.org/pubs/monographs/2010/RAND_MG1039.sum.pdf
There is a summary at http://www.rand.org/pubs/monographs/MG1039.html

Transcending the Past to Build Haiti's Future
Robert Maguire, U.S. Institute of Peace, December 6, 2010
http://www.usip.org/files/resources/PB70-Transcending_the_Past_to_Build_Haiti%27s_Future.pdf

Venezuela: Issues in the 111th Congress
Congressional Research Service, November 24, 2010
http://fpc.state.gov/documents/organization/152611.pdf

Cuba: Issues in the 111th Congress
Congressional Research Service, November 12, 2010
http://fpc.state.gov/documents/organization/151978.pdf

DEFENSE and INTERNATIONAL SECURITY
U.S. Department of State Host Conference Series to Address Key International Security Issues
U.S. Dept of State, December 1, 2010
http://www.state.gov/r/pa/prs/ps/2010/12/152209.htm
The conferences are on nuclear security (November 29, 2010), export controls (January 12, 2011), peaceful applications of nuclear energy (February 24, 2011), and engaging young on nonproliferation and disarmament issues (March 30, 2011).
Defense Budgets and American Power
Michael O'Hanlon, Brookings Institution, December 2010
http://www.brookings.edu/~/media/Files/rc/papers/2010/12_defense_budget_ohanlon/12_defense_budget_ohanlon.pdf
There is a summary at http://www.brookings.edu/papers/2010/12_defense_budget_ohanlon.aspx
The Macroeconomics of U.S. Defense Spending
Anthony H. Cordesman and others, Center for Strategic and International Studies, November 9, 2010
http://csis.org/files/publication/101108_FY11_macro_defense.pdf
Discussion on New START
Remarks by U.S. Assistant Secretary of State Rose Gottemoeller and U.S. Principal Deputy Under Secretary of Defense Jim Miller, at the Brookings Institution, December 7, 2010 (video)
http://www.state.gov/video/?videoid=702778667001
The New START Treaty: Central Limits and Key Provisions
Congressional Research Service, November 24, 2010
http://fpc.state.gov/documents/organization/152609.pdf
Investments in Ballistic Missile Defense
Fact sheet, U.S. Dept of State, December 13, 2010
http://www.state.gov/t/avc/rls/152731.htm
The Status of Implementing the Phased Adaptive Approach to Ballistic Missile Defense in Europe
Hearing before the U.S. House Committee on Armed Services, December 1, 2010
http://armedservices.house.gov/index.cfm/2010/12/the-status-of-the-phased
Missile Defense Cooperation with the Russian Federation
Fact sheet, U.S. Dept of State, December 1, 2010
http://www.state.gov/t/avc/rls/152164.htm

TERRORISM, EXTREMISM and COUNTERINSURGENCY
The Threat of Homegrown Islamist Terrorism
Backgrounder by Toni Johnson, Council on Foreign Relations, updated December 10, 2010
http://www.cfr.org/publication/11509/
War on Terror Update
Rasmussen Report, December 6, 2010
http://www.rasmussenreports.com/public_content/politics/mood_of_america/war_on_terror_update
(American public opinion)
Despite Years of Terror Scares, Public's Concerns Remain Fairly Steady
Pew Research Center, December 2, 2010
http://pewresearch.org/pubs/1815/poll-worried-about-terrorist-attack-america-anti-terror-campaign
Countering the Threat from Yemen
Interview with Richard A. Falkenrath, Council on Foreign Relations, November 8, 2010
http://www.cfr.org/publication/23338/

U.S. Government Efforts to Counter IEDs
Briefing by Lt. Gen. Michael L. Oates, Director, Joint IED Defeat Organization (JIEDDO), at the Foreign Press Center, U.S. Dept of State, December 6, 2010
http://fpc.state.gov/152437.htm
Deradicalizing Islamist Extremists
RAND, November 2010
http://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG1053.pdf
There is a summary at http://www.rand.org/pubs/monographs/MG1053.html
and a news release at http://www.rand.org/news/press/2010/11/29.html
International Aviation Screening Standards
Hearing before a subcommittee of the U.S. Senate Committee on Commerce, Science and Transportation, December 2, 2010
http://commerce.senate.gov/public/index.cfm?p=Hearings&ContentRecord_id=8379ae72-c94c-4015-85fe-bb185bc47ffb&ContentType_id=14f995b9-dfa5-407a-9d35-56cc7152a7ed&Group_id=b06c39af-e033-4cba-9221-de668ca1978a
Changes in Airport Passenger Screening Technologies and Procedures: Frequently Asked Questions
Congressional Research Service, November 23, 2010
http://www.fas.org/sgp/crs/homesec/R41502.pdf
Closing the Gaps in Air Cargo Security
Hearing before the U.S. Senate Committee on Homeland Security and Governmental Affairs, November 16, 2010
http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=6f0fd37a-d8a2-46d5-868b-74533756b523

MARITIME PIRACY
Counter Piracy Update
Briefing by Donna Hopkins, Coordinator for Counter Piracy and Maritime Security, U.S. Dept of State, at the Foreign Press Center, U.S. Dept of State, December 3, 2010
http://fpc.state.gov/152316.htm

HUMAN RIGHTS
Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples
U.S. Dept of State, December 16, 2010
http://www.state.gov/r/pa/prs/ps/2010/12/153027.htm
President Obama's remarks to the White House Tribal Nations Conference
http://www.whitehouse.gov/the-press-office/2010/12/16/remarks-president-white-house-tribal-nations-conference
Human Rights Day 2010
Statement by U.S. Secretary of State Hillary Rodham Clinton, December 9, 2010
http://www.state.gov/secretary/rm/2010/12/152623.htm
16 Days of Activism against Gender Violence
Letter from U.S. Assistant Secretary of State Eric Schwartz, December 10, 2010
http://www.state.gov/g/prm/rls/news/152721.htm
See related news at http://www.usaid.gov/press/releases/2010/pr101214.html
An End to Human Trafficking
Op-ed by U.S. Secretary of State Hillary Rodham Clinton, November 9, 2010
http://www.state.gov/r/pa/prs/ps/2010/11/150701.htm

CORRUPTION
International Anti-Corruption Day
Remarks by U.S. Secretary of State Hillary Rodham Clinton, December 8, 2010
http://www.state.gov/secretary/rm/2010/12/152579.htm

Examining Enforcement of the Foreign Corrupt Practices Act
Hearing before a subcommittee of the U.S. Senate Committee on the Judiciary, November 30, 2010
http://judiciary.senate.gov/hearings/hearing.cfm?id=4869
G-20: Fact Sheet on a Shared Commitment to Fighting Corruption
White House, November 12, 2010
http://www.whitehouse.gov/the-press-office/2010/11/12/g-20-fact-sheet-a-shared-commitment-fighting-corruption
Which Countries Pass the FY2011 Corruption Indicator?
"A Preview into Round 8 of the Millennium Challenge Corporation's Country Selection"
Casey Dunning and Sarah Jane Staats, Center for Global Development, November 3, 2010
http://www.cgdev.org/content/publications/detail/1424560/

INTERNATIONAL DEVELOPMENT
Launch of the Foreign Assistance Dashboard
U.S. Dept of State, December 16, 2010
http://www.state.gov/r/pa/prs/ps/2010/12/153031.htm
The Foreign Assistance Dashboard http://www.foreignassistance.gov/ provides a visual presentation of and access to key foreign assistance budget and appropriation data for the U.S. Dept of State and the U.S. Agency for International Development (USAID).
Global Entrepreneurship Week: Advancing Entrepreneurship Abroad
Fact sheet, U.S. Dept of State, December 10, 2010
http://www.state.gov/r/pa/scp/fs/2010/152654.htm
Millennium Challenge Corporation
Congressional Research Service, November 16, 2010
http://fpc.state.gov/documents/organization/152623.pdf
U.S. Foreign Aid Reform Meets the Tea Party
John Norris, Center for American Progress, November 2010
http://www.americanprogress.org/issues/2010/11/pdf/foreign_aid_meets_tea_party.pdf/

INTERNATIONAL ECONOMIC and FINANCIAL ISSUES
U.S.-EU Transatlantic Economic Council joint statement
December 17, 2010
http://www.whitehouse.gov/sites/default/files/TEC_Joint_Statement_12-17-10.pdf
Information about the Transatlantic Economic Council is at
http://www.whitehouse.gov/the-press-office/2010/12/17/transatlantic-economic-council-joint-statement
Trends Show Both Optimism and Uncertainty for Year Ahead
Federal Reserve Bank of Dallas, *International Economic Update*, December 16, 2010
http://www.dallasfed.org/institute/update/2010/int1008.cfm
Five Surprises of the Great Recession
Uri Dadush and Vera Eidelman, Carnegie Endowment for International Peace, November 2010
http://www.carnegieendowment.org/files/five_surprises.pdf
There is a summary at http://carnegieendowment.org/publications/index.cfm?fa=view&id=41963

INTERNATIONAL TRADE
U.S. International Trade: Trends and Forecasts
Congressional Research Service, updated November 19, 2010
http://fpc.state.gov/documents/organization/152627.pdf
U.S. Commerce Secretary Locke Launches First Federally Coordinated Renewable Energy and Energy Efficiency Export Initiative
U.S. Dept of Commerce, December 7, 2010
http://www.commerce.gov/news/press-releases/2010/12/07/commerce-secretary-locke-launches-first-federally-coordinated-renewab

Positive Outcome from Fourth Round of Trans-Pacific Partnership Negotiations
News release, Office of the U.S. Trade Representative (USTR), December 10, 2010
http://www.ustr.gov/about-us/press-office/press-releases/2010/december/positive-outcome-fourth-round-trans-pacific-partn
21st U.S.-China Joint Commission on Commerce and Trade
Fact sheet, Office of the U.S. Trade Representative, December 15, 2010
http://www.ustr.gov/about-us/press-office/fact-sheets/2010/21st-us-china-joint-commission-commerce-and-trade
Remarks by President Obama at the Announcement of a U.S.-Korea Free Trade Agreement
White House, December 4, 2010
http://www.whitehouse.gov/the-press-office/2010/12/04/remarks-president-announcement-a-us-korea-free-trade-agreement
There is an overview at
http://www.whitehouse.gov/sites/default/files/fact_sheet_overview_us_korea_free_trade_agreement.pdf,
a fact sheet on the economic value of the agreement at
http://www.whitehouse.gov/sites/default/files/fact_sheet_economic_value_us_korea_free_trade_agreement.pdf,
and a fact sheet on auto industry aspects at
http://www.whitehouse.gov/sites/default/files/fact_sheet_increasing_us_auto_exports_us_korea_free_trade_agreement.pdf
Additional statements of support are at
http://www.whitehouse.gov/the-press-office/2010/12/04/additional-statements-support-us-korea-trade-agreement
Why U.S.-Korea Trade Deal Matters
Edward Alden and Scott A. Snyder, Council on Foreign Relations, December 6, 2010
http://www.cfr.org/publication/23557/

CLIMATE CHANGE
Briefing on the UN Climate Change Conference in Cancun
Briefing by Todd Stern, U.S. Special Envoy for Climate Change, December 14, 2010
http://www.state.gov/g/oes/rls/remarks/2010/152847.htm

A statement by U.S. Secretary of State Hillary Rodham Clinton, December 11, 2010, is at
http://www.state.gov/secretary/rm/2010/12/152672.htm
and there is a "first take" assessment of the outcome of the Cancun talks by Michael A. Levi of the Council on Foreign Relations at
http://www.cfr.org/publication/23617/
Evaluating Limits on Participation and Transactions in Markets for Emissions Allowances
Congressional Budget Office, December 2010
http://www.cbo.gov/doc.cfm?index=12006
USDA Climate Change Science Plan
U.S. Dept of Agriculture (USDA), November 2010
http://www.usda.gov/oce/climate_change/science_plan2010/USDA_CCSPlan_112910.pdf
A Method for Assessing Carbon Stocks, Carbon Sequestration, and Greenhouse-Gas Fluxes in Ecosystems of the United States under Present Conditions and Future Scenarios
U.S. Geological Survey, November 2010
http://pubs.usgs.gov/sir/2010/5233/pdf/sir2010-5233.pdf
There is a summary at http://pubs.usgs.gov/sir/2010/5233/
International Financing of Responses to Climate Change
Congressional Research Service, November 23, 2010
http://fpc.state.gov/documents/organization/152612.pdf

Climate Innovation Centers: A New Way to Foster Climate Technologies in the Developing World?
infoDev, November 2010
http://www.infodev.org/en/Article.645.html

JUSTICE and LEGAL ISSUES
The Espionage Act and the Legal and Constitutional Issues Raised by WikiLeaks
Hearing before the U.S. House Committee on the Judiciary, December 16, 2010
http://judiciary.house.gov/hearings/hear_101216.html
Civil Liberties and National Security
Hearing before a subcommittee of the U.S. House Committee on the Judiciary, December 9, 2010
http://judiciary.house.gov/hearings/hear_101209.html
There is a press release at http://judiciary.house.gov/news/101209.html

INTELLECTUAL PROPERTY
China: Intellectual Property Infringement, Indigenous Innovation Policies, and Frameworks for Measuring the Effects on the U.S. Economy
Report by the U.S. International Trade Commission, November 2010
http://www.usitc.gov/publications/332/pub4199.pdf
There is a news release, December 13, 2010, at
http://www.usitc.gov/press_room/news_release/2010/er1213hh1.htm
U.S., Participants Finalize Anti-Counterfeiting Trade Agreement
News release, Office of the U.S. Trade Representative, November 15, 2010
http://www.ustr.gov/about-us/press-office/press-releases/2010/november/us-participants-finalize-anti-counterfeiting-trad
The text of the draft agreement is at http://www.ustr.gov/webfm_send/2379

IV. Blogs/Media (select items)

- Kim Thuy Seelinger, Beyond the ICC: Addressing Sexual Violence in Kenya, IntLawGrrls (Dec. 22, 2010)
- Adam Wagner, Bite-Size Human Rights Case Law, UK Human Rights Blog (Dec. 22, 2010)
- David Hart, Enemy of the People – What Price Water Information, UK Human Rights Blog (Dec. 21, 2010)
- Elizabeth Dickinson, Savvy ICC Prosecutor Tries to Isolate Sudan's President, Wikileaked (Dec. 21, 2010)
- Matthew Flinn, Unjustified Delay in Parole Hearing Breached Prisoner's Human Rights, UK Human Rights Blog (Dec. 21, 2010)
- Ioana Cismas, Kosovo: Secession dilemma déjà-vu, IntLawGrrls (Dec. 20, 2010)
- Rosalind English, Slow But Steady on Access to Justice from Supreme Court, UK Human Rights Blog (Dec. 20, 2010)
- Florence Daviet, The REDD+ Decision in Cancun, World Resources Institute (Dec. 20, 2010)
- Geraldine Coughlan, Bangladesh – Justice or Charade?, International Criminal Law Bureau (Dec. 20, 2010)

- Antoine Buyse, NGO Petition on Possible Fees at Court, ECHR Blog (20 Dec 2010)
- U.N. Delegates Debate Control of the Internet, National Public Radio (Dec. 18, 2010)
- Dapo Akande, ICC Assembly of States Discusses Possible Amendments to ICC Statute, EJIL: Talk! (Dec. 18, 2010)
- William A. Schabas, International Criminal Court and Wikileaks, PhD Studies in Human Rights (Dec. 18, 2010)
- Katharine Orlovsky, Gender Report Card on the ICC, IntLawGrrls (Dec. 18, 2010)
- Sarah Paulsworth, Germany Prosecutors File War Crimes Charges Against Rwandan Genocide Subjects, Jurist Paper Chase (Dec. 17, 2010)
- LaToya Sawyer, US Pledges Support for UN Indigenous Rights Declaration, Jurist Paper Chase (Dec. 17, 2010)
- Jaclyn Belczyk, France Court Convict 13 Chilean Officials for Pinochet-era Disappearances, Jurist Paper Chase (Dec. 17, 2010)
- William A. Schabas, European Court of Human Rights Ruling on Abortion in Ireland is a Big Disappointment, PhD Studies in Human Rights (17 Dec. 2010)
- Lesley Wexler, Kimberly Process & Zimbabwe Diamonds, IntLawGrrls (Dec. 16, 2010)
- Jaclyn Belczyk, [Inter-American] Rights Court Rules Brazil Amnesty Law Invalid, Jurist Paper Chase (Dec. 16, 2010)
- Klaus Neumann, Whatever Happened to the Right of Asylum?, Inside Story (16 Dec 2010)
- Fiona de Londras, The European Court of Human Rights on Abortion in Ireland, IntLawGrrls (Dec. 16, 2010)
- John Paul Putney, Europe Rights Court Rules Against Ireland Abortion Ban, Jurist Paper Chase (Dec. 16, 2010)
- Adam Wagner, Ireland Must Make Access to Abortion Easier in Life Threatening Situations, UK Human Rights Blog (Dec. 16, 2010)
- David Glazier, Still a Bad Idea: Military Commissions Under the Obama Administration, Opinio Juris (Dec. 15, 2010)
- IACHR, Cases Involving Argentina, Guatemala and Venezuela are Brought to the Inter-American Court (Dec. 10, 2010)(with links to Admissibility Reports)
- Bank Information Center, Cancun Climate Chronicles (1 Dec. 2010)
- Sea Shepherd Conservation Society, A Major Step Towards the Creation of the First Judiciary on the Rights of Nature in the World, Sea Shepherd News (Nov. 3, 2010)

V. Gray Literature

- International Centre for Trade and Sustainable Development, Bridges Weekly Trade News Digest, Vol. 14, No. 44 (22 Dec 2010)
- UN High Commissioner for Refugees, Review of UNHCR's efforts to prevent and respond to human trafficking, 29 September 2008, PDES/2008/07 [accessed 21 December 2010]
- Prevention and Protection Working Group, Preventing Mass Atrocities: An Agenda for Policymakers and Citizens (Dec. 2010)
- IISD Reporting Services/UNEP, MEA Bulletin (No. 106, Dec. 17, 2010)
- International Centre for Trade and Sustainable Development, Bridges (Year 14, No. 4, Nov-Dec 2010)
- Khalid Koser, Internal Displacement and Refugee Status Determination, Brookings-Bern Project on Internal Displacement (15 December 2010)
- International Institute for Sustainable Development, Investment Treaty News, Issue 2, Vol. 1 (Dec. 2010)
- UNIDIR, Disarmament Forum: Arms Control Verification (three, Oct., 2010)
- Wolfgang Streck, New Mechanisms for the Carbon Market? Sectoral Crediting, Sectoral Trading and Crediting Nationally Appropriate Mitigation Actions, Wuppertal Institute (JIKO Policy Paper 4/2010)
- John Drexhage, A Victory for Multilateralism? A Commentary on the UNFCCC Negotiations in Cancun Mexico, IISD Commentary (Dec. 2010)
- Sarah Bedy, Executive Director Advocacy Toolkit: A Guide to Influencing the World Bank Board of Directors, Bank Information Center (Dec. 2010)
- Talia Manceira Bonfante, Maurício Voivodic, Luís Meneses Filho, Developing Social and Environmental Safeguards for REDD+: A guide for a bottom-up approach, Forest Trends (Dec. 2010)
- Fabrice Weissman, Not in Our Name: Why MSF Does Not Support the "Responsibility to Protect", Doctors Without Borders (Oct. 4, 2010)
- International Development Law Organization, Legal and Judicial Development Assistance: Realizing the Paris Declaration and Accra Agenda for Rule of Law and Human Rights, Summary of Proceedings (Oct. 2010)
- Merilee S. Grindle, Good Governance: The Inflation of an Idea, Center for International Development at Harvard, CID Working Paper No. 202 (Oct. 2010)

V. Documents

- ASIL, International Law In Brief (Dec. 20, 2010)
- UN Dept. Public Information, S.C. Res. 1963 - Counter-terrorism Committee Executive Directorate to Continue as a Special Political Mission under Main Committee, SC 10133 (20 Dec 2010)
- Latin American and Caribbean Economic System, Climate Change Adaptation and Disaster Risk Reduction Institutional and Policy Landscape in Asia and Pacific: International Strategy for Disaster Risk Reduction (ISDR) – United Nations, Meeting on the Institutional Framework for Disaster Risk Reduction in Latin America and the Caribbean, Asia and Africa (13-14 Dec 2010)
- Tunis Declaration, Joint Statement of the Second Meeting of the Japan-Arab Economic Forum for development of Japan-Arab economic relations (Dec. 11-12, 2010)
- European Court of Human Rights, Practical Guide on Admissibility Criteria (31.12.2009, with 2010 updates)
- Article 19, Veil Bans Shroud Freedom of Expression (17 Dec 2010)
- HURIDOCS, Free Access to Two Unique Resources on Civil Liberties in Europe (Dec. 16, 2010)
- U.S. State Department, Leading Through Civilian Power: The First Quadrennial Diplomacy and Development Review (Dec. 2010)
- ENB, Summary of Highlights, Forty-sixth Session of the International Tropical Timber Council (ITTC-46) and Associated Sessions of the Committees (13-18 December 2010 | Yokohama, Japan)
- United Nations Audiovisual Library of International Law, the following instrument was added to the Historic Archives section of the United Nations Audiovisual Library of International Law on 9 December 2010: General Assembly resolution 2131 (XX) of 21 December 1965 (Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty), with an introductory note by Edward McWhinney, Q.C..
- Remarks by the President at the White House Tribal Nations Conference (Dec. 16, 2010)("And today I can announce that the United States is lending its support to this declaration." [the U.N. Declaration on the Rights of Indigenous Peoples]).
- Office of the Special Representative for Children and Armed Conflict, The Rights and Guarantees of Internally Displaced Children in Armed Conflict, Working Paper No 2 (Sept, 2010)
- Report of the International Criminal Court, U.N. Doc. A/64/313 (19 August 2010)
- UNHCR, The End of the Road? A Review of UNHCR's Role in the Return and Reintegration of IDPs (1 July 2010)