NEW YORK JOINT INTERNATIONAL LAW PROJECT
April 2013
JOURNALS I – W

To view table of contents of all journals listed below, scroll down
To view table of contents of a specific journal, click on journal title

INTELLECTUAL PROPERTY JOURNAL, v. 24, 2011 – 2012 (NYLS)
INTERNATIONAL AFFAIRS (MOSCOW), v. 59, no. 1, 2013 (NYLS)
INTERNATIONAL HUMAN RIGHTS REPORTS, v. 20, no. 1, 2013 (NYLS)
INTERNATIONAL REVIEW FOR THE SEMIOTICS OF LAW, v. 26, no. 1, March, 2013 (BLS, NYLS)
INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW, v. 11, no. 1, January, 2013
THE INTERNATIONAL JOURNAL OF HUMAN RIGHTS, v. 16, no. 8, December, 2012 (CUNY)
THE INTERNATIONAL LAWYER, v. 46, no. 3, Fall, 2012 (BLS, CUNY, NYLS)
JAHRBUCH FUR OSTRECHT, v. 53, no. 2, 2012 (NYLS)
JOURNAL OF ENVIRONMENTAL LAW, v. 25, no. 1, 2013 (NYLS)
JOURNAL OF KOREAN LAW, v. 12, no. 1, December, 2012 (NYLS)
JOURNAL OF THE INDIAN LAW INSTITUTE, v. 54, no. 3, July – September, 2012 (CUNY)
LAW/TECHNOLOGY, v. 46, no. 1, 2013
LEIDEN JOURNAL OF INTERNATIONAL LAW, v. 26, no. 1, March, 2013 (NYLS)
NEW YORK INTERNATIONAL LAW REVIEW, v. 26, no. 1, Winter, 2013 (BLS, NYLS)
PUBLIC INTERNATIONAL LAW, v. 38, no. 1, 2012 (CUNY, NYLS)
REVUE GENERALE DE DROIT INTERNATIONAL PUBLIC, v. 116, no. 4, 2012 (NYLS)
REVUE HISTORIQUE DE DROIT FRANCAIS ET ETRANGER, v. 90, no. 4, October – December, 2012 (NYLS)
REVUE INTERNATIONALE DE DROIT COMPARE, v. 64, no. 4, October – December, 2012 (BLS, NYLS)
SAN DIEGO INTERNATIONAL LAW JOURNAL, v. 14, no. 1, 2012 (NYLS)
SOUTH AFRICAN JOURNAL ON HUMAN RIGHTS, v. 28, pt 2, 2012 (CUNY, NYLS)
The SOUTH AFRICAN LAW JOURNAL, v. 129, pt. 4, 2012 (CUNY, NYLS)
SYRACUSE JOURNAL OF INTERNATIONAL LAW AND COMMERCE, v. 40, no. 1, Fall, 2012 (BLS, CUNY, NYLS)
TEMPLE INTERNATIONAL & COMPARATIVE LAW JOURNAL, v. 26, no. 2, Fall, 2012 (BLS, NYLS)
UN CHRONICLE, v. 49, no. 3, 2012 (BLS, CUNY, NYLS)
UNIFORM LAW REVIEW, v. 17, no. 4, 2012 (BLS, NYLS)
VIRGINIA JOURNAL OF INTERNATIONAL LAW (Symposium), v. 53, no. 1, 2012 (BLS, CUNY, NYLS)
WISCONSIN INTERNATIONAL LAW JOURNAL, v. 30, no. 2, Summer, 2012 (BLS, NYLS)
INTELLECTUAL PROPERTY JOURNAL

Revue de propriété intellectuelle

Volume 24

2011-2012

TABLE OF CONTENTS

Editorial Board ................................................................. iii
Contributors ................................................................. ix
Table of Cases ............................................................... xi
Notable Quotes .............................................................. xvii

NOTES

Demerara Sugar: A Bitter Pill to Swallow?
— Dev S. Gangjee ......................................................... 1

Star Wars Storm Troopers, the Next Episode: Lucasfilm in the United Kingdom Supreme Court
— Joost Blom ............................................................... 15

The Aftermath of Stanford v. Roche: Which Law of Assignments Governs?
— Sean M. O'Connor .................................................... 29

Human Genome Sciences Inc. v. Eli Lilly & Co.
— Norman Siebrasse ...................................................... 41

2011 in Review: Patent Law
— Norman Siebrasse ...................................................... 119

Collective Licensing: Promises and Pitfalls
— Martin Schaefer ........................................................ 135

Hot-Tubbing in Canadian Patent Litigation: A Preliminary Assessment
— Ken Anderson & Tracy Ayodele .................................. 203

OPINIONS

Harold G. Fox Intellectual Property Lecture for 2012 Intellectual Property:
Is It Still a "Bargain"?
— David Vaver ............................................................. 145
INTELLECTUAL PROPERTY JOURNAL

Revue de propriété intellectuelle

Volume 24

2011-2012

The Politics of Intellectual Property Laws
— Hon. Justice L.T.C. Harms ............................................... 213

Access Copyright and the Proposed Model Copyright Licence Agreement:
A Shakespearean Tragedy
— R. Bita Amani ................................................................. 223

ARTICLES

Comparing Some Aspects of American and Canadian Patent Litigation
— Marshall Rothstein ............................................................. 53

"The play goes on eternally": Copyright, Marcus Clarke's Heirs and
His Natural Life as Play and Film, Part Two
— Catherine Bond ............................................................... 61

The Management of Uncertainty and the Patent Incentive
— David Booton ................................................................. 79

When Will a Permanent Injunction be Granted in Canada for Intellectual
Property Infringement? The Influence of eBay v. Merc-Exchange
— Professor Jeff Berryman .................................................. 161

Salieri As Portrayed In The Arts
— C. Ian Kyer .......................................................................... 181

The Difference Between Discovery and Invention in Biomolecules and Biologicals
— Erin Engelhardt ................................................................. 249

Surveys on a Tightrope - the Convergent Validity Net
— Ruth M. Corbin & Fiona Isaacson ........................................... 267

Re-Visiting Patent Re-Examination Under Sections 48.1-48.5
— Brian Chau .......................................................................... 281

BOOK REVIEWS

David Vaver, Intellectual Property Law: Copyright, Patents, Trade-Marks
— Teresa Scassa ................................................................. 111

Carys Craig, Copyright, Communication and Culture: Towards a Relational
Theory of Copyright Law
— William F. Patry ............................................................... 197

Robert Levine, Free Ride: How Digital Parasites are Destroying the Culture Business,
and How the Culture Business Can Fight Back
— Sandy Crawley ............................................................... 317
## CONTENTS

**YEAR 2012 IN RUSSIA’S FOREIGN POLICY**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Policy Pluses and Minuses of 2012</td>
<td>S. Ryabkov</td>
<td>1</td>
</tr>
<tr>
<td>The Nuclear Threat Is Not a Bluff</td>
<td>A. Arbatov</td>
<td>9</td>
</tr>
<tr>
<td>Russia-U.S. Cooperation</td>
<td>S. Kislyak</td>
<td>17</td>
</tr>
</tbody>
</table>

**NEW FOREIGN POLICY CONCEPT OF THE RUSSIAN FEDERATION**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apropos Russia’s New Foreign Policy Concept</td>
<td>R. Grinberg</td>
<td>25</td>
</tr>
<tr>
<td>A Talented Play for Talented Actors</td>
<td>V. Tretiakov</td>
<td>41</td>
</tr>
<tr>
<td>Foreign Policy and Innovative Diplomacy</td>
<td>E. Panteleev</td>
<td>52</td>
</tr>
</tbody>
</table>

**CONFERENCE ON CONTEMPORARY INTERNATIONAL JOURNALISM**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greeting of S.V. Lavrov, RF Minister of Foreign Affairs</td>
<td></td>
<td>59</td>
</tr>
<tr>
<td>Greeting of M.V. Seslavinsky, Head of the RF Federal Press Agency</td>
<td></td>
<td>60</td>
</tr>
<tr>
<td>Russia’s Image Abroad and the Global Information Space</td>
<td>V. Grinin</td>
<td>61</td>
</tr>
<tr>
<td>Europe and Russia as Seen by the Media: Discussion Notes</td>
<td></td>
<td>65</td>
</tr>
</tbody>
</table>

**GOLDEN COLLECTION**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>“We Can Survive Only by Building a Unified State...”</td>
<td>Nouri al-Maliki</td>
<td>73</td>
</tr>
</tbody>
</table>

**WORLD ISSUES**

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bloc Mentality Still Alive in the Military-Political Sphere</td>
<td>A. Grushko</td>
<td>83</td>
</tr>
<tr>
<td>Russia and the OSCE</td>
<td>A. Kulin</td>
<td>89</td>
</tr>
<tr>
<td>Egypt: Birth of the “Second Republic”</td>
<td>V. Beidakov</td>
<td>100</td>
</tr>
<tr>
<td>China: The Fifth Generation of Leadership</td>
<td>I. Antonov</td>
<td>109</td>
</tr>
<tr>
<td>East Asia: Territorial Conflicts or Geopolitical Differences</td>
<td>Yu. Raikov</td>
<td>117</td>
</tr>
</tbody>
</table>
Brazil, the Country of the Future in the Present

EDITOR-IN-CHIEF'S COLUMN

The Revolution Better Avoided

G20 AND RUSSIA

Leadership for Global Economic Growth

G20 Presidency: From Mexico to Russia

COMMENTARY AND ESSAYS

Energy and Geopolitics

The Divided States of America

Russia-Poland: Will the Church Bells Ring?

"Swing Mrs Thatcher's Handbag but Avoid Isolation"

Jolly Roger Party of Germany

On the Phenomenon of Ethnic Democracy in South Africa

VIEWPOINT

Taking a Different Look at the Eurozone Crisis

ECONOMICS OF GLOBALIZATION

Managing Labor Migration: In Search of New Approaches

International Tax Rules: Moving Towards Transparency

Recognition of Foreign Diplomas

RUSSIAN WORLD

The Fourth World Congress of Compatriots Living Abroad

Socializing at the Congress of Russian Compatriots

HISTORY

260 Years of the First Embassy of Ossetia to St. Petersburg

The 1812 Patriotic War: Falsifications Impossible
CONTENTS OF VOL. 20, No. 1 (2013)

DECI SIONS / OPINIONS

Human Rights Committee

I) Admissibility Decision

II) Views

Committee on the Rights of Persons with Disabilities

I) Admissibility Decision

II) Views

Inter-American Court of Human Rights

Fernández Ortega et al. v. Mexico Judgment of 30 Aug. 2010

African Commission on Human and Peoples’ Rights

I) Admissibility Decision
ARTICLE 19 and Others v. Zimbabwe Comm.No.305/05, Nov. 2010

II) Merits
Egyptian Initiative for Personal Rights and Interights v. Egypt Comm.No.334/06, March 2011
A Note on Electric Dogs, by Way of an Introduction to Foucault, Semiotics and (the Biopolitics of) Justice
R. Lippens 1

Foucault, Rights and Freedom
B. Golder 5

Uberrima Fides, Foucault and the Security of Uncertainty
L. Lobo-Guerrero 23

Cape Legal Idioms and the Colonial Sovereign
G. Pavlich 39

Foucault and the Enigma of the Monster
L. Nuzzo 55

Doing Justice to Foucault: Legal Theory and the Later Ethics
C. Barbour 73

The Authoriality of Religious Law: Preface
M. Leone 91

A Study of the Semiotic and Narrative Forms of Divine Influence Within Secular Legal Systems
J.J.A. Shaw 95

Carl Schmitt on the Secularisation of Religious Texts as a Resacralisation of Jurisprudence?
M. Salter 113

Boundary Work: Transcendence and Authoriality in Religious and Secular Law
D.S. Caudill 149

From Text to Image: The Sacred Foundation of Western Institutional Order: Legal-Semiotic Perspectives
P. Heritier 163

Who is the Author of Halakhah?
U. Volli 191

Contesting Religious Authoriality: The Immanuel “Beis-Yaakov” School Segregation Case
S. Almog & L. Perry-Hazan 211

The Semiotics of Fundamentalist Authoriality
M. Leone 227

BOOK REVIEWS

Hans Kelsen: Secular Religion
M. Leone 241

Daniel Whiting (ed.): The Later Wittgenstein on Language
G.B. Sullivan 247

John Brigham: Material Law: A Jurisprudence of What’s Real
M. McCaskill 253
Contents

Editorial

Articles
Or Bassok and Yoav Dotan. Solving the countermajoritarian difficulty? 13
Asem Khalil. Beyond the written constitution: Constitutional crisis of, and the institutional deadlock in, the Palestinian political system as entrenched in the basic law 34
Adam Shinar and Anna Su. Religious law as foreign law in constitutional interpretation 74
Lars Vinx. The incoherence of strong popular sovereignty 101

Symposium: The Boundaries of Public Law
Michel Rosenfeld. Rethinking the boundaries between public law and private law for the twenty first century: An introduction 125
Alain Supiot. The public–private relation in the context of today’s refudalization 129
Peter Goodrich. The Political Theology of Private Law 146
Judith Resnik. Globalization(s), privatization(s), constitutionalization, and statization: Icons and experiences of sovereignty in the 21st century 162

The Lausiti Debate—Fin
Dimitrios Kyritsis and Stavros Tsakyrakis. Neutrality in the classroom 200
Lorenzo Zucca. Lausiti: A Commentary on a decision by the ECtHR Grand Chamber 218
JHH Weiler. Lausiti: A reply 230

Review Essay
David Kosar. The least accountable branch 234

Book Reviews
Marco Goldoni and Christopher McCorkindale (eds). Hannah Arendt and the Law (Christian Volk) 261
C. Raj Kumar. Corruption and Human Rights in India. Comparative Perspectives on Transparency and Good Governance (Morag Goodwin) 265
Sandra Liebenberg. Socio-Economic Rights. Adjudication under a Transformative Constitution (Katharine G. Young) 270

Ademola Abass (ed). Protecting Human Security in Africa (Mia Swart) 274
Steven Radelet. Emerging Africa. How 17 Countries are Leading the Way (Ebrahim Asfah) 277
Special issue: New Directions in the Sociology of Human Rights
Guest editors: Patricia Hynes, Michele Lamb, Damien Short and Matthew Waites

Special Issue: New Directions in the Sociology of Human Rights
Foreword
Patricia Hynes, Michele Lamb, Damien Short and Matthew Waites

Articles
Understanding torture: the strengths and the limits of social theory
Lydia Morris

Genocide and settler colonialism: can a Lemkin-inspired genocide perspective aid our understanding of the Palestinian situation?
Haifa Rashed and Damien Short

"In countries like that..." moral boundaries and implicatory denial in response to human rights appeals
Irene Bruno Sew

The soldier, human rights and the military covenant: a permissible state of exception?
Ross McGarry, Gabe Mythen and Sondra Waldale

Climate change and the human rights challenge: extending justice beyond the borders of the nation state
Tracey Skillington

Causes and consequences of international migration: sociological evidence for the right to mobility
Tanya Golash-Boza and Cecilia Menciova

Corporate social responsibility: a duplicitous distraction?
Nicholas Connolly

"You have a right to be nourished and fed, but do I have a right to make sure you eat your food?": children's rights and food practices in residential care
Samantha Punch, Ian McIntosh and Ruth Emond

---

Routledge
Taylor & Francis Group
ARTICLES

U.K. Regulatory Revision—
A New Blueprint for Reform .................... G.A. Walker 787

Transnational Dealings—Morrison Continues
to Make Waves ................................. Marc I. Steinberg 829
and Kelly Flanagan

The Long Road to Integrating Public Health into
Sustainable Development of Shared Freshwaters
in International Environmental Law:
Lessons From Lake Victoria in East Africa ........ William Onzivu 867

Progressive IP Reform in the
Middle Kingdom: An Overview of the
Past, Present, and Future of Chinese
Intellectual Property Law ......................... Jennifer Wai-Shing Maguire 893

Patent Box Taxation: A Comparison of
Four Recent European Patent Box
Tax Regimes and an Analytical
Consideration of If and How the
United States Should Implement
Its Own Patent Box ............................... Jason M. Brown 913
TABLE OF CONTENTS

Articles

*Leonid Shmatenko, Düsseldorf, Julia Markov, LL.M., Düsseldorf*
Commercial Courts and Arbitration Tribunals in Ukraine ........................................ 207

*Tina de Vries, Regensburg*
Agreement to an Adoption in Polish Law ................................................................. 235

*Dr. József Lugosi, Esztergom*
The Transformation of EU Law with Respect to Small and Uncontested Claims in Hungary ................................................................. 243

*Marco Gogolin, LL.M., Heidelberg*
Access to the Law – Recent Developments in the Hungarian Legal Aid System ................................................................. 261

*Prof. JUDr. Pavel Šámal, Ph.D., Brno, Doc. JUDr. Jozef Čentěš, Ph.D., Bratislava, Dr. Petr Bohata, Regensburg/Munich*
The Criminal Liability of Legal Persons in the Czech Republic and in Slovakia ................................................................. 275

*Afrim Osmani, PhD, Skopje*
Criminal Liability of Legal Entities – Comparative Analysis (Macedonia, Albania and Kosovo) ................................................................. 303

*Vice President of the Court of the EAEC Dr. M. T. Alimbekov, Minsk*
The Eurasian Economic Community and its Court – a Platform for Comprehensive Integration ................................................................. 319

Legal Expert Opinions

*Hungary*
A Dentist’s Liability for Inadequate Treatment in Hungarian Law. Legal Expert Opinion for a Liability Lawsuit Before an Austrian Court by Prof. Dr. Herbert Küpper, Regensburg/Munich ................................................................. 329

Documentation

*Poland*

*Albania*
Albania’s New Private International Law. Translation of the Private International Law Act With an Introduction by Justice Wolfgang Stoppel, Ottobrunn ................................................................. 357

Book Reviews ................................................................. 385
JOURNAL OF ENVIRONMENTAL LAW

VOLUME 25, NO. 1
2013

CONTENTS

ARTICLES

Regulatory Competition—Accounting For the Transnational Dimension of Environmental Regulation
Veerle Heyvaert 1

Public Participation and Climate Change Infrastructure
Maria Lee, Chiara Armeni, Javier de Cendra, Sarah Chaytor, Simon Lock, Mark Maslin, Catherine Redgwell and Yvonne Rydin 33

Northern Ireland's Consent to the Climate Change Act 2008: Symbol or Illusion?
Sharon Turner 63

The Rise and Fall of Nuclear Energy Use in Germany: Processes, Explanations and the Role of Law
Gerd Winter 95

ANALYSIS

After Doha: What Has Climate Change Policy Accomplished?
David Campbell 125

Think Before You Act: the Sustainable Development White Paper in Wales
Radoslaw Stech 137

SIGNIFICANT EU CASES

Significant EU Environmental Cases: 2012
Richard Monies 145

REVIEWS

Ulrich Beyerlin and Thilo Marauhn International Environmental Law (Malgosia Fitzmaurice) 159

Cameron Holley, Neil Gunningham and Clifford Shearing The New Environmental Governance (Bryan R. Jenkins) 161

Charles R. McElwee Environmental Law in China – Mitigating Risk and Ensuring Compliance (Yuhong Zhao) 163

James E. Martin The Sustainable University: Green Goals and New Challenges for Higher Education Leaders (Victoria Jenkins) 166

Richard Lord, Silke Goldberg, Lavanya Rajamani and Jutta Brunnée (eds) Climate Change Liability: Transnational Law and Practice (Radoslaw Stech) 168
Journal of Korean Law
Vol. 12, No. 1, December 2012

CONTENTS

Information About the Journal of Korean Law .................................................. iii
Advisory Board / Editorial Board ................................................................. v

Apportionment of Profits to a Permanent Establishment: ......................... 1
Similarities and Differences in the UK, the US and
the Republic of Korea
Eui Young Lee

The Road to Doha through Seoul: ............................................................... 55
The Diplomatic and Legal Implications of the Pre-COP 18
Ministerial Meeting
Jae-Hyup Lee, John M. Leitner, and MinJung Chung

Legal Origins Theory, Economic Development and .............................. 83
Competition Law – Canada and Korea
Hyungsuk Yoon

The Need for Improved Risk Management in Corporate ......................... 111
Governance of Banks in South Korea
Dong-Yoon Chae
Journal of the Indian Law Institute

VOLUME 54 JULY-SEPTEMBER 2012 NUMBER 3

CONTENTS

ARTICLES
Indian Competition Law: Global Context ... B.S. Chadha 315
Why and How Federalism Matters in Elimination of Disparities and Promotion of Equal Opportunities for Positive Rights, Liberties and Welfare? ... P. Ishwara Bhat 324

NOTES AND COMMENTS
Judicial Legislation Under Article 142 of the Constitution: A Pragmatic Prompt for Proper Legislation by Parliament ... Virendra Kumar 364
Presumption As to Legitimacy in Section 112 of Indian Evidence Act Needs to be Amended ... Cesar Roy 382

BOOK REVIEWS
Jayna Kothari, The Future of Disability Law in India: A Critical Analysis of the Person with Disability ... Madhulika Ramachandran 406
K.E. Noronha, Private International Law: Adequacy of Principles in Comparative Perspective ... Aruna J. Anugraha 405
Vishwanath Paranjoite, Legal Dimensions of Copyright: Pranam Dass 408
Srikanta Venkatraman, Indian Patent Law and Practice ... Rajesh Kumar Singh 413
Versha & Jyoti, Indian Case Law in Right to Freedom of Information ... A.K. Aniruddha 416

BOOKS RECEIVED FOR REVIEW ... 418
LIST OF SELECT FOREIGN ARTICLES ... 419
LIST OF SELECT FOREIGN CASES ... 447

Information regarding non-receipt of the Journal and other matters, should be addressed to the Registrar, The Indian Law Institute, Bhagwan Dass Road, New Delhi 110021. E-mail: jilp@ili.ac.in
The World Jurist Association believes that technology is particularly relevant to the progress and growth of worldwide law and legal institutions. The editors welcome for publication in this journal news on current activities in the field, manuscripts dealing with the relation of technology to law, and letters and comments of general interest.

Managing Editor
B. Folake Ogunyemi, LL.M.

Editors
Jackie Samis

CONTENTS
Editors' Note ii

Keys to Success in Distance Education and ABA Rule 306
By Andrea L. Johnson 1

The Tort Liability of Network Service Providers
By Yang Yue 16
Leiden Journal of International Law

Volume 26, No. 1 March 2013

Contents

EDITORIAL
1. The Public Good of Academic Publishing in International Law
Jean d'Aspremont and Larissa van den Herik

INTERNATIONAL LEGAL THEORY
2. Law and the Political Economy of the World
David Kennedy

49 On the Functions of International Courts: An Appraisal in Light of Their Growing Public Authority
Armia van Besouw and Inge Vande

INTERNATIONAL LAW AND PRACTICE
73 Embassy Bank Accounts and State Immunity from Execution: Doing Justice to the Financial Interests of Creditors
Cedric Ryngaert

HAGUE INTERNATIONAL TRIBUNALS
89 The Classification of International Legal Rules: A Reply to Stefan Talmon
Alexander Ortkölsnhill

105 The Dark Side of Immunity: Is There Any Individual Right for Activities facts Imperil
Matteo Sarza

INTERNATIONAL CRIMINAL COURTS AND TRIBUNALS
127 A Cosmopolitan Liberal Account of International Criminal Law
Darryl Robinson

153 The Making of Global Legal Culture and International Criminal Law
Kirsten Campbell

173 When International Criminal Justice Collides with Principles of International Protection: Assessing the Consequences of ICC Witnesses Seeking Asylum, Defendants Being Acquitted, and Convicted Being Released
Joris van Wijk

BIBLIOGRAPHY
193 Books and Articles in the Field of the Prevention and Peaceful Settlement of International Disputes
(Winter 2013)
Ingrid Kast

REVIEW ESSAY
201 On Communitarian and Constitutional Approaches to International Law
Jochen Rauber

BOOK REVIEWS
219 Antonio Cunha Trindade, The Access of Individuals to International Justice
Johannes van Aujelen

223 Frédéric Dupagne, Les actions de la justice internationale
Christiane Ahlborn

239 Kimberley N. Trapp, State Responsibility for International Terrorism: Problems and Prospects
Christian M. Henderson

234 Thomas Gammeltoft-Hansen, Access to Asylum: International Refugee Law and the Globalisation of Migration Control
Brid All Christiø

Cambridge Journals Online
For further information about this journal please go to the journal website at: journals.cambridge.org/ljl
Articles

Kitsuron Sangsvan ................................................................. 1

The Responsibility to Preserve: A Road Map for Saving Ecuador's Yasuni Rain Forest
Joshua M. Alter ................................................................. 53

The Post-Morrison Challenge—The Growing Irrelevance of a Transaction-Based Test in an Interconnected World: An Analysis of the Extraterritorial Application of Section 10(b) of the Securities Exchange Act of 1934 and the International Comity Implications in the Wake of Morrison
Christina M. Corcoran ................................................................. 77

Recent Decisions

Gordon v. City of New York Police Department, 84th Precinct ........................................ 107
The U.S. District Court for the Eastern District of New York held that under the Vienna Convention on Consular Relations, denial of a detained foreign national's request of consular notification does not provide an individual right to damages.

NML Capital, Ltd. v. Republic of Argentina ........................................ 115
The U.S. Court of Appeals for the Second Circuit held that an entity falls under the foreign sovereign Immunities Act commercial activity exception when it makes purchases in the market in the same manner as a private actor.

In re Extradition of Kapoor ...................................................... 121
The U.S. District Court for the Eastern District of New York granted a certificate of extraditability for an Indian National accused of fraud, forgery, and conspiracy.

Velez v. Sanchez ................................................................. 127
The Second Circuit affirmed the district court's conversion to and later dismissal of the plaintiff-appellant's claim under the Trafficking Victims Protection Reauthorization Act but remanded her Fair Labor Standards Act claim.

ESAB Group, Inc. v. Zurich Insurance PLC ........................................ 137
The U.S. Court of Appeals for the Fourth Circuit held that the McCarran-Ferguson Act's reverse pre-emption rule did not apply to a South Carolina law invalidating arbitration agreements.

Fain v. Islamic Republic of Iran .................................................. 143
The District Court for the District of Columbia held that the defendants waived their sovereign immunity under the state-sponsored terrorism exception to the Foreign Sovereign Immunities Act.
Volume 38 Number 1 2012

Contents

Introduction ................................................... III
System of the Bibliography ................................. V

System of the Bibliography
1. General
2. History of International Law
3. Basic Problems of International Law
4. International Law and National Law
5. Sources of International Law
6. States as Subjects of International Law
7. Subjects of International Law Other Than States, International Organizations and Individuals (Insurgents, De Facto Regime, etc.)
8. Groups of States
9. Territory and Jurisdiction
10. Law of the Sea
11. Air and Space
12. Polar Regions
13. Environmental Protection
14. Human Rights
15. Individuals and Groups
16. State Responsibility and State Liability
17. Diplomatic and Consular Relations, Diplomatic and Consular Immunity
19. International Public and Private Law Cooperation
20. World Economic Order and Social Order
21. Finances, Currency, Taxes
22. Transport
23. Telecommunications
24. Culture, Education, Sport
25. Health
26. Law of International Organizations (except UN, EU and Economic Organizations)
27. Regional Organizations (except EU, Economic Organizations and Alliances)
28. United Nations and Specialized Agencies
29. Peaceful Settlement of Disputes
30. Peacekeeping, Collective Security, Prohibition of the Use of Force
31. Alliances, Security
32. War, Armed Conflict, Neutrality
33. European Union, European Communities
Revue Générale
de
Droit International Public

Volume 116 N°4 2012

Sommaire

Click here to return to Journal list I-W

Articles

Emmanuelle JOUANNET - professeur à l'Université Paris I, Ecole de droit de la Sorbonne
Le droit international de la reconnaissance 769

Véronique GUEVREMONT - professeur, Faculté de droit, Université Laval, Canada
Le développement durable : ce gêne méconnu du droit international de la culture 801

Note

Edouard DUBOUT - professeur à l'Université Paris Est, directeur du Master droit européen
Le refus de saisine préjudicielle de la Cour de justice de l'Union européenne peut-il constituer un déni de justice? Réflexion sur le dédoublement fonctionnel des juges nationaux à partir de l'arrêt de la Cour de cassation du 26 octobre 2011 Société McCormick Guadeloupe 835

Laurent TRIGEAUD - maître de Conférences à l'Université Paris Panthéon Assas (Paris 2)
Les effets des conflits armés sur les traités suivant le projet d'articles de la Commission du droit international 847

Chronique des faits internationaux 871
Sous la direction de Louis BALMOND

Chronique de jurisprudence internationale 907
Sous la direction de Philippe WECKEL

Jurisprudence française en matière de droit international public 921
Sous la direction de Jean MATRINGE

Bibliographie 945
Sous la direction de Raphaële RIVIER

Table des matières de l'année 2012 961
ARTICLES :
Dave De Ruysscher. – La lex mercatoria contextualisée : tracer son parcours intellectuel ................................................................. 499
Rémy Verdo. – Les attributions des intendants sardes en Savoie au xviiie siècle .......................................................................................... 517
Sébastien Vosgien. – Le Bureau du Commerce et la Révolution (1788-1791) ....................................................................................... 549
Laurent Constantini. – Les projets constitutionnels sud-américains de Francisco de Miranda : la fondation d'une nouvelle société politique sur la vertu et les institutions ................................................................. 571
VARIÉTÉS :
Remy Scialom. – Les droits de l'homme et le droit hébraïque .......... 599
Jonas Knetsch. – La loi du 9 avril 1898 sur les accidents du travail et le spectre de l'« État assureur » .......................................................... 619
COMPTES RENDUS :
Jacques Krynen – L'État de Justice, France, xiiie-xxe siècle, I et II (Isabelle Brancourt) ........................................................................................................ 633
Adrien Dubois. – Un registre de la vicomté d'Elbeuf (1470-1472) (Isabelle Brancourt) .............................................................. 638
Monique Cottret, Valérie Guittienne-Mürger et Nicolas Lyon-Caen, éd. – Un magistrat janséniste du siècle des Lumières à l'émigration, Pierre-Augustin Robert de Saint-Vincent (Jacques-François Lanier) 639
Nelly Hissung-Convert. – La spéculation boursière face au droit 1799-1914 (Olivier Descamps) ................................................................. 643
REVUES .................................................................................................................. 645
NOUVELLES DIVERSES ..................................................................................... 651
TABLES de l'année 2012 ........................................................................................ 653
OUVRAGES envoyés à la Direction de la Revue ................................................. 657
Sommaire

ÉTUDES

Éléments de réflexion sur la place des principes du « droit public musulman » (A’am fi al Islam) dans l’enseignement du droit constitutionnel

Thierry Rambaud 853

Le centre des intérêts principaux du débiteur insolvable en droit comparé

Giulio Cesare Giorgini 867

Protection administrative des valeurs culturelles. L’exemple de la médecine traditionnelle chinoise

Wang Li 903

VARIÉTÉS

La responsabilité sociétale des entreprises en Arabie Saoudite

Yahya Alzahrani 923

Élargissement et diversification du contrôle juridictionnel belge des actes administratifs. Appel pour l’utilisation du droit comparé et la création d’une vision claire

Jurgen Goossens 949

Le nouveau procès administratif au Cameroun : réflexion sur le recours gracieux en matière d’urgence

Jacques Bipele Kemfouedjo, Olivier Fandjip 973

CHRONIQUES DE LÉGISLATION ET DE JURISPRUDENCE ÉTRANGÈRES

L’action en nullité par voie judiciaire des résolutions d’une assemblée générale en droit espagnol

Jorge Richter 997
Sommaire

SÉNAT - Législation comparée
- La procédure de reconnaissance du droit d'asile, LC 227, juillet 2012 999
- Le cumul des mandats électoraux et des fonctions électives, LC 228, juillet 2012 1006

INFORMATIONS
Le « Comparative Law Journal of the Pacific - Journal de droit comparé du Pacifique » (CLJP - JDCP) ou le nouveau visage d'une revue de droit comparé dans le Pacifique Sud.......................................................... 1013

Prix du salon du livre juridique 2012........................................ 1014

Bibliographie française (juin-novembre 2012)............................ 1015

BIBLIOGRAPHIE
Bibliographie commentée.................................................. 1025
Livres reçus................................................................. 1057
Table des matières pour l'année 2012.................................... 1061
Table analytique........................................................... 1065
CONTENTS

ARTICLES

FOREWORD............................................................... Kyle M. Bird 1

THE 2012 U.S.-MEXICO AGREEMENT
ON TRANSBOUNDARY HYDROCARBON
RESERVOIRS IN THE GULF OF MEXICO:
A BLUEPRINT FOR PROGRESS OR A
RECIPE FOR CONFLICT? ................................. Jorge A. Vargas 3

THE JUDICIALIZATION OF INTERNATIONAL
ATROCITY CRIMES: THE KHARKOV TRIAL
OF 1943 ........................................................ Michael J. Bazyler
Kellyanne Rose Gold 77

CYBERTERRORISM IN THE CONTEXT
OF CONTEMPORARY INTERNATIONAL
LAW ............................................................... Yaroslav Shiryaev 139

COMMENTS

BASEL III AND CREDIT RISK
MEASUREMENT: VARIATIONS
AMONG G20 COUNTRIES................................. Matt Schlickenmaier 193

“THERE’S NO PLACE LIKE HOME”
DOMA DEPORTATION: THE FORCED
EXPATRIATION OF BI-NATIONAL SAME-
SEX COUPLES FROM THE UNITED STATES
TO CANADA .................................................. Anh “Annie” Nguyen 225
INTRODUCTION: THE RIGHT TO FREEDOM OF RELIGION IN SOUTH AFRICA AND RELATED CHALLENGES

David Bilchitz and Shaun de Freitas

RELIGION AND THE PUBLIC SPHERE: TOWARDS A MODEL THAT POSITIVELY RECOGNISES DIVERSITY

David Bilchitz and Alistair Williams

What model of the relationship between religion and state is optimal for South Africa? In order to identify the possibilities that exist, this article engages in a critical evaluation of the differing models of the state-religion relationship that have been adopted internationally. Part I seeks to identify, from a philosophical perspective, the advantages and disadvantages of particular models. Part II then focuses more closely on the particular historical and social context of South Africa as well as the most important constitutional provisions and case law. We shall argue in this section for what we term a 'positive recognition' model of the relationship between religion and state in South Africa, which emerges from the values underlying the Constitution. The model is not predicated on a strict, inflexible separation between the public and private realms. It requires the state to recognise the significance of religious identities to individuals and to take active measures to enable individuals to realise those identities. Importantly, it must do so in a manner that treats differing religious (and other philosophical) conceptions of the good equally. The last part of the article seeks to illustrate the implications of this model in practice in relation to two important practical questions where the state-religion relationship is implicated: public holidays of a religious character and the presence of religion at state ceremonies.

MOTTOS, PRAYER AND THE PUBLIC UNIVERSITY

Shaun de Freitas

Recent decisions by the University of the Free State (UFS) regarding the amendment of its motto and the prohibition of the public manifestation of prayer at formal occasions serve as a catalyst towards discussion on the role and place of religion not only in a public university but also in the public sphere. The exclusion of religious expression and activity seems to be part of the UFS's drive towards a 'transformed and inclusivist' approach. This article consequently investigates such exclusivist measures, critically analysing whether such initiatives are truly aligned with 'transformative' and 'inclusivist' aims. How religious (and belief) expressions and practices are dealt with at the UFS makes for a particularly good case study regarding commitments to pluralism, accommodation and multiculturalism. By looking specifically at the changing of the motto of the UFS and the exclusion of prayer at this institution, this article seeks to find solutions to a more effective accommodation of religious expression at the UFS. Lessons can be learnt from this not only for the UFS, but also for any public institution.

JUDGING JEWISH ECCLESIASTICAL BODIES

Stu Woolman and David Zeffertt

Determining who is in, and who is out, is a hot topic in debates about membership in religious communities, and the bodies, state and sectarian, that have the power to make decisions regarding such membership. For the most part, the state and the courts have taken a decidedly hands-off approach to interference in religious association decision-making. Some judgments have reinforced the proposition that individuals who 'voluntarily' commit themselves to a religious association's rules and decision-making bodies must be prepared to accept the outcome of fair hearings conducted by those bodies. At the same time, a number of judgments have demonstrated a willingness to intervene quite profoundly in the affairs of a variety of different religious communities and mediate the relationship between the profane and the sacred, the traditional and the modern. Our intervention concentrates on but two features of court-driven, constitutional review of religious association decisions regarding membership or participation in a given community. First, we suggest how the law of evidence can provide appropriate guidance to courts faced with the challenge of interrogating the validity of decisions taken by religious bodies. Second, we offer a theory of religious community life in a constitutional democracy that can guide courts in determining when and where they should and should not interfere in the decision-making of religious bodies.
THE POSITIVE ROLE OF PUBLIC POLICY IN PRIVATE INTERNATIONAL LAW AND THE RECOGNITION OF FOREIGN MUSLIM MARRIAGES

Jan I. Neels

This article deals with the possible recognition in South Africa of foreign Muslim marriages that are not valid in terms of the law of the country in which they were concluded. It is argued that such recognition is possible through the positive application of the doctrine of public policy. The role of public policy in private international law is usually described as a negative one (the exclusion of foreign law), but it is submitted that public policy may also play a positive role (the application of a legal system other than the usually applicable one) and some authority and examples are found in the common-law conflict of laws, Islamic jurisdictions and Israeli law. The relevance of the difference between internal and external public policy is indicated and the issue of whether the infringement by the foreign law of a right in the South African Bill of Rights automatically constitutes a violation of the forum’s external public policy is discussed with reference to recent case law. South African decisions dealing with the recognition of Muslim marriages for certain purposes in domestic law on the basis of constitutional values indicate that the doctrine of public policy in private international law may readily be employed to recognize foreign Muslim marriages irrespective of their invalidity in terms of the prima facie applicable legal system. If the Muslim Marriage Bill of 2010 were to enter into force, the courts would be able to rely directly on a provision dealing with the recognition of foreign Muslim marriages to reach the same result. Certain shortcomings in the current draft are highlighted and an alternative formulation is proposed.

The Strydom Case and the Tension Between Religious Liberty and Equality

THE RIGHT OF RELIGIOUS ASSOCIATIONS TO DISCRIMINATE

Patrick Lenta

The issue of whether religious associations should be permitted to engage in employment discrimination on prohibited grounds such as gender, sexual orientation or race gives rise to a collision between the rights to religious freedom and freedom of association, on the one hand, and the right to equality, on the other. In a recent article in which I criticized Strydom I for balancing these rights incorrectly in Strydom v Nederduitsche Gereformeerde Gemeente, Moreleta Park, I argued that equal importance should be attached to the rights to equality and religious and associational liberty, and that the correct balancing of these rights requires that religious groups be permitted to discriminate in their employment practices in respect of positions sufficiently close to the core of religious doctrine. My article has elicited two thoughtful replies, one by Prof Sta Woolman and the other by Prof David Bilchitz. Bilchitz argues that I afford the right to equality insufficiently robust protection and claims that in South Africa the right to equality should be accorded ‘primacy’ relative to the rights to religious and associational liberty in cases in which these rights conflict. Woolman contends that the protections I provide for the right to freedom of association is too weak and that religious associations should have more extensive freedom to discriminate than I allow. In this article, effectively a rejoinder, I defend my assessment of Strydom and my approach to the present conflict of rights against several objections advanced by Bilchitz and Woolman. I argue for a workable compromise between their positions: equality must often prevail (that is, in the public, political and ordinary commercial spheres, and where the position in respect of which religious associations seek to discriminate is distant from the doctrinal core of the religion concerned), but sometimes the claims of religious voluntary associations to discriminate in accordance with settled religious beliefs should be accommodated.
FREEDOM OF ASSOCIATION AS A FOUNDATIONAL RIGHT: RELIGIOUS ASSOCIATIONS AND STRYDOM v NEDERDUITSE GEREFORMEERDE GEMEENTE, MORELETA PARK

Shaun de Freitas 258

In Strydom v Nederduitse Gereformeerde Gemeente, Moreleta Park the applicant was appointed as an independent contractor by the respondent (a church) to teach music to its students. The respondent terminated the services of the applicant when it was discovered that he was involved in a same-sex relationship. However, it was decided that the respondent had discriminated unfairly against the applicant. This decision has prompted current debate regarding the parameters of appointments by (and membership of) religious associations in South Africa. This investigation contributes to such debate arguing that appointments by (and membership to) a church may require an adherence to the core tenets of such a church, irrespective of the functions emanating from such an appointment. Also, the view that same-sex sexual conduct should not be used as a discriminatory ground in appointments (membership) by a religious association is critically analysed, thereby presenting some insights as to the relationship between the right to equality and religious rights and freedoms, especially in the context of diversity and identity in a pluralist and democratic society.

SEEK JUSTICE ELSEWHERE: AN Egalitarian Pluralist’s Reply to David Bilchitz on the Distinction Between Differentiation and Domination

Stu Woolman 273

This response to Professor David Bilchitz attempts to put the two of us back on square. It advances our ‘roughly’ common conception as to how our constitutional order ought to address conflicts between equality and liberty that surface in cases that turn on differentiation and discrimination within religious orders and traditional communities. To that end, this article first clears up any previous misunderstandings, establishes our common ground and adumbrates a (largely) shared paradigm as to when our basic law should identify cognisable harms to the dignity of fellow South Africans and the broad array of remedies at the disposal of our courts. This article then reminds us that we possess a well-developed body of South African jurisprudence that distinguishes the public from the private, and why constitutions are invariably committed to a defence of pluralism and some degree of privatization. Thereafter, I advance the idea that one might ‘seek justice elsewhere’ as a response to domination and tyranny; either by peregrinations around the globe or by exiting one sub-public and entering or constructing another more felicitous community within one’s birth-state. With respect to the former, it is claimed that the engagement and the impairments of an individual’s dignity should, along with the state, bear some form of material obligation in order to make the creation of a more commodious sub-public a reality. Thereafter, the article rules heavily on these laid out in Michael Walzer’s Spheres of Justice. Spheres of Justice, which enables us to make critical distinctions between differentiation and domination, as well as between legitimate distributions of social goods and tyrannical abuses of economic, social and political power that invariably lead to the kind of stratified society that we inhabit in South Africa. The article then draws on Walzer’s distinction between differentiation and domination in order to demonstrate how a commitment to remedial equilibration can assist us in developing a sliding scale of ‘interdependent and interrelated’ rights and remedies by which the rules that govern public and private, national and international social orders might be measured when charges of discrimination are laid. A court order based upon remedial equilibration possesses a number of distinct virtues. Where differentiation rises to the level of racial discrimination, remedial equilibration allows a court to: (a) acknowledge the constitutional inferiority of the conduct; (b) appropriately remonstrate the association responsible for such conduct without necessarily empowering the power of the association to continue to determine its rules for membership, voice and exit; (c) require the association, and where appropriate the state, to bear the pecuniary costs of the disavowal (or expulsion); and (d) assist the person harmed to secure employment (or some other good) in a more congenial environment and thereby find justice elsewhere.

WHY COURTS SHOULD NOT SANCTION UNFAIR DISCRIMINATION IN THE PRIVATE SPHERE: A REPLY

David Bilchitz 296

This article addresses the question as to whether religious associations should be granted an exemption from legal anti-discrimination provisions relating to their employment practices. It focuses on responding to criticisms mainly by Patrick Lenta of my position that, in general, no such exemptions should be granted. The key issues I address are the following. Firstly, I shall consider the relationship between South Africa’s particular context and the approach to be
adapted towards interpreting and balancing fundamental rights in South African constitutional law. Secondly, I shall contend that religious associations do violate liberal reciprocity when seeking such an exemption and respond to Leuta's argument in this regard. Thirdly, I shall consider the harms of discrimination by religious communities upon the equal citizenship of vulnerable groups and distinguish this from the distress caused by refusing members of religious associations exemptions from anti-discrimination legislation. Finally, I shall discuss the question of remedies and the possibilities they allow for encouraging religious associations to act in ways that are consonant with South Africa's constitutional democracy.

Case Notes

JUDGES' HISTORY: ON THE USE OF HISTORY IN THE MALEMA JUDGMENT

Julian Brown 316

DEFENCES UNDER THE PROTECTION OF STATE INFORMATION BILL: JUSTIFICATIONS AND THE DEMANDS OF CERTAINTY

James Grant 328

Book Review

Hannah Tonkin State Control over Private Military and Security Companies in Armed Conflicts (2011)

Sabelo Gumede 35
| ABSTRACTS | 601 |
| NOTES | |
| Compliance with section 25(2)(b) of the Constitution: When should compensation for expropriation be determined? by Z T Boggenpoel | 605 |
| Squeezing out provinces' legislative competence in Premier: Limpopo Province v Speaker: Limpopo Provincial Legislature & others I and II by Robert F Williams & Nico Steytler | 621 |
| State privilege, protection of information and legal proceedings by Constantine Theophilopoulos | 637 |
| ARTICLES | |
| Judges: Servants of justice or civil servants? by Malcolm Wallis | 652 |
| 'In the beginning was the word': The role of text in the interpretation of statutes by Michael Bishop & Jason Brickhill | 681 |
| The meaning of 'prescribed officers' under the Companies Act 71 of 2008 by Kathy Idensohn | 717 |
| Regulating legal capital reduction: A comparison of creditor protection in South Africa and the State of Delaware by Richard S Bradstreet | 736 |
| The Malawi Pension Act: A general commentary on some of its core mandatory provisions with specific reference to sections 9, 10 and 15 by Mnendo weka Mhango & Puseletso Thejane | 758 |
| A straw man, three red herrings, and a closet rule-worshipper — A rejoinder to Davis JP by Anton Fagan | 788 |
| BOOK REVIEWS | |
| David McQuoid-Mason & Mahomed Dada A–Z of Medical Law (2011) by Sanette Nel | 808 |
CONTENTS

ARTICLES

Knock, Knock; Who’s There? Announcing Targeted Killing Procedures and the Law of Armed Conflict
Major John C. Harwood 1

International Corporate Tax Reform: It’s Time to “Walk-the-Talk” (No More Platypuses, Please)
Paul K. Marineau 29

Anna Dolidze 119

NOTES

It’s Not Your Business! A Critique of the U.K. Legal Services Act of 2007 and Why Nonlawyers Should Not Own or Manage Law Firms in the United States
Katherine H. Reardon 155

Tax Enforcement in Virtual Worlds—Virtually Impossible?
William E. Arnold, IV 187
TABLE OF CONTENTS

ARTICLES

Sarah Howard Jenkins

Dominic Hoerauf

On the Legal Issues Regarding the Prosecution of Sea Pirates (Including Human Rights): A Case of History Repeating Itself? .................. 233
Barry Hart Dubner & Sara Fredrickson

Religious-Based Employment Practices of Churches: An International Comparison in the Wake of Hosanna-Tabor ......................................................... 263
Matthew K. Richards, Scott E. Isaacson, David A. Peterson, & Victor van Vuuren

NOTES & COMMENTS

IP Wars: SOPA, PIPA, and the Fight Over Online Piracy ................................................................. 303
Mike Belleville

Guarding the Final Frontier: The Future Regulations of the International Seabed Authority ................................................................. 335
David Hartley

Responsibility to Protect: Moral Triumph or Gateway to Allowing Powerful States to Invade Weaker States in Violation of the U.N. Charter? .................. 367
Jamie Herron
In his remarks at the School of International Relations in Tehran, Iran, on 30 August 2012, Secretary-General Ban Ki-moon said: “At the entrance of the United Nations there is a magnificent carpet—I think the largest carpet that the United Nations has—that adorns the wall of the United Nations, a gift from the people of Iran. Alongside it are the wonderful words of that great Persian poet, Sa'adi. I quote:

All human beings are members of one frame,
Since all, at first, from the same essence came,
When time afflicts a limb with pain
The other limbs at rest cannot remain.
If thou feel not for other’s misery
A human being is no name for thee.

This wise counsel is as relevant today as when it was written nearly 800 years ago.” The Secretary-General added that: “Our collective responsibility is to build bridges of mutual understanding. This is the very heart of the Alliance of Civilizations, which is an initiative by the United Nations, an initiative inspired by Iran itself through dialogue among civilizations. This is what your country has proposed. All nations should be true to that higher calling.”

The 2001 United Nations Year of Dialogue among Civilizations was established to redefine diversity and to improve dialogue between civilizations and cultures. Dialogue among civilizations laid the foundations for what, in 2005, became the Alliance of Civilizations. As the Secretary-General said in a 2007 speech, “the Alliance of Civilizations [is] the successor to our earlier Dialogue among Civilization process.” The UN Chronicle takes a closer look at that process and at the progress made and lessons learned during the past ten years in achieving dialogue among civilizations, for that goal remains as valid and as necessary today as it was back in 2001.
**Table of Contents – Table des matières**

**ARTICLES**

The International Registry for Aircraft Equipment – Breaking New Ground
Rob COWAN / Donal GALLAGHER

From Acorn to Oak Tree: the Development of the Cape Town Convention and Protocols
Roy GOODE

The Luxembourg Rail Protocol – Extending Cape Town Benefits to the Rail Industry
Howard ROSEN / Martin FLEETWOOD / Benjamin VON BODUNGEN

Jeffrey WOOL

Party Autonomy – a Blank Cheque?
Cecilia FRESNEDO DE AGUIRRE
INTERNATIONAL DEVELOPMENTS

ACTIVITÉS INTERNATIONALES

NEWS / ACTUALITÉS

◊ UNIDROIT

➢ 91st Session of the Governing Council – Summary
Conclusions / 91ème Session du Conseil de Direction –
Conclusions sommaires – Rome, 7-9 May / mai 2012

➢ International Interests in Mobile Equipment / Garanties
internationales portant sur des matériels d'équipement
mobiles.

➢ Substantive Rules regarding Intermediated Securities / Règles
de droit applicables aux titres intermédiaires,
and/et
Principles and Rules Capable of Enhancing Trading
in Securities in Emerging Markets / Principes et règles visant
à améliorer les transactions sur les marchés financiers
émergents

➢ Netting of Financial Instruments / Compensation des instruments financiers

➢ International Protection of Cultural Property / La Protection
internationale des biens culturels

de droit uniforme

➢ UNIDROIT Research Programme /
Programme de recherches d'UNIDROIT

◊ Hague Conference on Private International Law /
Conférence de La Haye de droit international privé

◊ United Nations Commission on International Trade Law
(UNCITRAL) / Commission des Nations Unies pour le
droit commercial international (CNUDCI)
UNIFORM LAW INSTRUMENTS
INSTRUMENTS DE DROIT UNIFORME

Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Assets
Protocole portant sur les questions spécifiques aux biens spatiaux à la Convention relative aux garanties internationales portant sur des matériels d’équipement mobiles
(Berlin, 9 March / mars 2012)

BIBLIOGRAPHY
BIBLIOGRAPHIE

Uniform Law Bibliography / Bibliographie de droit uniforme

INDEX

General Index / Index général – Volume XVII (2012)
CONTENTS

ARTICLES

Multijurisdictional Bribery Law Enforcement: The OECD Anti-Bribery Convention
*Elizabeth K. Spahn* .................................................................................................... 1

Regulatory Competition and Anticorruption Law
*Paul B. Stephan* ........................................................................................................ 53

Transnational Libel
*David A. Anderson* ................................................................................................ 71

'The SPEECH Act's Unfortunate Parochialism: Of Libel Tourism and Legitimate Pluralism
*Mark D. Rosen* ........................................................................................................ 99

Ancillary Discovery to Prove Denial of Justice
*Roger P. Alford* ....................................................................................................... 127

Forum Conveniens: The Search for a Convenient Forum in Transnational Cases
*Donald Earl Childress III* ...................................................................................... 157

Toward a Functional Approach to Sovereign Equality
*Peter B. Rutledge* ................................................................................................... 181
Table of Contents

ARTICLES

The Road to Hell . . . : The Statistics Proposal as the Final Solution to the Sovereign's Human Rights Question
Samuel R. Lucas ................................................. 259

Provisional Measures Under the African Human Rights System: The African Court's Order Against Libya
Dan Juma ....................................................... 344

COMMENTS

Electronic Health Records: How the United States Can Learn from the French Dossier Médical Personnel
Amanda Grady ................................................. 374

Refueling Biofuel Legislation: Incorporating Social Sustainability Principles to Protect Land Rights
Jamie Konopacky ............................................. 401

Where is the Right Balance?—Exploring the Current Regulations on Nontraditional Three-Dimensional Trademark Registration in the United States, the European Union, Japan and China
Ke Xin Li ....................................................... 428

Volume 30
Number 2
Summer 2012