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**Vol. 16, no. 1: Table of Contents**



# Denver Journal of International Law and Policy

VOLUME 16

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## ARTICLES

### A COMMON LAW COURT IN A MARXIST

COUNTRY: THE CASE FOR JUDICIAL REVIEW

IN THE HONG KONG SAR . . . . . *Michael C. Davis* 1

In 1997, the Peoples Republic of China (PRC) will resume the "exercise of sovereignty" over the British Crown Colony of Hong Kong. For the next 50 years Hong Kong will function as a "Special Administrative Region" (SAR) of the PRC. The SAR of Hong Kong and the PRC are going to attempt the perhaps unprecedented governing model of "one country, two systems." This presents a unique opportunity for experimentation in comparative constitutional law. One of the most critical issues in the transition of rule is how the constitution, or Basic Law, of Hong Kong will function within the framework of the government of the PRC. The author explores various theories of constitutional systems and federal states and advocates a system of judicial review for Hong Kong's new Basic Law as the system best suited to facilitating the assimilation of Hong Kong into the PRC.

### THE WAR POWERS RESOLUTION: CONFLICTING

CONSTITUTIONAL POWERS, THE WAR POWERS AND

U.S. FOREIGN POLICY . . . . . *Bradley Larschan* 33

This article traces the political and legislative history of the War Powers Resolution, enacted in 1973. It also details the history of the Presidential War Power from the Articles of Confederation to the present day, tracing its conflict with Congress and the judiciary through the Federalist Papers, the Vietnam War, and *I.N.S. v. Chadha*. The focus of the article is the Constitutionality of the War Power and the War Powers Resolution as examined through the original intent of the Founding Fathers, particularly in the construction of the terms *declaration* of war and *make* war. The article then examines the constitutional division of the war-related powers of the Congress, the President, the Commander-in-Chief, Foreign Policy, and case law from the inception of the Constitution. The article concludes by examining the effect of the War Powers Resolution on U.S. Foreign policy and analysing its implications for the future given the Resolution's mandate for Congress for unconstitutional infringement on the Chief Executive's war powers.

### POLITICAL VIOLENCE AND INTERNATIONAL LAW:

THE CASE OF NORTHERN IRELAND . . . . . *Alpha M. Connelly* 79

This article examines the claim of the Provisional Irish Republican Army to be an army of national liberation. The author assesses the legitimacy of this claim against the norms and principles of public international law. The I.R.A. itself asserts not only a moral right to use violence but also a legal right, expressly invoking recognized principles of international law to validate its actions. The author rejects these claims by the I.R.A., pointing out that the I.R.A. of 1987 is not the same organization as the I.R.A. (Irish



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Volunteers) of 1916 and that it would require a time-warp to view the I.R.A. today as an army of national liberation. The author concludes that the way forward in Northern Ireland with its horrendous religious bigotries is not through the gun but through significant social reform.

## MANAGEMENT AGREEMENTS IN DUTCH

### AGRICULTURAL LAW: THE CONTRACTUAL INTEGRATION OF AGRICULTURE AND

CONSERVATION . . . . . *Margaret Rosso Grossman* 95

This article examines the implementation of the *Relatienota* Policy in the Netherlands. The *Relatienota* established a policy framework for coordination of the conflicting demands of nature conservationists and farmers. The primary focus is aimed at government imposed management agreements and physical planning which allow agricultural development and conservation of scarce natural areas to coexist. The author concludes that while there are problems and inefficiencies with the *Relatienota* policy, the continued cooperation between the Dutch Government and private farmers will insure the survival of the most valuable natural areas in the Netherlands for future generations while contributing to the efficient use of agricultural land.

## CRITICAL ESSAY

### A SURVEY OF THE INTERNATIONAL LAW OF RIVERS . . . . .

*James O. Moermond III* 139  
*Erickson Shirley*

This essay surveys the legal theories applicable to the resolution of international river disputes. Principles examined include; absolute state sovereignty, absolute territorial integrity, prior use, no substantial harm, equitable utilization and optimal use. The article discusses the historical development of international river law, principles prohibiting harmful use, and equitable utilization and optimal use. The article concludes with a discussion of how the increased interaction and interdependency of nations led to the principle of equitable utilization in the resolution of international river disputes.

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### *INS v. Cardoza-Fonseca*: INCHING

#### TOWARD A DETERMINABLE STANDARD OF PROOF IN POLITICAL ASYLUM CASES . . . . .

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