

Denver Journal of International Law & Policy

Volume 13
Number 1 *Fall*

Article 2

January 1983

Vol. 13, no. 1: Table of Contents

Denver Journal International Law & Policy

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Recommended Citation

Table of Contents, 13 Denv. J. Int'l L. & Pol'y [iii] (1983).

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Vol. 13, no. 1: Table of Contents



Denver Journal of International Law and Policy

VOLUME 13

NUMBER 1

FALL 1983

MYRES S. MCDUGAL DISTINGUISHED LECTURE

NUCLEAR WEAPONS AND INTERNATIONAL LAW:

ILLEGALITY IN CONTEXT *Burns H. Weston* 1

The University of Denver College of Law was honored to have Professor Burns H. Weston, Professor of Law at the University of Iowa, as its guest speaker for the eighth annual Myres S. McDougal Distinguished Lecture. Professor Weston chose to address the topic of assessing the legality of nuclear weapons and warfare, and he notes it is the special obligation of lawyers, "together with our clerical friends, to point up the normative rights and wrongs of coercive nuclearism." In his remarks, Professor Weston acknowledges that while there are no explicit treaties or treaty provisions which render nuclear weapons illegal per se, there are six "core rules" applicable to nuclear weapons which may be derived from the conventional and customary laws of war. Having identified these six core rules, he then proceeds to analyze the potential ways in which nuclear weapons might be used in terms of these rules. These ways include first defensive use, second defensive use and threat of first or second defensive use. Professor Weston concludes his remarks by stating that "almost every use to which nuclear weapons might be put, most notably the standard strategic and theater-level options which dominate United States and Soviet nuclear policy, appear to violate one or more of the laws of war that serve to make up the contemporary humanitarian law of armed conflict, in particular the principal of proportionality."

ARTICLES

A GLOBAL SURVEY OF GOVERNMENTAL INSTITUTIONS
TO PROTECT CIVIL AND POLITICAL RIGHTS . *Hector Fix Zamudio* 17

The purpose of Professor Fix Zamudio's survey, which is a condensed version of his masterful study in Spanish, *LA PROTECCIÓN PROCESAL DE LOS DERACHOS HUMANOS* (1982), is "to demonstrate the fact that within almost every country of the world with an organized government, there exists some means by which citizens may redress grievances of fundamental rights violations." The survey is divided into two parts. The first part concerns legislative enactments, primarily constitutional provisions, and the judiciary, and examines the conceptualization and classification of domestic instruments, Anglo-American instruments, Latin American instruments, continental European instruments, and the Procurator of the socialist legal systems. The second part focuses on executive remedies and is examined primarily through the Ombudsman model, which originated in Scandinavia. Professor Fix Zamudio's overall thesis is that national institutions are more promising than multinational institutions for the redress of fundamental

B.S.B.A., J.D.; The Honorable Joseph R. Quinn, A.B., LL.B.; Stephen C. Rench, B.A., J.D.; Paul E. Scott, B.A., M.D., J.D.; Daniel J. Sears, B.S., J.D.; Martin Semple, B.A., J.C.B., J.L.L., J.C.D., J.D.; Harley W. Shaver, A.B., J.D.; C. Garold Sims, B.A., J.D.; Gerald D. Sjaastad, B.S., M.S.C.E., Ph.D., J.D.; James W. Spensley, B.S., J.D.; Harry M. Sterling, B.S., LL.B.; Peter M. Sussman, B.A., J.D.; Janice R. Tanquary, B.A., J.D.; James K. Paupey, B.B.A., J.D.; Cooper Wayman, B.S., M.S., Ph.D., J.D.; Michael O. Wirth, B.S., M.A., Ph.D.; Lucius E. Woods, B.S., LL.B.; Brooke Wunnicke, B.A., LL.B.; James R. Young, B.S.C.E., J.D.; Adjunct Lecturers in Judicial Administration: Teri P. Campbell, B.S., B.A., J.D.; Stephen P. Ehrlich, B.S.B.A., J.D.; Barbara J. Gletne, B.A., M.A.; Maureen M. Solomon, B.A., M.P.A.; Bernard D. Steinberg, B.Mus., J.D.; Daniel R. Vredenburg, B.S., M.S.J.A.

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is an integral part of the University of Denver's International Legal Studies Program. The purpose of the Program is to prepare students for effective roles in the contemporary interdependent world of business, federal government, and international relations. The faculty includes members of the regular faculty at the University of Denver College of Law, professors from other schools and departments of the University, and several practicing attorneys. The Director of the Program is Professor Ved P. Nanda of the College of Law.

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Other components of the Program include the Denver International Law Society, the Myres S. McDougal Distinguished Lecture in International Law and Policy, the annual regional conference of the American Society of International Law, and the Philip C. Jessup International Law Moot Court Competition.

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rights violations, and he concludes that through this global survey, "we may obtain a better perspective of the most effective and expedient means for the protection and resolution of fundamental rights violations, namely the pursuit of domestic remedies rather than the more idealistic and cumbersome methods of external world pressure currently advocated." An Addendum is attached to the article to update the reader on events transpiring between authorship and publication.

**LEGISLATIVE REFORM OF U.S. EXTRADITION STATUTES:
PLUGGING THE TERRORIST'S LOOPHOLE . . . *William M. Hannay* 53**

Mr. Hannay's basic contention in this article is that U.S. antiterrorist policy and U.S. antiterrorist law as set forth by current U.S. extradition procedures are unacceptably inconsistent. The reason for this inconsistency is the absence of legislation dealing with extradition procedures, which absence has resulted in a situation in which "recent U.S. court rulings have appeared to put the imprimatur of our judicial system on the violent acts of terrorists who have no respect for human life, for democratic process or for the Rule of Law." Mr. Hannay gives an overview of these cases as well as of legislation, developed in cooperation with the Departments of State and Justice, which would have transferred the standards for extradition from the judiciary had it been passed during the second session of the 97th Congress. Significant differences developed, however, between the House and Senate versions of the bill, with respect to the "political offense" exception to extradition treaty. Most of the article is spent analyzing the different approaches to defining the "political offense" exception. Mr. Hannay suggests that amendments proposed by the ABA's Section of International Law and Practice, a copy of which is appended to the article, provide a resolution of the issue. He concludes that the Senate's version "would be entirely satisfactory if it is recognized that the Senate Foreign Relations Committee has set forth the correct standard for interpreting "extraordinary circumstances" [which goes to the reasonableness of committing the political offense], if a new prohibition excluding terrorist attacks on civilians is added, and if the American Bar Association's proposed amendment is adopted. Such a statute will give courts the necessary tools with which to separate the truly downtrodden from the merely dissatisfied, to distinguish the rebel from the terrorist."

**AN OVERVIEW OF COMPARATIVE
ENVIRONMENTAL LAW *A. Dan Tarlock and
Pedro Tarak* 85**

Professors Tarlock and Tarak attempt "a brief comparative analysis of the different [national] institutional responses to the various types of environmental degradation." They begin their study by categorizing environmental insults as episodic or periodic and then examining their legal consequences. From there they turn to the factors influencing environmental protection levels, which will vary from country to country, in terms of industrialization, political organization, political ideology and opportunities for public influence. Following this, they examine the costs and benefits of the two basic legal strategies to control environmental insults: private actions and public actions. In addition to judicial actions, they devote attention to public regulation by legislation, exploring how policy is formulated and how institutional and/or general arrangements are created to regulate the envi-

ronment. They conclude that all nations, despite their internal differences, should incorporate three essential features in their environmental protection policies. The first is for an arm of the central government to have an exclusive mandate, the second is that such arm have "the power to decide how pollution costs are to be allocated as between public and private entities" and the third is the integration of values promoting environmental goals must occur in the countrys' general policymaking processes.

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