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THE LAW OF PIRACY ............................................. Alfred P. Rubin 173

This article traces the historical origins of the concept of piracy in its ancient Greek and Latin notions in order to provide a context for its modern application in international law. The variety of historical contexts from which the term “piracy” has arisen have given rise to the numerous modern definitions and consequences under international law. Professor Rubin traces the spectrum of piracy in its legal implications, from its origins as a legitimate form of warfare and marginally tolerated form of business, to its modern identification as an interruption of peaceful commerce which the international legal order will not tolerate. The article also discusses the evolution of jurisdictional aspects of the law of piracy.

FOR WHOM THE BELL TOLLS IN THE
AFTERMATH OF THE BHOPAL TRAGEDY: SOME
REFLECTIONS ON FORUM NON CONVENIENS AND
ALTERNATIVE METHODS OF RESOLVING THE
BHOPAL DISPUTE ........................................ Ved P. Nanda 235

This article explores the legal dilemmas faced by both the U.S. and Indian court systems in the aftermath of the Bhopal accident. The primary focus of the article is on two areas: the dismissal of the victims’ suit on forum non conveniens grounds in the Southern District of New York, which was affirmed by the Second Circuit of the U.S. Court of Appeals; and the alternative means of resolution of the dispute outside the adjudicative process. The proceedings of both cases in the Indian and U.S. court systems are discussed, with special emphasis placed upon the forum non conveniens analysis employed by the U.S. Federal District Court. In conclusion, Professor Nanda proposes the use of some form of alternative dispute resolution to settle the court claims, and as a means of avoiding the further injury to the plaintiffs as a result of protracted court proceedings.

CRITICAL ESSAYS

THE “POLITICAL OFFENSE EXCEPTION” REVISITED:
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SOUND LAW AND POLICY ............................ M. Cherif Bassiouni 255

In this Critical Essay, Professor Bassiouni attempts to develop a “bridge” between the legal arguments of Professor Blakesley and the policy arguments of Judge Sofaer, Legal Adviser to the Department of State. The essays by Professor Blakesley and Judge Sofaer appeared in 15:1 of the Denver Journal of International Law & Policy. Professor Bassiouni examines the radical departures from traditional U.S. extradition law and policy promulgated in the recent supplement to the U.S.-U.K. extradition treaty. His examination includes a discussion of the extradition process, noting the
concerns embodied in the political offense exception. The scope and purposes of the Supplementary Treaty are analyzed, and the wisdom of some of the exclusions articulated in its article I is questioned, as well as the problematic application of some of the provisions of article III. Professor Bassiouni's critical analysis of the Supplementary Treaty raises serious questions concerning current U.S. extradition policy, and advocates the articulation of a new policy which will be both comprehensive and consistent.

Nuclear Weapons, Nuclear Strategy and Law

Harry H. Almond, Jr.

In this Critical Essay, Professor Almond responds to Professor Fried's essay entitled The Nuclear Collision Course: Can International Law Be of Help?, which appeared in 14:1 of the Denver Journal of International Law & Policy. The principal issue raised in Professor Fried's essay was whether international law makes the use of nuclear weapons by states against other states impermissible. Professor Almond argues that nuclear weapons are not illegal per se under international law. Professor Almond discusses the deterrent effect of nuclear weapons and their critical position in arms control talks. In conclusion, Professor Almond argues that the Strategic Defense Initiative (SDI) need not be a comprehensive defense system, as suggested by Professor Fried, but rather a defensive system aimed at the enhancement of deterrence policy, and, as such, plays a critical and legal role in the shaping of U.S. policy with the Soviet Union.

Leonard v. B. Sutton Award Papers

Can International Law Prevent Another Bhopal Tragedy?

Todd Howland

This paper discusses the applicability of international law to such wide-scale industrial accidents as the Bhopal disaster. Three general categories of responses are identified in the paper: the "Guinness Book of World Records" approach; the approach which juxtaposes the risks of nonconventional pollutants, jobs and well-being; and finally the approach which focuses on compensation suits as a means to "right the wrong." The three approaches are discussed, as well as their shortcomings in terms of the legal, political, economic and social pressures militating against the effective employment of international legal norms to prevent the occurrence of such disasters.

Portugal's Accession and Integration into the European Economic Community

Nancy Weingardt

This paper examines the challenges facing Portugal as a result of its entry into the European Economic Community. The Primary focus is aimed at the economic hurdles which Portugal faces, and consequently, the potential burdens placed upon the EEC. The author concludes that although both Portugal and the EEC may suffer economically from Portugal's admission, the political ends of the EEC are nonetheless furthered.
HUMAN RIGHTS CLINIC DOCUMENTS

HUMAN RIGHTS VIOLATIONS BY THE U.S. GOVERNMENT AGAINST NATIVE AMERICANS IN THE PASSAGE AND ENFORCEMENT OF PUB. L. NO. 93-531

Todd Howland, Lucy Hawley, Ved P. Nanda, Judith Rhedin and Sandra Shwayder

This document was originally drafted as an amicus brief in a court challenge to Pub. L. No. 93-531. Pub. L. No. 93-531 partitions land known as the “joint use area” of the Hopi and Navajo, and mandates the removal of Native Americans from lands they have inhabited for centuries and which they consider their own. The document articulates nine district precepts under international law which are controverted by Pub. L. No. 93-531, and concludes that the law is in violation of both international law and the U.S. Constitution.

THE HUMAN RIGHTS CRISIS IN SRI LANKA: ITS BACKGROUND AND POSSIBLE SOLUTIONS

Barbara Cashman, Jeanette Laffoon and Ved P. Nanda

This document describes the human rights crisis in Sri Lanka in its historical and political contexts. The authors identify the human rights abuses by the government of Sri Lanka, and the consequent violations of international human rights norms and standards. In the course of their discussion, the authors attempt to identify the particular actors and their rationales. By way of conclusion, particular problems are identified as critical to the peaceful outcome of the conflict in Sri Lanka.

NOTE

ENCOUNTERING COUNTERCLAIMS

Alison Dundes Renteln

This Note takes an historical and definitional look at the role of counterclaims under international law. After establishing the concept of the counterclaim, the author discusses the traditional rules controlling the use of counterclaims in municipal and international law. Compulsory and permissive counterclaims are evaluated in the context of U.S. litigation and analogized to their use in international law through the Foreign Sovereign Immunities Act, the International Court of Justice, and other international arbitral procedures. The author concludes by discussing the potential use of counterclaims by individuals seeking to challenge state actions in the field of human rights.

CASE COMMENT


Ali Ganjai

This Case Comment initially traces through the elements of the Matsushita decision, and subsequently provides an analysis of the lower courts’ evidentiary opinions and the U.S. Supreme Court’s refusal to address the issue of admissibility of particular evidence. Predatory pricing is the primary focus of the Case Comment, and the author discusses the means by which the U.S. Supreme Court side-stepped this important issue in its opinion. The
author also provides some insight into the new standards of analysis employed by the courts which address predatory pricing and the foreign sovereign compulsion defense.

DEVELOPMENT

THE ANTARCTICA MINERAL RESOURCES CONVENTION:
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