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## DEDICATION

- DEDICATION TO THE DENVER JOURNAL OF INTERNATIONAL  
LAW AND POLICY AT 15 — CHALLENGES AHEAD FOR  
INTERNATIONAL LAW AND POLICY . . . . . *Ved P. Nanda* 1

In this dedication of the fifteenth volume of the *Denver Journal of International Law & Policy*, Ved P. Nanda, director of the International Legal Studies Program of the University of Denver College of Law and faculty adviser to the *Journal*, outlines the past achievements of the International Legal Studies Program with particular reference to future developments in international law.

## ARTICLES

- THE STATUS OF COUNTERCLAIMS UNDER INTERNATIONAL LAW,  
WITH PARTICULAR REFERENCE TO INTERNATIONAL  
ARBITRATION INVOLVING A PRIVATE PARTY AND A  
FOREIGN STATE  
. . . . . *Bradley Larschan and Guive Mirfendereski* 11

This article examines the sources and extent of general rules of international law governing counterclaims in judicial and arbitral proceedings. Initially, the article focuses on the practice regarding counterclaims before international courts. It also examines the permissibility of counterclaims before international arbitral tribunals in interstate disputes and disputes between private parties and states. The authors' evaluation leads them to conclude that, although counterclaims are generally allowed unless specifically prohibited by courts and arbitral tribunals, as a matter of international jurisprudence and as expressed in conventions, the international law rules concerning counterclaims are generally narrow. The article concludes with an analysis of the practice of counterclaims in United States federal courts as a possible source of analogy to international tribunals.

- JUDGES IN AN UNJUST SOCIETY:  
THE CASE OF SOUTH AFRICA . . . . . *Joe W. ("Chip") Pitts II* 49

The thesis of this article is concerned with the two traditional models of law and adjudication in America and the former Commonwealth countries, positivism and natural law, and their inadequacies regarding the problem of the moral judge in an immoral system. After discussing the features of the South African legal system and the traditional approaches to adjudicating within such a "wicked" legal system, the article compares the American experience of dealing with slavery to the South African experience of dealing with apartheid. The conclusion proposes a new approach to law and adjudication which provides a better explanation for the way in which judges confronted with unjust law have nevertheless sought justice. Elements of this new approach to law as "interpretation" will make it easier for such judges to seek justice in the future.



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## of International Law and Policy

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**LEGISLATIVE DEVELOPMENTS: THE ABOLISHMENT OF DISCs  
AND THE CREATION OF FSCs . . . . . Bennet Caplan 95**

The U.S. currently faces the dilemma of trying to encourage U.S. exports while at the same time there is concern for the reaction of allies and co-signatories to international agreements relating to tariffs, trade and taxes. The author specifically focuses on the creation of Foreign Sales Corporations (FSCs) and how they have come to replace the Domestic International Sales Corporations (DISCs). In the course of his discussion, the author traces the opposition by the European Community members and other signatories to the General Agreement on Tariffs and Trade (GATT) to the DISCs, as well as discussing how the different types of FSCs have been received. In his conclusion, the author maintains that the FSCs are likely to encounter similar opposition as they are essentially an expression of the same trade policy that was expressed in the DISCs and for similar reasons are highly controversial.

**CRITICAL ESSAYS**

**THE EVISCERATION OF THE POLITICAL OFFENSE  
EXCEPTION TO EXTRADITION . . . . . Christopher L. Blakesley 109**

On June 25, 1985, the governments of the United States, Great Britain, and Northern Ireland signed the Supplementary Convention to the Extradition Treaty. The author examines the portion of the Supplementary Treaty which effectively eliminates the political offense exception to extradition and recommends disapproval of the treaty in its present form. The treaty essentially removes the judicial branch from decision making concerning extraditable political offenses which would give greater responsibility to the executive branch to fill this function. The author's basic concerns relating to this exemption of the judicial branch is that such a policy is inconsistent with the United States' Constitution, social values and legal traditions, and equally importantly, it poses a threat to the Separation of Powers Doctrine.

**THE POLITICAL OFFENSE EXCEPTION AND TERRORISM  
. . . . . Abraham D. Sofaer 125**

The U.S. Senate has recently approved a Supplementary Treaty with the U.K. that limits the applicability of the political offense exception in cases involving the extradition of alleged terrorists by listing specific acts or crimes that will no longer be considered political offenses capable of preventing extradition. This article traces the history of the political offenses exception and the recent abuses it has suffered. In particular, the author examines the dilemma faced by the U.S. when it sought the extradition of the alleged terrorist Mohammed Abbas. The author examines the inconsistencies of U.S. and Western policy regarding the extradition of terrorists which have resulted in our providing shelter for the very terrorists that attack the United States and our allies. The author believes that in order for the U.S. to credibly urge other nations to extradite terrorists to the U.S., and hopefully discourage terrorist activity, it is morally imperative that the U.S. change its policy through such instruments as the Supplementary Treaty.

## CASE COMMENT

- IN RE ANSCHUETZ & Co. GMBH: A CRITICAL ANALYSIS** ..... *Jane Ann Landrum* 135

The author criticizes the Fifth Circuit Court of Appeals' decision to apply the Federal Rules of Civil Procedure to a German corporation and force it to submit to American discovery procedures in spite of the Hague Evidence Convention's directive for discovery procedures which are more cooperative in nature between its signatory states. The United States and the Federal Republic of Germany have therefore agreed to follow the Convention procedures before resorting to their domestic law and the power that law gives courts to enforce extraterritorial discovery.

## NOTE

- THE SALZGITTER ARCHIVES: WEST GERMANY'S ANSWER TO EAST GERMANY'S HUMAN RIGHTS VIOLATIONS** ..... *Elizabeth A. Lippitt* 147

Since the creation of the two Germanys there has been a constant tension between both nations. The author of this Note attempts to illuminate one source of this tension which has received little attention: the Salzgitter Archives in the Federal Republic of Germany. The author opens her discussion of the Archives with a brief explanation concerning their function of exposing and documenting human rights violations in the German Democratic Republic. Also discussed are some relevant provisions of the GDR's judicial system in which "rubber paragraphs" are often used by the government to circumvent or frustrate certain guaranteed rights and freedoms under the GDR's constitution. In the latter portion of the Note, the author explains how the Salzgitter Archives are utilized by the West Germans to call attention to the injustices which exist in the German Democratic Republic. Finally, the author discusses the impact of the Archives' activities on the East German government and how the Archives may exist as a stumbling block to normalization in relations between the two Germanys.

## BOOK REVIEWS

- NATION AGAINST NATION** ..... *William M. Beaney* 163
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