SOCIAL SCIENCE RESEARCH NETWORK

LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES
UC DAVIS SCHOOL OF LAW
Vol. 9, No. 7: November 20, 2007

Editor: KEVIN R. JOHNSON
Associate Dean for Academic Affairs, School of Law, and Mabie/Apallas Professor of Public Interest Law and Chicana/o Studies, University of California, Davis
KRJOHNSON@UCDAVIS.EDU

T A B L E O F C O N T E N T S

"Private Rights and Public International Law: Why Competition

Among International Economic Law Tribunals is Not Working"
Hastings Law Journal, Vol. 59, 2007
UC Davis Legal Studies Research Paper No. 124

Contact: ANDREA K. BJORKLUND
University of California, Davis - School of Law
Email: akbjorklund@ucdavis.edu
Auth-Page: http://ssrn.com/author=354506

Full Text: http://ssrn.com/abstract=1016880

ABSTRACT: It is a buyer's market for foreign investors seeking remedies for wrongs they have allegedly suffered at the hands of host governments. They can usually seek relief in the courts of the host state, but, increasingly, they also have more cosmopolitan options to consider, including investor-state arbitration based on violations of one or more investment treaties. This competition for business is not, contrary to expectation, advantageous to investors or the world community. First, competition is to some extent illusory: available remedies and jurisdictional authority are often so fragmented among tribunals that a claimant must seek relief in multiple fora in order to be made whole. Second, the possibility of bringing duplicative cases brings disrepute to international dispute settlement mechanisms without corresponding advantages in innovation, quality, or efficient allocation of resources. These problems are exacerbated by the fact that tribunals lack the means (such as the traditional conflict of laws analysis used by municipal courts) to coordinate proceedings when their jurisdictions overlap with those of other tribunals. This incapacity will persist until public international law principles adapt to reflect a pluralistic legal order. Achieving more coordination among tribunals requires revisiting the historic division between states and individuals in international law. Individuals will need to have recognized status and be treated as third-party beneficiaries of such treaties, rather than as owners of derivative rights, to effect this change. Such theoretical advances will permit a desirable coordination, and ultimately a harmonization of effort, among tribunals in the international economic law sphere and beyond.

"Unsecured Borders: Immigration Restrictions, Crime Control and National Security"
Connecticut Law Review, Vol. 39, No. 5, 2007
UC Davis Legal Studies Research Paper No. 123

Contact: JENNIFER M. CHACÓN
University of California, Davis - School of Law
Email: jmchacon@ucdavis.edu
Auth-Page: http://ssrn.com/author=543316

Full Text: http://ssrn.com/abstract=1028569

ABSTRACT: In this Article, I explore the origins and consequences of the blurred boundaries between immigration control, crime control and national security, specifically as related to the removal of non-citizens. Part II of this Article focuses on the question of how immigration control and crime control issues have come to be subsumed by national security rhetoric. Discussions about the removal of non-citizens have been treated as national security issues, when in fact the driving motivation is basic criminal law enforcement. Part III of this Article disentangles the use of removal for criminal and immigration law enforcement ends from national security removals. Non-citizens are seldom removed on national security grounds. At the same time, the government has relied upon national security justifications to explain the removals of thousands of non-citizens who pose no demonstrated security risk. This strategy does little to enhance national security, and undermines the important national security objective of protecting civil liberties. Part IV of this Article explains that although the vast majority of removals effectuated each year are carried out on the basis of a non-citizen's violation of the immigration law or criminal law, there is little reason to believe that the recent expansion in the removal of non-citizens will serve as an effective or efficient means of decreasing domestic crime or preventing undocumented migration. The insistence on formulating immigration policy while gazing through a distorted lens of national security perversely ensures that the law is ill-suited to achieve either national security or other immigration policy goals.

"SRI-Shibboleth or Canard (Socially Responsible Investing, that is)"
Real Property, Probate and Trust Law Journal, 2008
UC Davis Legal Studies Research Paper No. 121

Contact: JOEL C. DOBRIS
University of California at Davis School of Law
Email: jcdobris@ucdavis.edu
Auth-Page: http://ssrn.com/author=273392

Full Text: http://ssrn.com/abstract=1016811

ABSTRACT: In this article the author reviews the state of the law and practice of socially responsible investing, or SRI, by private trustees, nonprofit trustees and other fiduciaries and makes suggestions for and predictions about the future of SRI. The paper includes discussion of mission investing and environmental, social, and [corporate] governance (ESG) matters in an SRI context.

"Titles of Nobility, Hereditary Privilege, and the Unconstitutionality of Legacy Preferences in Public School Admissions"
Washington University Law Review, Vol. 84, No. 6, 2006
UC Davis Legal Studies Research Paper No. 122

Contact: CARLTON F. W. LARSON
University of California, Davis - School of Law
Email: clarson@ucdavis.edu
Auth-Page: http://ssrn.com/author=586843

Full Text: http://ssrn.com/abstract=1027695

ABSTRACT: This Article argues that legacy preferences in public university admissions violate the Constitution's prohibition on titles of nobility. Examining considerable evidence from the late eighteenth century, the Article argues that the Nobility Clauses were not limited to the prohibition of certain distinctive titles, such as ?duke? or ?earl,? but had a substantive content that included a prohibition on all hereditary privileges with respect to state institutions. The Article places special emphasis on the dispute surrounding the formation of the Society of the Cincinnati, a hereditary organization formed by officers of the Continental Army. This Society was repeatedly denounced by prominent Americans as a violation of the Articles of Confederation's prohibition on titles of nobility. This interpretation of the Nobility Clauses as a prohibition on hereditary privilege was echoed during the ratification of the Constitution and the post-ratification period.

This Article also sets forth a framework for building a modern jurisprudence under the Nobility Clauses and concludes that legacy preferences are blatantly inconsistent with the Constitution's prohibition on hereditary privilege. Indeed, the closest analogues to such preferences in American law are the notorious ?grandfather clauses? of the Jim Crow South, under which access to the ballot was predicated upon the status of one's ancestors. The Article considers a variety of counterarguments supporting the practice of legacy preferences

and concludes that none of them are sufficient to surmount the Nobility Clauses' prohibition of hereditary privilege.

Many university departments and other institutions have purchased site licenses covering all of the journals in a particular network. If you want to subscribe to any of the SSRN journals, you may be able to do so without charge by first checking to see if your institution currently has a site license.

To do this please click on any of the following URLs.
Instructions for joining the site are included on these pages.

Accounting Research Network
http://www.ssrn.com/update/arn/arn_site-licenses.html

Economics Research Network
http://www.ssrn.com/update/ern/ern_site-licenses.html

Entrepreneurship Research & Policy Network
http://www.ssrn.com/update/erpn/erpn_site-licenses.html

Financial Economics Network
http://www.ssrn.com/update/fen/fen_site-licenses.html

Information Systems & eBusiness Network
http://www.ssrn.com/update/isn/isn_site-licenses.html

Legal Scholarship Network
http://www.ssrn.com/update/lsn/lsn_site-licenses.html

Management Research Network
http://www.ssrn.com/update/mrn/mrn_site-licenses.html

NEW Political Science Network NEW
http://www.ssrn.com/update/psn/psn_site-licenses.html

Social & Environmental Impact Network
http://www.ssrn.com/update/sein/sein_site-licenses.html

Social Insurance Research Network
http://www.ssrn.com/update/sirn/sirn_site-licenses.html

HRN Classics Research Network
http://www.ssrn.com/update/crn/crn_site-licenses.html

HRN English & American Literature Research Network
http://www.ssrn.com/update/lit/lit_site-licenses.html

HRN Philosophy Research Network
http://www.ssrn.com/update/prn-/prn_site-licenses.html