

# ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW

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VOLUME 19, NUMBER 3

FALL 2002

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### ARTICLES

#### FREEDOM OF MOVEMENT FOR INDIGENTS: A COMPARATIVE ANALYSIS OF AMERICAN CONSTITUTIONAL LAW AND EUROPEAN COMMUNITY LAW

*A.P. van der Mei* 803

Political entities based on a federal or multi-tiered system of government, such as the United States and the European Community, face a conflict between the constitutional aim of guaranteeing freedom of movement for individuals and the need to safeguard the funding of minimum subsistence benefit systems enacted by individual states. Because citizenship is awarded irrespectively of economic status, one might expect that both the rich and the poor can enjoy the rights to freedom of movement. However, historically, many of the American states and the European Community Member States have objected to a right to freedom of movement, which would enable indigents to move to and establish residence in other states. In order to protect themselves against “welfare migration” or “social tourism,” both American and European states have argued that they need legal powers to restrict the ability of indigents to establish residency in their territory. This Article establishes how American constitutional law and European Community law have addressed this conflict by analyzing the degree to which union citizens are able to establish residence and claim subsistence benefits in other states.

STUDY OF SELECTED INTERNATIONAL DISPUTE RESOLUTION  
REGIMES, WITH AN ANALYSIS OF THE DECISIONS OF THE COURT OF  
JUSTICE OF THE ANDEAN COMMUNITY

*Maria Alejandra Rodriguez Lemmo* 863

This Article examines the dispute resolution methods adopted by various free trade agreements and customs union agreements worldwide. It analyzes both panel structure and court structure dispute resolution methods, adopted in GATT, the Canada-USA Free Trade Agreement (CUFTA), NAFTA, MERCOSUR, ALADI, CARICOM, Andean Community, Central American Common Market, and the European Union. The Article analyzes select decisions of the Court of Justice of the Andean Community, in order to both make that Court's work more widely known, and to illustrate the court structure method. After a description of the legal provisions of each of these dispute resolution methods, the Article concludes with a brief analysis of the negative and positive aspects of each of these methods.

**BOOK REVIEW**

DON QUIXOTE'S ADVICE RINGS TRUE: THIS CHICKEN SPEAKS FOR ITSELF. REVIEWING *UNITED STATES LAW OF TRADE AND INVESTMENT* (BORIS KOZOLCHYK & JOHN F. MOLLOY EDS., 2000)

*Ana Maria Merico-Stephens* 931

*United States Law of Trade and Investment* is a welcome addition to the growing collection of scholarship written specifically to increase cross-cultural understandings of dissimilar legal traditions. In forty-four chapters, spread across four volumes, the editors and authors summarize entire fields of law. This work is not a treatise, but rather an introduction and survey of several fields of law that have an impact on trade and investment. The editing choices reflect a focused understanding of the needs of its potential audience: academics and practitioners unfamiliar with the common law tradition or the American laws of trade and investment. Kozolchyk and Molloy's four-volume introduction to the *United States Law of Trade and Investment* and its forthcoming Spanish translation are timely, and deserve the recognition of the academic community and the interest of the civilian practitioner.

## NOTES

### SOLVING THE PROBLEM OF CONFLICT DIAMONDS IN SIERRA LEONE: PROPOSED MARKET THEORIES AND INTERNATIONAL LEGAL REQUIREMENTS FOR CERTIFICATION OF ORIGIN

*Amanda Bryant Banat* 939

In a beautiful country on the West African coast, a rebel group strikes terror in the lives of the citizens of Sierra Leone. The rebels commit endless atrocities, from countless amputations to kidnapping, rape, and murder. Sadly, the rebellion is funded through an illicit trade in diamonds that stems from the mines to the final purchase at retail stores. In order to end the conflict, the diamond trade must be legitimized. The process will require a worldwide effort among every country through which diamonds travel in commerce. The author examines the various possibilities, including mandatory certificates of origin and several economic measures, as well as the multilateral effort known as the Kimberley Process, which is aimed at stemming the problem of conflict diamonds.

### WAKING FROM THE JURISDICTIONAL NIGHTMARE OF MULTINATIONAL DEFAULT: THE EUROPEAN COUNCIL REGULATION ON INSOLVENCY PROCEEDINGS

*Roland Lechner* 975

The failure of the international community to agree upon a binding set of rules regarding cross-border insolvencies is a major factor contributing to the insufficiency of guidelines in cases of multinational default. While several efforts have been made to alleviate the uncertainty inherent to multiple insolvency proceedings, agreements ensuing from such efforts have either lacked sufficient cooperation by states or the necessary scope and binding character. This Note argues that the European Council Regulation on Insolvency Proceedings is the most workable solution to the dilemma of international insolvency law since the regulation provides conflict-of-law rules and the European Council has the legislative competence to enforce these rules in European Union Member States. Successful implementation of the EC Regulation will bolster support within the international community to develop similar conflict-of-law rules for cross-border insolvencies with a global scope.

THROWING THE BABY OUT WITH THE BATHWATER: HOW  
CONTINENTAL-STYLE POLICE PROCEDURAL REFORMS CAN  
COMBAT RACIAL PROFILING AND POLICE MISCONDUCT

*Eric Manch* 1025

Police misconduct is a persistent issue in American society. From isolated cases of soccer moms harassed by renegade police to larger problems of racial profiling and abuse in minority communities, many Americans are losing their trust in law enforcement. While some writers feel that these practices must be challenged in the courts, an alternative solution may be to emulate the criminal procedure practices of the French. By expanding the power of judges and prosecutors to collect evidence, placing strictures on the police's ability to investigate, and reforming certain areas of criminal procedure jurisprudence, it may be possible to attack the problem of police misconduct at its source.

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