ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW

VOLUME 13, NUMBER 1 SPRING 1996

TABLE OF CONTENTS

ARTICLES Page

JUDICIAL RESPONSE TO COUP D'ETAT: A REPLY TO TAYYAB MAHMUD (FROM A NIGERIAN PERSPECTIVE)

Ambrose O.O. Ekpu 1

Unconstitutional usurpation of political power has been a recurring feature in many developing countries. Such usurpation presents a dilemma to serving judges: a choice between repudiating or supporting the usurper regime. This Article examines Professor Mahmud's suggestion that judges who face such a dilemma should abstain from taking a stance. It argues that such a position amounts to supporting the usurpation and would be contrary to the judge's constitutional obligations and their judicial oath. The Article urges that judges should resolve the dilemma in a way that ensures the promotion of a democratic culture and the protection of individual rights.

EQUAL PROTECTION FOR WOMEN IN INDIA AND CANADA

Kirsten Davis 31

This Article provides an overview of equal protection jurisprudence with regard to discrimination against women in India and Canada. It discusses and compares the equal protection provisions in the Indian, Canadian, and United States Constitutions and applies the standards of review to sex discrimination questions in India, Canada, and United States. Finally, it reviews various sex discrimination outcomes.

LAW, GOVERNANCE, AND ACADEMIC AND DISCIPLINARY DECISIONS IN AUSTRALIAN UNIVERSITIES: AN AMERICAN PERSPECTIVE
Fernand N. Dutile 69

This Article discusses, from an American perspective, the law affecting decisions regarding academic and disciplinary matters in Australian universities. This discussion addresses not only internal university governance, but also the impact of Constitutional, statutory, and case law as well. This analysis, much of it done while the author was in residence at the University of Queensland, implicates the many ways in which Australian universities treat their students differently—in some ways perhaps more wisely, in others perhaps less so—than American universities treat theirs. The assessment reveals a relationship between Australian students and their university quite different from that between American students and theirs. The Article concludes with suggestions for avoiding in Australia the flood of litigation that has characterized American higher education.

OPPOSING THE "PEACE PROCESS": ISRAEL, CIVIL DISOBEDIENCE AND THE PRINCIPLE OF A HIGHER LAW
Louis René Beres 117

The Oslo Agreements of September 13, 1993 and September 28, 1995, were implemented between Israel and a nonstate terrorist organization (PLO) in the Israeli hope of creating peace between Israel and the Palestinians. Reorganizing the futility and illegality of these Agreements, especially after expanded acts of terrorism against Jewish citizens, increasingly large numbers of Israelis have been exercising their essential human rights under international law. In response to acts of passive civil disobedience by Oslo protesters, the Peres Government, like the prior Rabin Government, has flaunted a broad range of peremptory legal expectations, beating and arresting peaceful demonstrators in willful disregard of basic and universal norms of civilized national behavior. Relying upon arbitrarily defined rules of "administrative detention," the Peres Government continues to abuse national and

international law to silence legitimate political dissent. Leveling charges of "sedition" and "incitement" without regard for minimal standards of evidentiary or jurisprudential consistency, this Government is consciously seeking to crush a grass roots peoples' movement fashioned after the principles of Gandhi and Martin Luther King. This Article explains the reasons why such Israeli Government wrongdoings lie, at their core, in disregard for immutable principles of a Higher Law, principles that have their ironic origin, of all places, in the law of Ancient Israel.

NAFTA IN THE GRAND AND SMALL SCHEME OF THINGS

Boris Kozolchyk 135

The winds of freedom blew across Europe after the French Revolution. These winds sought to liberate political and religious expression as well as economic activity. In his Article, Dr. Kozolchyk compares the era of political and economic freedom ushered in by the French Revolution with the era of International Free Trade born from the General Agreement on Tariffs and Trade and the North American Free Trade Agreement. Dr. Kozolchyk concludes that this current revolution could well provide mankind with the first chance at a sustained economic development based upon the same principles of the French Revolution: freedom, equality, and fraternity.

INTERNATIONAL SUGGESTIONS FOR IMPROVING PARENTAL LEAVE LEGISLATION IN THE UNITED STATES

Mikel A. Glavinovich 147

Women in the labor force serve a dual role in American society: as both employees and mothers. However, due in part to the absence of adequate maternity and parental leave, women are often penalized for this dual role. As a result of changes in American society and its economy, working mothers are becoming a necessity, but only after adequate leave is in place in the United States will women be able to combine the roles of employee and mother without penalty. In order to determine how to

establish adequate leave in the United States, it is necessary to consider examples of leave in Canada and some European countries.

AN EXAMINATION OF THE POSSIBILITY TO SECURE INTELLECTUAL PROPERTY RIGHTS FOR PLANT GENETIC RESOURCES DEVELOPED BY INDIGENOUS PEOPLES OF THE NAFTA STATES: DOMESTIC LEGISLATION UNDER THE INTERNATIONAL CONVENTION FOR PROTECTION OF NEW PLANT VARIETIES

Mark Hannig 175

This Note begins by showing that land races and folk varieties developed by Indigenous Peoples and small farmers remain vital to industrialized agriculture. Consequently, people who develop land races need economic incentive to continue doing so. This Note argues that intellectual property rights provide the best incentive. After reviewing current intellectual property rights regimes in the NAFTA states, this Note shows how they fail to protect the unique property interests of Indigenous Peoples. It then reviews international movements to expand intellectual property regimes to meet those interests. Finally, it examines the International Convention for Protection of New Plant Varieties (UPOV) and the resulting domestic legislation of the NAFTA states. Answering the question whether Indigenous Peoples could utilize those legislations to obtain intellectual property protection for their folk varieties, this Note concludes that the UPOV has not moved beyond traditional limitations of intellectual property regime. Therefore, with the UPOV and resulting domestic legislation, Indigenous Peoples can expect little protection for their land races.