

ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW



VOLUME 41, NUMBER 1

2024

TABLE OF CONTENTS

ARTICLES

LEGALLY SUFFICIENT: THE COMPATIBILITY OF PUERTO RICO'S POST 1952 STATUS
AND MODERN PRINCIPLES OF INTERNATIONAL LAW

Carlos E. Ríos-Collazo 1

CONSTITUTIONAL AMENDMENTS CONTRARY TO CONSTITUTIONALISM: THE
POLITICAL NATURE OF UNCONSTITUTIONAL CONSTITUTIONAL AMENDMENT
IN JAPAN

Satoshi Yokodaido 25

NOTES

SAAD ÉI DATA: FORMALIZING THE INDIGENOUS DATA SOVEREIGNTY MOVEMENT
WITHIN THE NAVAJO NATION LEGAL SYSTEM, A COMPARISON TO THE MĀORI'S
DATA GOVERNANCE MODEL

Shania Kee 74

WINNING IS SECONDARY: SECONDARY BOYCOTTS IN THE UNITED STATES
AND DENMARK

Jack McCarthy 108

EXPLORING ALGORITHMIC GOVERNANCE IN INTERNATIONAL TRADE LAW: AN
ANALYSIS OF THE UNITED STATES, EUROPEAN UNION, AND CHINA

Qiuyi Pan 134

**ARIZONA JOURNAL OF INTERNATIONAL
AND COMPARATIVE LAW**

EDITORIAL BOARD 2023–2024

Editor-in-Chief
ELLIOT RYSENBRY

Senior Managing Editor
SHANIA KEE

Senior Articles Editor
COOPER RICHARDSON

Senior Note Editor
TANNER GIAR

Operations Editor
GAVIN KEOGH

Managing Editors
NABIL BHIMANI
BIANCA BROTHERTON
ZACK SCHIMKE

Articles Editors
JACK MCCARTHY
QIUYI PAN

Note & Comment Editors
ALEX BROOKES
MITCH JACOBS
TRAVIS REYNOLDS
DEONDRE SIMPSON
SOFIA URIAS

2L Board Members
SUSAN LANZAS
CONNOR TULLY

3L Writers
OLIVIA DENUÉ

CAMERON HAMRICK

2L Writers
REBECCA BAIN
JACK WATERHOUSE
JACK O’SULLIVAN
CECILY RUSSELL
MADISON VOSS
RACHEL BUNNING
SHEALYN ANN ROBINSON
BELLA URBAN
CAPRI KRUG
GABRIEL MADRID
JORDAN DEVORAK
JAMES REED

2L Writers
MATTIE KING
JOELLE DYKSTRA
ZOE KENNEDY
ROSHNI PATEL
CAROLINE HILGERT
WES DRENNING
MORGAN KANE
SAMANTHA REILLY
SAVANNAH PERRY
TYLER BECK
GABRIELLA LEONARD
CHEROKEE JOHNSON

Faculty Advisor
MAREK DUBOVEC

JAMES E. ROGERS COLLEGE OF LAW THE UNIVERSITY OF ARIZONA

ADMINISTRATION

ROBERT C. ROBBINS, B.S., M.D.President, The University of Arizona
RONALD W. MARX, PH.D. Interim Senior Vice President for Academic Affairs and Provost
MARC L. MILLER, B.A., J.D. Dean and Ralph W. Bilby Professor of Law
KAREN M. KOWALSKI, B.A., J.D., LL.M. Associate Dean for Administration and Chief of Staff
KATHERINE BARNES, B.A., M.S., J.D., PH.D. Associate Dean for Programs & Innovation and
Professor of Law, and Professor of Economics
ANDREW COAN, B.A., J.D. ...Associate Dean for Research, Director, The William H. Rehnquist Center,
and Milton O. Riepe Chair in Constitutional Law
JASON KREAG, B.A., M.A., J.D. Associate Dean for Academic Affairs and Professor of Law
TERESA MIGUEL-STEARN, B.A., M.A., J.D. ... Associate Dean, Legal Information Innovation, Director
MICHAEL BROOKS, B.S., J.D. Assistant Dean for Academic Affairs and Registrar
CARY CLUCK, B.A., J.D. Assistant Dean for Admissions and Financial Aid
WILLIE M. JORDAN-CURTIS, B.A., M.A., PH.D., J.D. Assistant Dean for Student Affairs and
Clinical Professor of Law
BARBARA BERGMAN, B.A., J.D. Professor of Law and Director of Advocacy
GAIL NAZARENKO, B.M.E., M.B.A., C.M.A. Assistant Dean for Finance and Administration
HEATHER SPIELMAKER, B.A., M.P.A., J.D. Assistant Dean for Career Development
MICHAEL WAGENHEIM, B.A., M.S. Assistant Dean of Information Technology and Online Learning
AMANDA WOLFE, B.A., M.A. Assistant Dean of Global Programs
LEAH WON, B.A., J.D.
Interim Assistant Dean for Career Development, Assistant Dean for Phoenix Initiatives and Professor
of Practice
PAUL D. BENNETT, B.A., J.D. Director, Child and Family Law Clinic, Charles E. Ares
Professor of Law
ALI BRIDGES, B.A., M.P.A. Assistant Dean, Marketing and Communications
VANESSA BUCH, B.A., J.D. Director, University of Arizona Innocence Project and Clinical Professor
STACY RUPPRECHT BUTLER, B.A., J.D. Director, Innovation for Justice and Professor of Practice
LAUREN CHESEBRO, B.S., C.P.A. Director, Finance and Administration
JAMES DIAMOND, B.A., J.D., S.J.D. Interim Director, Indigenous Peoples Law and Policy Program
and Professor of Practice
RUBEN FIERROS, B.S., M.ED. Director of Admissions
JESSICA D. FINDLEY, B.A., J.D., M.A., PH.D. Director, Bar and Academic Success and
Professor of Practice
CHRISTOPHER GAST, B.A., J.D. Senior Director of Student Resources; Professor of Practice
CHRISTOPHER L. GRIFFIN, JR., B.S., M.PHIL., J.D. Director of Empirical and Policy Research and
Associate Scholar
SEÁNNA HOWARD, B.E.S., LL.B., LL.M. Director, International Human Rights Advocacy Workshop;
Associate Clinical Professor; Affiliated Faculty Human Rights Practice & Latin American Studies
GINGER HUNT, B.A., M.E.T. Senior Director, Online Learning and Instructional Design
KRISTINE HUSKEY, B.A., J.D. Director of Clinics, Director, Veterans' Advocacy Law Clinic and
Clinical Professor of Law
WALTER HUTCHENS, B.A., M.A., J.D. .Director, UA-Quingdao Law Program and Professor of Practice
NEGAR KATIRAI, B.A., J.D. Director, Domestic Violence Clinic and Clinical Professor of Law
JOHN LACY, B.A., J.D. Director, Global Mining Law Center and Professor of Practice
SARAH MAUET, B.S., M.S. Director, UX4 Justice and Professor of Practice
GAVIN MILCZAREK-DESAI, B.A. PH.D., J.D. Executive Director, Intellectual Property Clinic and
Professor of Practice
SHEFALI MILCZAREK-DESAI, B.A., M.A., J.D. Distinguished Public Service Scholar; Associate
Professor of Law; Co-Director of the Bacon Immigration Law and Policy Program
MEGAN O'LEARY, B.A. Senior Director of Development
TARA SKLAR, B.A., M.P.H., J.D. Faculty Director, Health Law & Policy Program
Associate Scholar; Distinguished Public Service Scholar
PRIYA SUNDARESHAN, B.S., M.S., J.D. Director, Natural Resource Use & Management Clinic

KEITH SWISHER, B.S., J.D., LL.M. Professor of Legal Ethics; Director, BA in Law and Master of Legal Studies Programs
 SHANNON TREBBE, B.A., J.D. Director of Externships and Professor of Practice
 SHANNON WALKER, B.A., M.P.A. Director of Special Projects
 CHARLES WANG, LL.B, J.D., LL.M. Associate Vice President for China Affairs, Director, China Law Program, and Professor of Practice
 HEATHER WHITEMAN RUNS HIM, A.F.A., B.A.F.A., J.D. Associate Clinical Professor; Director, Tribal Justice Clinic
 BERNADETTE WILKINSON, B.A., M.A. Director, Events Coordination and Building Management

FACULTY

ALBERTINA ANTOGNINI, B.A., J.D. James E. Rogers Professor of Law
 DEREK BAMBAUER, B.A., J.D. Professor of Law
 JANE BAMBAUER, B.A., J.D. Dorothy H. and Lewis Rosenstiel Distinguished Professor of Law
 PAUL D. BENNETT, B.A., J.D. Charles E. Ares Professor of Law, Director, Child and Family Law Clinic
 ELLEN M. BUBLICK, B.A., J.D. Dan B. Dobbs Professor of Law and Faculty Director, Phoenix Program
 TESSA DYSART, B.A., J.D. Clinical Professor of Law and Assistant Director of Legal Writing
 KIRSTEN H. ENGEL, B.A., J.D. Charles E. Ares Professor of Law
 JOY HERR-CARDILLO, A.B., J.D. Associate Clinical Professor of Law
 JAMES C. HOPKINS, B.A., LL.B., LL.M./I.T.P. Associate Clinical Professor of Law
 XIAOQIAN HU, LL.B, M.L., PH.D., LL.M., S.J.D. Associate Professor of Law
 MONA L. HYMEL, B.A., J.D., C.P.A. Arthur W. Andrews Professor of Law
 EUNICE LEE, B.A., M.A., J.D., PH.D. Associate Professor of Law
 SYLVIA LETT, B.A., J.D. Associate Clinical Professor of Law
 LYNN MARCUS, B.A., J.D. Clinical Professor of Law and Director, Immigration Law Placement Clinic
 TONI M. MASSARO, B.S., J.D. Regents Professor, and Dean Emerita
 ATHANASIOS MIHAKALOS, B.S., J.D., LL.M. Global Professor of Practice
 ROBERT MUNDHEIM, B.A., LL.B., M.A. Professor, Corporate Law and Finance
 DIANA NEWMARK, B.A., J.D. Associate Clinical Professor of Law
 LESLYE AMEDE OBIORA, LL.B., LL.M., J.S.D. Professor of Law
 CATHERINE GAGE O'GRADY, B.B.A., J.D. Professor of Law
 BARAK ORBACH, B.A., LL.B., LL.M., S.J.D. Robert H. Mundheim Professor of Law and Business
 JUSTIN PIDOT, B.A., J.D. Professor of Law
 SERGIO PUIG, L.L.B., J.S.M., J.S.D. Evo DeConcini Professor of Law, Director, International Trade and Business Law Program
 SHALEV ROISMAN, B.A., J.D. Associate Professor of Law
 Distinguished Early Career Scholar
 SUSAN SALMON, B.A., J.D. Clinical Professor of Law, Distinguished Public Service Scholar, and Director of Legal Writing
 MICHAEL SAYLE, B.A., M.A. Global Professor of Practice
 SIMONE M. SEPE, J.D., LL.M., PH.D., M.Sc., J.S.D. Chester H. Smith Professor of Law and Business
 ANDREW SHEPHERD, B.A., J.D. Associate Scholar, Global Law, Deputy Director, Global Faculty
 DIANA SIMON, B.A., J.D. Associate Clinical Professor of Law
 WILLIAM K. SJOSTROM, B.S., J.D. Professor of Law
 ROY G. SPECE JR., B.A., J.D. John D. Lyons Professor of Law
 NANCY A. STANLEY, B.A., J.D. Professor of Practice
 STEPHANIE M. STERN, B.A., J.D. Professor of Law
 MELISSA L. TATUM, B.A., J.D. Milton O. Riepe Professor of Law
 REBECCA TSOSIE, B.A., J.D. Regents Professor, Morris K. Udall Professor of Law
 TAMMI WALKER, B.B.A., M.Sc., J.D., PH.D. Associate Professor of Law and Psychology
 ROBERT A. WILLIAMS JR., A.B., J.D. Regents Professor, E. Thomas Sullivan Professor of Law & American Indian Studies, and Faculty Co-Chair, Indigenous Peoples Law & Policy Program
 ANDREW KEANE WOODS, A.B., J.D., PH.D. Milton O. Riepe Professor of Law, Distinguished Legal Scholar
 JORDAN BLAIR WOODS, A.B., J.D., M.PHIL., PH.D. Professor of Law

EMERITI FACULTY AND ADMINISTRATION

ARTHUR W. ANDREWS, B.A., LL.B., LL.M.	Rosenstiel Distinguished Professor of Law Emeritus
BARBARA ATWOOD, B.A., J.D.....	Mary Anne Richey Professor of Law Emerita
WILLIAM E. BOYD, A.B., J.D., LL.M.	Chester H. Smith Professor of Law Emeritus
MICHAEL G. CHIORAZZI, B.A., J.D., M.L.L.	Beverly & James E. Rogers Professor of Law Emeritus
DAN B. DOBBS, B.A., LL. B, LL.M., J.S.D.	Regents Professor and Rosenstiel Distinguished Professor of Law Emeritus
DAVID A. GANTZ, A.B., J.D., J.S.M.	Samuel M. Fegtly Professor of Law Emeritus
ROBERT J. GLENNON, A.B., J.D., M.A., PH.D.	Regents Professor and Morris K. Udall Professor of Law & Public Policy Emeritus
ROGER C. HENDERSON, B.B.A., LL.B., LL.M.	Ralph W. Bilby Professor of Law Emeritus
ROBERT ALAN HERSHEY, B.S., J.D.	Professor of Law Emeritus
KAY KAVANAGH, B.A., J.D.....	Professor of Law Emerita
BORIS KOZOLCHYK, D.C.L., LL.B., LL.M., S.J.D.	Evo A. DeConcini Professor of Law Emeritus
THOMAS A. MAUET, A.B., J.D.....	Milton O. Riepe Professor of Law Emeritus
SUZANNE M. RABÉ, B.A., J.D.....	Clinical Professor of Law Emerita
JAMES R. RATNER, A.B., M.A., J.D.....	Professor of Law Emeritus
CAROL M. ROSE, B.A., M.A., PH.D., J.D.....	Lohse Chair in Water and Natural Resources Emerita and Professor of Law Emerita
SALLY RIDER, B.A., J.D.....	Director Emerita, The William H. Rehnquist Center
THEODORE J. SCHNEYER, A.B., LL.B., J.S.M.	Milton O. Riepe Professor of Law Emeritus
ANDREW SILVERMAN, J.D.	Joseph M. Livermore Professor of Law Emeritus
JOHN STRONG, B.A., J.D.....	Rosenstiel Distinguished Professor of Law Emeritus
JOHN A. SWAIN, A.B., J.D.	Chester H. Smith Professor of Law Emeritus
ELLIOTT J. WEISS, B.A., LL.B.	Charles E. Ares Professor of Law Emeritus
DAVID B. WEXLER, B.A., J.D.	Distinguished Research Professor of Law Emeritus
WINTON D. WOODS, A.B., J.D.....	Professor of Law Emeritus

MASTER OF LAWS (LL.M.) AND DOCTOR OF JURIDICAL SCIENCE (S.J.D.) IN INTERNATIONAL TRADE AND BUSINESS LAW

The LL.M. in International Trade and Business Law, offered by the James E. Rogers College of Law in conjunction with the National Law Center for Inter-American Free Trade, is designed to provide U.S. and foreign law graduates with the theoretical and practical knowledge required to practice and teach in the area of international trade and commercial law. The intensive curriculum focuses on the World Trade Organization, NAFTA, the European Union, and other regional and global agreements; the private law legal framework for global commerce, banking, and corporate activity; and relevant American laws, regulations, and business and investment practices affecting international trade and commerce.

In addition to international trade, commercial and business law courses, students may choose from the broad range of commercial, corporate, environmental, intellectual property, immigration, and other upper-division law courses offered by the James E. Rogers College of Law. All candidates for the degree are required to complete, as part of their degree program, a substantial paper reflecting extensive legal research and analysis on a topic of their choice. Foreign law graduates also take a special introductory course in the American legal system.

During the twenty years in which the LL.M. program has existed, students from the United States, Mexico, Canada, and more than thirty other nations in Asia, Africa, Europe, and Latin America have matriculated. Most graduates of the program are practicing law with private firms, companies, or governmental agencies, or teaching at the law school level. The three-year S.J.D. program provides additional training for those who wish to complete doctoral studies in international trade and business law.

The James E. Rogers College of Law, located in Tucson, Arizona, only sixty miles (100 km) from the Mexican border, is an ideal locale for the study of international trade and commercial law. In addition to the law college's extensive course offerings, the law library has excellent Latin American law, international trade, and commercial law collections, and offers many opportunities for research in international trade, commercial law, customs law, cross-border environmental problems, and the like. The University of Arizona is one of the outstanding public research universities in the nation, with strong departments and library resources, inter alia, in information technology and Latin American, Middle Eastern, and Native American studies.

Currently, the full-year cost of tuition for the LL.M. program is \$26,000 for Arizona residents and nonresidents alike. Some scholarship assistance is available. Housing suitable for graduate students is relatively plentiful and inexpensive.

The application deadline is March 1 for the academic year beginning late August; early applications are encouraged. For further information on both the LL.M. and the S.J.D. programs, please visit our website at <http://www.law.arizona.edu/tradelaw/> or contact James C. Hopkins (hopkinsj@email.arizona.edu).

J.D. WITH ADVANCED STANDING PROGRAM FOR FOREIGN LAWYERS

Responding to the exponential growth of multinational and transnational law, the University of Arizona James E. Rogers College of Law has established an expedited path to a J.D. for foreign lawyers.

The J.D. with Advanced Standing (JDAS) Program allows individuals holding an undergraduate or graduate law degree from outside the United States to obtain a full U.S. J.D. degree in only two years. In addition, it allows individuals holding both a foreign law degree and a recent LL.M from an ABA-accredited law school to earn a J.D. in as little as three semesters.

By providing an expedited path to a J.D., the JDAS Program responds to unmet needs of non-U.S. lawyers seeking U.S. legal training. Unlike an LL.M, a J.D. allows non-U.S. lawyers to take the bar exam in any U.S. jurisdiction. Moreover, the J.D. course of study ensures that non-U.S. lawyers learn the foundations of American law, which are taught primarily in first-year classes and are not part of most LL.M programs.

JDAS graduates will be, in a true sense of the word, U.S.-trained attorneys on equal footing with their U.S.-citizen counterparts. As such, they will have expanded opportunities to practice law in their home countries, the United States, and around the world.

The first class of JDAS students matriculated at Arizona Law in Fall 2011, and the matriculating JDAS class more than doubled in size in Fall 2012. Given the growing demand for attorneys with global legal credentials, we expect increasing numbers of JDAS students to join us over the next several years.

As with all Arizona Law programs, JDAS students enjoy a highly individualized and supportive experience, extensive training in research and writing, and a high degree of faculty interaction and mentoring.

Individuals interested in the JDAS program should contact Professor Brent White at JDAS@law.arizona.edu.

**MASTER OF LAWS (LL.M.)
AND DOCTOR OF JURIDICAL SCIENCE (S.J.D.)
IN INDIGENOUS PEOPLES LAW AND POLICY**

The University of Arizona in Tucson, in the heart of the American Southwest and Arizona Indian Country, is widely recognized as one of the world's leading academic centers for the study of Indigenous peoples' cultures, histories, languages, laws, and human rights. With the strengths of The University of Arizona in the field of Indigenous peoples studies, the James E. Rogers College of Law, working closely with Indigenous peoples, their leaders, and their communities, offers the interdisciplinary Master of Laws (LL.M.) and Doctor of Juridical Science (S.J.D.) Programs in Indigenous Peoples Law and Policy.

The advanced one-year degree LL.M. Program is designed to prepare lawyers to meet the unique and difficult set of challenges and problems confronting international and domestic law reform and policymaking in the field of Indigenous peoples' rights in the twenty-first century. As the highest degree offered in the field of law, the S.J.D. offers candidates an intellectually challenging opportunity for academic specialization.

The LL.M. Program in Indigenous Peoples Law and Policy is designed to educate graduate law students from the United States and foreign countries on the most important legal and policy issues confronting lawyers in the field of Indigenous peoples' rights, with particular emphasis on indigenous peoples in the United States, Canada, Australia, New Zealand, and Latin America. In addition, the LL.M. Program strives to promote a deeper critical and global understanding of the challenges and problems confronting lawyers and policymakers in the field of Indigenous peoples' rights.

Both LL.M. and S.J.D. students have an opportunity to take a large number of courses offered at the College of Law and/or other graduate and professional school programs at The University of Arizona. The College of Law offers 20 to 30 credit hours of specialized Indian law courses each fall and each spring semester. The S.J.D. Program also offers highly qualified candidates the opportunity to conduct advanced research and produce original scholarship under the guidance of its internationally renowned faculty, including S. James Anaya, recently appointed as United Nations Special Rapporteur on Rights of Indigenous People and author of *Indigenous Peoples in International Law* (2d ed.); Robert A. Williams, Jr., co-author of *Federal Indian Law: Cases and Materials* (5th ed.); Melissa L. Tatum, contributing author to *Cohen's Handbook of Federal Indian Law* and leading scholar in tribal court jurisdiction; as well as other academic experts in the field of Indigenous peoples' rights. In addition to traditional coursework, clinical opportunities available to LL.M. and S.J.D. students foster the connection between practical experience and scholarly development, resulting in direct public service that is attentive to local, state, national, and international needs.

Applications are accepted on a rolling basis, although prospective students are strongly encouraged to apply by March 15 for the academic year beginning mid-August. After March 15, admission is granted only on a space-available basis. Questions relating to the LL.M. and S.J.D. in Indigenous Peoples Law and Policy Program should be addressed to Professor Melissa L. Tatum, Director of the IPLP Program at mtatum@email.arizona.edu. Further information also is available at our website, <http://www.law.arizona.edu/depts/iplp>.