MARYLAND JOURNAL OF INTERNATIONAL LAW

Volume 29

2014
INTRODUCTION

Intervention under International Law

M.N.S. Sellers........................................................................................................1

KEYNOTE ADDRESS

Critical Perspectives on Intervention

Henry J. Richardson III .........................................................................................12

Critical Perspectives on Intervention: Thoughts in Response to Professor Richardson’s Keynote Lecture

Maxwell O. Chibundu............................................................................................50

ARTICLES AND ESSAYS

Balancing Self-Defense and Mission Accomplishment in International Intervention: Challenges in Drafting and Implementing Rules of Engagement

Todd C. Huntley...................................................................................................83

The Limits of Legality: Assessing Recent International Interventions in Civil Conflicts in the Middle-East

Feisal Amin Rasoul al-Istrabadi ............................................................................119

Humanitarian Intervention: Evolving Norms, Fragmenting Consensus

Rosa Brooks.........................................................................................................161

NOTES AND COMMENTS

The Contribution of Brazil’s ‘Responsibility while Protecting’ Proposal to the ‘Responsibility to Protect’ Doctrine

Alyse Prawde........................................................................................................184

Russian Roulette: The Magnitsky Act’s Implications for U.S.-Russian Relations in an Increasingly Precarious Legislative Game

Hillary Evans.......................................................................................................210
Coca Leaves and Colorado: International Law and the Shifting Landscape of Drug Reform
Cody T. Mason .................................................................238

Closed Material Procedures and the Right to a Fair Trial
John Sullivan .................................................................269

SPECIAL ISSUE
POLITICS OF RELIGIOUS FREEDOM

INTRODUCTION
Politics of Religious Freedom: Case Studies
Peter Danchin, Winnifred Fallers Sullivan, Saba Mahmood, and Elizabeth Shakman Hurd .................................................................293

ARTICLES
The “Ayodhya” Case: Hindu Majoritarianism and the Right to Religious Liberty
Ratna Kapur .........................................................................305

“Something has Gone Wrong”: The JFS Case and Defining Jewish Identity in the Courtroom
Heather Miller Rubens ..........................................................366

Unlawful Religion? Modern Secular Power and the Legal Reasoning in the JFS Case
Peter Danchin and Louis Blond ..............................................419

The Politics of Religious Freedom in Malaysia
Tamir Moustafa ....................................................................481

Legislating Religious Freedom: An Example of Muslim Marriages in South Africa
Waheeda Amien and Annie Leatt (Dhammameghā) ..................505
MARYLAND JOURNAL OF INTERNATIONAL LAW (ISSN: 2151-2922)

Published annually by the MARYLAND JOURNAL OF INTERNATIONAL LAW, University of Maryland Francis King Carey School of Law, 500 West Baltimore Street, Baltimore, Maryland 21201, Telephone: (410) 706-4105. Copyright 2013 by the University of Maryland Francis King Carey School of Law.

Published in cooperation with the University of Maryland Francis King Carey School of Law. The views expressed herein by the authors are not necessarily those of the JOURNAL or the University of Maryland Francis King Carey School of Law.

Subscription rate: $35.00 per year. Subscribers are responsible for notifying the JOURNAL of address changes. Subscribers must report non-receipt of an issue within three months of publication of the next issue. Otherwise, the JOURNAL will not be able to provide a replacement issue.

Postage paid at Baltimore, Maryland and additional mailing offices. POSTMASTER: Send address changes to MARYLAND JOURNAL OF INTERNATIONAL LAW.

Issues of the JOURNAL may be accessed on HeinOnline, Lexis, and Westlaw.

Except as otherwise expressly provided, the author of each signed article in this issue has granted permission for copies of that article to be made and distributed for educational purposes by nonprofit institutions provided that the copies are distributed at or below cost and identify the author, and provided that the name of this JOURNAL, the volume, the number of the first page of the article within the volume, and the year of the volume are identified, and that proper notice of copyright is affixed to each copy.

The JOURNAL invites the submission of unsolicited manuscripts. Please confine the author’s name and biographical information to a removable title page. Footnotes should conform to The Bluebook: A Uniform System of Citation (19th ed.). Send all manuscripts to MARYLAND JOURNAL OF INTERNATIONAL LAW, University of Maryland Francis King Carey School of Law, Attention: Managing Editor, 500 West Baltimore Street, Baltimore, Maryland 21201.
UNIVERSITY OF MARYLAND
FRANCIS KING CAREY SCHOOL OF LAW

OFFICERS OF ADMINISTRATION
WILLIAM E. KIRWAN, B.S., M.S., Ph.D., Chancellor & Chief Executive Officer, University System of Maryland
JAY A. PERMAN, M.D., President
DONALD B. TIBBIN, B.A., J.D., Dean and Professor of Law
JOSÉ BAHAMONDE-GONZALEZ, B.S., J.D., Associate Dean for Professional Education
TRISHANA BOWDEN, B.S., Associate Dean for Development and Alumni Relations
BARBARA GONTRUM, B.A., M.S.J.D., Associate Dean for Academic and Administrative Affairs and Professor of Law
SUSAN L. KRISNSKY, B.A., M.A.H., J.D., Associate Dean for Students and Student Services
DANA MORRIS, B.A., J.D., Assistant Dean for Career Development
MAXWELL STEARNS, B.A., J.D., Associate Dean for Research and Faculty Development and Marbury Research Professor of Law

FACULTY OF THE FRANCIS KING CAREY SCHOOL OF LAW
E. CLINTON BAMBERGER, JR., B.S., J.D., Professor Emeritus of Law
TAUNIA BANKS, B.A., J.D., Jacob A. France Professor of Equality Jurisprudence
JANE F. BARRETT, B.A., J.D., Law School Professor and Director, Environmental Law Clinic
BARBARA BEZDEK, B.A., J.D., LL.M., Professor of Law
ANDREW BLAIR-STANEK, A.B., J.D., Assistant Professor of Law
BRENDA BRATTON BLOM, B.A., M.P.S., J.D., Ph.D., Law School Professor Emeritus
DAVID BOGEN, B.A., LL.B., LL.M., T. Carroll Brown Scholar & Professor Emeritus of Law
RICHARD BOLDY, A.B., J.D., Professor of Law
CHRISTOPHER BROWN, B.A., M.A., J.D., Professor Emeritus of Law
ALICE BRUMBAUGH, B.A., J.D., Robert Stanton Distinguished Service Professor Emeritus of Law
PATRICIA CAMPBELL, B.A., M.A., J.D., Law School Associate Professor and Director,
Maryland Intellectual Property Law Resource Center
PAMELA CHANEY, B.S., J.D., Clinical Instructor
MAXWELL CHIBUNDU, B.A., M.A., J.D., Professor of Law
DANIELE CITRON, B.A., J.D., Lois K. Macht Research Professor of Law
DOUGLAS COBET, A.B., J.D., Professor of Law
ROBERT CONDLIN, B.A., J.D., LL.M., Professor of Law
KAREN CZAPANSKIY, B.A., J.D., Francis & Harriet Iglehart Research Professor of Law
PETER G. DANCHIN, B.A., LL.B., LL.M., J.S.D., Professor of Law
JEROME DEISE, B.A., J.D., Law School Professor Emeritus
DEBORAH EISENBERG, B.A., J.D., Assistant Professor of Law and Director, Center for Dispute Resolution
MARTHA ERTMAN, B.A., J.D., Professor of Law
LARRY GIBSON, B.A., LL.B., Professor of Law
DONALD G. GIFFORD, B.A., J.D., Edward M. Robertson Research Professor of Law
SARA GOLD, A.B., J.D., Visiting Law School Assistant Professor
DANIEL GODBERG, A.B., J.D., Professor of Law
LEIGH GOODMARK, B.A., J.D., Professor of Law
MARK GRABER, A.B., M.A., Ph.D., J.D., Professor of Law and Government
DAVID GRAY, B.A., M.A., J.D., Ph.D., Associate Professor of Law
OSCAR S. GRAY, B.A., J.D., Jacob A. France Professor Emeritus of Torts
I. MICHAEL GREENBERGER, A.B., J.D., Law School Professor and Director, Center for Health & Homeland Security
JAMES GRIEMELMANN, A.B., J.D., Professor of Law
SUSAN HANKIN, B.A., J.D., M.P.H., Law School Associate Professor
MICHELLE HARREY, B.A., J.D., Professor of Law and Director, Business Law Program
LESLIE MELTZER HENRY, B.A., M.Sc., J.D., Associate Professor of Law
DIANE HOFFMANN, A.B., M.S., J.D., Professor of Law and Director, Law and Health Care Program
KATHLEEN HOKE, B.S., J.D., Law School Professor, Director, Legal Resource Center for Tobacco Regulation, Litigation & Advocacy and Director, Regional Public Health Law Network
ALAN HORNSTEIN, B.A., M.A., J.D., Professor Emeritus of Law
RENEE M. HUTCHINS, B.A., J.D., Professor of Law and Co-Director, Clinical Law Program
SHERRILYN IFILL, B.A., J.D., Professor of Law
SHERRI LEE KEENE, B.A., J.D., Law School Assistant Professor and Director, Legal Writing Program
ROBERT KELLER, B.S., LL.B., Professor Emeritus of Law
ANDREW KING, B.A., LL.B., Ph.D., Professor Emeritus of Law
LEE KOVARSKY, B.A., J.D., Assistant Professor of Law
SUSAN LEVITON, B.S., J.D., Law School Professor Emeritus
ANDREW LUND, B.S., J.D., Visiting Law School Professor
RUSSELL McCRAIN, B.A., J.D., Law School Assistant Professor and Director, Academic Achievement Program
MICHAEL MILLEMANN, B.A., J.D., Jacob A. France Professor of Public Interest Law
PAULA MONOPOLI, B.A., J.D., Professor of Law and Founding Director, Women, Leadership, and Equality Program
MICHAEL PAPPAS, B.A., M.A., J.D., Assistant Professor of Law
FRANK PASQUALE, B.A., M.PHIL., J.D., Professor of Law
ROBERT PERCIVAL, B.A., M.A., J.D., Robert F. Stanton Professor of Law and Director, Environmental Law Program
MICHAEL PINARD, B.A., J.D., Professor of Law and Co-Director, Clinical Law Program
GARRETT POWER, B.A., LL.B., LL.M., Professor Emeritus of Law
AMANDA C. PUSTILNIK, B.A., J.D., Associate Professor of Law
PETER QUINT, A.B., LL.B., Jacob A. France Professor of Constitutional Law
SHRUTI RANA, B.A., M.B.A., J.D., Associate Professor of Law
SHARON REECE, B.A., M.A., J.D., LL.M., Visiting Association Law School Professor
WILLIAM REYNOLDS, A.B., J.D., Jacob A. France Professor of Judicial Process
KAREN ROTHENBERG, B.A., M.P.A., J.D., Marjorie Cook Professor of Law
JANA SINGER, A.B., J.D., Professor of Law
RENA STEINZOR, B.A., J.D., Professor of Law
ROBERT SUGGS, B.A., J.D., Professor of Law
MAUREEN SWEENEY, B.A., J.D., Law School Associate Professor
EDWARD TOMLINSON, A.B., M.A., J.D., Professor Emeritus of Law
MICHAEL P. VAN ALSTONE, B.A., J.D., M.JUR.COMP., DR.JUR., Professor of Law and Acting Director, International and Comparative Law Program
ELLEN M. WEBER, B.A., J.D., Professor of Law
DEBORAH WEIMER, B.A., J.D., LL.M., Carole and Hanan Sibel Research Law School Professor
MARLEY WEISS, B.A., J.D., Professor of Law
BEVERLY WINSTEAD, B.A., J.D., Clinical Law Instructor
ROGER WOLF, B.A., J.D., Law School Professor Emeritus
GORDON YOUNG, B.A., J.D., LL.M., Professor of Law