ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW

VOLUME 21, NUMBER 2 SUMMER 2004

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WTO CASE REVIEW 2003

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This *WTO Case Review* is the fourth in an annual series on the substantive international trade adjudications rendered by the World Trade Organization's (WTO) Appellate Body. Each *Review* explains and comments on the Appellate Body reports adopted by the Dispute Settlement Body during the preceding calendar year, excluding decisions on compliance with recommendations contained in previously adopted reports.

ARTICLES

BEYOND VOLUNTARISM: SOCIAL DISCLOSURE AND FRANCE'S NOUVELLES RÉGULATIONS ÉCONOMIQUES

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This Article examines the strengths and weaknesses of France's social disclosure regime as memorialized in its Nouvelles Régulations Économiques (NRE). The Article examines the need for social disclosure and critiques the NRE utilizing the U.N. Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises (Human Rights Principles), the most comprehensive summation to date of the ethical obligations of businesses to their stakeholders. The Article first provides a summary of the NRE and its implementation through Decree Number 2002-221 (Decree). The Article then examines the need for social disclosure and provides a critique utilizing a comparison of ethical duties set forth in the Human Rights Principles with the NRE's reporting requirements. The article concludes that there is a growing imperative for social disclosure as set forth in France's commendable, but flawed, social disclosure regime.

LEGAL TRANSPLANTATION: IS THIS WHAT THE DOCTOR ORDERED AND ARE THE BLOOD TYPES COMPATIBLE? THE APPLICATION OF INTERDISCIPLINARY RESEARCH TO LAW REFORM IN THE DEVELOPING WORLD – A CASE STUDY OF CORPORATE GOVERNANCE IN INDONESIA

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This Article highlights the viability of applying interdisciplinary research to law reform in Asia and the developing world. It does this by applying a model for law reform that harnesses the strengths and possibilities of the social sciences and humanities. It allows developing nations to respond to the *demands* of international institutions to reform their laws, whilst doing so in a culturally appropriate and equitable manner.

NOTES

REINTERPRETING THE IMMIGRATION AND NATIONALITY ACT'S CATEGORICAL BAR TO DISCRETIONARY RELIEF FOR "AGGRAVATED FELONS" IN LIGHT OF INTERNATIONAL LAW: EXTENDING *BEHARRY V. RENO*

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This Note explores the weight to be accorded international law when interpreting domestic statutes. In the context of U.S. immigration law, following the rationale of the U.S. District Court for the Eastern District of New York, this Note argues that certain non-self-executing treaties inform interpretation of domestic statutes, and that absent clear congressional intent to depart from such treaties, an inconsistent domestic statute should be construed so as not to violate international law. Specifically, the Immigration and nationality Act's (INA) provisions categorically barring discretionary relief from deportation to non-citizens convicted of an "aggravated felony" are inconsistent with established international legal principles and should be reinterpreted. This Note further analyzes the legality under international law of current and proposed regulations barring relief from deportation to thousands of non-citizens held to be eligible for such relief by the U.S. Supreme Court in 2001. The Note concludes by suggesting several minimally intrusive ways that the INA and corresponding regulations could be brought into conformity with international law.

PREVENTING CORRUPTION IN COLUMBIA: THE NEED FOR AN ADVANCED STATE-LEVEL APPROACH

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The past decade has seen a dramatic global resolve to fight public corruption. The Inter-American Convention Against Corruption, the European Union Convention on the Fight Against Corruption, and the recently adopted United Nations Convention Against Corruption, are but three examples of a growing international movement. While this international approach is both desirable and necessary, it must not be forgotten that each nation has an essential role in combating public corruption. This Note will demonstrate how certain nations have attempted to fight corruption by using Colombia as

an example of a country that, in the last several years, has made relatively substantial strides in its effort to overcome the problem. Various domestic and international entities have played a part in helping Colombia progress and this Note addresses their involvement and any results. The Note concludes that success in the fight against corruption requires greater focus and development of state-level approaches in Colombia, as in the rest of the world.

FIRING "IMMORAL" PUBLIC EMPLOYEES: IF ARTICLE 8 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS PROTECTS EMPLOYEE PRIVACY RIGHTS, THEN WHY CAN'T WE?

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Privacy is a fundamental right of citizens in the United States and in European countries adhering to the European Convention on Human Rights. However, public employees do not enjoy such privacy protections and have been dismissed for legal, yet "immoral" or "deviant" conduct outside the workplace because of potential public harm arising from the employee's conduct. This Note compares public employee firings based on "immoral" off-duty activities in the United States and Convention countries. The amorphous definitions of privacy, morality, and public harm are discussed. The explicit Convention privacy protections in Article 8 and implicit privacy protections in the U.S. Constitution are examined to determine why public employee privacy is still largely unprotected. To protect public employee rights and public employer interests, the author proposes utilizing a nexus test to balance invasion of privacy with a legitimate interest such as protecting the public from harm.