# The International

and

**Comparative Law Quarterly** 

**VOLUME 20** 

1971

William S. Hein & Co., Inc. Buffalo, New York 2003 © British Institute of International and Comparative Law 1971. Published by Oxford University Press. All rights reserved

> This book has been digitally archived, to maintain the quality of the original work for future generations of legal researchers, by *William S. Hein & Co., Inc.*



This volume is printed on acid-free paper by William S. Hein & Co., Inc.

# The International and Comparative Law Quarterly

BOARD OF EDITORS

General Editor K. R. SIMMONDS

Assistant General Editor JANE WELCH

P. B. CARTER A. K. R. KIRALFY Norman S. Marsh, q.c.

Contributions to the International and Comparative Law Quarterly exprcss the views of their authors and not necessarily the views of the Editorial Board or of the British Institute of International and Comparative Law.

,

# The British Institute of International and Comparative Law

COUNCIL OF MANAGEMENT

Chairman: THE RT. HON. LORD DENNING, M.R. Vice-Chairman: M. E. Bathurst, C.M.G., C.B.E., Q.C., D.C.L., LL.D. Professor J. N. D. Anderson, R. A. Lynex O.B.E., LL.D. Sir James McPetrie, K.C.M.G., \* Sir Kenneth Bailey, C.B.E., Q.C. 0.B.E. The Rt. Hon. Lord Cross F. A. Mann, LL.D., Dr.Jur. The Rt. Hon, Lord Diplock Norman S. Marsh, o.c. L. A. Ellwood \* D. Park-Jamieson, Q.C., LL.D. Sir Vincent Evans, K.C.M.G., The Hon. Mr. Justice Scarman, M.B.E. O.B.E. \* M. C. Setalvad Sir Gerald Fitzmaurice. G.C.M.G., O.C. The Rt. Hon. Lord Shawcross. A. L. Goodhart, K.B.E.(HON.), Q.C., Q.C. LL.D., D.C.L. Professor T. B. Smith, Q.C., Professor R. H. Graveson, O.C., D.C.L., LL.D., F.B.A. LL.D., D.C.L. The Rt. Hon. Lord Tangley. Professor C. J. Hamson K.B.E., LL.B. Master I. H. Jacob Sir Francis Vallat, K.C.M.G., Q.C. Professor Sir Humphrey Waldock. Professor R. Y. Jennings, o.C. C.M.G., O.B.E., Q.C., D.C.L. The Rt. Hon. Lord Justice Karminski E. H. Wall, T.D. William Latey, C.B.E., Q.C. The Rt. Hon. Lord Wilberforce, C.M.G., O.B.E. F. H. Lawson, D.C.L., F.B.A. \* Commonwealth Member

#### ADVISORY BOARD

Public International Law Section Chairman: THE RT. HON. LORD SHAWCROSS, Q.C. Private International Law Section

Chairman: THE HON. MR. JUSTICE SCARMAN, O.B.E.

Comparative Law Section

Chairman: THE RT. HON. LORD CROSS

#### DIRECTOR

PROFESSOR K. R. SIMMONDS

## TABLE OF CONTENTS

(An alphabetical Index of Contributors, a Subject Index, an Index of Cases Noted and an Index of Book Reviews and Books Received will be found at the end of this Volume.)

#### ARTICLES

F	AGE
MODERN TRENDS IN ISLAM: LEGAL REFORM AND MODERNISATION	
IN THE MIDDLE EAST J. N. D. Anderson	1
A COMPARATIVE LOOK AT PROTECTION OF THE SHAREHOLDERS'	
INTEREST: VARIATIONS ON THE DERIVATIVE SUIT Aharon Barak	22
DIVORCE IN THE COMMONWEALTH: A COMPARATIVE STUDY	
A. C. Holden	58
PLANNING AND THE LEGAL SYSTEM IN GERMANY Klaus Lüderssen	75
LAW REPORTING IN ANGLOPHONE AFRICA E. Kofi Tetteh	87
JURISDICTION AD INFINITUM: NEW YORK'S "REM" SEIZURE OF THE	
Insurance Policy for Jurisdiction in Accident Cases	
David D. Siegel	99
THE INTERNATIONAL SEABED AREA F. M. Auburn	173
BHUTAN'S EXTERNAL RELATIONS AND INDIA T. T. Poulose	195
PRIVATE INTERNATIONAL LAW: LORD FRASER AND THE SAVIGNY	
(GUTHRIE) AND BAR (GILLESPIE) EDITIONS	
Kurt H. Nadelmann	213
MARRIAGE OR NO MARRIAGE: THE DIRECTIVES FOR THE REVISION	
OF SWEDISH FAMILY LAW Jacob W. F. Sundberg	223
HUMAN RIGHTS AND THE RULE OF LAW IN SOUTHERN RHODESIA	
Christopher H. Zimmerli	239
Remedies for Unfair Dismissal: A European Comparison	
G. de N. Clark	397
THE UNITED STATES DRAFT TREATY ON THE INTERNATIONAL SEABED	
AREA: BASIC PRINCIPLES R. Y. Jennings	433
NATIONALITY AND DIPLOMATIC PROTECTION Guy I. F. Leigh	453
RECOGNITION AND CONSTRUCTION J. G. Merrills	476
SEATO AND AMERICAN LEGAL OBLIGATIONS CONCERNING LAOS AND	
CAMBODIA Alfred P. Rubin	500
EFTA: THE SETTLEMENT OF DISPUTES A. Szokoloczy-Syllaba	519
Declarations of Death: Reappearance and Status	
D. St. L. Kelly and J. Varsanyi	535
CONFLICT OF LAWS IN SWEDISH COURTS Hilding Eek	605
THE LEGAL SYSTEM OF THE SUDAN M. I. Khalil	624
CEYLON—A CONFLICT OF CONSTITUTIONS M. L. Marasinghe	645
The Author's Status in the United Kingdom and France:	
COMMON LAW AND THE MORAL RIGHT DOCTRINE	
Charles A. Marvin	675
Some Curiosities of Negligent Trespass to the Person—A	
COMPARATIVE STUDY F. A. Trindade	706
THE COMMON COMMERCIAL POLICY OF THE EEC Georges Le Tallec	732
• ••	

.

### SHORTER ARTICLES, COMMENTS AND NOTES

	1	PAGE
The Power to Make and Amend By-Laws: Sho	ould it vest in the	
Board of Directors or Shareholders in Gene	eral Meeting?	
	R. K. Goel	111
The Search for a Grundnorm in Nigeria-the I	.akanmi Case	
	Abiola Ojo	117
Prevention of Discrimination under Kenya Law	Alan H. Smith	136
Notes on the Proposed Revision of Article 17 of	the Warsaw	
Convention	Paul P. Heller	142
Is the Doctrine of Ultra Vires Dead?	R. Baxt	301
Jurisprudence's Day in Court in Ghana	S. K. Date-Bah	315
Parental Authority-French Style	D. Lasok	323
Recent Trends in Danish Family Law and their	Historical	
Background	I. M. Pedersen	332
The Common Law Overseas-a Problem in App	lying the Test of	
Applicability	R. S. O'Regan	342
National and Personal Responsibility for Space A	ctivities	
Су	ril E. S. Horsford	547
Forum Selection and an Anglo-American Conflict	t—the Sad Case of	
The Chaparral	Lawrence Collins	550
Recognition of Foreign Divorce Decrees-The Pro	oblem of	
Retroactivity	Raymond Smith	557
The Relationship between International Law and S	South African Law	
	J. W. Bridge	746
New Soviet Legislation on Straight Base Lines	W. E. Butler	750
White Paper on the Legal Obligations of the B	ritish Government	
arising out of the Simonstown Agreements	J. C. Woodliffe	753

#### **CURRENT LEGAL DEVELOPMENTS**

Marine	Pollution :	United	Kingdom ;	Negligence :	England ;	
Priv	acy: German	ny (West)	; Public Ord	ler: Germany	(West)	149

- Air Piracy: International Civil Aviation Organisation; Belgium: Constitution: Comparative Law Studies: Nordic Countries; International Court of Justice: Barcelona Traction Case; Land Law: Israel; Maritime Jurisdiction: Canada; Matrimonial Law: Great Britain, Ontario; Privacy; France, Germany (West), Sweden; Racial Discrimination: Sweden and Norway 348
- Carriage by Air: International Civil Aviation Organisation; Cartel Law: India; Consumer Credit: Great Britain; Extradition: Swaziland; Legal Education: England and Wales; Marriage: England and Wates, India; Pollution: Norway, United Kingdom; Protection of Diplomats: Organisation of American States: Seabed: United Nations 564

Nordic Countries; Criminal Law: Austria; Double Aliens: Jeopardy: Germany (West); European Convention on Human Rights: The Vagrancy Cases; Hovercraft: United Kingdom; Landlord and Tenant: Great Britain; Obscene Publications: U.S.A.; Protection of the Environment: Switzerland; Check List of Treaty Series-1: Council of Europe BOOK REVIEWS 155, 371, 586, 779 BOOKS RECEIVED 169, 394, 601, 797

762

## Table of Contents

### INDEX FOR VOLUME 20

Contributors of Articles, Shorter Articles, Comments and Notes	page 803
Subject Index	805
Index of Cases Noted	813
Index of Book Reviews and Books Received	816

•

.

¢