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Irene BLÁZQUEZ RODRÍGUEZ, "El estatuto jurídico de los nacionales de terceros países: de la reacción ante la crisis migratoria a la sinergia necesaria", 72(1) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.1.2020.1.01]

The legal status of third-country nationals: from the reaction to crisis for necessary synergy

In the recent years, the legal status of third-country nationals has been a considerable impact by the EU`s geopolitical context, represented by the pressure of irregular migration across the Mediterranean Sea. As regards legal migration, priority and strongly supports has missed in order to ensure fair treatment of third-country nationals who reside legally on the territory of is Member States, at the same time develop an integration policy that grating them rights comparable that those of EU citizens. The EU legislation on the conditions of entry and residence result in the fragmentation, which consequence is unequal treatment among different categories (statuses) of third-country nationals, and between all these workers and EU citizens. In this context is essential to promote the necessary synergies between the internal and external dimension of the European migration policy, by the requirement that to recognise and ensure rights in matters of entry and set a high minimum standard in residential status.

Carlos ESPLUGUES MOTA, "La Convención de Singapur de 2018 sobre mediación y la creación de un título deslocalizado dotado de fuerza ejecutiva: una apuesta novedosa, y un mal relato", 72(1) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.1.2020.1.02]

The 2018 Singapore Convention on mediation and the creation of a delocalized enforceable instrument: an interesting proposal plenty of difficulties

The crisis of international commercial arbitration favors the use of other ADR mechanisms, such as mediation. An institution that provides the parties, both, with a simplified procedure and the possibility to reach acceptable solutions for their disputes. However, this support seems to be restricted to domestic disputes, and not to cross-border ones, in which the use of mediation remains very scarce. One of the alleged reasons for this situation is the absence of a harmonized international regime that facilitates the extraterritorial enforcement of mediation settlements, in line with what happens with the Convention New York of 1958 as regards arbitration awards. The enactment of the Singapore Convention on Mediation in 2018 represents a notable change in the current situation. Nevertheless, the Convention, which has

* This section has been prepared by Santiago Bernabé Hernández —student of Law/Business Studies at UJI— under the supervision of the *SYbIL* Editor-in-Chief and the aid of the editors of the *REDI and REEI*.

received a warm welcome, raises very relevant doubts as to its foundations, as well as important problems in relation to its content and solutions, which often are unclear and lacking further elaboration.

Laura GARCÍA MARTÍN, "Responsabilidad empresarial por violaciones de los derechos humanos en la justicia transicional: aportes del caso argentino", 72(1) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.1.2020.1.03]

Corporate accountability in transitional justice: insights from the case of Argentina

This article examines the issue of business participation in the commission of human rights violations within the framework of transitional justice. The analysis is based on a case study: that of the transitional justice process in Argentina, generally considered a regional protagonist in the field of transitional justice. Therefore, based on the context of the last Argentine dictatorship, this article examines how the transitional justice process has addressed the participation of companies in human rights violations committed during the military regime, as well as the possible options provided by the Institutional framework of Companies and Human Rights to demand responsibility from companies. Finally, some final reflections and some suggestions to address these issues in the future are presented.

Cristina GONZÁLEZ BEILFUSS, "Reflexiones en torno a la función de la autonomía de la voluntad conflictual en el Derecho Internacional Privado de familia", 72(1) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.1.2020.1.04]

Reflections on the role of party autonomy in International Family Law

The present study explores the rationale of party autonomy in International Family law. It distinguishes the abstract function of the choice of law rule from the reasons for activating it and concluding a choice of law contract. Whereas the reasons of the parties prevail in the latter, when parties select the applicable law in accordance to their interest and convenience, the function of the party autonomy rule is fixing the legal context of their relationship. This is particularly interesting since mobility has become circular and an increasing number of families leads a truly transnational life. It is also particularly adequate as a counterweight to objective rules designating the law of habitual residence. Party autonomy in choice of law is, however, not without risks in a context of family relationships where parties do not necessarily seek the maximization of individual interest and where gender roles emerge forcefully in connection to the care required by vulnerability and dependency.

Ángeles JIMÉNEZ GARCÍA-CARRIAZO, "Prospecciones turcas en aguas chipriotas, una nueva dimensión del enfrentamiento", 72(1) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.1.2020.1.05]

Turkish Surveys in Cypriot Waters, a New Dimension of The Confrontation

The discovery of natural gas in the waters surrounding the island of Cyprus has added a new dimension to the dispute between the Republic of Cyprus and Turkey, which has turned into a scramble for resources in the Eastern Mediterranean. That is in addition to the political conflict between the south and north of the island, encouraged by Turkey, which plays a fundamental role standing as an advocate of the rights of Turkish Cypriots as co-owners of the island of Cyprus. The different conception of maritime zones by Cyprus and Turkey, as well as the absence of definitive delimitation lines, hamper mutual understanding. In addition, the unilateral actions of both States increase the tension: Turkey has initiated surveys in maritime areas that would correspond to the island of Cyprus and the latter has submitted to the United Nations the outer coordinates of its exclusive economic zone and its continental shelf in order to protect its maritime zones from Turkish incursions.

Pilar POZO SERRANO, "Las repercusiones del Brexit sobre el proceso de paz de Irlanda del Norte: consideraciones provisionales", 72(1) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.1.2020.1.06]

The impact of Brexit on the Northern Ireland peace process: provisional thoughts

United Kingdom and Ireland membership of EU has provided the context for several dimensions in the Northern Ireland Peace Process. Concerns have been raised that the Withdrawal from the EU could lead to hard border between Ireland and Northern Ireland, thus jeopardising the Good Friday Agreement. The paper analyses, on the one hand, the direct and indirect influence of the European Union in the Northern Ireland peace process with the aim of exploring the areas that could potentially been compromised by Brexit. On the other hand, the article reviews the prominent position that Northern Ireland has occupied in the Brexit negotiations and the obstacles faced by the UK in order to get the Agreement approved by the UK Parliament. The conclusions point to some already visible effects of the process.

Antonio SÁNCHEZ ORTEGA, "La política exterior rusa y su relación con Occidente. Una visión desde el realismo neoclásico", 72(1) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.1.2020.1.07]

The Russian foreign policy and its relation with the West. An approach from neoclassical realism

This work aims to analyze Russia's foreign policy, especially with regard to its relations with the West. The main objective is to try to understand the motives that laid down behind the transition from pre-Western positions in the 1990s to a confrontational relationship. To carry out this analysis, the neoclassical realistic paradigm will be used as an interpretive element. Particular attention will be paid to the assessment of threats arising from systemic imperatives and to the elements that establish the relative power of the State.

Carlos ESPALIÚ BERDUD, "Locus standi de los estados y obligaciones erga omnes en la jurisdicción contenciosa de la Corte Internacional de Justicia", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1a.01]

Locus standi of states and erga omnes obligations in the contentious jurisdiction of the International Court of Justice

The ICJ has progressively incorporated the notion of obligations erga omnes and given it greater scope in its jurisprudence. In recent years, several decisions have explicitly or implicitly recognized the locus standi of non-injured States to bring cases before the Court for violations of obligations erga omnes partes. For the time being, the locus standi arising from obligations erga omnes in the strict sense has not been recognized. These developments demonstrate the relevance of collective values and of the international community in the international legal order. However, the extension of the locus standi derived from obligations erga omnes does not imply the disappearance of the requirement of other considerations required by the judicial nature of the Court, such as the existence of a dispute prior to the commencement of the proceedings and the consent of all the Parties to the proceedings.

José Ángel LÓPEZ JIMÉNEZ, "Bielorrusia existe: equilibrio inestable entre una política exterior multivectorial y el Tratado de Unión con Rusia", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1a.02]

Belarus exists: unstable balance between a multivector foreign policy and the Union Treaty with Russia

This article aims to research Belarus Foreign Policy from its constitution as an independent republic —after the dissolution of the Soviet Union— to the present moment. The construction of the nation state has been marked by several elements: the attempt to consolidate a neutral status, the strong dependence on Russia-economic, financial, military, cultural —and the configuration of a multivector policy. The difficulties derived from these three processes and the complexity to combine them —in some periods— during these almost three decades they also reflect the importance of internal politics in an autocratic system.

Jonathan PASS, "El statecraft institucional de China dentro del orden internacional liberal: el Banco Asiático de Inversión en Infraestructura", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1a.03]

China's institutional statecraft within the liberal international order: the Asian Infrastructure Investment Bank

A key debate amongst international relations theorists is how China's rise will affect the liberal international order (LIO). The launching of the Asian Infrastructure Investment Bank (AIIB) by Beijing, unsurprisingly, has generated much interest. The aim of this paper is to shed light on the claim that the AIIB constitutes a «counter-hegemonic» initiative (or «external innovation» in liberal terminology). After showing the complexity of Chinese institutional statecraft, the study reviews mainstream theoretical accounts of the AIIB. Both neorealism and neoliberalism, we hold, have contributed to a better understanding of the institution, but ontological and epistemological deficiencies prevent them from

satisfactorily explaining the complex social processes underway. By contrast, we set out a Neo neo-Gramscian perspective, which understands the AIIB as an institutional manifestation of the on-going interaction between the social forces emergent out of China's own statesociety complex on one hand, and their global counterparts, on the other. For the short term, we conclude, the AIIB is likely to reinforce the LIO. Over the medium to long term, however, this internationalisation of the state process, understood in connection with the Belt and Road Initiative, may pose a serious challenge to the LIO and, as a result, to US hegemony itself.

Beatriz PÉREZ DE LAS HERAS, "La Unión Europea en la transición hacia la neutralidad climática: retos y estrategias en la implementación del acuerdo de París", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1a.04]

The European Union in the transition towards climate neutrality: challenges and strategies to implement the Paris agreement

The Paris Agreement represents the international community's commitment to limit the temperature rise to 1.5 ºC by mid-century. As a regional organization of integration, the European Union (EU) was the first to adopt a legally binding framework to address the achievement of this global objective. Known as the «2030 climate-energy package», the expected results of this framework in terms of emission reductions do not correspond to what would be a sufficient contribution from the EU to its international commitments. In addition, perspectives indicate that the progress made by the EU so far will not be sufficient to meet its climate and energy targets by 2030. These predictions also jeopardize the EU's ambition to achieve climate neutrality by 2050. To accelerate the process, the European Commission has proposed the European Green Deal, a new integrated strategic framework that should guide the EU internal and external action towards climate neutrality and sustainability in the next decade. Its effective implementation involves a systemic transformation whose accomplishment will require a good dose of political will and a concerted action between public officials, economic agents and society as a whole.

Mª Ángeles SÁNCHEZ JIMÉNEZ "Acción de responsabilidad parental vinculada a un proceso de divorcio en el nuevo reglamento (UE) 2019/1111", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1a.05]

Parental responsibility action connected to a divorce procedure in the new regulation (EU) 2019/1111

The purpose of this work is to analyze the scope and consequences of the regulation introduced by art. 10 of Regulation 2019/1111 for the purposes procedure the concentration of jurisdiction in the cases in which an action in parental responsibility is connected to a divorce process. These assumptions, which find an express response in art. 12 of Regulation 2201/2003, are not subject to specific consideration in the new precept. The structure of art. 10, related to the «election of the court» as indicated by its heading, derives from the unification of the two cases distinguished by art. 12 (which is modified), respectively, the one in which the action on parental responsibility was linked to a matrimonial litigation (art. 12.1), and to which this action is presented independently (art. 12.3). Along with the structure, another essential reason that justifies the object being addressed, derives from the consideration of the content of art. 10, as its regulation is articulated on the basis of the one offered by art. 12.3 and, therefore, for the second of the cases indicated.

María Amparo ALCOCEBA GALLEGO, "Estudios sobre España y el derecho internacional: límites a la discrecionalidad del estado español en el ejercicio de la protección diplomática", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1b.01]

Studies on Spain and international law: limits to the discretion of the Spanish state in the exercise of diplomatic protection

The Spanish practice on Diplomatic Protection has followed the traditional model of Public International Law in relation to this topic: A State is not obliged under international law to exercise diplomatic protection on behalf of a national who has been injured as a result of an internationally wrongful act attributable to another state. There is a discretionary nature of the State's right to exercise diplomatic protection and there is not an individual right to Diplomatic Protection. Recently, a judgement of the Audiencia Nacional on 19th December 2019 has introduced a signification change to it. It has recognized, invoking several provisions of the Spanish Constitution, the right of the individual to receive diplomatic protection for injuries suffered abroad, which, must carry with it the corresponding duty of the State to exercise protection. Furthermore, it has considered the State responsible when the State's inaction resulted in a failure to exercise Diplomatic Protection, and thus contributing to consolidate the injury derived from a violation of the Individual's human rights. This Sentence is in line with the recent tendency in Public International Law to the increase of rights of the Individual in Public international law, but it is not customary law yet. This Sentence is very consistent with the role given to the State as guarantor and protector of Human Rights by the Spanish Constitution and with the rule of law.

Elena CRESPO NAVARRO, "Estudios sobre España y el derecho internacional: la naturaleza de la protección diplomática en el caso Couso: la compleja relación entre derecho internacional y derecho interno", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1b.02]

Studies on Spain and international law: the nature of diplomatic protection in the Couso case: the complex relationship between international law and domestic law

On December 11, 2019, the Contentious-Administrative Chamber of the National Court, Section 4, finally issued a judgment on the Couso case. The Judgment states the financial liability of the General State Administration and orders it to pay compensation for the omission in the exercise of diplomatic protection to which the Spanish State would be obliged on behalf of its nationals. It is a relevant Judgment due to its effects that, undoubtedly, transcend the specific case and may have consequences on the general interest. On February 24, 2020, the State Attorney's Office presented a pleading in preparation for the Supreme Court's appeal for violation of the domestic legal system and for the reversal interest for the Supreme Court. This article represents a critical analysis of the confusing argumentation of the Judgment from both an International Law and a Spanish domestic law perspective of the diplomatic protection's doctrine.

Ángel SÁNCHEZ LEGIDO, "Estudios sobre España y el derecho internacional: las devoluciones en caliente españolas ante el Tribunal de Estrasburgo: ¿apuntalando los muros de la Europa fortaleza?", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1b.03]

Studies on Spain and international law: the Spanish pushback policy before the Strasbourg Court: strengthening the walls of fortress Europe?

In *N. D. and N. T. vs. Spain*, the Grand Chamber of the ECHR flatly rejects the two great threats that the participating governments had posed to their powers of control. Neither attempts to artificially excise parts of its territory in order to exclude or limit the application of the Convention are admissible, nor it is acceptable to exclude non-admission measures from the scope of the ban on collective expulsions of aliens. However, through the surprising recourse to the doctrine of «culpable conduct», the Court sets as a general rule the compatibility with the Convention system of summary returns of aliens intercepted when irregularly crossing the border. The application of this doctrine is subject to conditions very loosely appreciated by the Court in favour of States, requiring the existence of effective and genuine means of access and that these means had not been used by the interested person due to imperative reasons not attributable to the respondent State. In this article it is suggested that, acting in this way, Strasbourg not only accepts the very questionable practice of hot returns, but also grants broad support to the policies of outsourcing of migration controls and to the safe State mechanisms.

Jesús VERDÚ BAEZA, "Estudios sobre España y el derecho internacional: España y los problemas de aplicación del Convenio de Aguas de Lastre en el área del estrecho de Gibraltar. A propósito del alga invasora *rugulopterix okamurae*", 72(2) *Revista Española de Derecho Internacional* (2020) [DOI: http://dx.doi.org/10.17103/redi.72.2.2020.1b.04]

Studies on Spain and international law: Spain and the problems of application of the Convention on Ballast Water in the area of the straits of Gibraltar. On the invasive alga rugulopterix okamurae

The Strait of Gibraltar is a unique marine space with an extraordinary environmental value motivated by its geophysical conditions and by the fact of being a meeting point of two seas and two continents. This area is being devastated by the presence of an invasive alga from Asia, called *Rugulopterix okamurae* with an adaptive capacity and explosive growth that has surprised the scientific community. This alga not only affects ecological balances, but also disrupts economic activities such as fishing and tourism, threatening the public health as well. All indications suggest that the introduction of the invasive seaweed occurred through some discharge of ballast water. The International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM) is the key international instrument in the fight against the dispersion of invasive species, one of the world's greatest ecological problems. This agreement presents certain difficulties of application, which are especially visible in the area of the Strait of Gibraltar. This area is characterized by a high legal and political unrest between the States present in the region, where the maritime spaces are not delimited, and there is not any border agreement. Additionally, as a strategic route for international navigation, the strait of Gibraltar has a particular legal regime provided for in the United Nations Convention on the Law of the Sea limiting the powers of the coastal States.

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Ángeles Lara Aguado "Claves del Reglamento (UE) 650/2012 a la luz de la jurisprudencia del TJUE: de la especialización a la (in)coherencia a través del mito del principio de unidad y las calificaciones autónomas unívocas", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.02]

Keys to Regulation (EU) 650/2012 in light of the jurisprudence of the Court of Justice of the European Union: from specialization to (in)coherence through the myth of the principle of unity and unambiguous autonomous qualifications

Regulation (EU) 650/2012 on successions revolutionized the legal regime of successions in EU Member States linked by the Regulation, and has generated a great deal of questions and problems of interpretation. Five years after its validity, the CJEU has uncovered some of these questions, although in doing so it has opened up new doubts and has not run out the difficulties of interpretation inherent in a subject as complex as rooted in national legal traditions. In some cases the court is highlighting the need for a single jurisdiction to hear the different issues related to the succession; in other cases, also to satisfy the principle of the unity of the succession, it delimits the scope of the Regulation by extending the succession matter as much as possible or imposing European qualifications even above national jurisprudence and extends the jurisdiction rules to national courts to issue national certificates of succession. However, on another occasion, it opts for a qualification of the jurisdictional function linked almost exclusively to the processes of contentious jurisdiction, thus, it seems to give in to the inconsistencies of the Regulation or contribute to them.

Marta Requejo Isidro "El artículo 3, apartado 2, del Reglamento nº 650/2012: autoridades no judiciales y otros profesionales del Derecho", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.03]

Article 3, paragraph 2, Regulation 650/2012: non-judicial authorities and legal professionals

In recent years, the CJEU has received several requests for a preliminary ruling originating from a notarial activity within the framework of different instruments for civil judicial cooperation. This text focuses on those related to Regulation 650/2012 – the "successions Regulation". It aims to provide an explanation of the judgments of the CJEU, while calling into question its method of interpretation. It reflects as well on the possible incorporation of the notaries (and other legal professionals) to the "judicial dialogue" with the CJEU, allowing them to directly refer requests for interpretation.

César Villegas Delgado "La Corte Internacional de Justicia y la paulatina humanización del Derecho consular: de Breard a Jadhav", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.04]

The International Court of Justice and the progressive humanization of consular law: from Breard to Jadhav

The process of humanization that international law has been experiencing has been progressively opening up, within consular law. The author analyzes in this article the evolution of the jurisprudence of the International Court of Justice regarding article 36 of the Vienna Convention on Consular Relations of 1963, asking to what extent the information on the right to consular assistance could be considered as a human right beyond the inter-State dimension of the Vienna Convention on Consular Relations. In the five cases that have been raised on this matter, the ICJ has ruled on the merits of four of them, and it is possible to perceive an evolution between the case law of the Avena and Diallo cases regarding the individual's position and the protection of his rights within an interstate dispute before the Court. However, the ICJ has avoided analyzing the debate on the nature of consular rights as human rights.

Joana Loyo Cabezudo "La Corte Penal Internacional y las amnistías aprobadas en procesos de transición: ¿la condicionalidad legitima jurídicamente su empleo?", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.05]

The International Criminal Court and amnesties approved in transitional processes: does conditionality legitimate juridically their use?

International Criminal Law, from its origins, has dealt with amnesties that States approved to prevent the sanction of international crimes. The present study analyses if after the progressive evolution of this sector of the legal system and, specially, after the adoption of the Rome Statute of the International Criminal Court, the scope of amnesties has changed. In order to achieve this aim, first, it examines the situation of amnesties from an international law perspective and it analyses some pronouncements of international human rights tribunals. Second, it focuses on the Rome Statute and evaluates critically the interpretation of amnesties given by the International Criminal Court. Finally, taking into account the amnesty law approved by Colombia, the study discusses the actual conditions that appear to be necessary in transitional justice processes and analyses their legal adequacy.

Xavier Pons Rafols "La COVID-19, la salud global y el Derecho internacional: una primera aproximación de carácter institucional", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.06]

COVID-19, global health and International law: a first approach of institutional nature

This study constitutes a first and urgent approach to some of the implications of the COVID-19 pandemic in International Law, with its multiple health, economic and social consequences. The study, after referring to global health and the globalization of health, is primarily concerned with the review of the work of the United Nations and the World Health Organization (WHO) in the face of the pandemic. This review critically assesses the lack of leadership and political impetus in the face of a health crisis of unprecedented magnitude. It also reviews the outcome of the World Health Assembly held on 18-19 May 2020 and devoted exclusively to the COVID-19, in a context of political competition and criticism of WHO's management of the emergency and with the announcement of the United States withdrawal.

Margarita Robles Carrillo "La gobernanza de la inteligencia artificial: contexto y parámetros generales", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.07]

The governance of artificial intelligence: context and general framework

Artificial intelligence (AI) has become the subject of a wide-ranging and controversial debate. The analysis of the debate shows two main problems: the conceptual problem arises from the absence of agreement on the definition of AI; and the functional problem derives from the different relevance given to the technical, ethical and legal components. There is a clear prevalence of the former, an insistent invocation of ethical aspects and little attention to legal discourse. From a legal standpoint, two issues must be distinguished: the application of AI to the study and practice of law and the regulation of AI. The model of AI regulation is approached from different methodological perspectives that confirm the need to adopt a proactive and open, non-formalist approach to the organisation of its governance. The study of practice shows, however, that very few States have adopted strategies or action plans in this area. In the international framework, most of the initiatives are located in organizations or forums participated by technologically developed countries. The international legal system must activate universal mechanisms, norms and procedures to respond to this situation and to the global challenge of AI governance.

Rosario Ojinaga Ruiz y Ruth María Abril Stoffels "La protección de las niñas asociadas con fuerzas armadas o grupos armados", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.08]

Protection of girls associated with armed forces or armed groups

The intersection between gender and age makes girls associated with armed forces and armed groups do not look is adequately protected by IHL. Despite latest regulatory and jurisprudential developments, the legal framework on the recruitment and participation of children in armed conflicts remains fragmentary and lacking a gender perspective. In this study the existing shortcomings in the protection of girls associated with armed groups, are analyzed both if they meet combat functions as if they carry out another type of functions, involving or not active participation in hostilities

Ruth Rubio Marín "Mujeres, espacio público, participación política y derechos humanos: ¿hacia un paradigma de democracia paritaria?", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.09]

Women, public space, political participation and human rights: towards a parity democracy paradigm?

This article analyses the extent to which human rights have supported a paradigmatic change in the conception of women's political participation. It describes human rights evolutions after the Second World War as framing a phase in which the lack of women's political participation in conditions of equality was perceived as a matter of equal rights, first under a logic of formal equality and then, as from the eighties and the adoption of CEDAW, as a matter of equal opportunities under a logic of substantive equality. The third section describes the steps that have been taken towards a new paradigm in the world of human rights since the mid-1990s which conceptualizes the absence of women in the public sphere (broadly

conceived) in terms of democratic legitimacy and not just of equality (formal or substantive). The fourth section, coinciding more or less with the beginning of the new century, identifies international and, more importantly, regional signs of the consolidation of the framework of parity democracy as a new paradigm through which to assess the importance of the political participation of women.

Juan Ruiz Ramos "The right to liberty of asylum-seekers and the European Court of Human Rights in the aftermath of the 2015 refugee crisis", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.10]

El derecho a la libertad de los solicitantes de asilo y el Tribunal Europeo de Derechos Humanos tras la crisis de refugiados de 2015

In the context of the 2015 refugee crisis, European States have pushed for tighter migration control policies by, inter alia, extending and toughening the practice of detaining asylum-seekers. The aim of this study is to assess how the European Court of Human Rights (ECtHR) constrains this worrisome practice. Does it grant States the same margin of appreciation as in other migration-related judgments, or does it adopt a more active role in protecting asylum-seekers' right to liberty? To answer this question, this study analyses the case law of the ECtHR after 2015 on the subject and evaluates it in the light of the relevant international human rights treaties, European Union law and scholarly opinion. In doing so, it especially seeks to identify any changes in the Court´s case law that might indicate a reaction of the Strasbourg Court to the political tensions of the refugee crisis.

Rosario Huesa Vinaixa "Una controversia bilateral con dimensión multilateral: cuestiones de jurisdicción y de *ius standi* en el asunto Gambia c. Myanmar (medidas provisionales)", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.11]

A bilateral dispute with a multilateral dimension: jurisdiction and ius standi issues in the Gambia v. Myanmar case (provisional measures)

In November 2019, The Gambia filed an application requesting the International Court of Justice to declare the violation, by Myanmar, of various provisions of the Convention against genocide in relation to the Rohingya population, as well as the indication of provisional measures. It is a dispute whose multilateral dimension makes it unique in relation to any other preceding case. This multilateral dimension is projected in a double field. On the one hand, the environment in which it has developed and forged, which is markedly multilateral in spite of the Gambian leadership. On the other hand, the multilateral nature of the obligations allegedly violated, in particular, their erga omnes partes character. The present study analyzes both aspects on the basis of the arguments put forward by the parties in relation to the indication of provisional measures and the subsequent ruling of the Court in this regard. It should be said -without neglecting its provisional nature- that the position adopted by the Court represents a significant step in the line towards the recognition of a suitable procedural space for this type of disputes, but poses the challenge of the progressive admission of actio popularis in international law.

Manuel E. Morán García "¿Foro exclusivo en materia de comercio transfronterizo de recursos genéticos y conocimientos tradicionales asociados en el marco del Protocolo de Nagoya de 2010?", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.12]

Exclusive jurisdiction on cross-border trade in genetic resources and associated traditional knowledge under the 2010 Nagoya Protocol?

The purpose of this contribution is to analyse the advisability of establishing an exclusive jurisdiction in cases of cross-border transactions concerning genetic resources (GR) and associated traditional knowledge (TK), as understood by the 2010 Nagoya Protocol. The Protocol obliges its Contracting Parties to check that trade in GR –the ultimate basis of biodiversity- and, where appropriate, that of the associated TK –developed by Indigenous and Local Communities- is carried out in accordance with a contract that must include, imperatively: the Prior and Informed Consent of the Provider Party of the GR/TK; the Mutually Agreed Terms between the Provider Party and the user of GR/TK; the reservation of a fair and equitable participation of the Provider in the benefits obtained by the user, arising from the access/utilization of GR/TK. Aware of the innate internationality of such transactions, the Protocol urges Provider Parties and users to manage the legal risks arising out of the contract. But is not the purpose of Nagoya's text to build a PIL system in this area, a task that falls on each Contracting State. Is well known that each sovereign is autonomous when designing his system of international jurisdiction, so the analysis starts taking in account the exceptionality of the establishment of exclusive jurisdiction fora and offers an strong arguments in the opposite way, based on the principle of proximity, the presence of substantive relevant public interests in the matter and the forum-ius correlation, in order to conclude by proposing the establishment of an exclusive forum in benefit of the Provider State of the GR/TK.

Esperanza Orihuela Calatayud "La autorización para investigar los crímenes cometidos en Afganistán. Luces y sombras de la sentencia, de 5 de marzo de 2020, de la Sala de Apelaciones de la Corte Penal Internacional", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.13]

The authorization to investigate the crimes committed in Afghanistan. Lights and shadows of the Judgment of 5 March 2020 of the Appeals Chamber of the International Criminal Court

The ICC Appeals Chamber's judgment of 5 March 2020 has found that the Pre-Trial Chamber committed an error of law in its decision of 12 April 2019 denying the Prosecutor authorization to open an investigation into crimes committed in Afghanistan. A conclusion which, being based on the analysis of the first ground of appeal raised, has prevented the Appeals Chamber from clarifying other aspects, in particular, the much-discussed issue of factors to be taken into account when assessing the interests of justice. The Appeals Chamber judgment has highlighted that the Pre-Trial Chamber's decision was based more on speculation than on criminal justice criteria. The Appeals Chamber has offered victims the possibility of having their interests recognized or at least being able to benefit from the assistance of the Trust Fund for Victims.

María José Pérez del Pozo "La expansión de la guerra informativa rusa (2000-2018)", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.14]

The expansion of Russia's information warfare (2000-2018)

This article analyzes the evolution of the means of soft power used by Russia since the year 2000. Starting at the study of the first public diplomacy initiatives, directed at countries of the post-soviet space, explores the similarities with the strategic objectives of Russian foreign policy. Firstly, the changes produced in the international society since the Russian-Georgian war of 2008, and the protests that have taken place in Russia at the end of 2011 and the beginning of 2012, result in a significant change of the objectives and strategies of the Russian soft power, and in an extreme radicalisation of informative narratives. The conclusions emphasize four elements: the evolution towards informative warfare operations as a defense strategy against Western initiatives in the Russian neighbourhood, the growing militarization of informative content based on informative warfare strategies, the parallelism between the propaganda within the country and in the international community and the use of discrediting information strategies against Western countries and media.

Rosa Ana Alija Fernández "Los tratados internacionales en materia de corrupción: una vía potencial para la persecución extraterritorial de violaciones graves de derechos humanos cometidas por empresas transnacionales)", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.15]

International treaties on corruption: a potential path to extraterritorially prosecute serious violations of human rights committed by transnational companies

Given the difficulties to prosecute serious violations of human rights amounting to international core crimes when there are transnational companies involved in their commission, punishing them as crimes of corruption merits consideration. International treaties in this field provide elements to defend this stance. Besides, this path provides some advantages, particularly the facilitation of their extraterritorial prosecution. However, although a potentially useful strategy, it also presents significant drawbacks.

Beatriz Vázquez Rodríguez "Protección diplomática y responsabilidad patrimonial del Estado: a propósito del asunto Couso", 39 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.39.16]

Diplomatic protection and State liability: the Couso case

Judgment 4391/2019 of the Audiencia Nacional of Spain has ordered the Spanish State to compensate the family of the journalist José Couso for the damages caused by the omission in the exercise of diplomatic protection. The ruling recognizes the patrimonial responsibility of the Spanish Administration, providing the novelty that it is the first time that it has been done without a causal link between the damage caused to a national by a third State and the behaviors previously developed by the Spanish administration. However, the legal construction of the Judgment is debatable, both as a consequence of some of the arguments used and by the weak development of others. The Supreme Court has the opportunity to confirm the progress or maintain its previous doctrine.

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Vicente Garrido Rebolledo, "Inmoralidad, inhumanidad, oportunidad e impunidad de la utilización de las armas químicas: el caso de Siria", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.02]

Immorality, inhumanity, opportunity and impunity of the chemical weapons' use: the case of Syria

Despite the frequent and extensive use of chemical weapons in armed conflicts, they were always considered as immoral, due to their uncontrollable and inhuman effects. The Chemical Weapons Convention (CWC) codifies the obligation to eliminate chemical arsenals on a global scale. The withdrawal and destruction of chemical weapons from Syria in 2014 will be the most important milestone of the non-proliferation regime and the greatest challenge for the Organization for the Prohibition of Chemical Weapons (OPCW). The process will be long and extremely complicated, due to the lack of cooperation from the Syrian government and the finding by the OPCW of the use of chemical warfare agents in the conflict (both by the regime and by non-state actors). The feeling of frustration in the face of the impossibility of acting against the perpetrators of the attacks with chemical weapons on Syrian territory, has led in the last two years to the launch of some international initiatives, which seek to ensure that these crimes against humanity do not go unpunished. All this, in parallel to a recent criminal and homicidal use of chemical agents that seemed already forgotten.

Joan David Janer Torrens, "La aplicación de la cláusula derogatoria del Convenio Europeo de Derechos Humanos con motivo de la crisis sanitaria derivada del COVID 19", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.03]

The application of the derogatory clause of the European Convention on Human Rights on the occasion of the sanitary crisis arising from COVID 19

The sanitary crisis caused by COVID-19 has meant that, in a period of only fifteen days, ten States parties to the ECHR have notified, during the first wave of the pandemic, the Secretary General of the Council of Europe of their decision to temporarily derogate from certain obligations of the Convention in order to be able to adopt restrictive measures of rights to contain the transmission of the virus among the population. However, the rest of the States, which have also been affected by the pandemic, have not considered it necessary to resort to the derogation clause considering that the restrictive measures adopted were compatible with the Convention. The objective of this study is to analyze the application of the derogatory clause of Article 15 of the Convention as a result of the sanitary emergency and assess its opportunity from the perspective of the human rights protection system established by the Convention, considering if perhaps it would have been preferable not to apply it.

Miguel Gardeñes Santiago "La circulación de personas físicas en el Acuerdo de Retirada del Reino Unido de la Unión Europea", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.04]

Movement of natural persons in the Agreement for the Withdrawal of the United Kingdom from the European Union

The withdrawal of the United Kingdom from the EU is an important political and legal challenge. Among the many issues it has raised, those related to mobility and residence of citizens and their families are of utmost importance. Even though UK nationals are no longer Union citizens, and Union citizens will not be able to exercise any more the rights related to EU citizenship in the territory of a State that is no longer a member of the Union, the second part of the withdrawal agreement allows to maintain, in part, the former statu quo for those citizens which, at the end of the transition period, find themselves in a situation covered by EU rules on the free movement of persons and intend to keep it afterwards. The withdrawal agreement is a rather complex instrument of transitional law, and this paper intends to analyse its context, principles, applicability criteria and the rights it bestows.

Jordi Mas Elias "La cohesión interna de las regiones: factores que contribuyen a su desempeño exterior", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.05]

Internal cohesiveness of regions: factors contributing to their external performance

In recent years, regions are taking a decisive role in world trade liberalization. Their greater activity and presence in the international scene indicate the existence of greater opportunities to study them from a comparative perspective. However, its study has been strongly limited from an internal viewpoint, aimed at describing and analyzing the internal characteristics of the region that favor its cohesion and its external performance. This is due to, among several reasons pointed to by the academic literature of regionalism and interregionalism, the difficulty of conceptually defining the region and its changing structure. This study aims to review the main contributions of the International Relations discipline in the field of regional cohesion and explore the possibilities of analyzing the regions from a comparative perspective. It concludes that there has been a special emphasis on analyzing cohesion from the perspective of regional institutions and state preferences, particularly in studies on the European Union. However, other factors of cohesion identified by academic literature, such as the distribution of power or regional coherence, have been developed to a lesser extent.

Romualdo Bermejo García y Eugenia López-Jacoiste Diaz "La crisis rusa en el Consejo de Europa: ¿un paso en falso de la Asamblea Parlamentaria?", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.06]

The Russian crisis in the Council of Europe: a false step of the Parliamentary Assembly?

The annexation of Crimea to the Russian homeland has taken its toll on the Council of Europe. The Parliamentary Assembly of the Council of Europe stripped the Russian Federation in 2014 of its right to vote and other rights of representation. In this study, the political and legal consequences of the "Russian crisis" are analyzed in detail, with special attention to the usurpation of power by the Assembly of the sanctioning competences of the Committee of Ministers. This crisis reflects, on the one hand, the constant anti-Russian attitude of old Europe, regardless of the political weight of Russia and its particularity, and,

on the other hand, the dangerous internal tensions in this Organization, on the occasion of the amendment of that gross mistake.

Montserrat Pi Llorens "La Unión Europea y la lucha contra los traficantes y tratantes de migrantes en Libia: balance tras el fin de la operación Sophia", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.07]

The European Union and the fight against smuggling and trafficking in Libya: balance after the end of operation Sophia

This article aims to take stock of the measures that the European Union has put in place to combat smugglers and human traffickers in Libya, at a time when one of the instruments that has played a leading role in this fight, Operation Sophia, has come to an end. The initial hypothesis is that these measures, or at least most of them, which have implied the adoption of policies of clear militarization and externalization, have been controversial and have been questioned since their incorporation, given that their effects not only do not correspond to the stated objectives but raise many doubts in both legal terms and regarding questions of efficiency.

Maria Julià Barceló "La Unión Europea y su cooperación flexible con Naciones Unidas en el mantenimiento de la paz: el caso de las misiones europeas", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.08]

The European Union and its flexible cooperation with the United Nations in peacekeeping: the case of European missions

The practice of European Union (EU) missions and their mechanisms for the creation and deployment show that the EU behaves as a regional organisation that acts autonomously in peacekeeping, under the parameters of Chapter VIII of the Charter of the United Nations and the legal framework of the Common Security Defence Policy (CSDP). In 2003, the formalization of this cooperation between the two organizations has been initiated and inter-agency mechanisms were established. Since 2013, the EU has designed a number of action plans that reflect its willingness to cooperate with the United Nations. Its peacekeeping missions are instruments of flexible cooperation with the United Nations and other regional organizations. Priority focus of intervention and cooperation include security and defence sector reform, the rule of law, advice and training, or support for peace in Africa. In its intervention, the EU has not in all cases had the prior authorisation of the United Nations Security Council (UNSC). Civilian missions (peacekeeping) have been created and deployed without this authorization, although in general the UNSC has subsequently validated them with its resolutions on the conflict. By contrast, most military operations (peace enforcement) have been authorized by the UNSC, proving the Union's willingness to participate in operations with concrete and time-limited mandates.

Jacqueline Hellman "Las vicisitudes de la Convención sobre el delito de genocidio en este nuevo siglo", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.09]

The vicissitudes of the Genocide Convention in this new century

The heinous acts committed during the Second World War constituted an undeniable incentive for a considerable number of States that decided to positively welcome the proposal concerning the adoption of an international legal instrument that aimed the criminalization of illicit that were similar to the ones committed during the referred armed conflict. Finally, in 1948, the Convention for the Prevention and Punishment of the crime of genocide was adopted and, in 1951, it entered into force. Hence, more than seventy years have passed since this severe crime was internationally codified. Thus, we will analyze and interpret the content of the latter in the light of current situations. All this will be made with the purpose of determining if the content of the agreement adopted at the Chaillot Palace, on December 9 of 1948, is a suitable one.

Beatriz Campuzano Díaz "Los acuerdos de elección de foro en materia de responsabilidad parental: un análisis del art. 10 del Reglamento (UE) 2019/1111", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.10]

Choice of court agreements in matters of parental responsibility: an analysis of art. 10 of Regulation (EU) 2019/1111

Choice of court agreements in matters of parental responsibility are subject to certain conditions in Art. 10 of Regulation 2019/1111, which are analysed in this article: the child must have a substantial connection with the Member State whose courts are chosen, in particular for any of the circumstances listed in Article 10; it is necessary the agreement of the parties, as well as any other holder of parental responsibility, which must be done in compliance with certain formal and temporary requirements; and the exercise of jurisdiction needs to be in the best interests of the child. The article takes as reference Article 12 of Regulation 2201/2003 and the ECJ decisions about its interpretation and application, to explain many of the changes introduced by Art. 10 of Regulation 2019/1111. The relations between the international jurisdiction rules of Regulation 2019/1111 and the 1996 Hague Convention are also analysed in this article.

Gloria Esteban de la Rosa "Método y función del Derecho internacional privado: hacia la más plena realización de los derechos humanos", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.11]

Method and function of Private International Law: towards the greatest realization of human rights

The Private International Law System is currently undergoing a certain transformation from the perspective of its scientific understanding (method) and function, as the impact of human rights is increasingly evident. This incidence takes place in the sectors of its content (international competence, applicable law and recognition of decisions) and in the techniques used to respond to international private situations. This contribution accounts for the aforementioned evolution, also providing the necessary historical perspective.

Miguel Á. Acosta Sánchez "Estrategias de seguridad marítima y medios contra la inmigración irregular: análisis comparado de España, Unión Europea y Unión Africana", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.12]

Maritime security strategies and resources against irregular immigration: comparative analysis of Spain, European Union and African Union

The current migration crisis that Europe has suffered in recent years has led to it being considered irregular immigration as a risk or threat to Security in the recent Maritime Security Strategies, specifically in the case of Spain, European Union and African Union. Therefore it's appropriate to determine from these Strategies, what degree of threat constitutes irregular immigration by sea and the available resources to fight against it, analyzing their possible regional compatibility, especially with regard to the possibility of joint actions making use, even of military resources.

Antonio José Pagán Sánchez "Internal tensions and economic opportunities: explaining the heterogeneous stance of EU Member States towards the Belt and Road Initiative", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.13]

Tensiones internas y oportunidades económicas:explicando la postura heterogénea de los Estados miembros de la UE respecto a la Nueva Ruta de la Seda

The European Union is one of the key destinations of the Belt and Road Initiative (BRI), officially announced by Chinese president Xi Jinping in 2013. Nevertheless, the EU has mixed feelings about it: while recognizing the initiative's capability to foster economic growth, it is still reluctant to participate, regarding the BRI as a challenge to European unity, norms and values. Regardless of the official stance of the European Commission, the EU member states have adopted a wide range of heterogeneous stances towards the BRI, ranging from an enthusiastic acceptance of the initiative to a refusal to join it. This paper will shed light on the driving factors behind this wide range of attitudes towards the BRI, focusing not only on the economic opportunities posed by the initiative to the main member states, but also on their relationship with the EU and the possible internal tensions with the European Commission. The joint examination of these two variables will provide a better explanation of EU member states´ stance towards the BRI than those analyses based merely on the explanation of economic factors. In fact, the main finding of this paper is that political factors outweigh the economic ones: there is no correlation between the economic opportunities offered by the initiative and the support it gets from beneficiary member states, while internal tensions inside the EU are encouraging some member states to join the initiative even though there might not be many economic benefits granted by their participation.

Jaime José Hurtado Cola "Responsabilidad civil corporativa por violaciones del Derecho internacional consuetudinario. Nota sobre la sentencia del Tribunal Supremo de Canadá en el caso Nevsun", 40 *Revista Electrónica de Estudios Internacionales* (2020) [DOI: 10.17103/reei.40.14]

Corporate civil liability for violations of customary International law. A case note on the Supreme Court of Canada decision in Nevsun

In its judgment rendered in February 2020 in the case of Nevsun v. Araya, the Supreme Court of Canada opens the door to civil claims for damages by individuals against corporations before Canadian courts for violations of customary international law allegedly occurred abroad. The opinion revisits and analyzes in depth the state of the Canadian common law with respect to fundamental and controversial legal issues such as state immunity, the act of state doctrine, the adoption of the customary international law into the domestic legal system, the direct application of norms of public international law to private actors, the extraterritorial jurisdiction of civil courts, the division of powers and justiciability in domestic courts of acts by sovereign states, as well as the corporate liability for violations of customary international law norms (including human rights international law).

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