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Boston College Law School

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Volume 39:1 of *Boston College International and Comparative Law Review* Now Available

2016 NEWS ARCHIVE

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Vol. 39:1 of the *Boston College International and Comparative Law Review* is now available. This issue contains one Article and two Essays by outside authors as well as four student Notes. Summaries of the seven pieces can be found below. Full-length texts can be found at: <http://iclr.bclawreview.org/>.

[International Water Rights on the While Nile of the New State of South Sudan by Andreas K. Wendl](#)

In his Article *International Water Rights on the While Nile of the New State of South Sudan* Andreas K. Wendl of Herbert Smith Freehills LLP Berlin analyses the status quo of South Sudan's water rights to the Nile River. His Article applies the customary international law of state succession to South Sudan's secession from Sudan to determine if the 1959 Nile Agreement is binding between the two states. It concludes that South Sudan succeeded Sudan with regard to territorial rights and obligations established by the 1959 Nile Agreement, as customary international law recognizes that legal obligations of a territorial nature remain unaffected by state succession. The Article also suggests that South Sudan accede to the Cooperative Framework Agreement within its allotted portion of the Nile waters under the 1959 Nile Agreement.

[Human Rights and the National Interest: The Case Study of Asylum, Migration, and National Border Protection by Fr. Frank Brennan, S.J.](#)

In his Essay *Human Rights and the National Interest: The Case Study of Asylum, Migration, and National Border Protection* Fr. Frank Brennan, S.J. of Australian Catholic University and Australian National University argues that the Australian government should not waiver in its enforcement of its border, and it should continue to prevent the illegal entry of migrants into Australia. It, however, must do so fairly and compassionately in order to ensure that it protects the human rights of migrants. By examining the policies of the United States and the European Union while considering the religious discourse of refugees, his Essay concludes that Australia must reexamine its current approach to stopping the boats.

[International Legal Protections for Migrants and Refugees: A Response to Father Brennan by Mary Ellen O'Connell](#)

In her Essay *International Legal Protections for Migrants and Refugees: A Response to Father Brennan* Professor Mary Ellen O'Connell of the University of Notre Dame contends that Father Brennan's main argument that migrants and refugees may be turned back, so long as the action respects human rights law, is consistent with the human right to life. Her Essay suggests that the advocacy community could direct their efforts more fully to the causes of forced migration. Addressing these issues is the only way to sufficiently respect refugees and properly preserve national borders.

In her Note *A Combative Disease: The Ebola Epidemic in International Law*, Alison Agnew evaluates the responses of the World Health Organization and the United Nations to the Ebola epidemic. She argues that to end the epidemic and to address future epidemics, the WHO and UN must be strengthened with more robust enforcement capabilities and increased funding. Further, the international community must recognize that Ebola is as much a threat to international peace and security as an act of war. Thus, she concludes, states should react to disease outbreaks just as they would react to an act of war by utilizing the principle of self-defense pursuant to Chapter VII of the United Nations Charter.

Up in the Air: Harmonizing the Sharing Economy Through Airbnb Regulations by Johanna Interian

In her Note *Up in the Air: Harmonizing the Sharing Economy Through Airbnb Regulations* Johanna Interian explores the sharing economy and suggests that, as a leader in the sharing economy, Airbnb should be liable for limited actions of hosts consistent with the externalities generated by transient home sharing. She cites the regulatory models of a number of European cities to show how U.S. jurisdictions can respond effectively to the growing demand for short-term housing through Airbnb while also taking into account the externalities that the platform imposes on the permanent housing market. Moreover, she argues, the pervasiveness of Airbnb, and the sharing economy as a whole, exposes deficiencies in the federal laws that govern online behavior, revealing the necessity for such laws to be revisited.

The Efficacy and Impact of Interim Measures: Ukraine's Inter-State Application Against Russia by Julia Koch

In her Note *The Efficacy and Impact of Interim Measures: Ukraine's Inter-State Application Against Russia* Julia Koch discusses the recent political turmoil in Ukraine and Russia's annexation of Crimea. The apparent role of the Russian government in this conflict led Ukraine to file an inter-state application against Russia in the European Court of Human Rights. The court granted Ukraine's simultaneous request for interim measures, forbidding either Ukraine or Russia from using military action or from engaging in conduct of any kind that would violate Ukrainian nationals' Convention rights. Julia's Note argues that recent events suggest that both states have violated the order, making the interim measures seemingly ineffective. The inter-state application and interim measures are not, however, valueless as they have helped to encourage a more efficient, peaceful resolution.

The Zeitgeist of Secession Amidst the March Towards Unification: Scotland, Catalonia, and the Future of the European Union by Thomas Y. Patrick

In his Note *The Zeitgeist of Secession Amidst the March Towards Unification: Scotland, Catalonia, and the Future of the European Union* Thomas Y. Patrick explores the secessionist movement in Scotland and Catalonia against the background of unification and centralization of power in the European Union. His Note suggests that the efforts of Scotland and Catalonia present novel and serious challenges both to their governing states and to the European Union itself. He argues that the European Union must aid the resolution of these movements or face sacrificing its own legitimacy. Either way, the EU's course of action threatens to unleash a chain reaction that may ultimately compromise its decision-making capabilities and undermine its very future.

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