Reclaiming Democracy: The Strategic Uses of Foreign and International Law by National Courts

Eyal Benvenisti

In response to the increasing pressure on governments, legislatures, and courts to conform to global standards, courts in several democracies are seeking to strengthen the ability of their governments to stand up against interest groups and powerful foreign governments, and to expand the space for domestic deliberation. By coordinating policies with counterparts in other countries through the common language of international and comparative constitutional law, courts can contribute to reclaiming democracy from the grip of globalization.

Legislation and Adjudication in the UN Security Council: Bringing Down the Deliberative Deficit

Ian Johnstone

This article draws on the theory of deliberative democracy to examine the legitimacy of the quasi-legislative and quasi-judicial acts of the UN Security Council in creating the counterterrorism regimes under Resolutions 1267, 1373, and 1540, whose implementation requires broad international support. It argues that improving the quality of the Council’s deliberations will enhance the effectiveness of similar decisions and recommends a set of reforms designed to bring down the “deliberative deficit” in that body.

Correspondence

Current Developments

Treaty Capacity and the Russian State Corporation

William E. Butler

International Decisions

Edited by Daniel Bodansky

The “Tomimaru” (Japan v. Russian Federation) (Bernard H. Oxman)

ITLOS judgment regarding effect of confiscation on duty of prompt release of fishing vessel arrested in exclusive economic zone

Behrami & Behrami v. France; Saramati v. France, Germany & Norway

(Pierre Bodeau-Livinec, Gionata P. Buzzini, and Santiago Villalpando)

ECHR judgment on applicability of European Convention on Human Rights to acts undertaken pursuant to UN Chapter VII operation in Kosovo

Fédération des industries condimentaires de France (FICF) et al. v. Commission

(Nikolaos Lavranos)

European Court of First Instance decision on the European Community’s Trade Barriers Regulation

R (on the application of Al-Jedda) (FC) v. Secretary of State for Defence

(Alexander Orakhelashvili)

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Recent Books on International Law

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Vrdoljak, Ana Filipa. International Law, Museums and the Return of Cultural Objects; Merryman, John Henry (ed.). Imperialism, Art and Restitution (James A. R. Nafziger) 408

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