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"Failure to Articulate Clear Ethics Rules and Standards and the Local Level Continues to Haunt Local Land Use Decision Makers"

The Urban Lawyer, Vol. 43, p. 757, Summer 2011

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This article provides an annual review of reported decisions addressing ethical considerations that arise in the land use context for lawyers, planners, board members and other stakeholders in the land use decision making process.

"International Comparative Property Rights: A Cross-Cultural Discipline Comes of Age"


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This article provides an overview of the differences and similarities among a select group of nations through an examination of their real property protection regimes. The countries selected – South Africa, India, Chile, Singapore and Ghana – were chosen to illustrate how geographical, social, and economic diversity all contribute to different property rights cultures and legal approaches. Part II of this article examines general international or global factors that affect property rights. Part III offers a focused look at the historical and cultural development of property rights in the five selected countries. Part IV follows with a discussion of some of the domestic factors present in these five different countries that contribute to or influence the development and enforcement of different property rights regimes. The article concludes in Part V with a discussion about the importance of understanding the property rights regimes in other countries to better enable practitioners to provide responsible legal counsel to clients.

"The Effective Use of Health Impact Assessment (HIA) in Land-Use Decision Making"

Zoning Practice, October 2011

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Health impact assessments (HIAs) outside of the United States have long been used to hone in on the public health impacts of certain government decision making. While health impacts have been considered to a lesser degree through environmental impact review (EIR) in the United States, recent findings suggest that HIAs can be very helpful in analyzing proposed development and redevelopment projects. This article briefly reviews the history of the HIA movement, examines the differences between HIA and EIR, and provides those involved with the land use planning and regulation examples of how to best integrate HIAs into the land use decision making process.

"The Mirror Exercise - A Quick and Easy Method to Begin Discussing Race, Gender, Ethnicity, Age and Other Differences with Your Students"

The Law Teacher, Forthcoming
Albany Law School Research Paper No. 34 of 2011-2012

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Becoming a competent attorney is a journey that requires law students to face numerous challenges. For a legal skills professor, a major step in the process is helping students become conscious of who they are and how others perceive them. There is a widespread tendency in law schools around the country to avoid frank discussions about race, gender, age, class and ethnicity, even though in reality people habitually use those characteristics to make judgments about others. The fear of being considered racist or classist forces educators into a "conspiracy of silence" about these topics. It is imperative that students in skills courses learn to acknowledge and discuss issues of diversity openly and honestly in order to be prepared to deal with juries, clients, judges, witnesses and adversaries once they are in practice.

This article is provides an exercise, called the Mirror Exercise, which can be used by clinical and legal skills professors to penetrate the silence and help their students acknowledge and discuss their differences and similarities and how they will affect their practice of law.

"TWAIL: A Brief History of its Origins, its Decentralized Network, and a Tentative Bibliography"


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This article traces the contemporary origins of Third World Approaches to International Law (TWAIL) in the late 1990’s. It argues that since then, TWAIL-ers have not sought to produce a single authoritative voice or text. Instead, they have generated vibrant ongoing debate around questions of colonial history, power, identity and difference, and what these mean for international law. TWAIL scholarship has also considered possibilities for egalitarian change in a broad variety of areas in the fields of public international law and international economic law. In doing so, TWAIL-ers have addressed multiple issues related to society, politics, identity and economic - with an underlying commitment to democratic values and concerns in relations within and between the Third World and developed countries.

As a distinctive way of thinking about international law, TWAIL is a historically aware methodology - one that challenges the simplistic visions of an innocent third world and a colonizing and dominating first world. This methodology proceeds from the assumption that is not possible to isolate modern forms of domination such as governmentality, from the continuation of older modes of domination (colonial and precolonial).

This article argues that TWAIL has become an expansive, heterogeneous and polycentric dispersed network and
field of study. As a field, TWAIL is being continuously re-invented and shaped by new scholars infusing their passion into its central concerns. These scholars are refashioning and contesting what they take as central TWAIL tenets and inventing their own TWAILS. Thus, TWAIL is a discipline in transition, expansion, definition and internal contestation about the varied agendas of its scholars, all at the same time.

"Please Watch Your Language!: The Chronic Problem of Assumption of Risk"

* Catholic University Law Review, Forthcoming

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By the early 1960s, influential judges and commentators concluded that the tort doctrines of implied assumption of risk had lost their vitality and that the components of assumption of risk worth preserving could be subsumed in other aspects of negligence law. During the ensuing decades, others endorsed the analyses and conclusions of these pioneers. Nonetheless, some appellate-court judges still have not caught on. Their opinions prove the continuing aptness of Justice Frankfurter's 1943 observation that the "phrase 'assumption of risk' [illustrates] the extent to which uncritical use of words bedevils the law. . . Plainly enough only mischief could result . . . ."*

After outlining the analytically sound approach to implied assumption of risk, this article explores the mischief that the chronic uncritical use of the phrase "assumption of risk" continues to cause. It goes on to suggest a fresh approach to understanding and applying the conclusions of the twentieth-century pioneers in the hope that a different perspective will aid the achievement of greater clarity and consistency in courts’ reasoning and writing about assumption of risk.


"Town, Gown and Place-Based Sustainability: Collaborating in the Shared Space"

* Catholic University Law Review, Forthcoming

Drake University Law School Research Paper

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The locational and spatial circumstances of town and gown present opportunities to advance sustainability. This essay examines these areas of opportunity by proposing collaborative frameworks between town and gown. In what we describe as “place-based collaborations,” we identify three areas for productive collaboration by two mutually compatible institutions. Part I of this essay introduces the impacts of the sustainable curriculum and other projects that implement the educational mission of the institution, including the more progressive notion that pedagogical strategies for engaged learning, combined with the introduction of sustainability in the curriculum, may serve as drivers for nested sustainable practices. Part II considers the special relationship that towns may foster in their nested universities by recognizing shared space. Part III illustrates interaction and collaboration possibilities that build on the intellectual capital occurring in educational institutions.

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