

Homing Devices in Choice of Tort Law: Australian, British and Canadian Approaches

There is an article in the new issue of the *International & Comparative Law Quarterly* (October 2006; Vol. 55, No. 4) by **Reid Mortenson** (TC Beirne School of Law, University of Queensland) on "**Homing Devices in Choice of Tort Law: Australian, British and Canadian Approaches**". The abstract reads:

Since 1994, Canada, the United Kingdom and Australia have adopted new choice of law rules for cross-border torts that, in different ways, centre on the application of the law of the place where the tort occurred (the lex loci delicti). All three countries abandoned some species of the rule in Phillips v Eyre, which required some reference to the law of the forum (the lex fori) as well as the lex loci delicti. However, predictions were made that, where possible, courts in these countries would continue to show a strong inclination to apply the lex fori in cross-border tort cases—and would use a range of homing devices to do so. A comprehensive survey and analysis of the cases that have been decided under the Australian, British and Canadian lex loci delicti regimes suggests that courts in these countries do betray a homing instinct, but one that has actually been tightly restrained by appeal courts. Where application of the lex fori was formally allowed by use of a ‘flexible exception’ in Canada and the United Kingdom, this has been contained by courts of first appeal. Indeed, only the continuing characterization of the assessment of damages as a procedural question in Canada and the United Kingdom, seems to remain as a significant homing device for courts in these countries.

For those with online access to the ICLQ, the full article can be downloaded from [here](#).

There is also a shorter article by **Richard Frimpong Oppong** (*PhD candidate, University of British Columbia*) in the latest issue of the ICLQ on "**Private International Law and the African Economic Community: A Plea for Greater Attention**". The full article, again for those with a subscription, can be found [here](#).