

Robertson on Transnational Litigation and Institutional Choice

[Cassandra Burke Robertson](#), who is an associate professor at Case Western University School of Law, has published [Transnational Litigation and Institutional Choice](#) in the last issue of the [Boston Law Review](#). The abstract reads:

When U.S. corporations cause harm abroad, should foreign plaintiffs be allowed to sue in the United States? Federal courts are increasingly saying no. The courts have expanded the doctrines of forum non conveniens and prudential standing to dismiss a growing number of transnational cases. This restriction of court access has sparked considerable tension in international relations, as a number of other nations view such dismissals as an attempt to insulate U.S. corporations from liability. A growing number of countries have responded by enacting retaliatory legislation that may ultimately harm U.S. interests. This Article argues that the judiciary's restriction of access to federal courts ignores important foreign relations, trade, and regulatory considerations. The Article applies institutional choice theory to recommend a process by which the three branches of government can work together to establish a more coherent court-access policy for transnational cases.

It can be freely downloaded [here](#).