Liber Amicorum Alegría Borrás

On the occasion of the retirement of Prof. Alegría Borrás a collective book entitled "Entre Bruselas y La Haya. Estudios sobre la unificación internacional y regional del Derecho internacional privado. Liber Amicorum Alegría Borrás" has been published by Marcial Pons. The project, coordinated by Joaquin Forner Delaygua, Cristina González i Beilfuss and Ramon Viñas, gathers more than thirty contributions in English, French and Spanish, by well known and reputed authors of many different nationalities. A huge book, not to miss, that matches the impressive task developed over the years by this Ambassador of Spanish Private International Law in Europe.

(Click here to browse the index and for a glimpse of the first chapter).

5th Conference of the Commission on European Family Law

On 29-31 August 2013, the 5th Conference of the Commission on European Family Law will be held in Bonn, Germany, organized by the Institute for German, European and International Family Law, University of Bonn, and the Käte Hamburger Centre for Advanced Study 'Law as Culture'.

Under the title "Family Law and Culture in Europe: Developments, Challenges and Opportunities", the conference aims to enhance the exchange of ideas and arguments on comparative and international family law in Europe. The conference is open to both academics and practitioners.

Topics include matrimonial property regimes in Europe, non-formalized relationships and parental relations. The CEFL Principles on European Family Law regarding Property Relations between Spouses will be presented and

discussed. Particular attention will also be paid to the conflict of laws in Europe. The recent proposals for EU regulations on matters regarding matrimonial property regimes and property relationships of registered partners will be analyzed. Andrea Bonomi will talk about "The proposed EU PIL Regulation for Spouses", Milos Hatapka on "The proposed EU PIL Regulation for Registered Partners".

For further details and registration, visit the website http://www.cefl2013.org/.

French Constitutional Council Upholds Gay Marriage Bill

The French Constitutional Council has rejected the challenge against the bill adopted by the French Parliament opening marriage to same sex couples. It will therefore become law in the coming days.

The bill included French traditional choice of law rules providing for the application of the law of the nationality of each spouse to the substantive validity of marriage (Civil Code, Art. 202-1, para. 1), and the application of the law of the place of celebration to its formal validity (Civil Code, Art. 202-2).

Requirements as to the sex of the spouses being substantive in character, the consequence of these rules would have been that only nationals from one of the 14 jurisdictions allowing gay marriage could have married in France.

This is the reason why the bill also included a more innovative rule providing that two gay people would still be allowed to marry if the national law or the law of the residence of one of them only allowed gay marriage (Civil Code, Art. 202-1, para. 2).

The rule would enable a French national to marry a national from any country in France. This would also apply to French residents, probably to avoid discrimination on the ground of nationality, especially between EU nationals.

Chapitre IV bis Des règles de conflit de lois

Art. 202-1. – Les qualités et conditions requises pour pouvoir contracter mariage sont régies, pour chacun des époux, par sa loi personnelle.

Toutefois, deux personnes de même sexe peuvent contracter mariage lorsque, pour au moins l'une d'elles, soit sa loi personnelle, soit la loi de l'État sur le territoire duquel elle a son domicile ou sa résidence le permet.

Art. 202-2. – Le mariage est valablement célébré s'il l'a été conformément aux formalités prévues par la loi de l'Etat sur le territoire duquel la célébration a eu lieu.

The constitutionality of the provision was challenged on the ground that it violated the principle of equality before the law, as Article 202-1, para. 2, only applies to, and protects, same sex marriage, and that a different rule thus applies to heterosexual marriages.

On May 17th, the Constitutional Council rejected the challenge by ruling that the French Parliament had treated differently people in different situations, and that there was therefore no violation of the equality principle.

29. Considérant, en premier lieu, que, par les dispositions du second alinéa de l'article 202-1 du code civil dans sa rédaction résultant du paragraphe II de l'article 1er de la loi déférée, le législateur a entendu introduire un dispositif spécifique selon lequel « deux personnes de même sexe peuvent contracter mariage lorsque, pour au moins l'une d'elles, soit sa loi personnelle, soit la loi de l'État sur le territoire duquel elle a son domicile ou sa résidence le permet » ; qu'il était loisible au législateur de permettre à deux personnes de même sexe de nationalité étrangère, dont la loi personnelle prohibe le mariage entre personnes de même sexe, de se marier en France dès lors que les autres conditions du mariage et notamment la condition de résidence sont remplies ; que le législateur, qui n'était pas tenu de retenir les mêmes règles pour les mariages contractés entre personnes de sexe différent, n'a pas traité différemment des personnes se trouvant dans des situations semblables ; que, par suite, le grief tiré de l'atteinte au principe d'égalité devant la loi doit être écarté ;

I thought that the rationale for allowing same sex marriage was to give the same rights to everybody, because there should be no difference between gay and heterosexual couples, but maybe I have missed something.

Transnational Dispute Management 3 (2013) - Corruption and Arbitration

The latest issue of TDM is now available. This special issue on Corruption and Arbitration analyzes new trends and challenges regarding the intersection between allegations of corruption and decisions by arbitral tribunals regarding jurisdiction, admissibility and the merits of commercial and investment disputes. As any transnational practitioners will know, allegations of corruption abroad pervade both arbitral and litigation practices—whether its affirmative claims of corruption before investor-state tribunals, or the enforcement of foreign judgments before national courts. This issue is an important contribution to the field.

The articles included in this issue are:

* Nailing Corruption: Thoughts for a Gardener - A Comment on World Duty Free Company Ltd v The Republic of Kenya by S. Nappert, 3 Verulam Buildings

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- * Proving Corruption in International Arbitration: A Balanced Standard for the Real World by C. Partasides, Freshfields
- * Corruption in International Arbitration and Problems with Standard of Proof: Baseless Allegations or Prima Facie Evidence? by S. Wilske, Gleiss Lutz Rechtsanw?lte T.J. Fox, Gleiss Lutz Rechtsanw?lte
- * Random Reflections on the Bar, Corruption and the Practice of Law by F.P. Feliciano, SyCip Salazar Hernandez & Gatmaitan (SyCipLaw)

- * Fraud and Corruption in International Arbitration by C.B. Lamm, White & Case LLP H.T. Pham, White & Case LLP R. Moloo, Freshfields Bruckhaus Deringer LLP
- * Unlawful or Bad Faith Conduct as a Bar to Claims in Investment Arbitration by A. Cohen Smutny, White & Case LLP P. Polášek, White & Case LLP
- * Suspicion of Corruption in Arbitration: A German Perspective by M.S. Rieder, Shearman & Sterling A. Schoenemann, Shearman & Sterling
- * The Potential for Arbitrators to Refer Suspicions of Corruption to Domestic Authorities by K.S. Gans, DLA Piper LLP D.M. Bigge, US Department of State, Office of the Legal Advisor
- * The Courses of Action Available to International Arbitrators to Address Issues of Bribery and Corruption by A. Crivellaro, Bonelli Erede Pappalardo
- * Enforcing Anti-Corruption Measures Through International Investment Arbitration by S. Kulkarni
- * State Responsibility for Corruption: The Attribution Asymmetry in International Investment Arbitration by A.P. Llamzon, Permanent Court of Arbitration
- * The Legal Consequences of Investor Corruption in Investor-State Disputes: How Should the System Proceed? by T. Sinlapapiromsuk, Faculty of Law, Chulalongkorn University
- * The Judicial Scrutiny of Arbitral Awards in Setting Aside and Enforcement Proceedings Involving Issues of Corruption by M. Hwang, Michael Hwang S.C. K. Lim, Michael Hwang Chambers
- * West Africa: The Actions of the OHADA Arbitral Tribunal in the Face of Corruption by C.N. Nana, London Metropolitan University
- * Host-State Counterclaims: A Remedy for Fraud or Corruption in Investment-Treaty Arbitration? by S. Dudas, Leaua & Asociatii N. Tsolakidis, Johann Wolfgang Goethe-University
- * Commercial Arbitration and Corrupt Practices: Should Arbitrators Be Bound By A Duty to Report Corrupt Practices? by S. Nadeau-Séguin, Baker Botts LLP
- * On the Divide Between Investor-State Arbitration and the Global Fight Against

Corruption by D. Litwin, McGill University, Faculty of Law

- * International Commercial Arbitration and Corruption: The Role and Duties of the Arbitrator by C.A.S. Nasarre, McGill University, Faculty of Law
- * Legal Consequences of Corruption in International Investment Arbitration: An Old Challenge With New Answers by R.H. Kreindler, Shearman & Sterling LLP

New Czech Act on Private International Law

See this post over at *Transnational Notes*.

New U.S. Casebook on Conflict of Laws

Professor Laura Little (Temple University's Beasley School of Law) is the author of a new U.S. casebook on the Conflict of Laws published in the Aspen Casebook Series.

Though relying essentially on U.S. sources, the casebook contains a number of comparative developments, in particular with European regulations.

About the Book

This progressive new casebook offers a contemporary, practical approach to a subject in which there are few right answers and plenty of opportunity for creativity, by connecting course content to law practice and offering modern

This title features:

- **Well-balanced** casebook presents the deep jurisprudential lessons imbedded in the conflict of laws subject matter while maintaining a clear presentation of doctrines relevant to current law practice
- **Thematic approach** puts conflicts of law in the context of actual issues confronted in law practice
- **Problem pedagogy** helps students apply various approaches and concepts. Extensive teaching manual outlines detailed answer to each problem.
- Clear, accessible writing without the "hide the ball" approach of many other books provides accessibility for a difficult course
- Innovative organization, beginning with personal jurisdiction, follows the way issues arise in litigation and highlights the importance of forum selection. Modular presentation allows professors to adapt book took their own organization
- **Contemporary cases** and hypotheticals allow students to apply rules to current situations. Traditional cases are also included so as to maintain continuity with the venerable parts of the discipline
- Full coverage of current topics such as internet issues, same sex marriage, choice of law clauses, and class actions
- International and comparative materials cover global aspects of conflicts
- **PowerPoint slides, charts, and diagrams** available on line and in teaching manual provide appealing visual tools and add to the books' teachability
- **Emphasis on the Restatement (Second) of Conflicts**, which is now the predominant United States approach but is insufficiently covered in most other texts
- Author Laura Little brings her considerable expertise to the book—as a Professor of Law at Temple University School of Law, she specializes in federal courts, conflict of laws, and constitutional law and teaches, lectures, and consults internationally on these subjects. She is the author of numerous books and articles, including the successful Federal Courts: Examples & Explanations (Aspen), and Has received numerous

awards for innovative and effective teaching

• Comprehensive Teachers Manual includes answers to every problem, teaching suggestions, sample syllabi, and a graphical depiction of each main case as well as unique insights and case backgrounds

More information is available here. Extracts can be downloaded here.

AJIL Agora on Kiobel

The American Journal of International Law has issued a call for submissions for an agora on "Transnational Human Rights Litigation After Kiobel." Here's the call:

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The American Journal of International Law is calling for short submissions (maximum 3000 words, including footnotes) for a forthcoming agora on "Transnational Human Rights Litigation After Kiobel." Contributions must not have been previously published in whole or in substantial part (on the web or elsewhere). Some of the chosen contributions will be published in the October 2013 issue of the Journal. Other selected contributions may be published electronically in a special ASIL online publication. All contributions must be submitted no later than June 15 in order to be considered. Contributions on U.S. law issues, and on comparative and non-U.S. dimensions, are welcome. The editors aim to publish a set of distinctive contributions, rather than many making similar points. All selections for publication in AJIL or in the ASIL online publication will be peer reviewed by a committee of the AJIL editorial board consisting of Carlos Vázquez (chair), Curtis Bradley, and Ingrid Wuerth, in consultation with Co-Editors in Chief José Alvarez and Benedict Kingsbury. Decisions on publication (including requests for revisions) will be made on a rolling basis, but in any case no later than June 30. Submit contributions toajil@asil.org with "Kiobel Agora" in the subject line.

Strong on Discovery under 28 USC 1782

Stacie Strong (University of Missouri School of Law) has posted Discovery Under 28 U.S.C. §1782: Distinguishing International Commercial Arbitration and International Investment Arbitration on SSRN.

For many years, courts, commentators and counsel agreed that 28 U.S.C. §1782 – a somewhat extraordinary procedural device that allows U.S. courts to order discovery in the United States "for use in a proceeding in a foreign or international tribunal" – did not apply to disputes involving international arbitration. However, that presumption has come under challenge in recent years, particularly in the realm of investment arbitration, where the Chevron-Ecuador dispute has made Section 1782 requests a commonplace procedure. This Article takes a rigorous look at both the history and the future of Section 1782 in international arbitration, taking care to distinguish between requests made in the context of international commercial arbitration and requests made in the context of international investment arbitration. In so doing, the Article considers issues relating to grants of jurisdiction, state interests and standard interpretive canons.

The paper is forthcoming in the *Stanford J. of Complex Litigation*.

Second Issue of 2013's Journal du

Droit International

The second issue of French *Journal du droit international (Clunet*) for 2013 was just released. It contains articles addressing issues of public international law only. The table of contents is available here.

2013 Summer Seminar in Urbino

The Faculty of Law of the University of Urbino will host this summer its 55th Seminar of European Law.

Many of the courses taught over the two weeks of the seminar (19-31 August 2013) will deal with conflict issues. Although courses can be taught in English, this is a franco-italian seminar where courses are typically taught in French or Italian, with a translation in the other language.

Speakers are leading academics and practitioners, including Professors Bertrand Ancel, Tito Ballarino, Luigi Mari and Cyril Nourissat.

The full programme can be found here.