

Примери апстраката:

Примери лоших апстраката:

Sovereignty, Supranationalism and **Subsidiarity**

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Date Written: April 2, 2019

Abstract

Sovereignty is the central element of the modern definition of State, thus it is part of the international legal order and the foundation of interstate relations. This paper aims at exploring and summarizing the roots, nature and characteristics of State sovereignty. Examining the divisibility of and possible limitations on State sovereignty, it points out the differences in theoretical consequences stemming from the two main approaches, ie. the normative theories and power theories.

Keywords: sovereignty, supranationalism, **subsidiarity**, normative theories, power theories

Application of the Housing Clause During Mortgage Foreclosure: A **Subsidiarity** Approach to the Role of the National Credit Act (Part 1)

2014 Journal for South African Law / Tydskrif vir die Suid-Afrikaanse Reg 288-305

18 Pages • Posted: 26 Feb 2018

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Date Written: 2014

Abstract

This article is part 1 in a two-part article dealing with the impact of housing rights on a mortgage creditor's right to enforce its security by having the debtor's home sold in execution. After analysing the impact of the constitutional housing rights, the article focuses on how the debt relief measures in the National Credit Act 34 of 2005 can be used to achieve a constitutionally compliant legal regime as pertaining to mortgage foreclosure.

Пример добрих апстраката:

Subsidiarity and Self-Interest: Federalism at the European Court of Justice

Harvard International Law Journal, Vol. 41, No. 1, Winter 2000

133 Pages • Posted: 7 Apr 2000

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Abstract

Subsidiarity is the principle which the European Community has begun applying to consider whether federal legislation is necessary, or whether action by the Member States will suffice. This article considers whether subsidiarity should constrain the Court of Justice's jurisprudence as well. It begins by analyzing the federalism problems posed by the Court's case law concerning remedies for the violation of Community law, in particular the doctrine holding Member States liable in damages for failing properly to implement Community directives. After concluding that the Court is required to review this jurisprudence for consistency with the subsidiarity principle, and that the Court's existing compensation and rights-centered rationale is largely insufficient, the article develops a two-fold argument for sustaining Member State liability even under the subsidiarity principle: such liability is essential to deterring Member State cheating on implementation, and encourages the development of directives that delegate rather than precisely prescribe regulatory content. The article concludes by describing possible modifications to prevailing liability doctrine in order to render it more consistent with the subsidiarity and proportionality principles.

Subsidiarity as a Structural Principle of International Human Rights Law

American Journal of International Law, Vol. 97, p. 38, 2003

42 Pages • Posted: 8 May 2007

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Abstract

This article argues that the principle of subsidiarity should be recognized as a structural principle of international human rights law primarily because of the way that it mediates between the universalizing aspirations of human rights and the fact of the diversity of human communities in the world. The idea of subsidiarity is deeply consonant with the substantive vision of human dignity and the universal common good that is expressed through human rights norms. Yet, at the same time it promotes respect for pluralism by emphasizing the freedom of more local communities to realize their own ends for themselves.

Looking at the place of subsidiarity in international law generally, the article argues that subsidiarity is a more accurate and powerful way of understanding the relationship of human rights to international law and to the roles of states in the global community. Using the constitutional structure of the European Union as a starting point, the article presents subsidiarity as a conceptual alternative to classic notions of state sovereignty, which relativizes but does not eliminate the roles of nation states. The analysis shows that in many ways, subsidiarity is already immanent in the existing structures and doctrines of international human rights law, and provides a better explanation for a number of otherwise problematic features of international human rights law, such as the "margin of appreciation" and reservations to universal human rights treaties.

Finally, the article defends the idea and use of the principle of subsidiarity against critiques that resist the legal pluralism that subsidiarity fosters and protects. It argues that philosophical, legal and political objections to pluralism in international human rights law are misdirected, and that an international legal system structured in accordance with subsidiarity can best combine the values of universality and diversity that respect for human rights requires.

Keywords: subsidiarity, human rights, pluralism, universality, common good, sovereignty, international law theory