

# Moscow Journal of International Law №3 (95), July – September 2014

## Jubilee of Yuri M. Kolosov, Editor-in-Chief of Moscow Journal of International Law

To the Jubilee of Yuri M. Kolosov, Honored Scientist of the Russian Federation, Professor of the Chair of International law, MGIMO-University MFA Russia, Doctor of Laws, Professor, Federation, Extraordinary and Plenipotentiary Minister-Counsellor of the 2nd Class (p. 4 - 11)

MFA: To the Special Issue of Moscow Journal of International Law dedicated to the Jubilee of Yuri M. Kolosov (p. 12-13)

Congratulations from Public Council of FMS (p. 14)

Congratulation from Diplomatic Academy MFA Russia (p. 15)

Congratulations from prof. Aslan Kh. Abashidze, the Head of the Chair of International Law of the Peoples' Friendship University of the Russian Federation. (p. 16-18)

## Theoretical issues

**Kamil A. Bekyashev** Globalization and the International Law (p. 19-45)

*Kamil A. Bekyashev – Doctor of Laws, professor; head of the chair of International Law, Moscow State Law University (MSLU). E-mail - profbek@mail.ru*

**Summary:** The article suggests a definition of globalization and considers its impact on the development International Law. The characteristics of the supremacy of International Law are also stated. Considered are series of new issues of International Law, generated by globalization: international protection of human rights, responsibility to protect, international legal prohibition of cyberattacks, conception of imminent armed attacks, legal force of the UN Security Council' resolutions and other.

**Keywords:** globalization; rule of law; international law; new problems of international law.

**Vladimir M. Shumilov** View on the History of International Relations and International Law in a Context of the Civilization Approach (p. 46-64)

*Vladimir M. Shumilov – Doctor of Laws , professor, head of the International law department of the Russian Foreign Trade Academy.*

**Summary:** The author makes a brief view on the history of the international relations and international law in connection with stages/periods of development of international law. It is used theory and philosophy of civilization approach. On this basis the periodization of international law accepted by the Russian international legal doctrine is critically comprehended. The author exposes his subjective view on the role of the western civilization in the World order, and also on common part of international law as creation of the West.

**Keywords:** common part of international law, civilization approach, the western states, the West, international law, periodization of international law.

### **Human Rights**

**Yuri N. Maleev** On the Question of International Pact of Human Duties (p. 65–83)

*Yuri N. Maleev – Doctor of Laws, professor, professor of the Chair of International law, MGIMO-University MFA Russia. E-mail - ilc48@mail.ru.*

**Summary:** Discussed in the article is the question of adoption of International Pact of Human Duties. Investigated are the peculiarities of appearance and development of this concept in historical perspective. Within this context analyzed are the views of philosophers, scientists, public figures, corresponding items of the General Declaration of Human Rights of 1948 and American Declaration of Human Rights and Duties of 1948, other international – law documents as well as of national legislation (the Constitution of the Russian Federation including).

**Keywords:** human rights and obligations; international law; national legislation; obligation to society; obligation to oneself; institutional mechanism; stable non development; international pact.

**Rustem Sh. Davletgildeev, Olga V. Sycheva** Comparative analysis of the legal status of migrant workers on SES Agreement on the Legal Status of Migrant Workers and Members of Their Families and the Treaty on the Eurasian Economic Union (p. 84-101)

*Rustem Sh. Davletgildeev – Ph.D., Associate Professor of International and European Law Kazan (Volga) Federal University. E-mail - roustem.davletgildeev@kpfu.ru.*

*Olga V. Sycheva – Chief State Inspector, the Federal Tax Service of the Republic of Tatarstan. E-mail - olga-sycheva1@mail.ru.*

**Summary:** The present article is devoted to the analysis of the Agreement on the Legal Status of Migrant Workers and Members of Their Families, signed in St. Petersburg in 2010 in comparison with the recently signed Treaty on the Eurasian Economic Union. The subject of analysis is the legal regime for migrant workers from the states of the Common Economic Space, acting on the territory of the Russian Federation. The analysis of the legal regime is performed based on its specificity: the features of employment of migrant workers; conditions of temporary stay; registration procedures; measure of migrants labor rights, and other rights that apply including family members of migrant workers; taxation of migrant workers income. Concludes that there is a special regime for migrant workers from the Republic of Belarus and the Republic of Kazakhstan.

**Keywords:** labor migration; EurAsEC; the Eurasian Economic Union; migrant worker; regional integration.

### **International Humanitarian Law**

**Ivan I. Kotlyarov** Contribution of F. Martens to the Progressive Development of the International Humanitarian Law (to the 140 years of the Brussels Conference of 1874) (p. 102-118)

*Ivan I. Kotlyarov – Ph.D. in Law, professor of the Chair of Human rights and International Law of the Moscow University of the Ministry of Internal Affairs of the Russian Federation. E-mail - ikotlyarov@mail.ru*

**Summary:** The initiative of Russia to convey the Brussels Conference of 1874 of the European states to codify the laws and customs of war, where professor Martens presented his project of the Convention of the Laws and Customs of War. The participant states recognized the

importance of the Russian proposal. However, due to discord between them they had not come to a common decision on agreement on the text of the International declaration of the Laws and Customs of War.

**Keywords:** International Humanitarian law; Brussels Conference; проект Convention of the Laws and Customs of War; combatants; noncombatants; prisoners of war; legal regulation of warfare.

### **International Space Law**

**Gennady P. Zhukov, Alexander M. Solntsev** Space Law and Development: some Legal Aspects (p. 119-144)

*Gennady P. Zhukov – Honoured scientist of the Russian Federation, Doctor of Laws, professor; professor of the Chair of International Law of the Russian Peoples' Friendship University.*

*Alexander M. Solntsev – Ph.D. in Law, deputy head of the Chair of International Law of the Russian Peoples' Friendship University. E-mail - solntsev@mail.ru.*

**Summary:** The problem of using the environment for present and future generations, of course, applies to space activities. Space activity contributes to sustainable development. However, despite the enormous benefits this activity also has a negative impact both on the Earth's biosphere (the earth's surface, surface and ground water, vegetation, living organisms, atmosphere, the ozone layer), and on near-Earth space. This paper examines national and international legal framework to support sustainable development during space activity. Emphasis is placed on analysis of recent international legal instruments related to space security: «Guidelines for Space Debris Mitigation» (2007) «Framework for the safe use of nuclear power sources in outer space» (2009). Proposed the establishment of a special international instrument to address environmental damage compensation from the rocket and space activities. Expressed caution against extrapolating national environmental legislation on international relations.

**Keywords:** sustainable development; space security; international law; international environmental law; space activity; space debris; nuclear power sources.

### **International Law of the Sea**

*Ivan S. Peschurov* Legal Regime of the bottom of the Arctic Ocean according to Customary International Law (p. 145-170)

*Ivan S. Peschurov – Ph.D. in Law.*

**Summary:** The Legal Regime of the Arctic Ocean is considered in the context of applicable customary rules of International Law relating to delimitation of the Arctic shelf. Such terms of International Law as «delimitation» and «delineation» of the continental shelf are compared. The current position of the Russian Federation relating to the boundaries of its continental shelf is analyzed and the necessity of its correction is asserted.

**Keywords:** bottom of the Arctic ocean; customary rules of International Law; delimitation» and «delineation» of the continental shelf; sector lines.

### **International Economic Law**

*Mikhail N. Kopylov, Darya S. Boklan* Interaction of International Environmental and International Economic Law as Branches of the System of International Law (p. 171-191)

*Mikhail N. Kopylov – Doctor of juridical sciences, professor; professor of the department of International law of the Russian Peoples' Friendship University, academician of the Russian Academy of Natural Sciences, Russian Ecological Academy and International academy of sciences of ecology and life safety. E-mail - mikhail.kopylov11@gmail.com.*

*Darya S. Boklan – Ph.D. in Law, associate professor of the department of International law of the Russian foreign trade academy. E-mail - boklan5@yandex.ru*

**Summary:** The article gives grounds for necessity of interaction of international environmental and international economic law. Such interaction makes regulation of international relations efficient and comprehensive. Interaction of these branches of international law doesn't lead to their integration but points out necessity of combined application of their norms which regulate one and the same international relations. Interaction of international environmental and international economic law gets to a new level of

quality today. This process is determined by necessity of «ecologization» of international economic relations. Moreover such necessity is connected with environmental protection, defense of environmental human rights, environmental security and sustainable use of natural resources as well as with economic development.

**Keywords:** interaction; international environmental law; international economy law; environment; natural resources.

*Anastasia V. Kolesnikova* International Project “ROTAKS” as a Factor in Improving the Global Infrastructure and the Legal Regime of Telecommunications (p. 192-197)

*Anastasia V. Kolesnikova – Ph.D. in Law. E-mail - asya28@list.ru.*

**Summary:** International project ROTAKS with the participation of the Russian Federation incoming to the competition with other submarine cable network of the foreign operators and representatives of the telecommunications market Eurasian transit – one of the most important factors in improving the global infrastructure and the legal regime of telecommunications projects. Implementation of the project ROTAKS is carried out by laying fiber-optic link at the bottom of the Arctic Ocean.

**Keywords:** international project; communications; global network; laying of fiber optic cable.

### **Selected Cases of Legal Company “Monastyrsky, Zyuba, Stepanov & Partners”**

*Yuri E. Monastyrsky* Case of Contractual Effect of Waiver of Obligations of the Largest Foreign Retailer in Russia (p. 198-204)

### **Voices of the Young**

*Magdalena A. Tarnavskaya* The Legal basis of the Election System of the Swiss Confederation (p. 205-216)

*Magdalena A. Tarnavskaya – post-graduate student of the Chair of Constitutional Law, MGIMO-University MFA Russia. Fluently speaks English, German and French. E-mail - magdalena.tarnavskaya@yandex.ru.*

**Summary:** This article focuses on general characteristics and legal basis of the election system of the Swiss Confederation – the member-state of the United Nations, which ranks ninth place in the world in the Human Development Index according to the UN Human Development

Report of 2013. The author examines and analyzes the federal election legislation and the election legislation of the cantons, highlights its main characteristics and principles, as well as analyzes the relation between the federal and the cantonal election law. Special emphasis is paid to the rules of the election results appeal, as well as to the legal liability for electoral violations. Thus, the basis of democratic elections are ensured by transparency of the electoral process and mechanisms for the protection of citizens' constitutional rights.

**Keywords:** election law; Switzerland; Federal Act on Political Rights of 17 December 1976; political parties; electoral violations.