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Editor: ERIC J. MITNICK
Associate Professor, Thomas Jefferson School of
Law
EMITNICK@TJSL.EDU

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"Seeking Justice at the International Criminal Court: Victims'
Reparations"

TJSL Legal Studies Research Paper No. 699328
Thomas Jefferson Law Review, Vol. 29, 2007

Contact: LINDA M. KELLER
Thomas Jefferson School of Law
Email: lkeller@tjssl.edu
Auth-Page: <http://ssrn.com/author=352672>

Full Text: <http://ssrn.com/abstract=940050>

ABSTRACT: The International Criminal Court (ICC) represents a major step forward in international criminal justice, particularly with regard to victims. Victims of international crimes are, for the first time, recognized as having rights as participants in the process and as recipients of reparations. The self-professed goal of the ICC is to provide a foundation for rebuilding society after mass violence, through prosecution of the perpetrators and reparations for victims.

In keeping with the theory of restorative justice, the Assembly of States Parties has expanded the universe of victims eligible for reparations through the Victims Trust Fund (VTF). The Court can award reparations to victims of the most responsible perpetrators prosecuted and convicted by the ICC. The VTF's ?other resources? mechanism - voluntary contributions to the fund - can cover victims (and their families) of crimes within the jurisdiction of the Court, not merely crimes of convicted defendants.

The collective nature of restorative justice is consonant with collective or group reparations for victims. The victims of mass atrocities cannot be made whole by compensation alone. Realistically, sufficient individual payments are not feasible. Even if the VTF has millions of dollars to disburse, the sheer scale of international crimes would likely dwarf monetary resources. As a result, I believe that the VTF should typically complement the retributive justice achieved through the prosecution of the worst offenders with restorative justice measures in the form of collective reparations. Thus, I argue that the VTF should consider favoring collective awards to a broader class of victims to further the restorative justice goal of the ICC. If the VTF manages the expectations of these large numbers of potential victims and gives them a voice in the allocation of scarce resources through collective reparations, it can contribute to the healing of victims and society.

"Book: Rights, Groups, and Self-Invention: Group-Differentiated Rights in Liberal Theory"

TJSL Legal Studies Research Paper No. 950991

Eric Mitnick, RIGHTS, GROUPS AND SELF-INVENTION:
GROUP-DIFFERENTIATED RIGHTS IN LIBERAL THEORY, Ashgate
Publishing Ltd., 2006

Contact: ERIC J. MITNICK
Thomas Jefferson School of Law
Email: emitnick@tjssl.edu
Auth-Page: <http://ssrn.com/author=232508>

Abstract: <http://ssrn.com/abstract=950991>

ABSTRACT: Group-differentiated rights, or rights that attach on the basis of membership in a particular social or cultural group,

are an increasingly common and controversial aspect of modern pluralistic legal systems. In this volume, Eric Mitnick offers the first comprehensive treatment of this important form of right.

The book describes and critically assesses the group-differentiated form of right from within analytical, constitutive, and liberal theory. It further examines the extent to which group-differentiated rights constitute aspects of human identity, and it asks whether this should be a cause for concern from the perspective of liberal theory. The more detailed normative work advanced in the book contextually applies the constitutive understanding of rights and the principles of liberal membership to particular examples of group-differentiated citizenship. Such examples range from ascriptive statuses such as slavery and alienage, to more affirmative classifications, such as those apparent in the contexts of civil unions and affirmative action, finally to the claims of religious and other cultural groups for official recognition and accommodation of group-based beliefs and practices.

"Full Funding: The Future of Social Security"
TJSL Legal Studies Research Paper No. 904404
Journal of Law & Politics, Vol. 52, No. 4

Contact: BENJAMIN A. TEMPLIN
Thomas Jefferson School of Law
Email: btemplin@tjsl.edu
Auth-Page: <http://ssrn.com/author=348985>

Full Text: <http://ssrn.com/abstract=904404>

ABSTRACT: Investing the Social Security Trust Fund in a well diversified portfolio of stocks, bonds and other investments remains the best hope of continuing to fund social insurance without substantially raising taxes or reducing benefits. The problem with investing the Trust Fund in the market is the politically charged issue of government interference in the investment decision and corporate governance. Three primary solutions have emerged to the problems posed by government investment: (1) personal accounts, (2) index investing, and (3) the incorporation of the Trust Fund into a government-owned private corporation as an investment vehicle for the trust fund. I conduct a normative analysis of the ideological, political and economic issues which surround government investment. I examine each of the solutions in turn and conclude that the one which has the most potential given current political realities is the third alternative of creating a private corporation for the public purpose of investing Social Security assets. I look at the historical precedents for using private corporations to insulate agencies from political influence and also identify the constitutional and corporate government issues which would arise as a result of the creation of such a corporation. I end with a call for further study of the private corporate structure as an

investment vehicle for Social Security.

"Cultural Priorities Revealed: The Development and Regulation of Assisted Reproduction in the United States and Israel"

TJSL Legal Studies Research Paper No. 918802

Health Matrix: Journal of Law-Medicine, Vol. 16, p. 65, 2006

Contact: ELLEN A. WALDMAN

Thomas Jefferson School of Law

Email: ellenw@tjssl.edu

Auth-Page: <http://ssrn.com/author=140320>

Full Text: <http://ssrn.com/abstract=918802>

ABSTRACT: A nation's approach to the burgeoning ART industry reflects deep-rooted cultural imperatives. Choices regarding how ART should be regulated and funded, as well as how ART-related disputes should be mediated, reflect both specific attitudes toward family and parenthood, as well as broader notions about the role of the state in encouraging or impeding novel family forms.

The United States and Israel are widely regarded as possessing two of the most ART-friendly environments in the world. Both countries stand at the epicenter of fertility-related research and practice and support the supply and demand sides of the ART market with avidity. Yet, the flourishing of ART in each country takes a different form, shaped by divergent legal and financial policies reflecting deeper cultural values.

This article takes a comparative approach to assisted reproduction practices and regulation in Israel and the United States, focusing on the imprint of cultural priorities on each nation's legal framework and financial policies. Part I examines Israeli and American cultural features that influence emerging ART practices. Part II reviews the use and financing of artificial insemination and IVF in Israel and the United States, including the state's role in the delivery of these services. Part III turns to ART's aftermath - examining how disputes regarding the disposition of frozen embryos are handled in each country.

The future of ART will be shaped by how the culture wars in each country are fought and won. And, while it seems clear that culture will powerfully mark the development of ART, it remains unclear whether the relationship between national values and ART might someday become more mutually transforming. If today, ART serves primarily as a map on which we can read a nation's cultural geography, perhaps in the future a nation's experience with ART will inspire change in traditional understandings of kinship, parenthood and the state's role in facilitating family.

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