

Repairing British Politics

A Blueprint for Constitutional Change

Richard Gordon QC

Key points

- A powerful argument for constitutional reform in the UK centered around a draft written Constitution.
- The book is part of a major drive to have the issue of a written constitution made the subject of a public debate.
- Timely and insightful this book will be of interest to scholars and students of constitutional law and politics, politicians, journalists and constitutional commentators.
- Richard Gordon is recognised as one of the UK's leading silks in administrative and public law and human rights.
- There will be extensive media coverage in the lead up to the General Election and a programme of publicity events is being organised for 2010.

Description

The constitutional crisis of 2009, sparked by the 'expenses scandal', led rapidly to the questioning of our entire political order, and to some fast responsive action. Both Government and opposition began banging the drum of constitutional reform. Sadly, only months later and constitutional reform could so easily become a dead letter. This major new constitutional analysis argues that inertia should not be allowed to take over, that the moment for significant change is now, and that it may not occur again for decades.

Repairing British Politics presents a bold new appeal for constitutional reform focused around a draft written Constitution underpinned by a new principle of constitutional supremacy in place of the traditional principle of Parliamentary sovereignty. A written constitution is not merely desirable but is, rather, a constitutional necessity if Britain is to have true representative democracy. Moreover a written constitution for the UK would change our lives for the better by defining the over-arching values which we consider inviolable. The result would be a more rational, humane and inclusive society based on greater citizen involvement. Part 1 sets out the arguments in favour of a written constitution, as well as the most common objections. Part 2 contains a working draft of the Act of Parliament which would be needed to introduce any form of constitutional change. Part 3 sets out a possible model in the form of a draft Constitution. Observations and explanatory notes are attached to each section of the Constitution. This model Constitution is intended as the first stage in a public debate, intended to provoke further discussion about the content and method of legislating into law a written Constitution.

Repairing British Politics recognises that we are currently facing a constitutional moment and that these moments are extremely rare. Whichever party takes office in 2010, the questions raised in *Repairing British Politics* will remain for urgent debate.

Details

- February 2010
- 234mm x 156mm
- 168 pp
- Paperback
- 9781849460491
- £17.95
- €23.50

Main Subject Classification

Constitutional & Administrative Law

Other Subjects

Politics

The Author

Richard Gordon QC, a member of Brick Court Chambers, London, is recognised as one of the UK's leading silks in administrative and public law and human rights. He is a Visiting Professor at University College London and at the Chinese University of Hong Kong. He has acted in many of the most important public law and human rights cases in recent years, and appears regularly before the House of Lords and Court of Appeal and in foreign jurisdictions as well as before the ECJ and European Court of Human Rights.



• HART •
PUBLISHING

Risk Regulation and Administrative Constitutionalism

Elizabeth Fisher

Key points

- Since publication in July 2007 this book has received rave reviews and was winner of the SLS Birks Prize for Outstanding Legal Scholarship in 2008.
- This book will be of interest to government health officials, food safety organisations, environmental lawyers and practitioners.

Description

Over the last decade the regulatory evaluation of environmental and public health risks has been one of the most legally controversial areas of contemporary government activity. As this award-winning work shows, legal disputes over risk evaluation are disputes over administrative constitutionalism in that they are disputes over what role law should play in constituting and limiting the power of administrative risk regulators. Five case studies taken from five different legal cultures demonstrate this point, and the work concludes with a strong argument for re-orienting the focus of scholarship in this area.

Reviews

'... Fisher's treatments of the role of expertise in the British BSE inquiry and of the complexities of risk regulation through specialised courts in Australia are particularly illuminating...By moving away from the simple 'science versus democracy' dichotomy, Fisher clearly advances our understanding of risk regulation and administrative law. Her work opens the way to even more textured accounts of the relevant legal cultures.'

Mark Tushnet, *European Law Journal*

'Anyone embarking on this type of research, whether empirical or normative, or on research involving the wider themes of institutional dynamics and legitimating discourses that shape regulation will find inspiration in the challenging tone and analytical richness of Risk Regulation and Administrative Constitutionalism.'

Anne Meuwese, *Journal of Law and Society*

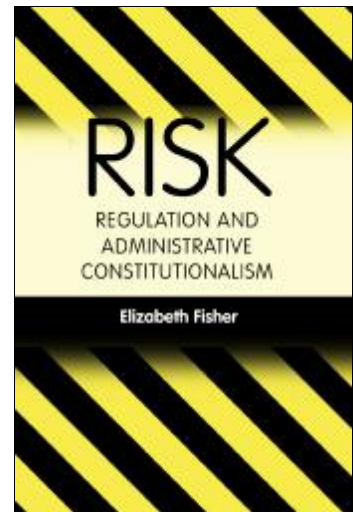
'...an impressive book that manages to combine a singularity of focus with an extraordinary breadth of research. It makes an important contribution to the literature on risk regulation, administrative law, and socio-legal studies generally.'

Veerle Heyvaert, *Modern Law Review*

The Author

Elizabeth Fisher is a Reader in Environmental Law at the University of Oxford and Tutor in Law at Corpus Christi College, Oxford.

New in Pbk



Details

- April 2010
- 234mm x 156mm
- 320 pp
- Paperback
- 9781849460880
- £22
- €29

Main Subject Classification

Environmental Law

Other Subjects

Constitutional &
Administrative Law



• HART •
PUBLISHING

Human Rights at Work

Perspectives on Law and Regulation

Edited by Colin Fenwick and Tonia Novitz

Key points

- A collection of essays examining whether workers' rights are actually fundamental human rights.
- Will be of interest to scholars of human rights law and employment law as well as labour regulation scholars.

Description

Pressures associated with globalisation of markets, exacerbated by the 'credit crunch', have placed pressure on many nation states to make their labour markets more 'flexible'. In so doing, many states have sought to reduce labour standards and to diminish the influence of trade unions as the advocates of such standards. One response to this development, both nationally and internationally, has been to emphasise that workers' rights are fundamental human rights. This collection of essays examines whether this is an appropriate or effective strategy. The book begins by considering the translation of human rights discourse into labour standards, namely how theory might be put into practice. The remainder of the book tests hypotheses posited in the first chapter and is divided into three parts. The first part investigates, through a number of national case studies, how, in practice, workers' rights are treated as human rights in the domestic legal context. These ten chapters cover European, Pacific, American, Asian and African countries. The second part consists of essays which analyse the operation of regional or international systems for human rights promotion, and their particular relevance to the treatment of workers' rights as human rights. The final part consists of chapters which explore regulatory alternatives to the traditional use of human rights law. The book concludes by considering the merits of various regulatory approaches.

The Editors

Colin Fenwick is an Associate Professor at Melbourne Law School, University of Melbourne, Victoria, Australia. *Tonia Novitz* is Professor of Labour Law at the University of Bristol.

Details

- May 2010
- 244mm x 171mm
- 482 pp
- Hardback
- 9781841139999
- £55
- €72
- Paperback
- 9781841139982
- £30
- €39

Main Subject Classification

Labour &
Discrimination Law

Other Subjects

Human Rights

Series

Oñati International Series
in Law and Society



• HART •
PUBLISHING

Finnish Yearbook of International Law, Volume 19, 2008

Editor-in-Chief Jan Klabbers

Key points

- Theoretically informed essays on the Finnish perspective of public international law.
- An informative source of reference for those interested in international law.

Description

The *Finnish Yearbook of International Law* aspires to honour and strengthen the Finnish tradition in international legal scholarship. Open to contributions from all over the world and from all persuasions, the *Finnish Yearbook* stands out as a forum for theoretically informed, high-quality publications on all aspects of public international law, including the international relations law of the European Union.

The *Finnish Yearbook* publishes in-depth articles and shorter notes, commentaries on current developments, book reviews and relevant overviews of Finland's state practice. While firmly grounded in traditional legal scholarship, it is open for new approaches to international law and for work of an interdisciplinary nature.

The *Finnish Yearbook* is published for the Ius Gentium Association (the Finnish Society of International Law) by Hart Publishing. Earlier volumes may be obtained from Martinus Nijhoff, an imprint of Brill Publishers. Further information may be found at www.fybil.org

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Varro Vooglaid, Juho Vuori.

Details

- May 2010
- 234mm x 156mm
- 522 pp
- Hardback
- 9781849460415
- £135
- €175

Main Subject Classification

Public International Law

Series

Finnish Yearbook of
International Law No 19



• HART •
PUBLISHING

Global Competition Law and Economics

Einer Elhauge and Damien Geradin

Key points

- This is the second edition of an innovative casebook for competition law students worldwide.
- A useful reference for practitioners, competition officials, and policy-makers.
- The first edition has been successful and has received positive reviews.

Description

This is the second edition of the acclaimed text on global antitrust law. With markets becoming increasingly global, mergers requiring approval in several different jurisdictions, cartels in one nation affecting supply in others, and countries increasingly entering into treaties with each other about the content or enforcement of competition laws, antitrust law is now a truly global phenomenon. Lawyers and lawmakers cannot rely on understanding only the antitrust and competition law of their home country. Modern antitrust law is also different because it now reflects an increasingly economic approach to analysing antitrust and competition policy. This innovative work is the only truly comparative and economically sophisticated casebook on the market. Addressed to students from all jurisdictions having competition laws, this casebook provides an in-depth analysis of the two major global antitrust regimes in the world, as well as a summary of selected national antitrust laws. As such it will also serve as a useful reference for practitioners, competition officials, and policy-makers interested in competition law.

Reviews of Previous Edition

'...contains a vast collection of well-chosen material taking in a wide span of both antitrust and merger law issues. It is well written and clear throughout, particularly on the economic concepts, and provides incisive commentary and questions which inspire further study.'

Peter Whelan, *Cambridge Law Journal*

'Enlightened law professors and law schools will best serve their students not by teaching national competition law but by instead adopting Global Competition Law and Economics...an excellent book for introductory courses in comparative competition law at either a graduate or undergraduate level at institutions using some form of the Socratic method.' Okeoghene Odudu, *Common Market Law Review*

'This book is the best four-and-a-half centimetres of shelf-space that I have seen devoted to competition law and policy issues for a very long time. An exceptionally good buy.' Yvonne van Roy, *New Zealand Law Journal*

'Each chapter places E.C. decisions alongside U.S. decisions. This allows students to learn the law of both regimes simultaneously, rather than learning one and then after the fact trying to absorb the other. As a result, this book may be used in a classroom in Europe just as it will be used in the U.S. The result is a highly welcome contribution to the evolution of competition studies.' Judge Douglas Ginsburg, April 2007

2nd Edition

Details

- May 2010
- 244mm x 171mm
- 1164 pp
- Paperback
- 9781849460446
- £37.50
- €50

Main Subject Classification

Competition Law

Other Subjects

Law and Economics

The Authors

Einer Elhauge is Petrie Professor of Law at Harvard Law School.

Damien Geradin is a Partner at Howrey LLP and Professor of Competition Law and Economics, TILEC, Tilburg University.



• HART •
PUBLISHING

Jurisdiction and Judgments in Relation to EU Competition Law Claims

Mihail Danov

Key points

- A thorough examination into the role that private international law plays in relation to EC competition law claims.
- An invaluable source of information for specialists in EC law, competition law and private international law.

Description

This book proves that as a result of the enhanced private antitrust enforcement reform, private international law has a vital role to play if EC competition rules are to be enforced effectively in court proceedings with an international element. To this end, the author makes a thorough analysis of how the post 2003 policy of the European Community favouring private law enforcement of EC competition law can be implemented under the existing provisions for jurisdiction and recognition and enforcement of foreign judgments under the Brussels I regime. The work also deals with how the jurisdiction and recognition and enforcement of judgments issues are dealt with in England under the common law rules applicable when Brussels I does not apply. The complex private international law problems in respect of cross-border class action and judgments in relation to antitrust infringements that have occurred in several countries are discussed as well. The author further examines the choice of law issues that may arise before the English courts under Rome I and Rome II. The potential problems regarding jurisdiction of arbitral tribunals and choice of law in arbitral proceedings in relation to EC competition law claims, and the jurisdiction of English courts in proceedings ancillary to arbitration claims, are dealt with accordingly.

The Author

Mihail Danov is a Lecturer in Commercial Law at Brunel University.

Details

- May 2010
- 234mm x 156mm
- 352 pp
- Hardback
- 9781841136592
- £55
- €71.50

Main Subject Classification

Private International Law

Other Subjects

Competition Law

Series

Studies in Private
International Law



• HART •
PUBLISHING

Intermediated Securities

Legal Problems and Practical Issues

Edited by Louise Gullifer and Jennifer Payne

Key points

- Timely and unique essays exploring the issues that arise when securities are held via an intermediary.
- An important source of reference for academics and practitioners in the fields of commercial and banking law.

Description

Globally, there has been a shift from securities being held directly by an investor, to a situation in which many securities are held via an intermediary. The existence of one or more intermediaries between the investor and the issuer has a potentially significant impact on the rights of the investor, the role and obligations of the issuer, and on the position and responsibilities of the intermediary. However, different jurisdictions have dealt with the issues arising from intermediation in a variety of ways. In the UK, for example, the concept of a trust is used to explain the different rights and obligations which arise in this scenario, whereas in the US the issues have been addressed by legislation, in the form of UCC Article 8. This variety is problematic, given that it is possible for an investor to hold securities in a number of different jurisdictions. A new UNIDROIT Convention on the issue of Intermediated Securities, the Geneva Securities Convention 2009, aims to create a common framework for dealing with these issues. This collection of essays explores the issues that arise when securities are held via an intermediary, and in particular assesses the solutions put forward by the new Convention on this issue. It will be essential reading for practitioners and academics.

The Editors

Louise Gullifer is a Reader in Commercial Law at the University of Oxford and a Fellow and Tutor of Harris Manchester College, Oxford.

Jennifer Payne is Reader in Corporate Finance Law at the University of Oxford, and a Fellow and Tutor of Merton College, Oxford.

Details

- May 2010
- 234mm x 156mm
- 332 pp
- Hardback
- 9781849460132
- £75
- €97.50

Main Subject Classification

Commercial and
Financial Law



• HART •
PUBLISHING

Foreign Currency Claims in the Conflict of Laws

Vaughan Black

Key points

- A comparative look at how common law courts have addressed damages claims when foreign currencies are involved.
- The practices of the UK, Commonwealth and American courts are described and analysed.
- Essential reading for lawyers who deal with conflicts of laws and financial and banking law.
- Vaughan Black is a well-respected scholar in this field.

Description

Problems in assessment of damages remain among the most contentious aspects of private law disputes. The assessment exercise becomes particularly difficult when one of the parties asks that damages be assessed in some foreign currency or claims that, even though damages should be assessed in the currency of the forum, foreign exchange losses should form a head of loss.

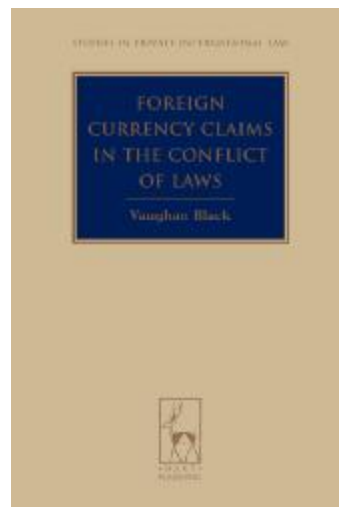
The 1975 decision of the House of Lords in *Miliangos v George Frank (Textiles) Ltd* was revolutionary in that it permitted English courts to award judgment in a foreign currency.

Miliangos has been influential throughout the common law world and courts in the commonwealth and the United States now contemplate awarding damages in currencies other than their own. However, that modernisation has hardly eliminated the problems in this area. When may a judge assess damages in a currency other than that of the forum? If a court elects to assess damages in its own currency, what conversion date should it select in converting from a foreign currency that was relevant to the obligations between the parties? In an age of fluctuating currencies questions of this nature present judges with choices involving significant financial implications.

This book takes a comparative look at how common law courts have addressed damages claims when foreign currencies are involved, and at statutory responses to that issue. It describes the practices of UK, Commonwealth and American courts in this field and draws both on principles of private international law and of damages assessment to analyse current practice.

The Author

Vaughan Black is a Professor in the Faculty of Law of Dalhousie University, Halifax, Canada.



Details

- May 2010
- 234mm x 156mm
- 315 pp
- Hardback
- 9781841138923
- £55
- €71.50

Main Subject Classification

Private International Law

Series

Studies in Private International Law No 2



• HART •
PUBLISHING

Administrative Tribunals and Adjudication

Peter Cane

Key points

- Peter Cane is a world-renowned expert on administrative law.
- The first modern work to examine administrative tribunals in all their aspects. As such it will appeal to public lawyers in many jurisdictions.

Description

Among the many constitutional developments of the past century or so, one of the most significant has been the creation and proliferation of institutions that perform functions similar to those performed by courts but which are considered to be, and in some ways are, different and distinct from courts as traditionally conceived. In much of the common law world, such institutions are called 'administrative tribunals'. Their main function is to adjudicate disputes between citizens and the state by reviewing decisions of government agencies - a function also performed by courts in 'judicial review' proceedings and appeals. Although tribunals in aggregate adjudicate many more such disputes than courts, tribunals and their role as dispensers of 'administrative justice' receive relatively little scholarly attention.

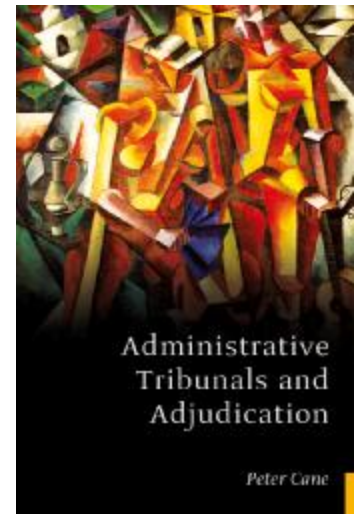
This wide-ranging book-length treatment of the subject compares tribunals in three major jurisdictions: Australia the UK and the US. It analyses and offers an account of the concept of 'administrative adjudication', and traces its historical development from the earliest periods of the common law to the twenty-first century. There are chapters dealing with the design of tribunals and tribunal systems and with what tribunals do, what they are for and how they interact with their users. The book ends with a discussion of the place of tribunals in the 'administrative justice system' and speculation about possible future developments.

Administrative Tribunals and Adjudication fills a significant gap in the literature and will be of great value to public lawyers and others interested in government accountability.

The Author

Peter Cane is Distinguished Professor of Law at the Australian National University College of Law. He is a Corresponding Fellow of the British Academy and a Fellow of the Academy of Social Sciences in Australia.

New in Pbk



Details

- May 2010
- 234mm x 156mm
- 314 pp
- Paperback
- 9781849460910
- £25
- €33

Main Subject Classification

Constitutional &
Administrative Law

Other Subjects

Comparative Law



• HART •
PUBLISHING

Oliver on Free Movement of Goods in the European Union

5th Edition

Editor: Peter J Oliver

Contributors: Stefan Enchelmaier, Malcolm Jarvis, Angus Johnston, Sven Norberg, Peter J Oliver, Christopher Stothers and Stephen Weatherill

Key points

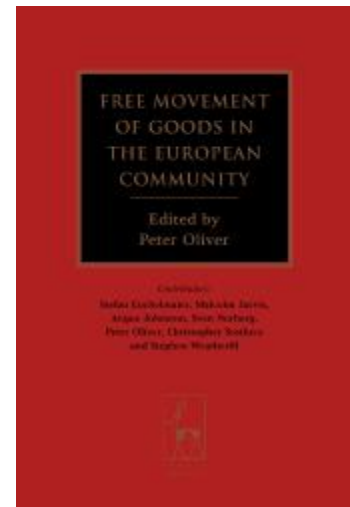
- One of the leading works of reference on European law for practitioners and academics.
- The first port of call for anyone seeking answers to questions about the foundations of free movement of goods in the EC.

Description

This is a new edition of Peter Oliver's classic work *Free Movement of Goods in the European Community*, which has established itself as one of the leading works of reference on European law for practitioners and academics alike. Indeed, whether advising clients or preparing for teaching there is no European lawyer who can afford not to have a copy of this book close to hand. Concise, precise, and lucid, the book has become the first port of call for anyone seeking answers to questions about the foundations of free movement of goods in the EC. With specialist chapters written by leading academic and practising lawyers, including Peter Oliver himself, this edition has been extensively rewritten to take into account the immense flow of judgments from the European courts as well as the regular legislative outputs of the European Commission since the last edition appeared. Finally, the implications of the Treaty of Lisbon, should it enter into force, are examined.

The Editor and Contributors

The Editor, **Peter J Oliver**, is a Legal Advisor to the European Commission and Professor at the Université Libre de Bruxelles. **Stefan Enchelmaier** is Professor of European and Comparative Commercial Law at the York Law School, University of York. **Malcolm Jarvis** is a Barrister at 20 Essex St, with a broad practice in EU law, conflict of laws and international commercial litigation. **Angus Johnston** is a University Senior Lecturer in Law at the University of Cambridge, and a Fellow of Trinity Hall. **Sven Norberg** has, inter alia, served as Director of the Legal Affairs department at the EFTA Secretariat, as Judge of the EFTA Court and as Director at the DG Competition in the European Commission. **Christopher Stothers** is a solicitor-advocate working for Milbank, Tweed, Hadley & McCloy LLP, London, and a visiting lecturer in the Faculty of Laws, University College, London. **Stephen Weatherill** is the Jacques Delors Professor of European Law at the University of Oxford, and a Fellow of Somerville College.



Details

- May 2010
- 244mm x 171mm
- 536 pp
- Hardback
- 9781841138107
- £95
- €123.50

Main Subject Classification

European Law



• HART •
PUBLISHING

Travels of the Criminal Question

Cultural Embeddedness and Diffusion

*Edited by Dario Melossi, Maximo Sozzo and
Richard Sparks*

Key points

- This comparative examination of 'the criminal question' looks at the relationship between crime and punishment and globalisation.
- Will be of interest to criminologists and theorists.

Description

The expression 'the criminal question' does not at present have much currency in English-language criminology. The term was carried across from Italian debates about the orientation of criminology, and in particular debates about what came to be called critical criminology. One definition offered early in the debate described it as 'an area constituted by actions, institutions, policies and discourses whose boundaries shift'. According to this writer, crime, and the cultural and symbolic significance carried by law and criminal justice, is an integral aspect of the criminal question.

'The criminal question' draws attention to the specific location and constitution of a given field of forces, and the themes, issues, dilemmas and debates that compose it. At the same time it enables connections to be made between these embedded realities and the wider, conceivably global, contours of influence and flows of power with which it connects. This in turn raises many questions. How far do the responses to crime and punishment internationally flow from and owe their contemporary shape to the cultural and economic transformations now widely known as 'globalization'? How can something that is in significant ways embedded, situated, and locally produced also travel? What is not in doubt is that it does travel - and travel with serious consequences. The international circulation of discourses and practices has become a pressing issue for scholars who try to understand their operation in their own particular cultural contexts. This collection of essays seeks a constructive comparative view of these tendencies to convergence and divergence.

The Editors

Dario Melossi is a Professor of Criminology in the Faculty of Law at the University of Bologna.

Maximo Sozzo is a Professor at the National University of Litoral, Santa Fe, Argentina.

Richard Sparks is Professor of Criminology in the School of Law at the University of Edinburgh.

Details

- May 2010
- 234mm x 156mm
- 188 pp
- Hardback
- 9781849460767
- £45
- €58
- Paperback
- 9781849460774
- £22
- €29

Main Subject Classification

Criminology and Policing

Series

Oñati International Series
in Law and Society



• HART •
PUBLISHING

The Irish Yearbook of International Law, Volume 3 2008

Edited by Jean Allain and Siobhán Mullally

Key points

- This is the third volume of a series which presents the Irish perspective in international law.
- The *Yearbook* will be a valuable and reliable source of reference for all those interested in international law.

Description

The Irish Yearbook of International Law is intended to stimulate further research into Ireland's practice in international affairs and foreign policy, filling a gap in existing legal scholarship and assisting in the dissemination of Irish thinking and practice on matters of international law. On an annual basis, the *Yearbook* presents peer-reviewed academic articles and book reviews on general issues of international law.

Designated correspondents provide reports on international law developments in Ireland, Irish practice in international fora and the European Union, and the practice of joint North-South implementation bodies in Ireland. In addition, the *Yearbook* reproduces documents that reflect Irish practice on contemporary issues of international law.

Publication of the *Irish Yearbook of International Law* makes Irish practice and opinio juris more readily available to Governments, academics and international bodies when determining the content of international law. In providing a forum for the documentation and analysis of North-South relations the *Yearbook* also make an important contribution to post-conflict and transitional justice studies internationally.

As a matter of editorial policy, the *Yearbook* seeks to promote a multilateral approach to international affairs, reflecting and reinforcing Ireland's long-standing commitment to multilateralism as a core element of foreign policy.

The Editors

Jean Allain is a senior lecturer in law at Queen's University Belfast.

Siobhán Mullally is a senior lecturer in law at University College, Cork.

Details

- May 2010
- 244mm x 171mm
- 512 pp
- Hardback
- 9781849460729
- £180
- €234

Main Subject Classification

Public International Law

Series

Irish Yearbook of
International law



• HART •
PUBLISHING

Reflexive Governance

Redefining the Public Interest
in a Pluralistic World

*Edited by Olivier De Schutter and
Jacques Lenoble*

Key points

- Essays by well known contributors examining the future of governance in the EU.
- Will be of interest to political scientists, constitutionalists, policy-makers and specialists of governance.

Description

Reflexive governance offers a theoretical framework for understanding modern patterns of governance in the EU institutions and elsewhere. It offers a learning-based approach to governance, but one which can better respond to concerns about the democratic deficit and to the fulfilment of the public interest than the currently dominant neo-institutionalist approaches. The book is composed of one general introduction and seven chapters. The introduction introduces the concept of reflexive governance and describes the overall framework. The chapters of the book then summarize the implications of reflexive governance in major areas of domestic, EU and global policy-making. They address in turn: Services of General Interest, Corporate Governance, Institutional Frames for Markets, Regulatory Governance, Fundamental Rights, Healthcare Services, Global Public Services and Common Goods. While the themes are diverse, the chapters are unified by their attempt to get to the heart of which concepts of governance are dominant in each field, and what their successes and failures have been: reflexive governance then emerges as one possible response to the failures of other governance models currently being relied upon by policy-makers.

The Editors

Olivier De Schutter is the UN Special Rapporteur on the Right to Food and a Professor of Law at the University of Louvain (UCL) and College of Europe.

Jacques Lenoble is the head of the Centre for Philosophy of Law (CPDR) at the University of Louvain.

Details

- May 2010
- 234mm x 156mm
- 240 pp
- Hardback
- 9781849460682
- £50
- €65

Main Subject Classification

European Law

Series

Modern Studies in
European Law



Previous Convictions at Sentencing

Theoretical and Applied Perspectives

*Edited by Julian V Roberts and
Andrew von Hirsch*

Key points

- Essays analysing the theoretical and normative aspects of considering previous convictions at sentencing.
- Invaluable reading for members of the criminal bar and academics who teach the law of evidence.

Description

This latest volume in the *Penal Theory and Penal Ethics* series addresses one of the oldest and most contested questions in the field of criminal sentencing: should an offender's previous convictions affect the sentence, and how? This question provokes a series of others: Is it possible to justify a discount for first offenders within a retributive sentencing framework? How should previous convictions enter into the sentencing equation? At what point should prior misconduct cease to count for the purposes of fresh sentencing? Should similar previous convictions count more than convictions unrelated to the current offence? Statutory sentencing regimes around the world incorporate provisions which mandate harsher treatment of repeat offenders. Although there is an extensive literature on the definition and use of criminal history information, the emphasis here, as befits a volume in the series, is on the theoretical and normative aspects of considering previous convictions at sentencing. Several authors explore the theory underlying the practice of mitigating the punishments for first offenders, while others put forth arguments for enhancing sentences for recidivists. The practice of sentencing repeat offenders in two jurisdictions (England and Wales, and Sweden) is also examined in detail.

The Editors

Julian Roberts is Professor of Criminology at the University of Oxford and a Fellow of Worcester College.
Andrew von Hirsch is Honorary Professor of Penal Theory and Penal Law at the University of Cambridge and an Honorary Fellow of Wolfson College.

Details

- May 2010
- 234mm x 156mm
- 204 pp
- Hardback
- 9781849460422
- £40
- €52

Main Subject Classification

Evidence, Proof and
Process

Other Subjects

Criminology and Policing

Series

Studies in Penal Theory
and Penal Ethics



• HART •
PUBLISHING