

## BOOKS RECEIVED / LIVRES REÇUS

P. ALA'I / R. G. VAUGHN (eds), *Research Handbook on Transparency*, Edward Elgar Publishing, UK, 2014, 418 pp., ISBN: 978-1-78100-793-8

Transparency... What is hidden under this common and widely used word? The *Research Handbook* is a great opportunity to explore and understand the multi-faceted nature of this term. Transparency is considered to be a core element in the democratic society, promoting the modern values of the rule of law principle, human rights, economic efficiency and environmental protection. Nevertheless, the flexibility and prevalence of this term increase the necessity of detailed study of its limitations and inconsistencies. The comparative and international perspectives being studied by the editors, a reader can analyze the strengths and weaknesses of transparency.

To understand better all the aspects of this term, the book is divided into four parts. The first chapter determines the basic framework. The second focuses on the cultural and national peculiarities. The third is dedicated to the impact on the legal rules and regulations. The final part describes the correlation between transparency and global governance. Despite the fact that the *Research Handbook* is a thorough and consistent study, the editors encourage the reader to form his own point of view regarding the accomplishments and challenges of transparency.

O. Naumchyk

J. BELL / M.-L. PARIS (eds), *Rights-Based Constitutional Review: Constitutional Courts in a Changing Landscape*, Edward Elgar Publishing, UK and USA, 2016, 443 pp., ISBN: 978-1-78471-760-5 (cased)

This book examines how the existing system of constitutional review evolved, from an institutional, procedural and substantial

point of view, aiming to increase the efficiency of the politico-legal system of rights protection. The 'civil law/common law' distinction is not so important in the approach of this system. Nevertheless, the comparison between constitutions leads us to expect that fundamental rights are not fixed and are likely to change over time. The stories from the past and problems of a particular society make its emphasis within fundamental rights distinctive. Comparative law makes us aware of the specific features of our own constitutional traditions, why they work and what might be the specific constraints which we take for granted.

The book is based on the contributions of leading scholars at the Annual Seminar of the Society of Legal Scholars (SLS) held in Dublin in 2013. These issues deserve continuing analysis in light of the challenges posed to the development of constitutional justice in the domestic and international sphere.

P. Stergiannis

J. BEST / A. GHECIU (eds), *The return of the public in global governance*, Cambridge University Press, UK, 2014, 265 pp., ISBN: 978-1-107-05295-6

In *The return of the public in global governance*, the authors point out the transformation of the public dimension of governance in the era of globalization.

The unique structure of the book, which is split into four parts containing theoretical implications of governance in the public sector, allows the reader to gain an understanding of global governance. Notably, this is done by not only focusing on each level of the system, but also on the different actors working within each level. The work effectively explores three types of complexity associated with contemporary public practices where the public practices are associated with the state.

This book gives a great amount of knowledge about public involvement in global governance. The book is written directly and concisely, making it easy to read and streamlining all important information about how a new authoritative line between the public

and the private sector is redrawn. Moreover, the work focuses on initiatives of social and environmental global governance.

In conclusion, *The return of the public in global governance* presents transformations within the realm of global governance, advancing the following major aim: the relationship between the public and the international.

E. Tudor

P. BROOKER, *Mediation Law - Journey through Institutionalism to Juridification*, Routledge, UK, 2013, 290 pp., ISBN: 978-0-415-61294-4 (hbk), 978-0-203-79662-7 (ebk)

The book explores the complexities of mediation, an alternative to litigation that is oftentimes more cost-effective, efficient and faster than in-court litigation. However, several complications arise from this method of Alternative Dispute Resolution, otherwise known as ADR. ADR presents a neutral, third-party source of interpretation of cases between two parties. The author, however, has eluded to several cases whereby third-party interpretation without a traditional legislative court-setting (jury, repeated trials) has shown to be less impartial than made out to be. While the author agrees that mediation as a form of ADR can be more useful for non-criminal, simpler cases, the point is made that more complicated cases require more attention from judges and several cross-checking mechanisms that review the facts of the given case.

The author believes that in several cases, including simpler cases whereby litigators use mediation, this is more cost-ineffective because clients are, oftentimes, put in the driver's seat of the case, and that more time is spent choosing the mediator and venue, rather than focusing on settling a case.

D.R. Străchinescu

M. CHAMON, *EU Agencies: Legal and Political Limits to the Transformation of the EU Administration*, Oxford Studies in European Law, Oxford University Press, UK, 2015, 389 pp., ISBN: 978-0-19-878448-7

Over the past two decades, the number of decentralized agencies under the EU has grown and the scope of the power of these agencies has widened. This has become a major issue for the EU, as it raises the question of when a decentralized agency of the EU is empowered to act and in what capacity. As part of the Oxford Studies in European Law Series, this book attempts to answer the question of "What are the political and legal limits of EU agencification?"

In his book, Merijn Chamon provides the first comprehensive overview of this issue. Focusing mostly on EU laws, Chamon first examines the framework under which these organizations are created and the different tasks that such organizations are able to carry out. The chapters that follow go in depth on the political and legal limits of these agencies. Case law and EU Legislation are heavily employed here to establish what these limits are. The last chapter takes a comparative approach by looking at the cases of independent agencies in Germany and the USA and how the respective nations' courts and legislative bodies have approached them. The book concludes by presenting overall conclusions and a proposal for a legal basis in treaties for these independent organizations.

*K. Piepenbrink*

A. DI AMATO, *Criminal Law in Italy*, 2<sup>nd</sup> Edition, Wolters Kluwer Law International, The Netherlands, 2013, 238 pp., ISBN: 978-90-411-5170-4

In *Criminal Law in Italy*, Astolfo Di Amato provides a thorough analysis of the country's justice system. He articulates the coverage of criminal procedure by focusing on the organization of investigations and legal remedies. Moreover, Di Amato supports the notion that the Italian system is about value choices by illustrating the various technicalities in Italian law.

In particular, this book provides the reader with an understanding of the present system and structure of criminal proceedings in Italy. Detailed analyses and explanations of the sentencing procedure give an even more thorough depth to the reader in understanding the nuances of the Italian justice system. The book's structure, which is split into three parts (Substantive Criminal Law, Criminal Procedure, and Execution of Sanctions), allows the reader to better understand the procedural background by facilitating a step-by-step understanding of how Italian criminal law is implemented. Di Amato's work ultimately enhances the knowledge of all those who desire to gain a more intricate, profound, and complete understanding of Italy's criminal law system.

F. Tătaru

C. GEIGER, *Research Handbook on Human Rights and Intellectual Property*, Edward Elgar, UK and USA, 2015, 727 pp., ISBN: 978-1-78347-241-3

In this work, Christopher Geiger has collected and edited through a Handbook in order to push forward one of the most important topics at the moment: Human Rights. He delves, however, further into practicality as he combines it with the topic of Intellectual Property.

The book is separated into 3 sections. The first section looks into the legal basis of Human Rights such as proportionality and the issues that arise when International bodies try to agree on Human Rights issues by using input from various Human Rights experts. The second part focuses on the consequences of Human Rights in relation to the development of intellectual property in the legislative and judicial fields. In this part, Geiger uses a comparative approach of different cases from around the globe. The third part looks towards the future. It serves as a prospective manual with different suggestions in order to reach the aim of a balance of intellectual property rights included in human rights.

This work is important as it is an attempt to bridge the lack of communication between the economic and social spheres of society by trying to maintain the hope of equality and fairness in a world

where it can be left behind in favor of innovation and an improved economy.

N. Agostini

M. GIBNEY / W. VANDENHOLE, *Litigating Transnational Human Rights Obligations, Alternative Judgements*, Routledge Research in Human Rights Law, 2014, 366 pp., ISBN: 978-1-138-63950-8

Mark Gibney, a Belk Distinguished Professor at the University of North Carolina Asheville, and Wouter Vandenhoe, a member of UNICEF serving as Chair in the Children's Rights department at the University of Antwerp and Co-Director of the Law and Development Research Group, adventure themselves into an uncharted territory while trying to rewrite the concept of the human rights basis in regard to law-enforcement and the way in which states are adopting these so-called laws. They offer a totally new perspective regarding the notion of human rights while trying to give a broader understanding of the way we see and relate to the subject, making a comprehensive and compelling argument on how the issue must be addressed.

The book provides information about the international economic governance, global and regional human rights monitoring and the role that the domestic courts play in the protection of human rights, presenting practical cases in which the Court purposely avoided the matter at hand by invoking current laws and their jurisprudence whilst showing the way the current law failed to protect human rights thus setting forth the basis for a practical discussion that can change the nature of human rights protection.

E.M. Tudorache

D. HALJAN, *Constitutionalising Secession*, Hart Publishing, UK, 2014, 428 pp., ISBN: 9-781849-464376

Through examination of texts and a few case studies primarily involving Canada and Québec, David Haljan attempts to answer the following question: What does constitutional law have to say about secession? Haljan takes a rather apolitical approach within texts, fo-

cusing less on the politics and nationalism that surround secessionist movements and more on the rule of law created under a Constitution and the pressures that a secessionist movement puts on it. The role of a Constitution is to create stability and order within a state, and secessionist movements jeopardize this. For this reason, the book is rather critical of secessionist movements.

As the book develops, Haljan takes a more analytical approach towards secessionism. Chapters three and four examine the two main theories for secession, the Primary Rights Theory and the Just-Cause Theory in detail.

Later chapters come back to the case of Québec and Canada again and look at the 1998 Québec Secession Reference decision by the Supreme Court of Canada, which rejected Québec's right to secede outright and stated that the rest of Canada has a right to take part in discussion around Québec's independence if an outright majority of Québec's population supported secession. This would back up one of Haljan's main arguments which can be summed up in one quote found in the last substantive chapter; "even the breakdown of marriage usually invites some marriage counselling and reconciliation before divorce" (p. 380).

K. Piepenbrink

A. HELO, *Thomas Jefferson's Ethics and the Politics of Human Progress: The Morality of a Slaveholder*, Cambridge Studies on the American South, Cambridge University Press, New York, 2014, 282 pp., ISBN: 978-1-107-04078-6

While many authors have delved into writing about Thomas Jefferson regarding his political and personal beliefs, very few have analyzed Jefferson's thoughts regarding the rights of the living and his understanding of time and progress as a linear occurrence. Specifically concerning the rights of slaves, how could enslaved men experience and possess self-governance while laboring on plantations, and how could Jefferson, who is heralded as a father of America and its freedoms and liberties, support the continuing of slavery? Through the analysis of Jefferson's beliefs on progress - social and scientific - as well as his religious beliefs and the con-

nection between his understanding of moral equality, benevolence, and political thought, Helo argues that Jefferson believed his discourse, over time, would lead to a change in the national mindset, at least in the majority, which could compel the federal government to enact compliance measures to end slavery. Jefferson believed violence would not be justified in freeing slaves, and he feared the violence which could occur without majority backing. This book fills the need for a more critical and nuanced understanding of Jefferson's beliefs.

*M. Kokkinos*

R. KOLB, *The Law of Treaties: An Introduction*, Edward Elgar Publishing, UK & USA, 2016, 296 pp., ISBN: 978-1-78536-014-5

There is no area of international law nowadays which is not permeated by treaties. The book aims to understand properly the working and understanding of the law of treaties in the modern era. By providing a succinct but in-depth presentation of the topic, written in analytical style, the author fills a gap in the existing legal literature. All important substantive issues of the law of treaties are considered. Each Chapter is centered around two axes: first, it sets out the law in much detail and with practical examples deepens the understanding of the normative framework. Second, each Chapter discusses difficult and unexpected issues related to the law and presents idiosyncratic cases of treaty practice or some extracts on such issues. In this way, the book functions both as an introductory textbook on the law of treaties perfect for undergraduate students, but at the same time tests this knowledge in the context of situations apart from the mainstream and thus is of use for the experienced international lawyer and practitioner.

Last but not least, Prof. Kolb infers his rich experience as an academic and as a practitioner of international law in this book. The book is abundant from examples originating from Swiss and UN practice that put to the test the adaptability and appropriateness of the law of the treaties in the modern era.

*N. Voulgaris*



M. PEETERS / T. SCHOMERUS (eds), *Renewable Energy Law in the EU*, Edward Elgar Publishing, UK and USA, 2014, 336 pp., ISBN: 978-1-78347-318-2

The author explores the various forms of EU regulation on environmental policy, as well as the regulation of power distribution through the various agencies such as the Committee of Regions (CoR), which operate under a distinct autonomy from EU jurisdiction at various levels in enacting new forms of environmental regulation. The author equally explores the evolution of environmental regulation, such as the origins and increasing importance at the parliamentary level, and accounts for the shortcomings of the harmonization of enacted legislation. Many of the incentives given to non-complying regions/countries by the European Union (EU) are financial, such as cap-and-trade systems. While these economic incentives for reducing carbon emissions and adopting more green-friendly initiatives have reduced the various forms of pollution and poverty in several of Europe's poorer regions, the incentives are not enough to halt the proliferation of pollution. The book provides a detailed account of environmental agencies at the EU level and the balance of power between the various institutions.

*L. Frapaise*

M.-O. PEYROUX-SISSOKO / P. KRUSZLICZ, *Constitutions nationales et valeurs européennes*, Centre Universitaire Francophone, 2015, 199 pp., ISBN: 978-963-306-445-0

The balance between internal order and international order is present in almost every society. As we know, the Constitution is the most important cell for every state. In this book, *Constitutions nationales et valeurs européennes*, the authors correctly look for an explanation of what is the exact meaning of international legal order, what is national sovereignty and what is the relationship between them. The unique structure of the book, which is split into two parts, lies on the combination between European Values and the relations between EU jurisdiction and national jurisdiction, especially in France and in Hungary.

Another important point is the fact that the methodology that the authors use is dialogue, which helps to enhance the understanding of the book, and, at the same time, presents a better analysis of the EU countries' constitutions and EU governance.

This book is clearly an invaluable addition which lays the groundwork for what is the European Union and how it works today, while also providing more information about the constitutions of these two countries and their sovereignty.

A. Ion

R. K. M. SMITH, *Textbook on International Human Rights*, 7<sup>th</sup> edition, Oxford University Press, New York, 2015, 416 pp., ISBN: 978-0-19-874621-8

The constant erosion of State sovereignty and the concomitant penetration of international human rights in the so-called *domaine réservé* of modern democracies describes in a nutshell the most visible worldwide transformation international law has achieved since the end of the Second World War. In a very concise and accessible way, this book describes the process of this transformation and completes a *tour d'horizon* of how things stand today in international human rights protection across the globe. Further, the book attempts a short glimpse into the future and the potential impact of the prospective reform of the institutional procedure on the enforcement of human rights.

The textbook mainly targets students with no prior relevant experience or legal knowledge in this scientific field. The latest edition references extensively to recent case law, bibliography and electronic resources in every chapter, highlighting in this way key areas of debate. It fully covers the spectrum of substantive rights incorporated in human rights instruments, but also it traces the development of rights protection within the United Nations and the regional systems. So, this book functions as a broad but in-depth introduction to this area of law and thus achieves a double goal; on the one hand, it facilitates any further study on the issue and on the

other it provides ample food for thought on the way things stand and how they are about to change.

N. Voulgaris

A. STAWICKI / V. RUDOMINO / B. BABIĆ (eds), *Competition Law in Central and Eastern Europe*, Wolters Kluwer Law International, The Netherlands, 2014, 529 pp., ISBN: 978-90-411-4122-4

In *Competition Law in Central and Eastern Europe*, the authors provide a thorough analysis of antitrust law in Central and Eastern Europe. The authors articulate the coverage of antitrust legislation and cases in the region by focusing on the development of competition law in the countries of the former Eastern bloc. Moreover, the authors support the notion that almost all the countries that formed the communist bloc underwent an economic and political transformation since the fall of communism.

In particular, this book provides the reader with an understanding of the present system and structure of competition law in these countries. Detailed analyses and explanations of procedure give an even more thorough depth to the reader in understanding the nuances of the competition law in Central and Eastern Europe.

Each of the 19 chapters of the book describes the system and structure of competition law in a particular country of Central and Eastern Europe, allowing the reader to better understand the procedural background by facilitating a step-by-step understanding of how competition law is implemented.

V. Popescu

T. TANQUEREL / A. FLÜCKIGER (sous la direction de / eds), *L'évaluation de la recherche en droit / Assessing Research in Law - Enjeux et méthodes / Stakes and Methods*, Bruylant, Brussels, 2015, 488 pp., ISBN: 978-2-8027-4651-5

In this work, the collaboration of legal academics and professionals from around the globe explore research in law.

In the first part, the purpose of research in law is explored. Is it to prove legal findings to other legal and political bodies or strengthen

the scientific reputation of legal research? Rob van Gestel mentions the delay in the adoption of evaluating standards and stresses the need to unite past established legal traditions and move beyond the dichotomy of judicial practice and academic theory.

The second part focuses on the definition of research in law. It examines how research should be conducted; whether it should be more fundamental, or delve into specific legal issues. The challenge of choosing between focusing on theory or practice comes up again, however, a call for more scientific certainty is also heard. According to Alain Papaux, research should not be limited to details as the broader issue would be lost.

The final part looks at the past experiences involved with the evaluation procedures in Europe. From future possibilities in the field of legal research in Switzerland to comparing the situations in France and Italy, as well as focusing on Austria. Through the analysis and critiques the reader can visualize what is and can happen in this field.

N. Agostini

A. J. VAN DEN BERG (ed.), *International Arbitration: The Coming of a New Age?*, Wolters Kluwer, The Netherlands, 2013, 751 pp., ISBN: 978-9-0411501-1-0

Through the compilation and amassing of articles for the 21<sup>st</sup> Congress of the International Council for Commercial Arbitration, the reader is given direct insight into the workings of arbitration in the complex and intertwined relationship with national entities, as well as the difficulties and benefits of doing so. The opportunities to better facilitate this relationship - as well as the impediments to doing so - are explored methodically, interspersing discussion of ethics respective to this relationship. Procedural limitations and practices, with regards to the future of arbitration itself, are also featured, providing the reader with clear and detailed information. The combination of insights from individuals of both theory and practice substantially augment the volume's capacity to enhance the reader's understanding of the pitfalls, challenges, and successes of the past, present, and future. Moreover, the volume evokes deep discussions

of harmonizing administrative practices, policies, and related issues to benefit not only bureaucratic proceedings, but the public in general as well.

*M. Kokkinos*