

K. ARMSTRONG, *Governing Social Inclusion: Europeanization through Policy Coordination*, Oxford University Press, 2010, 332 pp., ISBN: 978-0-19-927837-4

This book presents an analytical study of the social inclusion framework of the EU that has pursued in the last decade a novel governance model in the form of the Open Method of Coordination (OMC). It approaches OMC as a mechanism of Europeanization of domestic social policy that is mainly concerned with social solidarity and social justice. With reference to the debates surrounding the Lisbon Strategy and the Lisbon Treaty that have determined the scope of EU action, this work critically evaluates the Europeanization of domestic social policy in pursuit of social inclusion. Using a variety of research methods, Armstrong gives an informed assessment of the actual achievements and failures of EU policy coordination, while remaining mindful of the wider implications of the ever-expanding Europeanization, as reflected by the impact of the EU on national law and policy. Overall, this work presents a valuable socio-legal approach of the emerging governance models in the social sphere that will be of interest to policy makers as well as to academics and students.

*D. Xenos*

J. AUTENNE, *L'Europe face à la régionalisation fiscale: compétence, concurrence, compétitivité et efficacité*, Bruylant, Bruxelles, 468 pp., 2010, ISBN: 978-2-8027-2649-4, 66,49 €

This volume deals with the regionalisation of the tax base, a very important subject not only for those studying tax law but also for those studying public law.

A single market cannot exist without a greater harmonisation of taxation in the Member States. There are several countries which have aspirations to change the state structures in order to strengthen regionalisation by conferring a greater autonomy to the decentralised authorities in matters of raising funds.

The book analyses the reforms but also the state organisation of various European countries such as Germany, Spain, France, Portugal, Belgium, Switzerland. For a better understanding, efforts to reconcile tax regionalisation of the Member States with a European tax harmonisation were studied. Various authors from these European countries were asked to provide their input by answering an extremely detailed questionnaire. The questionnaire, drafted by Professor Jacques Autenne, contains issues concerning remunerative taxes, the prevention of double taxation on federal and

regional levels and the issue of control by Member States of the EC Treaty constraints or EC directives.

*T. Zaldea*

A. BAILLEUX, *Les interactions entre libre circulation et droits fondamentaux dans la jurisprudence communautaire*, Bruylant, Bruxelles, 732 pp., 2009, ISBN: 978-2-8028-0186-3, 125 €

One of the pillars of the European construction is free movement of persons, services, goods and capital, which were presented in the Treaty of Rome in 1958. Free movement embodies the “European dream” of a unified market, an integrated economic area synonymous with wealth and prosperity.

The author believes that the fundamental rights of citizens in the EU represent the image of a “humane” Europe based on the respect for the dignity of each person.

The book includes a historical context and uses a comparative perspective in tracing the rise of human rights in the European Union. The first part of the author’s research is focused on a critical analysis of relationships between the discourse of human rights and the imperatives associated with the internal market in the jurisprudence of the Community Courts. The second part of the book is devoted to the dissection of EU jurisprudence. In contrast to this analysis of positive law, this book provides a reflection on the evolution of modern law. The volume illustrates the different types of conflicts and alliances between free movement and fundamental rights. The last part of the book presents the most interesting elements of the thesis. It offers three solutions to the Community Court that must deal with situations concerning the interaction between the fundamental human rights and the freedom of movement.

*T. Zaldea*

C. VON BAR, *Non-Contractual Liability Arising out of Damage Caused to Another*, Oxford University Press, Oxford, 2009, 1384 pp., ISBN: 978-0-19-922941-3

The results of the research conducted by The Study Group on a European Civil Code seek to advance the process of Europeanisation of private law. The principles which are exposed in this volume have been prepared by impartial and independent-minded scholars whose interest has been a devotion to the subject-matter. The book studies the extra-contractual liability for damage caused to another and it is divided into two parts. In the

first part of the book, a Text of Articles regarding principles of European Law on Non-Contractual Liability Arising out of Damage Caused to Another is presented. In the second part of the book, the articles are individually commented on by the author. One of the most important parts of the comments made by the author are the notes, which had been in force until June 2008, in which he tries to set out the current national law of EU Member States regarding non-contractual liability. This volume must be understood as the result of scholarly legal research within international teams, which submitted to discussion common principles of European Law in order to realise a draft of European Civil Code.

*B. Berceanu*

M. BOSSUYT, *Strasbourg et les demandeurs d'asile: des juges sur un terrain glissant*, Bruylant, Bruxelles, 189 pp., 2010, ISBN: 978-2-8027-2870-2

Professor Marc Bossuyt tries to offer by this study of the jurisprudence of the ECHR a better understanding of the judgments relating to asylum seekers. For the interpretation of the law of judgments, the author uses articles on other domains that are particularly relevant to asylum seekers.

The present study is divided into two parts: the first analyses the report adopted by the various articles of the European Convention on Human Rights whereas the second part contains a critic in matters adopted and followed by comments on this topic.

Both parts are bound to a relationship of interdependence. The second part reflects the influence, according to the personal experience of the author, on the refugees and stateless persons. Professor emeritus at Anvers University, Marc Bossuyt wants to contribute by this study to the reflection of the Court of Strasbourg when it takes attitude and adopts decisions in matters of rights and freedoms of citizens in Europe.

*R. Amza*

S. BOTTOMLEY, *The Constitutional Corporation*, Ashgate, UK, 183 pp., 2008, ISBN: 978-0-7546-2418-9

Corporate laws are based on the idea that the interests of shareholders should be the primary concern of company directors. While corporate laws in countries such as Australia, the United Kingdom, and the United States are based on this idea, this model has been criticised from diverse perspectives. Some argue that the proper role for shareholders is to sit back and let the corporation's managers do their job, or that the pursuit of share-

holders' interests detracts from the concerns of employees or victims of corporate wrongdoing or other stakeholders. Both of these arguments depict shareholders as passive investors.

Stephen Bottomley argues that instead of consigning shareholders to this passive role, they should be given opportunities to be active members of corporations. Corporations are constitutional arrangements rather than mere contractual agreements. They are decision-making organisations in which questions of process and structure are important. Thus, instead of using economic criteria such as efficiency as the sole measure for deciding what constitutes 'good' corporate governance, this book examines whether ideas of accountability, deliberation and contestability provide a valuable framework for assessing corporate structures and process and for encouraging greater shareholder participation.

*M. Marinescu*

C. CHALANOULI, *Kant et Dworkin - De l'autonomie individuelle à l'autonomie privée et publique*, L'Harmattan, 362 pp., 2010, ISBN: 978-2-296-11294-0

This is a book providing an inclusive analysis and comparison of the schools of thought maintained by two legal philosophers who have made a great impact on the Western legal thought - Immanuel Kant and Ronald Dworkin - on the basis of the relationship between the individual and the state, the significance of personal freedom and the way legal systems should work. Following the premise that it is essential to understand the theory in order to be able to apply it, the author of this book examines thoroughly the ideas of both philosophers and outlines where they differ as well as where they agree in certain aspects of their philosophies. Questions such as creators, measures and limits of law, as well as the relationship of law and politics are addressed and analyzed by both of these authors in their historical contexts in order to enable a more balanced understanding of the meaning of their philosophy.

The book starts with an introduction and progresses into two big sections which are further divided into a couple of subsections that address specifically the aforementioned questions; each of these subsections is split into two parts, the first part dealing with Kant and the second one with Dworkin. A general conclusion is made at the end of the book where the big picture is finally painted.

*L. Vaštakas*

P. DE SENARCLENS (sous la direction de), *Les frontières dans tous leurs états, les relations internationales au défi de la mondialisation*, Bruylant, Bruxelles, 342 pp., 2009, ISBN: 978-2-8027-2753-8

Over time the international society has changed a lot due to significant socio-economic and religious changes. Globalisation has led to a form of progress in all domains: political, economic and social, but in a weak and fragmented manner. In such a context, one can observe new forms of governance and hybrids which involve different economic and political relations.

This book is composed of different views of critics. The study represents the proof of deep changes in the pattern of political boundaries that today are still under evolution. In the context of financial globalisation, the role of the state is steadily declining on the international scene.

The concept of boundaries in international relations has a symbolic essence and focuses on collective identities mobilised by the states. The end of the study offers some practical arrangements in order to understand the significant influence of psychological factors in the spread of contemporary international relations.

R. Amza

K. FANGEN / K. FOSSAN / F.A. MOHN (eds.), *Inclusion and Exclusion on Young Adult Migrants in Europe: Barriers and Bridges*, Ashgate, UK, 2010, 286 pp., ISBN: 978-1-4094-0420-0

This work is part of the Research in Migration and Ethnic Relations series that has been at the forefront of research in the field for ten years, and has built an international reputation for cutting-edge theoretical work, for comparative research especially on Europe and for nationally-based studies with broader relevance to international issues. Published in association with the European Research Centre on Migration and Ethnic Relations (ERCOMER), Utrecht University, offers an interdisciplinary perspective on some of the key issues of the contemporary world.

This study presents analyses of research carried out during the course of the EUMARGINS research project, exploring the inclusion and exclusion of young adult immigrants across a range of national contexts, including the Nordic welfare states, old colonial countries, Southern European nations and the Eastern European region. Scrutinising legal, policy and historical sources, as well as participation in labour market and education systems, this volume engages with multiple social arenas and spheres, to integrate research and provide a cohesive investigation of the dynamics of

each national setting. In addition to the chapters focused on individual national contexts (Estonia, France, Italy, Norway, Spain, Sweden and the UK), it also provides a comprehensive transnational analysis, developing a comparative perspective and explaining the overarching research framework. A carefully organised and comprehensive exploration of the exclusion and inclusion of young adult migrants in Europe, this book will appeal to social scientists with interests in migration, population change, integration and exclusion.

*M. Tuca*

S. FERRARI / R. CRISTOFORI (eds.), *Law and Religion in the 21<sup>st</sup> Century: Relations between States and Religious Communities*, Ashgate, UK, 2010, 352 pp., ISBN: 978-1-4094-1143-7

This book is a collection of articles that deal with various aspects of the relationship between state and religion. It examines recent developments in various countries and regions, while special focus is given on four issues that have been the subject of current debates: the relations between freedom of expression and freedom of religion; proselytism and the right to change religion; the religious symbols; and the legal status of Islam in Europe and Canada. The aim of the book is not to present an exhaustive study of the subject but rather to indicate the focus of the current and future research and the approaches that are taken in various countries. The contributions that are included in this book are largely the outcome of the discussion of the participants in the inaugural congress of the International Consortium for Law and Religion Studies that took place in the University of Milan in January 2009. This rich volume of articles is a valuable contribution on the debate about the relationship between the state and religion that is currently taking place all over the world.

*D. Xenos*

C. FOURNET, *The Crime of Destruction and the Law of Genocide, Their Impact on Collective Memory*, Ashgate, University of Exeter, UK, 182 pp., 2007, ISBN-13: 978-0-7546-7001-8

This work deals with the crime of genocide and with the social and collective memory of this crime. The main goal set by the author is to promote the memory of the past crimes and to ensure their non-repetition. Although this book deals with memory, does not however focus on the past *per se*. Past occurrences of genocide have shaped our societies into post-genocidal societies in which trauma is very much present.

This work focuses, from a legal perspective, on the reasons of the “social amnesia” that comes after genocidal disasters. The book thus links the social phenomenon to the legal theory - the legal norms -, as well as to the legal practice - the trials. The rationale of this study is to show that genocide fails to be adequately remembered due to the inherent defects of the law of genocide itself. In Part II of the book, the study illustrates the shortcomings of the UN Genocide Convention as a means of preventing and punishing genocide as well as its consequent failure to ensure the memory of this heinous crime. This work is a valuable resource for researchers and academics with an interest in genocide, criminology, international organisations, and law and society.

*A. Babassi*

D. J. HARRIS / M. O'BOYLE / C. WARBRICK / E. BATES / C. BUCKLEY (eds.), *Law of the European Convention on Human Rights*, 2<sup>nd</sup> ed., Oxford University Press, 2009, 914 pp., ISBN: 978-0-406-90594-9

This study is a big book of 914 pages about the law of the European Convention on Human Rights. It is an updated edition of a previous work that has been made possible by the contribution of an additional number of academics (*i.e.* U. Kilkelly, P. Cumper, Y. Arai, H. Lardy) from UK universities. The book is organised on an Article-by-Article basis which has become typical of standard textbooks on the Convention. The discussion mainly concentrates on the case-law of the European Court of Human Rights, rather than on scholarly commentary. It includes also a chapter covering some important aspects of the Convention and three chapters dealing with admissibility of applications, the rules and procedures of the European Court, and the execution of its judgments. Published before Protocol 14 entered into force in June 2010, the book does include a brief discussion on the most critical amendments to the text of the Convention. This very good introductory study of the Convention serves primarily as a textbook for undergraduate and postgraduate students but can also be a first point of reference for the academic and more experienced researcher.

*D. Xenos*

M. T. KAMMINGA / M. SCHEININ, *The Impact of Human Rights Law on General International Law*, Oxford University Press, 258 pp., 2009, ISBN: 978-0-19-956522-1

The book examines all effects which the increase of International Human Rights Law has reverberated on General International Law, consider-

ing a wide range of areas including the law of treaties, general principles of treaty interpretation, state responsibility, immunities and diplomatic protection. Eleven chapters which explain in an accessible way the interactions between the International Human Rights Law and General International Law, through a systematic and comprehensive examination of the topic. Extremely important in order to better understand the complexity of the process is to underline the fundamental role which both the International Court of Justice and the International Law Commission play within it. The authors suggest that to characterise the receptivity of the process of the International Court of Justice and the International Law Commission are two different forces. The former force has prepared to incorporate output from Human Rights treaty bodies and criminal court in its findings, on the other hand, the latter force reflects the Court's reluctance to balance traditional state interests against the interests of the individual even though they have been contained in rules of *jus cogens*. This book gives us the elements with which we will be able to understand how the concepts emanating from international human rights law can fall on the traditional international law that is represented by the International Court of Justice and International Law Commission. Thereby, this book can be a perfect compass for orientating oneself in the chaotic process created by the impact of International Human Rights Law on General International Law.

*M. Soncini*

V. NATALE, *Le droit des étrangers à l'égalité et le juge de Common Law*, Bruylant, Bruxelles, 778 pp., 2009, ISBN: 978-2-8027-2771-2

The book compares the protection of the rights of non-citizens in four jurisdictions: American, Canadian, British, Australian. Until now migration is coded as an anomaly of the international system and not as one of its structural elements.

The courts are still hesitating to offer the same protection of rights to foreigners as those offered to its citizens. In Western countries, the rights of migrants degrade each day. There, the foreigner does not enjoy his/her fundamental rights as a citizen. The protection of human rights is a political struggle and the law is a tool for political mobilisation.

The author uses the constitutional jurisprudence of the rights and freedoms to create a culture of human rights. The non-citizen is perceived throughout the book as the owner of equal rights, but also as a person worthy of justice.

The right of non-citizens to equality must be reconciled while taking into account the prerogatives of the sovereign state: immigration policy



and the rights that must be guaranteed to foreigners present on the territory.

R. Amza

M. RIGAUX, *Droit du travail ou droit de la concurrence sociale?*, Bruylant, Bruxelles, 217 pp., 2009, ISBN: 978-2-8027-2812-2

In this essay, the author reflects on the future of labour law, which he perceives as a correction to the free market marginal social work and social competition. Some phenomena suggest that we are witnessing a transformation and evolution of protective labour law to a law empowering social competition. With free trade as a principle, a release of world markets were replaced and institutionalised through the World Trade Organization. Free trade promoted the internationalisation of the labour markets. The author formulates a number of theses that lead him to establish a new theory on labour law. The legislature is increasingly required to address the competition between workers. The balance between capital and labour has been changed radically by the Europeanisation and Internationalisation of the labour market. The author observes that the right to human dignity of the employees is disputed and he offers some institutional solutions, to safeguard the essential legal protection for workers. The labour law is seen as a synthesis of citizenship and social competition, like the fundamental relationship between the economic and political order.

T. Zaldea

F. SNYDER / I. MAHER, *The evolution of the European Courts: Institutional Change and Continuity*, Bruylant, 264 pp., 2009, ISBN: 978-2-8027-2765-1

This bilingual volume comprises a selection of the revised versions of papers first presented at the 6<sup>th</sup> International Workshop for Young Scholars (WISH).

The first part of the book concerns courts and multilevel governance and talks about the diplomacy of judicial networks in times of constitutional crisis, the techniques of multilevel dialogues and constitutional comity and the use by national courts of the principle of the supremacy of European Law.

The second part of the book focuses on the ways in which the European courts have dealt with certain important basic principles of EC law, analyses the general principle of prohibition on abuse of law (*abus de droit*), while another chapter talks about the ways in which the European courts

have dealt with the concept of sustainable development in cases concerning free movement.

The third part of the book consists of three chapters which deal with several challenges for the European courts. One challenge is the gradual establishment of the area of freedom, security and justice as foreseen in the Treaty of Nice. The next chapter considers the role of the proposed judicial panels on intellectual property in shaping a new EU judicial architecture and the last one analyses the role of the European courts as political actors in the Cyprus conflict.

*M. Marinescu*

A. TORRES PÉREZ, *Conflicts of Rights in the European Union: A Theory of Supranational Adjudication*, Oxford University Press, 2009, 224 pp., ISBN: 978-0-19-956871-0

This book deals with the interaction of legal orders in Europe in the area of human rights. The central focus is put on the role of ECJ, since states' constitutional courts and a regional international human rights system, the European Convention on Human Rights, have already been active in constantly improving the standards of human rights protection in the continent. Various aspects of constitutional theory and actual practices of both national and supranational systems are discussed to show similarities and key differences that reveal potential conflicts. The issue of conflict of rights is observed as much within the same institutional framework as in the interaction between various jurisdictions (*i.e.* the triangular relationship of national constitutional courts, ECtHR and ECJ). Comparative insights are also used with reference to the work and practice of the US Supreme Court. The book is based on the author's doctoral thesis written before the Lisbon Treaty was ratified, but the ratification of the Treaty makes this publication particularly timely. The author accepts the central role that the ECJ has to play, but argues that the source of its legitimacy can be provided through a non-hierarchical dialogic interaction between various judicial institutions. In this regard, all institutional players involved should be able to engage in an exchange of arguments in order to reach the best-reasoned outcome for the community as a whole. In principle, this may mean that a comparative reasoning could be reflected in the ECJ's decision. The book gives also fair space to scholarly commentary regarding various critical points and parameters, including opposing views, such as that 'the main purpose of the ECJ's case law protecting fundamental rights was to secure the supremacy of EU law'. Pérez's work is a valuable contribution to the current debate of the proper role of the EU judiciary in the

area of human rights and its ever-changing relationship with other judicial institutions at both national and European level.

*D. Xenos*

A. TRIANDAFYLLIDOU (ed.), *Irregular Migration in Europe: Myths and Realities*, Ashgate Publishing, UK, 2010, 304 pp., ISBN: 978-0-754678861

Over the last decade, irregular migration has become a priority issue for EU migration policy with this issue frequently featuring in newspapers-headlines and both domestic and international political discourse across Europe. Nevertheless, the size and main features of the irregular migrant population of the EU as a whole and of each specific Member State remain under-researched.

This study contributes to our knowledge of the scale and nature of the much discussed but under-researched phenomenon of irregular migration in Europe, whilst improving our understanding of the dynamics of irregular migration and its relation to European societies and economies. Presenting a comparative analysis of the experiences and policies of different EU Member States, this book draws on an extensive range of sources, many of which have so far been absent from English-language analyses, to offer an overall picture of irregular migration in twelve EU Member States.

With each chapter following a systematic structure, the information and analyses proffered in this volume are coherent, consistent and accessible, and will be of interest to policy-makers and researchers within the fields of migration, sociology and social anthropology, political science, European integration and European studies, political science and public administration.

*M. Tuca*

E. VRANES, *Trade and the Environment: Fundamental Issues in International Law, WTO Law, and Legal Theory*, Oxford University Press, 2009, 480 pp., ISBN: 978-0-19-956278-7

This book deals with the legal relationship between the WTO's rules on international trade on the one hand, and the domestic and international efforts to protect the environment, on the other hand. For the purpose of this study, a series of legal problems are discussed regarding the concept of conflict of norms, the balance of interests, the evaluation of the principle of proportionality and the state's sovereignty. To a considerable extent, the

study draws also on insights from legal theory. In the process, wider issues are revealed whose relevance goes beyond the trade-environment relationship. As a result, appropriate links are made with the broader debates on the 'fragmentation of international law' and the 'constitutionalisation of the WTO'. One of the key proposals is that when the unilateral action of the state resorting to trade measures in order to protect the environment conflicts with the trade rights of another state, a balance needs to be found between the competing interests involved by applying the legal tests of proportionality and necessity. In the concluding part, the results of the analysis are applied to two topical examples: international and national measures to protect ozone layer and the earth's climate. This book is certainly a valuable contribution on the topic of trade and environment which can be used also comparatively for other trade-related conflicts in international law.

D. Xenos

R. WILLIAMS, *Unjust enrichment and public law, A comparative study of England, France and the EU*, Hart Publishing, Oxford and Portland, Oregon, 2010, 294 pp., ISBN: 978-1-84113-414-7

This book examines claims involving unjust enrichment and public bodies in France, England and the EU. Part 1 explores the law as it now stands in England and Wales as a result of cases such as *Woolwich EBS v IRC*, those resulting from the decision of the European Court of Justice (ECJ) in *Metallgesellschaft and Hoechst v IRC* and those involving Local Authority swaps transactions. So far, these cases have been viewed from either a public or a private law perspective, whereas in fact both branches of the law are relevant, and the author argues that the courts ought not to lose sight of the public law issues when a claim is brought under the private law of unjust enrichment, or *vice versa*. In order to achieve this, a hybrid approach is outlined which would allow law's access to both the public and private law aspects of such cases. Part 2 considers the French approach in order to ascertain what lessons it holds for England and Wales. And finally, as the *Metallgesellschaft* case itself makes clear, no understanding of such cases can be complete without an examination of the relevant EU law. Thus, Part 3 investigates the principle of unjust enrichment in the European Union and the division of labour between the European and the domestic courts in the ECJ's so-called 'remedies jurisprudence'. In particular, it examines the extent to which the two relevant issues, public

law and unjust enrichment, are defined in EU law, and to what extent this remains a task for the domestic courts.

*M. Tuca*