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# Restitution Modern Legal Studies

**Peter Jaffey**



## **Restitution Modern Legal Studies:**

**Comparative Law and Jurisprudence in Namibia** Samuel Kwesi Amoo, Tapiwa Victor Warikandwa, Kennedy Kariseb, 2025-01-31 Comparative law examines the differences and similarities between various countries laws and legal systems across the world such as common civil and socialist laws Its significance has grown dramatically in the current era of internationalism populism economic globalization and democratization Despite its relevance Namibia lacks scholarly literature in comparative law Comparative Law and Jurisprudence in Namibia provides in depth understanding of the theoretical framework of different legal systems and of comparative law and contextualizes its application for the Namibian context particularly towards a unified legal system It addresses topics such as comparative law s conceptual framework the interplay between courts and comparative law and comparative law praxis or the practical application thereof The chapters span across all levels of comparativism and promote a multidisciplinary approach to discourse including altering Namibian legal education Futhermore the collection accelerates required legislative change in Namibia to guarantee a legal structure aligned with societal and constitutional imperatives in the twenty first century *Comparative Law in the Courtroom and Classroom* B. S. Markesinis, 2003-03-20 This is an original deliberately controversial and disturbing appraisal of the state of comparative law at the beginning of the 21st century **Contract Law** Ewan McKendrick, 2023-04-06 The 15th edition of Ewan McKendrick KC s bestselling textbook is the go to resource for all students of contract law It combines a clear and straightforward account of basic doctrines including consideration and illegality with up to date coverage of more recent developments such as the recent Supreme Court and Privy Council decisions dealing with economic duress and the interpretation of exclusion and limitation clauses Other contemporary considerations covered include the application of the doctrine of frustration to contracts which have been impacted by the COVID 19 pandemic and the scope of the doctrines of mistake and misrepresentation Packed with a range of pedagogical features from hot topic discussion boxes to end of chapter summaries and exercises this straightforward and stimulating text is the essential learning companion for students undertaking undergraduate law degrees the GDL CPE modules or other equivalent contract law courses **Structure and Justification in Private Law** C.E.F. Rickett, Ross Grantham, 2008-02-27 Peter Birks s tragically early death and his immense influence around the world led immediately to the call for a volume of essays in his honour by scholars who had known him as a colleague teacher and friend One such volume published in 2006 contained essays largely from scholars working in England Mapping the Law Essays in Memory of Peter Birks edited by Andrew Burrows and Lord Rodger This volume contains the essays of those outside England who chose to honour Peter and appears later than the English volume reflecting the far flung habitations of its authors The essays contained in this volume are focussed around the law of unjust enrichment but are not narrowly preoccupied instead they move freely from unjust enrichment to some of the most profound questions in private law concerning taxonomy the relationship between contract property and unjust enrichment and the place of

remedies within private law This volume featuring the work of some of the world's great private lawyers provides a fitting tribute to a great scholar and a series of thought provoking essays inspired by his example Contributors Kit Barker Michael Bryan Peter Butler Hanoch Dagan Simone Degeling Daniel Friedmann Mark Gergen Ross Grantham Steve Hedley John McCamus Mitchell McInnes Eoin O'Dell Charles Rickett Struan Scott Emily Sherwin Stephen Smith Richard Sutton Michael Tilbury Stephen Waddams Peter Watts Ernest Weinrib Eric Descheemaeker

Enrichment at the Claimant's Expense Eli Ball, 2016-12-15 This book presents an account of attribution in unjust enrichment Attribution refers to how and when two parties a claimant and a defendant are relevantly connected to each other for unjust enrichment purposes It is reflected in the familiar expression that a defendant be enriched at the claimant's expense This book presents a structured account of attribution consisting of two requirements first the identification of an enrichment to the defendant and a loss to the claimant and secondly the identification of a connection between that enrichment and that loss These two requirements must be kept separate from other considerations often subsumed within the expression enrichment at the claimant's expense which in truth have nothing to do with attribution and which instead qualify unjust enrichment liability for reasons that should be analysed in their own terms The structure of attribution so presented fits a normative account of unjust enrichment based upon each party's exchange capacities A defendant is enriched when he receives something that he has not paid for under prevailing market conditions while a claimant suffers a loss when he loses the opportunity to charge for something under the same conditions A counterfactual test asking whether enrichment and loss arise but for each other provides the best generalisation for testing whether enrichment and loss are connected thereby satisfying the requirements of attribution in unjust enrichment

**Restitutionary Rights to Share in Damages** Simone Degeling, 2003-06-12 Rights and obligations can arise amongst other things in tort or in unjust enrichment Simone Degeling deals with the phenomenon whereby a stranger to litigation is entitled to participate in the fruits of that litigation Two prominent examples of this phenomenon are the carer entitled to share in the fund of damages recovered by a victim of tort and the indemnity insurer entitled to participate in the fruits of the insured's claim against the wrongdoer Degeling demonstrates that both are rights raised to reverse unjust enrichment Careful examination of these two categories reveals the existence of a novel policy motivated unjust factor called the policy against accumulation Degeling argues that this is an unjust factor of broad application applying to configurations other than that of the carer and the indemnity insurer This will interest restitution and tort lawyers both academic and practitioner as well as academic institutions and court libraries

Reasons and Context in Comparative Law Sophie Turenne, 2023-05-11 Essays in honour of John Bell on the art of comparative law focussing on the manner of legal development

*Breach of Trust* Peter Birks, Arianna Pretto-Sakmann, 2002-07-05 Recent leading cases have demonstrated the urgent need to modernize the learning on breach of trust which has lagged behind the flourishing scholarship on the creation of trusts Since breach of trust or fiduciary duty occupies the centre of the legal stage it comes as

a surprise that although one or two novelists have chosen Breach of Trust as the title to their book no lawyer has so far thought it necessary to produce a specialized work on the subject To fill the gap this book written by a team of leading trust lawyers from a number of common law jurisdictions investigates all the principal aspects of the subject The nature of the trustee s duties and of the liability for breach is closely examined and all available defences and excuses are reviewed Two substantial chapters consider the consequences of assisting a breach or receiving trust property from a trustee acting in breach The book closes with a critical overview of the entire topic

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**Principles of Equity and Trusts** Alastair

Hudson,2021-11-24 This is the second edition of Principles of Equity and Trusts the concise new textbook from Alastair Hudson the author of the definitive classic Equity and Trusts Through clear and careful analysis the author explains what the law is its foundational principles and its social and economic effect By beginning with the core principles on which this field is based even the most complex academic debates concerning express resulting and constructive trusts the family home charities law and other equitable doctrines become comprehensible and interesting This book offers a fresh lively and often humorous account of Equity and Trusts Through easy to follow worked examples and analysis of the case law Alastair helps you to answer problem questions and to prepare coursework The author shows how the law affects real people in real situations Each chapter begins with a clear and concise introduction to the core principles It contains numbered headings for ease of navigation and advice on studying this subject Students also have access to Professor Hudson s ever popular supporting website which has had hundreds of thousands of hits over the years It has over 50 brief podcasts on key issues which have been specially re recorded to coincide with the publication of this book That website also contains detailed lectures a variety of videos explaining the law and guidance on tackling assessments Characterised by the passion and enthusiasm for his subject matter that make Alastair Hudson s classic textbook so popular Principles of Equity and Trusts is sure to be a winner with both academics and students alike

**Research Handbook on Remedies in Private Law** Roger Halson,David Campbell,2019 p p1 margin 0 0px 0 0px 0 0px font 10 0px Arial This Research Handbook comprehensively and authoritatively reviews the contemporary challenges in research regarding remedies in private law The Research Handbook on Remedies in Private Law focuses on the most important issues throughout contract equity restitution and tort law as they have arisen in the major common law jurisdictions touching upon those of other jurisdictions where pertinent

*Private Law and Property Claims* Peter Jaffey,2023-10-19 Private Law and Property Claims sets out a distinctive analysis of some general issues in private law including the nature of categories such as contract tort and property duties

and liabilities as the basis of claims in private law and the relationship between primary rights and remedies In the light of this analysis it offers a new approach to property in private law including claims that arise to protect and recover property It goes on to discuss the law of trusts fiduciary relationships and tracing the remedial role of the trust the nature of equity as a legal category and the relationship between property and claims in tort to protect property It also exposes the misconceptions underlying the modern approach to restitution and unjust enrichment and the problems this is causing in private law

**The Goals of Private Law** Andrew Robertson, Hang Wu Tang, 2009-11-16 This collection contributes to a fundamentally important set of debates about the nature of private law The essays consider whether private law should be seen as having goals and if so whether those goals are particular to private as opposed to public law They consider the legitimacy of the pursuit of community welfare goals in private law and the place of instrumentalist thinking in private law scholarship They explore the relationship between the pursuit of policy goals and the other influences that shape private law such as the formal values of certainty consistency and coherence and the need to do justice to the parties to particular disputes The collection analyses the role that particular policy goals do and should play in particular private law doctrines and contributes to debate about the relationship between community welfare goals and considerations of interpersonal morality arising from the interactions between individuals The contributors are drawn from across the common law world and offer a diverse range of perspectives on the controversies under consideration

**Epistemology and Method in Law** Geoffrey Samuel, 2016-12-05 This book seeks to question the widely held assumption in Europe that to have knowledge of law is simply to have knowledge of rules There is a knowledge dimension beyond the symbolic which reaches right into the way facts are perceived constructed and deconstructed In support of this thesis the book examines generally the question of what it is to have knowledge of law and this examination embraces not just the conceptual foundations methods taxonomy and theories used by jurists It also examines the epistemological schemes used by social scientists in general in order to show that such schemes are closely related to the schemes of intelligibility used by lawyers and judges

**UK Public Law and European Law** Gordon Anthony, 2002-05-11 Academic attention has in recent years increasingly focused upon the Europeanization of national legal orders The interaction of domestic and supranational standards while often presented as problematic enables national courts to use European law as a reference point against which to develop domestic principle and practice The effects of such borrowing can be far reaching Courts may assume an enhanced institutional role relative to other branches of the State and individuals may benefit from the introduction of new remedies and principles of judicial review This book examines the dynamics of the process whereby UK courts borrow principle and practice from European law It argues that recent internal developments in UK law notably the passage of the Human Rights Act present new possibilities for legal integration Although UK courts have already demonstrated a willingness to use European law creatively the book suggests that integration has been unduly constrained by the previously unincorporated status of the ECHR and by the

courts justification for the reception of EU law Focusing in particular on the principles of administrative law applied by courts in judicial review proceedings the book highlights how the emergence of new principles of review has been frustrated by the courts inability to view EU law and the ECHR as part of an interlocking whole The book s central argument therefore is that the Human Rights Act coupled with the more general programme of constitutional reform introduced by New Labour now offers the courts the opportunity to reassess the nature of the interactive relationship that domestic law has with European law

**UK Public Law and European Law The Dynamics of Legal Integration** will be of interest to public lawyers European lawyers and political scientists alike It offers a comprehensive overview of existing jurisprudence dealing with the reception of European law into the domestic order More significantly it places that jurisprudence within the wider context of legal and political change ongoing within and without the United Kingdom

**Unjust Enrichment and Public Law** Rebecca Williams, 2010-06-30 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 the law access to both the public and private law aspects of such cases Since there has been much discussion particularly in the context of public body cases of the relationship between the common law and civilian approaches to unjust enrichment or enrichment without cause 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 Cited with approval in the Court of Appeal by Beatson LJ in Hemming and others v The Lord Mayor and Citizens of Westminster 2013 EWCA Civ 5912 Cited with approval in the Supreme Court by Lord Walker in Test Claimants in the Franked Investment Income Group Litigation Appellants v Commissioners of Inland Revenue and another 2012 UKSC 19

**Contract Law** Adam Kramer KC, 2010-01-02 This is a new type of book It provides an index of the most useful and important academic and other writings on contract law whether published in articles or journal chapters or as books These writings with their full citation are gathered under familiar contract law subject headings and the most significant half of them are digested in a summary of a few lines each The book aims to cover all writings published in the English language about the Common Law of contracts

and includes sections on contract theory and the history of contract law as well as sections for the more traditional substantive topics such as the interpretation of contracts penalty clauses remoteness of damage and anticipatory breach This work should prove an invaluable resource for practitioners academics and students increasing awareness of important writings and saving readers time by familiarising them with the work that has already been done in their particular fields

**Proceedings of the International Conference on Law, Economic & Good Governance (IC-LAW 2023)** Abdul Kadir Jaelani,Irwansyah Irwansyah,Fokke Fernhout,Agus Raharjo,Mohd Rizal Palil,Hilaire Tegnán,Okid Parama Astirin,Sutarno Sutarno,Venty Suryanti,Pranoto Pranoto,Robbi Rahim,2024-02-21 This is an open access book The position of Indonesia and most countries in IMF calculations facing the same challenges Each country requires the legal instruments of a good and reliable system of Government to guard against the worst possible economic turmoil Good governance is an insistence of the constitution in the economic Article 33 paragraph 5 subsequently published Constitution Number 30 Year of 2014 on Government Administration contains 17 principles of a good governance One of the important points of the principle is a government without corruption and manipulation of policy concepts in order to provide access to consolidation in politics and economy The latest Transparency International report for 2023 shows that Indonesia's corruption perception index was recorded at 34 points on a scale of 0 100 in 2022 This is a 4 point decrease from the previous year This decline in the CPI also brought down the ranking of Indonesia's CPI globally It was noted that Indonesia's CPI in 2022 ranked 110th In the previous year Indonesia's CPI was ranked 96th globally Good Governance is all aspects related to the control and supervision of the power of the Government in carrying out its functions through formal and informal institutions To implement the principles of Good Governance and Clean Government the Government must implement the principles of accountability and efficient resource management Good and clean governance will contribute to economic growth and economic growth will have an impact on human development During the last decades of 20th century the needs for a good governance has given some impacts and became a recurring theme in literature related to human development The intervention of government or the quality of government become crucially important in relation to the high achievement of human development Whereas an effort in improving society's welfare is through economic development One of dominant aspects in economic development is through legal development Good law or policy in such country will have some impacts to the existence of good economic growth because supremacy of law is one aspect of a good governance Law supremacy is an important institution which is related to economic growth because rule of law ensures personal safety property rights unbiased contract enforcement stability of politics freedom of speech and control of corruption According to those various issues and debates on economic legal development and good governance then the Doctoral Program of the Faculty of Law Sebelas Maret University needs to hold an international conference as a place in exchanging some academic ideas in order to contribute to those legal issues with a theme INTERNATIONAL CONFERENCE ON LAW ECONOMICS AND GOOD GOVERNANCE **Unjust Enrichment**



**and Countervailing Obligations** KV Krishnaprasad, 2025-01-09 This book explores the relationship between the English law of unjust enrichment and legal obligations arising from other branches of the law It examines the question primarily by considering how English courts resolve conflicts between restitution claims and countervailing legal entitlements This is much needed given recent cases such as IEG v Zurich Insurance and Avonwick Holdings Ltd v Azitio Holdings Ltd clearly showing the differing positions taken by English courts on the question By applying insights from the theory of unjust enrichment to Anglo Australian case law this study gives a welcome cogent explanation of a complex question      *The Law of Trusts* James E. Penner, 2014 The Core Text Series takes the reader straight to the heart of the subject providing a reliable and invaluable guide for students of law at all levels Written by leading academics and renowned for their clarity these concise texts explain the intellectual challenges of each area of the law The Law of Trusts is an accessible text that skillfully engages with both controversial and complex issues James Penner provides perceptive analysis and original and thought provoking commentary to give students an excellent grounding in what is considered to be a difficult subject      **Contract Law** Marina Hamilton, 2019

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