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# Roman Law Contemporary Law European Law The Civilian Tradition Today

**Hector L. MacQueen, Antoni  
Vaquer, Santiago Espiau Espiau**



## **Roman Law Contemporary Law European Law The Civilian Tradition Today:**

**Roman Law, Contemporary Law, European Law**, 2001 This book examines the relationships between common and civil law and using the example of Germany shows how legal historiography can enable us to understand the variation between the civil practice of different countries The New European Private Law: Vol. 3: Essays on the Future of Private Law in Europe Martijn Hesselink, 2002-10-16 In The New European Private Law Martijn W Hesselink presents a revised and supplemented collection of essays written over the last five years on European private law He argues that the creation of a common private law in Europe is not merely a matter of rediscovering the old *ius commune* or of neutrally establishing the present common core which may be codified in a European Civil Code Rather it is a matter of making choices some of which may be highly controversial In this book he discusses some of the most important choices which will have to be made with regard to culture principles politics models rights concepts and structure in the new European private law European Legal History Randall Lesaffer, 2009-06-25 This historical introduction to the civil law tradition considers the political and cultural context of Europe's legal history from its Roman roots Political diplomatic and constitutional developments are discussed and the impacts of major cultural movements such as scholasticism humanism the Enlightenment and Romanticism on law and jurisprudence are highlighted **European Contract Law** Hector MacQueen, 2019-08-05 This volume tests the claim that as combinations of Civil and Common Law influences the mixed systems of contract law in Scotland and South Africa have anticipated the content of the Principles of European Contract Law PECL concluded and published in 2003 by the unofficial Commission on European Contract Law Going further it rigorously explores what the implications of a Europe wide contract law would be The current official moves towards a European contract law within the European Union make the critiques of PECL in this volume especially urgent and significant With a European contract law nearer to reality than ever before mere policy critiques are no longer enough This book provides the essential technical and substantive assessments of PECL from the perspective of Scots and South African contract lawyers and is offered to the European debate without prejudice as to the deeper policy questions At the same time this volume will inform Scots and South African lawyers about the substance of international developments in the field and suggest ways to develop their still vigorous and vital national laws to remain in step with the needs of the present day A Global View of Business Insolvency Systems Jay Lawrence Westbrook, 2010 We live in an age of economic turmoil The recent crises emphasize the need for modern sophisticated rules to govern businesses in financial distress in order to realize value from distressed companies and to protect economic institutions This book provides information for legislators policymakers lawyers accountants academics and administrators who seek to understand the workings of insolvency laws Guided by the World Bank's Principles and Guidelines it supplements the work in this field done by UNCITRAL Unjustified Enrichment David Johnston, Reinhard Zimmermann, 2005-01-28 Unjustified enrichment has been one of the most intellectually vital areas of private law There is

however still no unanimity among civil law and common law legal systems about how to structure this important branch of the law of obligations Several key issues are considered comparatively in this 2002 book including grounds for recovery of enrichment defences third party enrichment as well as proprietary and taxonomic questions Two contributors deal with each topic one a representative of a common law system the other a representative of a civil law or mixed system This approach illuminates not just similarities or differences between systems but also what different systems can learn from one another In an area of law whose territory is still partially uncharted and whose borders are contested such comparative perspectives will be valuable for both academic analysis of the law and its development by the courts

Research Handbook on International Commercial Contracts Andrew Hutchison, Franziska Myburgh, 2020-12-25 This comprehensive Research Handbook examines the continuum between private ordering and state regulation in the *lex mercatoria* highlighting constancy and change in this dynamic and evolving system in order to offer an in depth discussion of international commercial contract law International scholars from a range of jurisdictions and legal cultures across Africa North America and Europe dissect a plethora of contract types including sale insurance shipping credit negotiable instruments and agency against the backdrop of key legal regimes commonly chosen in international agreements

*Judicial Deliberations* Mitchel de S.-O.-L'E. Lasser, 2009 *Judicial Deliberations* compares how and why the European Court of Justice the French Cour de cassation and the US Supreme Court offer different approaches for generating judicial accountability and control judicial debate and deliberation and ultimately judicial legitimacy Examining the judicial argumentation of the United States Supreme Court and of the French Cour de cassation the book first reorders the traditional comparative understanding of the difference between French civil law and American common law judicial decision making It then uses this analysis to offer the first detailed comparative examination of the interpretive practice of the European Court of Justice Lasser demonstrates that the French judicial system rests on a particularly unified institutional and ideological framework founded on explicitly republican notions of meritocracy and managerial expertise Law making per se may be limited to the legislature but significant judicial normative administration is entrusted to State selected trained and sanctioned elites who are policed internally through hierarchical institutional structures The American judicial system by contrast deploys a more participatory and democratic approach that reflects a more populist vision Shunning the unifying controlling and hierarchical French structures the American judicial system instead generates its legitimacy primarily by argumentative means American judges engage in extensive debates that subject them to public scrutiny and control The ECJ hovers delicately between the institutional argumentative and republican democratic extremes On the one hand the ECJ reproduces the hierarchical French discursive structure on which it was originally patterned On the other it transposes this structure into a transnational context of fractured political and legal assumptions This drives the ECJ towards generating legitimacy by adopting a somewhat more transparent argumentative approach

**Contract Law and Economics** Gerrit de Geest, 2010-10 This unique and timely book offers an up to date clear

and comprehensive review of the economic literature on contract law The topical chapters written by leading international scholars include precontractual liability misrepresentation duress gratuitous promises gifts standard form contracts interpretation contract remedies penalty clauses impracticability and foreseeability Option contracts warranties long term contracts marriage contracts franchise contracts quasi contracts behavioral approaches and civil contract law are also discussed This excellent resource on contract law and economics will be particularly suited to contract law scholars law teachers policy makers and judges For experts in and practitioners of contract law this will be a key book to buy

A History of Private Law in Scotland Kenneth G. C. Reid, Reinhard Zimmermann (jurist), 2000 Law in Scotland has a long history uninterrupted either by revolution or by codification This work is the first detailed and systematic study in the field of Scottish private law It takes key topics from the law of obligations and the law of property and traces their development from earliest times to the present day

The Struggle for European Private Law Leone Niglia, 2015-03-26 The European codification project has rapidly gathered pace since the turn of the century This monograph considers the codification project in light of a series of broader analytical frameworks comparative historical and constitutional which make modern codification phenomena intelligible This new reading across fields renders the European codification project currently being promoted through the Common Frame of Reference and the Optional Sales Law Code proposal vulnerable to constitutionally grounded criticism traceable to normative considerations of private law authority and legitimacy Arguing that modern codification phenomena are more complex than positivist socio legal and historical approaches have suggested over the past two centuries the book stages a pathbreaking method of analysis of the law discourse nomos centred which questions at once the reduction of private law to legislation and of law to power and on this basis redefines the ways in which to counter law's disintegration and crisis in the context of Europeanisation Professor Niglia reconstructs the European codification project as a complex structure of government in the making that embodies a set of contingent world views excludes alternatives challenges the plurality of private laws and entrenches conflicts that pertain not only to form codification de codification recodification but also to dilemmas implicated in determining the substantive orientation of European private law The book investigates the position of the codifiers and their discontents in the shadow of the codification strategy pursued by the European Commission noting a new turn in the struggle over the configuration of private law which has taken place since the Savigny Thibaut dispute of 1814 which this book critically revisits exactly two centuries later This monograph is particularly aimed at readers interested in exploring the complexities and interconnections of the supposedly separate realms of comparative law European law private law legal history constitutional law sociology of law and last but not least legal theory and jurisprudence

**Regional Private Laws and Codification in Europe** Hector L. MacQueen, Antoni Vaquer, Santiago Espiau Espiau, 2003-10-16 Regions within European Union member states such as Scotland in the UK and Catalonia in Spain have their own legal systems how will the process of Europeanization affect them This volume examines the phenomenon of

regional private law in the European Union considering jurisdictions and laws below those of the member states and drawing comparisons with other such jurisdictions elsewhere in the world such as Louisiana and Quebec The whole is considered in relation to the development of European private law and the use of codification in that process This volume will be of interest to academic lawyers worldwide advanced law students and European policy makers     Privacy and Personal Data Protection Law in Asia Adrian Mak,Ching Him Ho,Anselmo Reyes,2024-12-12 Covering 16 Asian jurisdictions representing differing stages in the development of data protection regulatory systems this book offers an in depth cross jurisdictional commentary on the developing world of Asian privacy and personal data protection with a special focus on private international law issues It brings together an international team of contributors who reflect on the framework of data privacy and protection laws in their respective regions Topics discussed range from the extent to which such laws may have extraterritorial effect or may conflict with the laws of other states to shortcomings of existing systems and their potential for improvement More than a valuable contribution to comparative private conflict of laws literature from an Asian perspective the book also considers possible future trajectories for existing laws It covers the extent to which Asian regimes will inevitably need to integrate with ever evolving privacy and personal data protection initiatives in the EU the USA and China It also assesses the extent to which existing regimes are sufficiently robust to handle the challenges of future technical developments in data collection and data transfer across borders especially in relation to the activities of giant corporations such as Meta Facebook Google Amazon Alibaba and Tencent The result is a wide ranging and forward thinking resource which provides practitioners and researchers with an account of data privacy law and personal data protection laws in Asia and their cross border implications as those regulations are now and as they might be in the future     **The Cambridge Companion to European Union**

**Private Law** Christian Twigg-Flesner,2010-05-20 The emergence of EU Private Law as an independent legal discipline is one of the most significant developments in European legal scholarship in recent times In this 2010 Companion leading scholars provide a critical introduction to the subject s key areas while offering original and thought provoking comment on the field In addition to several chapters on consumer law topics the collection has individual chapters on commercial contracts competition law non discrimination law financial services and travel law It also discusses the wider issues concerning EU Private Law such as its historical evolution the role of comparative law language and terminology as well as the implications of the Common Frame of Reference project A useful scene setting introduction and further reading arranged thematically make this important publication the student s and scholar s first port of call when exploring the field     **Borkowski's**

**Textbook on Roman Law** Paul du Plessis,2010-05-13 Borkowski s Textbook on Roman Law provides a clear and concise overview of Roman private law and civil procedure supported by numerous extracts in translation from the Digest and Institutes The book has been written with undergraduate students in mind and covers all key areas commonly taught on Roman law courses at undergraduate level     *The Oxford Handbook of European Legal History* Heikki Pihlajamäki,Markus

D. Dubber, Mark Godfrey, 2018-07-04 European law including both civil law and common law has gone through several major phases of expansion in the world European legal history thus also is a history of legal transplants and cultural borrowings which national legal histories as products of nineteenth century historicism have until recently largely left unconsidered The Handbook of European Legal History supplies its readers with an overview of the different phases of European legal history in the light of today's state of the art research by offering cutting edge views on research questions currently emerging in international discussions The Handbook takes a broad approach to its subject matter both nationally and systemically Unlike traditional European legal histories which tend to concentrate on heartlands of Europe notably Italy and Germany the Europe of the Handbook is more versatile and nuanced taking into consideration the legal developments in Europe's geographical fringes such as Scandinavia and Eastern Europe The Handbook covers all major time periods from the ancient Greek law to the twenty first century Contributors include acknowledged leaders in the field as well as rising talents representing a wide range of legal systems methodologies areas of expertise and research agendas

#### **EU Internet Law in the Digital Era**

Tatiana-Eleni Synodinou, Philippe Jouglaux, Christiana Markou, Thalia Prastitou, 2019-10-18 The book provides a detailed overview and analysis of important EU Internet regulatory challenges currently found in various key fields of law directly linked to the Internet such as information technology consumer protection personal data e commerce and copyright law In addition it aims to shed light on the content and importance of various pending legislative proposals in these fields and of the Court of Justice of the European Union's recent case law in connection with solving the different problems encountered The book focuses on challenging legal questions that have not been sufficiently analyzed while also presenting original thinking in connection with the regulation of emerging legal questions As such it offers an excellent reference tool for researchers policymakers judges practitioners and law students with a special interest in EU Internet law and regulation

**English, French & German Comparative Law** Raymond Youngs, 2014-06-13 This comparative analysis considers the differing approaches to important areas of law in England France and Germany In particular constitutions sources of law rights against the state to prevent abuse of power and rights of private individuals and organisations against each other in tort and contract are examined and compared and the system of courts is also considered Updated and revised each sub topic is introduced with the relevant material in the English system allowing easy comparison and assimilation of the other systems The text includes translations of relevant French and German codal material and references to relevant cases from all of the jurisdictions This new edition includes constitutional changes in France and the United Kingdom in particular the new procedure for challenging existing legislation before the Conseil constitutionnel It examines the consequences of the Lisbon Treaty as well as other recent codal and legislative changes Comprehensive and topical the text explores a wide variety of new case law on issues such as preventive detention the use of evidence obtained by torture the balance between suppression of terrorism and personal freedom the internet email monitoring artificial reproductive techniques use of global

positioning systems GPSs deoxyribonucleic acid DNA and closed circuit television CCTV the wearing of religious clothing such as the headscarf and symbols such as the cross circumcision methods of crowd control the prevention of human trafficking the preservation of privacy especially for celebrities and the legality of pre nuptial agreements and success fees for lawyers Designed for students on comparative law courses this textbook will also prove valuable to students who are familiar with English law but require a readily comprehensible introduction to French or German law

**A Companion to Western Legal Traditions**, 2023-12-28 This volume offers an extensive introduction to Western legal traditions from antiquity to the twentieth century Drawing from a variety of scholarly writings both in English and in translation thirteen leading scholars present the current state of western legal history research and pave the way for new debates and future study This is the ideal sourcebook for graduate students as it enables them to approach the key questions of the field in an accessible way Contributors are Aniceto Masferrer C H Remco van Rhee Se n P Donlan Stephan Dusil Gerald Schwedler Jean Louis Halp rin Jan Hallebeek Agust n Parise Heikki Pihlajam ki Dirk Heirbaut Bernd Kannowski Adolfo Giuliani Olivier Mor teau and Jacques Vanderlinden

**The Routledge Handbook of Jews and Judaism in Late Antiquity** Catherine Hezser, 2024-01-24 This volume focuses on the major issues and debates in the study of Jews and Judaism in late antiquity third to seventh century C E providing cutting edge surveys of the state of scholarship main topics and research questions methodological approaches and avenues for future research Based on both Jewish and non Jewish literary and material sources this volume takes an interdisciplinary approach involving historians of ancient Judaism scholars of rabbinic literature archaeologists epigraphers art historians and Byzantinists Developments within Jewish society and culture are viewed within the respective regional political cultural and socioeconomic contexts in which they took place Special focus is given to the impact of the Christianization of the Roman Empire on Jews from administrative legal social and cultural points of view The contributors examine how the confrontation with Christianity changed Jewish practices perceptions and organizational structures such as for example the emergence of local Jewish communities around synagogues as central religious spaces Special chapters are devoted to the eastern and western Jewish Diaspora in Late Antiquity especially Sasanian Persia but also Roman Italy Egypt Syria and Arabia North Africa and Asia Minor to provide a comprehensive assessment of the situation and life experiences of Jews and Judaism during this period The Routledge Handbook of Jews and Judaism in Late Antiquity is a critical and methodologically sophisticated survey of current scholarship aimed primarily at students and scholars of Jewish Studies Study of Religions Patristics Classics Roman and Byzantine Studies Iranology History of Art and Archaeology It is a valuable resource for anyone interested in Judaism and Jewish history



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