

Property Law Perspectives II Ius Commune Europaeum

Aristotle and The Philosophy of Law: Theory, Practice
and JusticeLaw, Morality, and ReligionGlobal Legal
HistoryThe Law of SuccessionRecent Developments in
IP LawAkehurst's Modern Introduction to International
LawInternational Law PerspectiveThe Constitutional
Property ClauseNordic Perspectives on Medieval
Canon LawThe Principle of Numerus Clausus in
European Property LawProperty Law
PerspectivesPolish PerspectivesProperty Law on the
Threshold of the 21st CenturyEuropean Union
Property LawThe Church of England - Charity Law and
Human RightsNew Perspectives in the Roman Law of
PropertyProperty and Trust Law in LithuaniaThemes in
Comparative LawProperty Law Perspectives IIFlorida
Law ReviewA Casebook on Roman Property
LawComparative Property LawAn Academic Green
Paper to European Contract LawThe Nature of
Customary LawProperty Law Perspectives IVNew
Perspectives on Property LawLaw, Liberty, and the
Rule of LawInternational Bibliography of African
Customary Law : Ius Non ScriptumThe Protection of
Property Rights in Comparative PerspectiveProperty
Law Perspectives IIITilburg Foreign Law
ReviewEuropean and National Property LawLegal
Certainty in Real Estate TransactionsContract
LawLandscapeComparative Law in the 21st
CenturyTowards a New European Ius
CommuneConstitutional Property LawLost
Lands?Yearbook of Islamic and Middle Eastern Law

Aristotle and The Philosophy of Law: Theory, Practice and Justice

Comparative Property Law provides a comprehensive treatment of property law from a comparative and global perspective. The contributors, who are leading experts in their fields, cover both classical and new subjects, including the transfer of property, the public-private divide in property law, water and forest laws, and the property rights of aboriginal peoples. This Handbook maps the structure and the dynamics of property law in the contemporary world and will be an invaluable reference for researchers working in all domains of property law.

Law, Morality, and Religion

Global Legal History

The Law of Succession

This collection brings together a group of international legal historians to further scholarship in different areas of comparative and regional legal history. Authors are drawn from Europe, Asia, and the Americas to produce new insights into the relationship between law and society across time and space. The book is divided into three parts: legal history and legal culture across borders, constitutional experiences in global perspective, and the history of judicial experiences. The three themes, and the

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chapters corresponding to each, provide a balance between public law and private law topics, and reflect a variety of methodologies, both empirical and theoretical. The volume highlights the gains that may be made by comparing the development of law in different countries and different time periods. The book will be of interest to an international readership in Legal History, Comparative Law, Law and Society, and History.

Recent Developments in IP Law

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of the law of property in Lithuania deals with the issues related to rights and interests in all kinds of property and assets – immovable, movable, and personal property; how property rights are acquired; fiduciary mechanisms; and security considerations. Lawyers who handle transnational disputes and other matters concerning property will appreciate the explanation of specific terminology, application, and procedure. An introduction outlining the essential legal, cultural, and historical considerations affecting property is followed by a discussion of the various types of property. Further analysis describes how and to what extent legal subjects can have or obtain rights and interests in each type. The coverage includes tangible and intangible property, varying degrees of interest, and the various ways in which property is transferred, including the ramifications of appropriation, expropriation, and insolvency. Facts are presented in such a way that readers who are

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unfamiliar with specific terms and concepts in varying contexts will fully grasp their meaning and significance. The book includes ample references to doctrine and cases, as well as to relevant international treaties and conventions. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable time-saving tool for any practitioner faced with a property-related matter. Lawyers representing parties with interests in Lithuania will welcome this very useful guide, and academics and researchers will appreciate its value in the study of comparative property law.

Akehurst's Modern Introduction to International Law

Compiled in honor of Bernard Rudden, this is a book of essays in comparative law centering on the contribution which comparative analysis can make to the core subjects of private law, namely property and obligations. The essays are contributed by leading academics from all over the world, all of whom owe an intellectual debt to the honorand.

International Law Perspective

This book examines the interface between religion, charity law and human rights. It does so by treating the Church of England and its current circumstances as a timely case study providing an opportunity to examine the tensions that have now become such a characteristic feature of that interface. Firstly, it

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suggests that the Church is the primary source of canon law principles that have played a formative role in shaping civic morality throughout the common law jurisdictions: the history of their emergence and enforcement by the State in post-Reformation England is recorded and assessed. Secondly, it reveals that of such principles those of greatest weight were associated with matters of sexuality: in particular, for centuries, family law was formulated and applied with regard for the sanctity of the heterosexual marital family which provided the only legally permissible context for any form of sexual relationship. Thirdly, given that history, it identifies and assesses the particular implications that now arise for the Church as a consequence of recent charity law reform outcomes and human rights case law developments: a comparative analysis of religion related case law is provided. Finally, following an outline of the structure and organizational functions of the Church, a detailed analysis is undertaken of its success in engaging with these issues in the context of the Lambeth Conferences, the wider Anglican Communion and in the ill-fated Covenant initiative. From the perspective of the dilemmas currently challenging the moral authority of the Church of England, this book identifies and explores the contemporary 'moral imperatives' or red line issues that now threaten the coherence of Christian religions in most leading common law nations. Gay marriage and abortion are among the host of morally charged and deeply divisive topics demanding a reasoned response and leadership from religious bodies. Attention is given to the judicial interpretation and evaluation of these and other issues that now

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undermine the traditional role of the Church of England. As the interface between religion, charity law and human rights becomes steadily more fractious, with religious fundamentalism and discrimination acquiring a higher profile, there is now a pressing need for a more balanced relationship between those with and those without religious beliefs. This book will be an invaluable aid in starting the process of achieving a triangulated relationship between the principles of canon law, charity law and human rights law.

The Constitutional Property Clause

This book makes life unusually easy for anyone who wants to know about African indigenous laws, and seeks to encourage further research into the laws that regulate the lives of millions of Africans. For, in spite of colonialism, military decrees and the authoritative modernity of state civil or common law, African indigenous laws have not fallen into abeyance. African indigenous laws, like Roman law before Justinian codification, was *mos maiorum*, the path of the ancestors. Accordingly, Roman law, English common law and African indigenous law are the great legal creation of pagan human beings whereas other ancient systems of laws such as Judaism, Sharia, Hindu, Adat laws, were religious in origin. The Bibliography ranges widely over topics as diverse as cultural property, coups d'etat and the plunder of antiquities, to formalities of marriage, child betrothal, divorce, sororate marriage, levirate marriage, to succession and inheritance, oral will, and

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administration of the estate. A word of warning to all those who normally skip reading Prefaces: the two here, one by Professor Antony Allott, the other by Professor Manfred Hinz, are essential reading. And as Professor Hinz writes: this bibliography 'is an indispensable tool for all who are in one way or the other concerned with customary law, as lecturer, researcher, law applier and law reformer.' This unusual bibliography crosses boundaries of countries and disciplines. It will be an invaluable aid to many different lines of research.

Nordic Perspectives on Medieval Canon Law

The Principle of Numerus Clausus in European Property Law

In November 2012, the Young Property Lawyers Forum (YPLF) met in Stellenbosch, South Africa for the Forum's third gathering. It is an informal network that brings together young property law researchers from around the world and enables them to discuss their work with each other and with more experienced researchers. On this occasion, a special Master Class was held after the YPLF in which some of the world's leading property law scholars presented their research. This book contains selected contributions from the third YPLF and the YPLF Masterclass 2012. It offers new perspectives on property theory, constitutional property law, and private law-property law. Under these headings, young and renowned

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property law scholars present their current research and offer an exciting look into the challenges property law faces in the 21st century. (Series: lus Commune Europaeum - Vol. 122)

Property Law Perspectives

Indigenous peoples in international law --Historical overview --"Indigenous peoples" : term, concepts, and definitions --Differentiation from the term "Minority" --Special indigenous rights or special circumstances? : indigenous protection standards, rights of freedom, and self-determination --Sources of law --Binding norms --ILO convention 169 --UN convention on biological diversity --"Soft law" instruments --Agenda 21, chapter 26 (1992) --UN declaration on the rights of indigenous peoples --Declarations and policies of various international bodies --Indigenous rights as part of customary international law --"Sources of Life" : lands and natural resources --Material standards of protection --Cause of action --The relationship between indigenous peoples and their territories --Collective land rights --Scope of indigenous territories --Restriction of alienation and disposal --Universal human rights treaties --Right of ownership --Right to culture --Right to private and family life --Jurisdiction of international monitoring bodies --Human rights committee --Committee on the elimination of racial discrimination --Sources of freedom and equality : self-determination --"Being indigenous in Africa" : legal developments of indigenous peoples law in Africa --Historical overview --Nature conservation v. human rights protection

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--African initiatives for the protection of indigenous rights --"Indigenous peoples in Africa" : applying the concept --Indigenous rights in the African context --Regional indigenous rights --The African charter on human and peoples' rights --The African commission on human and peoples' rights --The African court on human and peoples' rights --National indigenous rights --Selected constitutional guarantees --Jurisdiction using the example of South Africa --The case of the Khomani San --Richtersveld case --Excursus : "Aboriginal title" --"Aboriginal title" before the South African constitutional --Court --"Hoodia Gordonii" case --Legal perspectives of San Communities --Terminology : San, "Bushmen", Basarwa, Khoesan, N/oakwe or Kwe? --Historical overview until the end of colonial times --Regional historical differences --Botswana --Namibia --South Africa --The "Northern San" --Reflections on indigenous legal perspectives and world views --Botswana : state and society --Sociopolitical history --Pre-colonial phase --Protectorate bechuanaland --Republic of botswana --Sources of law and legal pluralism --Constitutional law --Customary law --Common and statutory law --International law --Fundamental and human rights --San in Botswana --San as citizens : Basarwa and/or Batswana? --Dominant views of the San in Botswana --Development policies --Remote area development programme --Community based natural resource management --Development : nature conservation : a contradiction? --NGO initiatives --National San NGOs --Regional San NGOs --"The lost lands" : relocation from the central Kalahari game reserve --History of the central Kalahari game reserve --The relocation of

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the Gwi and Gana (San) --The legal dispute over the (temporarily?) "Lost lands" --Roy Sesana v. government of Botswana --Termination of basic and essential services --Restoration of basic and essential services --Lawful occupation --Deprivation of land possession --Special game licences --Access to the central Kalahari game reserve (CKGR) --Conclusions --Consequences of the high Court's decision : summary --The legal dispute over access to water --Matsipane Moselelhanyane, Gakenyatsiwe Matsipane & further applicants v. Attorney general of Botswana --Matsipane Moselelhanyane & Gakenyatsiwe Matsipane v. Attorney General of Botswana, court of appeal --Consequences of the courts' decisions : summary --Conclusion --The return of the outlaws : an Epilogue by Werner Zips --Appendix --Examples of indigenous peoples in Africa (not exhaustive!) --Abbreviations --Bibliography --(Selected) legal texts --International instruments --National laws, regulations and policies --Court cases --Interviews --Index of figures --Index --About the authors.

Polish Perspectives

This volume introduces Roman property law by means of "cases" consisting of brief excerpts from Roman juristic sources in Latin with English translations. The cases are followed by series of analytical questions and translated excerpts from modern civil codes to illustrate the dynamic character and continuing life of the Roman legal tradition.

Property Law on the Threshold of the

21st Century

European Union Property Law

Some legal rules are not laid down by a legislator but grow instead from informal social practices. In contract law, for example, the customs of merchants are used by courts to interpret the provisions of business contracts; in tort law, customs of best practice are used by courts to define professional responsibility. Nowhere are customary rules of law more prominent than in international law. The customs defining the obligations of each State to other States and, to some extent, to its own citizens, are often treated as legally binding. However, unlike natural law and positive law, customary law has received very little scholarly analysis. To remedy this neglect, a distinguished group of philosophers, historians and lawyers has been assembled to assess the nature and significance of customary law. The book offers fresh insights on this neglected and misunderstood form of law.

The Church of England - Charity Law and Human Rights

This is the second edition of the widely acclaimed and successful casebook on Contract in the *Ius Commune* Series, developed to be used throughout Europe and aimed at those who teach, learn or practise law with a comparative or European perspective. The book contains leading cases, legislation and other materials

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from the legal traditions within Europe, with a focus on English, French and German law as the main representatives of those traditions. The book contains the basic texts and contrasting cases as well as extracts from the various international restatements (the Vienna Sales Convention, the UNIDROIT Principles of International Commercial Contracts, the Principles of European Contract Law, the Draft Common Frame of Reference and so on). Materials are chosen and ordered so as to foster comparative study, and complemented with annotations and comparative overviews prepared by a multinational team. The whole Casebook is in English. The principal subjects covered in this book include: General (including the distinctions between Contract and Property, Tort and Restitution) ; Formation; Validity; Interpretation and Contents; Remedies; Supervening Events; and Third Parties. Please click on the link below to visit the series website:
www.casebooks.eu/contractLaw.

New Perspectives in the Roman Law of Property

"Proceedings of an international colloquium 'Property Law on the Threshold of the 21st Century, ' 28-30 August 1995, Maastricht.

Property and Trust Law in Lithuania

Themes in Comparative Law

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This text is directed at legal practitioners in the fields of property and constitutional law as well as at students dealing with these subjects. Through comparative analysis it considers some of the main issues raised by the interpretation and application of Section 25 of the 1996 Constitution.

Property Law Perspectives II

The book presents a new focus on the legal philosophical texts of Aristotle, which offers a much richer frame for the understanding of practical thought, legal reasoning and political experience. It allows understanding how human beings interact in a complex world, and how extensive the complexity is which results from humans' own power of self-construction and autonomy. The Aristotelian approach recognizes the limits of rationality and the inevitable and constitutive contingency in Law. All this offers a helpful instrument to understand the changes globalisation imposes to legal experience today. The contributions in this collection do not merely pay attention to private virtues, but focus primarily on public virtues. They deal with the fact that law is dependent on political power and that a person can never be sure about the facts of a case or about the right way to act. They explore the assumption that a detailed knowledge of Aristotle's epistemology is necessary, because of the direct connection between Enlightened reasoning and legal positivism. They pay attention to the concept of proportionality, which can be seen as a precondition to discuss liberalism.

Florida Law Review

Preface Contents Abbreviations i Authors i part i
Harmonization of Succession Law in Europe: The
Current Debate chapter 1 Need and Opportunity of
Convergence in European Succession Laws Walter
Pintens chapter 2 Testamentary Freedom or Forced
Heirship? Balancing Party Autonomy and the
Protection of Family Members Andrea Bonomi part ii
New Trends in Catalan Succession Law chapter 3
Between Tradition and Modernisation: A General
Overview of the Catalan Succession Law Reform
Esther Arroyo Amayuelas – Miriam Anderson chapter
4 Testamentary Freedom and Its Limits Esteve Bosch
Capdevila chapter 5 Freedom of Testation,
Compulsory Share and Disinheritance Based on Lack
of Family Relationship Antoni Vaquer Aloy chapter 6
Freedom of Testation Versus Freedom to Enter Into
Succession Agreements and Transaction Costs Susana
Navas Navarro part iii National Perspectives on the
Law of Succession in the 21st Century chapter 7
Freedom of Testation in England and Wales Roger
Kerridge chapter 8 Law of Succession and
Testamentary Freedom in Germany A. Röthel chapter
9 The Law of Succession in Hungary Zoltán Csehi
chapter 10 Freedom of Testation in Italy Andrea
Fusaro chapter 11 Acquisition of Property by
Succession in Dutch Law. Tradition between
Autonomy and Solidarity in a Changing Society J.
Michael Milo chapter 12 The Norwegian Approach to
Forced Share, the Surviving Spouse’s Position and
Irrevocable Wills Peter Hambro chapter 13 Restraints
on Freedom of Testation in Scottish Succession Law

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Eric Clive chapter 14 Freedom of Testation in Slovenia
Suzana Kraljić chapter 15 Freedom of Testation, Legal
Inheritance Rights and Public Order under Spanish
Law Sergio Cámara Lapuente.

A Casebook on Roman Property Law

The Contract is the core tool of governance in a free market economy. An EU Contract Law Code is now on the political agenda because all three legislative bodies in the EU and most member states favour it in principle. In its communication of July 2001, the Commission proposed three major options: to enhance the existing EC Contract Law by eliminating inconsistencies; introducing a European Code which substitutes national laws; and introducing a European code which only supplements national laws. This book achieves three things: For the first time, European academia is discussing these three options in an extensive and systematic way with pros and cons, in a transparent and systematic way, along broad lines and often also important details. The book contains the views of all protagonists from all those who really drafted the models to all those who illustrated the potential of decentralized rule-making and invented the very idea of an Optional Code. This is the first book in which the optional Code, which is the alternative most likely to come, is thoroughly analysed at all. This work also contains a full map of design possibilities. It is the executive summary of what European academia thinks of the future of European Contract Law and a European Code. It is the Academic Green Paper on European Contract Law.

Comparative Property Law

This volume of The Walter van Gerven Lectures series examines the relationship between European and national property law. One of the pillars of the economic constitution of the EU is what might be called "freedom of property." It is, however, not really clear what is meant by "property" and "property rights" in a private law sense. How can property rights, or rights against the world, be defined at a European level? Under the surface of the differing rules, European property law systems seem to share several leading policies and principles, yet existing differences should not be ignored. A search for common policies, principles, concepts, and rules is badly needed. The lecture documented in this book provides research, examining problem areas and presenting suggestions.

An Academic Green Paper to European Contract Law

This book forms the fourth volume of the Property Law Perspectives series and contains the papers presented in 2014, at Wadham College in Oxford at the fifth YPLF.

The Nature of Customary Law

Originally presented as author's thesis (Ph.D.)--Universiteit Maastricht, 2013.

Property Law Perspectives IV

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In recent years, there has been a substantial increase in concern for the rule of law. Not only have there been a multitude of articles and books on the essence, nature, scope and limitation of the law, but citizens, elected officials, law enforcement officers and the judiciary have all been actively engaged in this debate. Thus, the concept of the rule of law is as multifaceted and contested as it's ever been, and this book explores the essence of that concept, including its core principles, its rules, and the necessity of defining, or even redefining, the basic concept. *Law, Liberty, and the Rule of Law* offers timely and unique insights on numerous themes relevant to the rule of law. It discusses in detail the proper scope and limitations of adjudication and legislation, including the challenges not only of limiting legislative and executive power via judicial review but also of restraining active judicial lawmaking while simultaneously guaranteeing an independent judiciary interested in maintaining a balance of power. It also addresses the relationship not only between the rule of law, human rights and separation of powers but also the rule of law, constitutionalism and democracy.

New Perspectives on Property Law

Addressing law's relationship to land and natural resources through its property regime, *Landscape: Property, Environment, Law* considers the ways in which property law transforms both natural environments and social economies.

Law, Liberty, and the Rule of Law

International Bibliography of African Customary Law : Ius Non Scriptum

This collection of essays, contributed by friends and colleagues of Barry Nicholas, is a Festschrift to mark the occasion of his 70th birthday, and it is also an important contribution to the study of a specific area of Roman Law. Barry Nicholas is one of the leading comparatists and Roman lawyers of his day. For many years All Souls Reader in Roman Law, and then Professor of Comparative Law in the University of Oxford, he retires this year after more than 10 years as Principal of Brasenose College.

The Protection of Property Rights in Comparative Perspective

"Comparative Law in the 21st Century confronts all these looming issues from a vantage point that reveals the broad contours of law as practised and studied today and tomorrow, highlighting fast-moving trends that were unsuspected as little as two decades ago. It is a volume of great significance and value for all thinking lawyers, both practising and academic."--BOOK JACKET.

Property Law Perspectives III

The Young Property Lawyers Forum (YPLF) is an informal international network with an annual conference that gives researchers the opportunity to

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present their research to both young and established property law scholars from around the world. This book contains selected contributions from the fourth Young Property Lawyers Forum and Masterclass. The book offers an interesting selection of recent developments in the broad field of property law, including: contributions on constitutional property law (with topics such as expropriation procedures, South African tenure, and expropriation of waterfalls for hydropower development); national private property law (with chapters on the English Land Registration Act 2002 and on virtual property); and European and comparative property law (with contributions about French fiducie versus trust, the global art market, and factory machinery bought under hire-purchase agreements). The wide variety of topics discussed by a young and promising generation of property lawyers will make this book a fascinating read for anyone interested in developments in property law. (Series: lus Commune Europaeum - Vol. 132) [Subject: Property Law]

Tilburg Foreign Law Review

There is a huge body of case law that has built up over many years concerning obligations and restitution. Alastair Hudson's study draws attention to this aspect of the law with regard to property.

European and National Property Law

In order to develop a framework that can form a basis for the development of a European property law, this

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book provides a comparative analysis of property law from the perspective of four European legal systems and European law, focusing on the numerus clausus principle. The book offers theoretical insights on how substantive property law, European law, and, to a certain extent, private international law intersect. The principle of numerus clausus, one of the fundamental principles of property law, is adhered to by most legal systems. In this book, an analysis of the property law systems of France, Germany, the Netherlands, and England is provided. A description is given of the content of available property rights in each of these systems, followed by an examination as to whether these rights form a closed system and whether private parties are given freedom to shape property rights, or even create new types of rights. In the last decades, property law has come under pressure to allow more party autonomy. In other words, property law has become more and more subject to pressure from contract law. Private parties attempt to draft their contracts in such a way that their contractual arrangements are given property effect. Sometimes they also attempt to make use of a property right in a way that was not foreseen by legislature or courts. As a result, rights have come into existence that are intermediary between the law of contract and the law of property. Moreover, the systems of property law are also subject to a growing influence from European legislation. The development of the internal market in the European Union increasingly forces Member States to answer the question whether and, if the answer is affirmative, in what way property rights created in another Member State should be recognized. Substantive property law intersects here.

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Until now, national legal systems generally resist this influence of European law and use the principle of numerous clausus as a justification. It is to be questioned whether the numerus clauses principle can still act as a guardian against the influence of foreign and European law.

Legal Certainty in Real Estate Transactions

Contract Law

This book is the result of the second gathering of the Young Property Lawyers Forum (YPLF), which is an informal network of young property law researchers. The YPLF brings property law scholars together from around the world and enables them to discuss their work with each other and with more experienced researchers. The book contains contributions from the second conference, which took place in Maastricht, dealing with new developments in property law that challenge traditional property law theory. Although the contributions examine various aspects of property law - such as virtual property, prescription, and EU property law - they all share a vision on how to give shape to property law of the 21st century. (Series: lus Commune Europaeum - Vol. 106)

Lawscape

Comparative Law in the 21st Century

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"This comparative research was triggered by the assessment of property registration law published in the World Bank Doing Business reports (DB). The international and interdisciplinary team aimed to assess how legal certainty was imagined and put into practice in French and English law, using commercial real estate as a case study. Not only does this study identify the economic impact of the law in both jurisdictions, it also looks at the practitioners' functions in dealing with commercial real estate transactions. In other words, it analyzes the topical position of practitioners, such as the French notaires and the role of solicitors in England. Nowadays, the profession of notaires is confronted by numerous challenges. For instance, nationality requirement for its access has been ruled by the ECJ as contrary to the freedom of establishment and article 49 TFEU, and not justified by 'the exercise of public authority.' In this study, the authors argue that the actual nature and the quality of the work done by the practitioners should be considered, as well as financial cost and delays. They also argue that a liberalization of professions, such as civil law notaires, would have very little impact on the cost associated with doing business. As a matter of fact, both the English and the French mechanisms are very similar in their objectives and outcome even though they handle the same transaction differently because of the culturally different relevant angles."--

Towards a New European Ius Commune

Constitutional Property Law

Successor to the 1997 publication : The constitutional property clause : a comparative analysis of section 25 of the South African Constitution of 1996.

Lost Lands?

This book offers a comparative and interdisciplinary approach to the issue of property rights protection in Europe. This approach explores the tensions between the European and the national level. This is done by highlighting the different understanding of the constitutional role of property within different legal cultures and legal orders. The interaction and dialogue between national law and supranational human rights law in the area of property law is therefore at the center of the work. The book concentrates on the emerging conflicts between fundamental rights, the horizontal effect, and the positive obligations of states in the area of property law, but also provides new insights on what the protection of property rights at the European level implicates for national legal orders. Investigating the constitutional dimension of private property, which currently appears to be particularly fragmented and complex due to the ever-increasing influence of European human rights law over national laws, the book thus contributes to a critical understanding of the dynamic of property law in Europe today. ** About the author: Sabrina Praduroux holds a PhD in Comparative Law from the University of Palermo and in May 2012 she was granted a PhD from the Faculty

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of Law of the University of Helsinki. Her experiences as a trainee at both the European Court of Human Rights and the European Agency for Fundamental Rights, as well as a period as Visiting Scholar at McGill University, were of considerable value in writing this book. Her main fields of interest concern European human rights law and private law, and much of her work is comparative and interdisciplinary. (Series: European Studies in Private Law - Vol. 6)

Yearbook of Islamic and Middle Eastern Law

First published in 2002. Routledge is an imprint of Taylor & Francis, an informa company.

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