

## Keeping Up with New Legal Titles\*

Compiled by Catherine F. Halvorsen\*\* and Diana C. Jaque\*\*\*

### Contents

<i>Anti-Discrimination Law and the European Union</i> .....	437
<i>Multilevel Governance in the European Union</i> .....	438
<i>Introduction to European Union Law</i> , 2d ed. ....	439
<i>Justice Contained: Law and Politics in the European Union</i> .....	440
<i>The International Law Commission's Articles on State Responsibility: Introduction, Text, and Commentaries</i> .....	441
<i>EU Internal Market Law</i> .....	443
<i>Japanese Legal System</i> , 2d ed. ....	444
<i>The African Charter on Human and Peoples' Rights: The System in Practice, 1986–2000</i> .....	445
<i>Family Law in Europe</i> , 2d ed. ....	446
<i>The Political Economy of International Trade Law: Essays in Honour of Robert E. Hudec</i> .....	448
<i>Boundary Issues in Central Asia</i> .....	449
<i>Rights, Duties, and the Body: Law and Ethics of the Maternal-Fetal Conflict</i> .....	450
<i>Accountability of Armed Opposition Groups in International Law</i> .....	451

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\* © Catherine F. Halvorsen and Diana C. Jaque, 2003. The books reviewed in this issue are foreign, comparative, or international in scope and were published in 2002.

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Bell, Mark. *Anti-Discrimination Law and the European Union*. Oxford; New York: Oxford University Press, 2002. 269p. \$65.

*Reviewed by Mark D. Engsborg*

¶1 Mark Bell's *Anti-Discrimination Law and the European Union* analyzes the relative achievements and failures of certain aspects of European social integration. Specifically, the book examines efforts among various European Union (EU) member states to combat discrimination based on race and sexual orientation. According to Bell, the relatively lackluster performance of EU member states in combating these aspects of discrimination contrasts rather starkly with the much more successful efforts of broad EU economic integration. One may question whether Bell can realistically manage such an enormous topic in slightly more than two hundred pages of substantive text, but he does. Clear and concise prose, good editing, thoughtful organization, helpful footnotes, and a variety of other useful features come together to make *Anti-Discrimination Law and the European Union* a very credible effort.

¶2 The book contains a list of abbreviations, tables of cases and legislation, a bibliography, and an index. There are seven discrete chapters, with such titles as "Sexual Orientation Discrimination," "Reconciling Diverse Legal Traditions: Anti-Discrimination Law in the Member States," and "The Transformation of EU Anti-Discrimination Law." Each chapter is further divided into several major subsections. The chapters read as separate essays, which also flow together into a

nicely unified whole. Additionally, there are annexes consisting of the texts of two pertinent EC Council Directives.<sup>1</sup>

¶3 I found *Anti-Discrimination Law and the European Union* to be an elegant book. To be sure, it incorporates a high level of analysis and places significant intellectual demands on its readers. Accordingly, this is not a text one would expect to find on the shelves of a typical county, court, firm, or academic law library. The fact that it concerns legal issues in the EU will necessarily exclude it from the acquisitions list of many libraries. However, I recommend it for the collection of any firm or academic library for which the subject of discrimination on the basis of race or sexual orientation, particularly in Europe, is a focus of practice or study.

Bernard, Nick. *Multilevel Governance in the European Union*. The Hague; New York: Kluwer Law International, 2002. 274p. \$74.

*Reviewed by Margaret McDermott*

¶4 *Multilevel Governance in the European Union*, the thirty-fifth volume in Kluwer's European Monographs Series, examines the multilevel structure of the European Union (EU). In the introduction, Bernard indicates that he is "primarily concerned with the multilevel character of the EU polity and focuses on the relationship between the EU and its Member States" (p.12). The first part of the book analyzes manifestations of multilevel governance such as free movement in the internal market and harmonization policy. The second part addresses the many problems the EU faces in attempting to obtain legitimacy among the centralized and hierarchical nation states.

¶5 Bernard, a faculty member of the Queens University Belfast School of Law, has written extensively in the area of EU governance and regulation.<sup>2</sup> He is an academic, and this text is clearly written for an academic audience. He criticizes English-language undergraduate textbooks on EU law for focusing mainly on free movement in the internal market, competition, and sex discrimination. His goal is to go beyond their coverage to discuss how this partnership of states and its shared decision-making power actually work, as well as to make some predictions about the direction the organization might take in the future. He attempts to address such questions as whether a meaningful notion of citizenship can develop and how possible it is for constitutionalism to take root in a multilevel system like the EU.

¶6 The table of contents is organized in outline form, making it easy to scan. The index uses broad terms such as social policy, citizenship, and partnership, which are broken down into subheadings when needed. There are separate tables

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1. Council Directive 2000/43, 2000 O.J. (L 180); Council Directive 2000/78, 2000 O.J. (L 303).
  2. E.g., Nick Bernard, *Legitimising EU Law: Is the Social Dialogue the Way Forward?*, in *SOCIAL LAW AND POLICY IN AN EVOLVING EUROPEAN UNION* 279 (Josephine Shaw ed., 2000); Nick Bernard, *Decentralized Government and Subsidiarity*, in *DECENTRALIZATION AND TRANSITION IN THE VISegrad* 34 (Emil Joseph Kirchner ed., 1999); Nick Bernard, *Citizenship in a Polycentric Polity*, in *A PEOPLE'S EUROPE: TURNING A CONCEPT INTO CONTENT* 1 (Stratos V. Konstadinidis ed., 1999).

of cases covering both the Court of Justice of the European Communities and the Court of First Instance. Tables of legislation point the reader to discussions of various regulations, directives, and decisions in the text. He also has compiled an eleven-page bibliography that includes articles, chapters, and monographs of a wide variety of publishers. This should prove helpful in directing students writing seminar papers to additional sources in the fields of political science, economics, and law. Each chapter is heavily footnoted and refers the reader to both primary and secondary sources. Additionally, the chapters contain a conclusion that attempts to unify the subjects covered in the chapter.

¶7 This work is not intended for the practitioner faced with questions regarding European Union law. It is intended for faculty members and students researching the EU. The reader will, however, need some background in EU law before being able to utilize this text to the fullest extent. While many of the major cases and legislation covered in an introductory course in EU law are mentioned, a basic knowledge of its operation and organization are presumed. This work is appropriate for law school and other academic libraries that support a curriculum in international studies or international, foreign, or comparative law. *Multilevel Governance in the European Union* is a scholarly and well-written work designed to find a niche in the academic market.

Cairns, Walter. *Introduction to European Union Law*. 2d ed. London; Sydney: Cavendish Publishing Limited, 2002. 381p. \$24.

*Reviewed by Xia Chen*

¶8 In its second edition, *Introduction to European Union Law* provides a concise, yet comprehensive, overview of European Union (EU) law. It consists of seventeen chapters, covering both procedural and substantive laws. In his introduction, Cairns offers a general definition of EU law, clearly identifying for the reader what does and does not constitute EU law. According to this definition, EU law includes intergovernmental treaties and conventions, but excludes national laws incorporating EU laws. Commonly used and misused terms such as Common Market law, EEC law, Community law, and EU law are distinguished and clarified. Anticipating that most readers will be more familiar with common law systems of government, Cairns suggests a few guidelines to facilitate their understanding of EU law, which is predicated upon a civil law system. He identifies and lists many of the unique aspects of EU law, such as the supremacy of legislation, the use of collective viewpoints of judges in court proceedings, the French way of reporting judicial decisions, and the multilanguage translation of legal instruments. In this second edition, as a special update to the fast-changing subject of EU law, Cairns includes discussion of a very current EU instrument, the Treaty of Nice.<sup>3</sup> Although

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3. Treaty of Nice Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts, Feb. 26, 2001, O.J. (C 80) 1 (2001).

the treaty has since been ratified by the member states and entered into force on February 1, 2003, at the time of publication it was merely adopted. Therefore, it is reasonable for Cairns to have limited his treatment of the treaty to a general outline and a discussion of its major implications for the EU.

¶9 In the following chapters, Cairns discusses in great detail the structure of European Community institutions, the Community's decision-making process, the sources of Community law, and direct and indirect actions of judicial remedies in Community law. He then devotes eight chapters to the topical areas of the Community's substantive law. Included are chapters on the free movement of goods, the free movement of capital, competition policy, and external aspects of customs law. Finally, he discusses the future of the European Community in terms of the issues confronting EU policy makers. Cairns concludes that the complexities inherent in the integration within the Community are inevitable, and that a more intergovernmental, rather than federal, model is likely to evolve. He further suggests that institutional reform is vital for the future prospects and health of the Community.

¶10 This book stands out, not only for its lucid explanations and insightful discussions, but also for its unique features. One such feature is a chapter that functions as a practical guide to EU law; this is especially useful to students interested in the research and practice of EU law. First, the guide identifies the components of primary law, then it details a practical research strategy or plan, complete with citation instructions. Next, the guide provides EU law career and training information. In addition to a list of academic institutions offering programs on EU law, this chapter also provides a list of training opportunities and scholarships offered by a number of Community institutions (e.g., Robert Schuman Scholarships financed by the European Parliament). The book also includes a multilingual glossary in English, French, German, Italian, and Spanish. There is a subject matter bibliography, which includes materials covering a wide range of Community law topics, such as free movement of goods and persons, competition law, social policy, and intellectual property. Other features include a general index and a table of cases, as well as a compilation of EU legislation and UK statutes that are cited throughout the book.

¶11 This book is an excellent textbook for undergraduate, graduate, and law school students. There are very few introductory and overview books on EU law, and this is a highly recommended book for an academic law library, as well as for undergraduate and graduate research libraries in universities and colleges.

Conant, Lisa J. *Justice Contained: Law and Politics in the European Union*. Ithaca, N.Y.: Cornell University Press, 2002. 250p. \$39.95.

*Reviewed by Margaret Maes Axtmann*

¶12 Recent interest in the law and politics of the European Union (EU) has resulted in a number of publications on the role of the European Court of Justice (ECJ) in

public policy making.<sup>4</sup> This work examines the impact of ECJ decisions on major policy reforms within the EU.

¶13 Lisa Conant, a political science professor, contends that other interests—enforcement agencies, lobbying groups, and the member states themselves—limit the broad application of ECJ decisions to EU policy and that European justice is contained by its exclusive application to individual disputes. Conant also asserts that private individuals do not have ready access to the European judicial system, causing unequal protection of individual rights in response to judicial decisions.

¶14 Conant provides four case studies of judicial interpretations on issues of significance in the European context: regulation of the telecommunications sector, regulation of the electricity sector, national discrimination in public-sector employment, and national discrimination in access to social benefits. The first two are regulatory in nature, and they affect states and other legal entities that can apply pressure to support or resist judicial interpretations. The other two relate to discrimination issues that affect individuals who are unlikely to have the same legal recourse. Contrasting these two types of judicial decisions, Conant attempts to demonstrate that judicial authority is tempered by institutional and political processes within the EU and its member states.

¶15 This is an exceptionally detailed analysis—examining relevant case law, subsequent litigation and political proceedings, reports by the European Commission, official statistics, and media coverage. Conant also interviewed European lawyers, government officials, and representatives from firms and special interest organizations. Her perspective is that of a political scientist, but the study is a lucid analysis of a highly complex legal and political environment.

¶16 *Justice Contained* is a scholarly work of interest to academics and practitioners working on European Union issues or studying judicial power. The book has extensive footnotes, but I would have appreciated at least a selective bibliography. There is also a good index, but the omission of a table of cases is noticeable for a legal audience. Nevertheless, I highly recommend this work for appropriate law library collections.

Crawford, James, ed. *The International Law Commission's Articles on State Responsibility: Introduction, Text, and Commentaries*. Cambridge, U.K.; New York: Cambridge University Press, 2002. 387p. Hardback, \$80; Paper, \$30.

*Reviewed by Mary Rumsey*

¶17 For almost forty years, the International Law Commission (ILC) has worked diligently to codify the international rules governing the acts and wrongful acts of states and nonstate entities. Its Articles on Responsibility of States for

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4. *E.g.*, KAREN J. ALTER, *ESTABLISHING THE SUPREMACY OF EUROPEAN LAW: THE MAKING OF AN INTERNATIONAL RULE OF LAW IN EUROPE* (2001).

Internationally Wrongful Acts,<sup>5</sup> adopted by the ILC in 2001, are the result. This useful volume presents the articles, commentary, and a variety of related materials. It is intended to serve as a companion to the articles themselves.

¶18 James Crawford, who edited the book and wrote the introductory essay, served as the most recent Special Rapporteur on the project. As such, he spearheaded the drafting process from 1997 to 2001. He has published periodic updates on the drafting process, but his introductory essay reworks these into a complete overview. The sixty-page essay describes the evolution of the articles, including their conceptual structure and the major drafting hurdles.

¶19 Part 1 of the articles defines international wrongful acts. It also sets forth the conditions under which conduct can be attributed to a state, and circumstances precluding wrongfulness. Part 2 describes general principles relating to the content of state responsibility, including reparations. Part 3 covers the invocation of state responsibility and countermeasures. Part 4 sets out a few general provisions on the scope of the articles.

¶20 The articles set out the framework of the law of state responsibility, but do not define the content of state obligations. As Crawford notes, these obligations are defined by treaties and other sources of international norms, which may be fluid. Thus, rather than creating new norms, the articles set out “the consequences of a breach of an applicable primary obligation” (p.16). Nonetheless, in a recent symposium issue of the *American Journal of International Law*, the issue’s editors describe the articles’ adoption as “a significant moment in the continuing development of international law.”<sup>6</sup> The editors further predict that portions of the articles will play important roles in international dispute resolution.

¶21 International lawyers, scholars, and students will therefore need to study the articles and commentaries. Although the articles and commentaries are available on the ILC’s Web site in its State Responsibility Archive,<sup>7</sup> the book provides several useful features. These include tables of cases and abbreviations, a bibliography, the text of the 1996 draft articles, an index, and a drafting history. The detailed drafting history traces each article, including those not adopted. With the 1996 draft articles, Crawford adds a table of equivalents to the final articles. This is particularly handy because international tribunals have cited the draft articles in several important cases.

¶22 Researchers will appreciate the well-constructed index, which indexes more than thirty concepts under the heading “Words and Phrases Defined.” Its detailed listings permit readers to zero in on concepts such as continuing wrongful acts, invocation of responsibility, and collective obligations. In short, although

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5. Articles on Responsibility of States for Internationally Wrongful Acts, G.A. Res. 56/83, U.N. GAOR, 56th Sess., Annex, Supp. No. 10, U.N. Doc. A/Res/56/83 (2001).

6. Daniel Bodansky & John R. Crook, *Introduction and Overview*, 96 AM. J. INT’L L. 773, 774 (2002).

7. INT’L LAW COMM’N, STATE RESPONSIBILITY ELECTRONIC ARCHIVE, at <http://www.un.org/law/ilc/archives/statfra.htm> (last visited Apr. 7, 2003).

researchers have Web access to much of the primary material in this book, its added features make it a worthwhile purchase for libraries with international law interests.

Davies, Gareth. *EU Internal Market Law*. London: Cavendish Publishing Limited, 2002. 213p. Paper, \$40.

*Reviewed by Jill Sidford*

¶23 Gareth Davies practiced law and later acquired an LL.M., in European law, from University College London. He taught European law at the University of Essex until 1999, and in spring 2000 he joined the European and Economic Law Department of the University of Groningen in the Netherlands. His research interests are numerous and include free movement in Europe, European constitutional law, and European human rights.

¶24 Cavendish Publishing claims that *EU Internal Market Law* is “the first student book to focus on this core topic in EU law” (back cover). I strongly agree with the assertion that the work is directed to a student audience. Upon close examination of the text, it became abundantly clear that this title is primarily a compilation of EU law course materials used by Davies in his academic and lecture activities. Certainly this method, also employed by many authors of traditional American law school textbooks, is one that is both legitimate and respectable. However, the end result is a work rather short on content. Although Davies does achieve the goal he describes in the introduction as providing the reader with “a clear presentation of the essentials” (p.1), the book does not provide much depth of coverage.

¶25 In his introduction, Davies describes the genesis of the EU internal market and defines it for the reader. The work is a broad survey of the internal market concept, with chapters on such subtopics as the Free Movement of Goods: Taxes and Duties; the Free Movement of Persons; the Free Movement of Capital; and the Process of Harmonisation. Davies includes a nine-page table of cases with citations and page references to cases discussed in the text. Only a few 2001 cases are cited. There is also a table of treaty articles, as well as a table of community acts and secondary legislation, which includes directives. The most current directive cited is one issued on November 27, 2000. The work also includes a five-page index. In the introduction, Davies explains that footnotes will be limited for “clarity and simplicity of use” (p.1). To obviate the need for footnotes, he includes a chapter bibliography and suggestions for further reading at the end of the book. Interestingly, the majority of the footnotes included are to case citations, indicating perhaps that Europeans do not share our fetish for footnotes.

¶26 As a survey of EU internal market law, all of the major subject areas are covered, but the treatment is brief and is limited to textual discussion with citations to the leading cases or statutory authority. For example, only seven pages are devoted to “Competition and the Internal Market.” In the text, Davies explains that EU competition law is taught as a separate subject and therefore not fully covered

here (p.129). Unfortunately, I was most interested in this particular subject area, and more complete coverage in this chapter would positively influence my decision to purchase this title. In the further reading section for this chapter, Davies recommends only three additional references. A close scrutiny of the main text indicates that relative to his discussion of the “Delaware effect” and the “race to the bottom,” Davies relies rather heavily upon an article by Barnard.<sup>8</sup> Although this article reference is listed in the bibliography section, U.S. standards of legal scholarship would require a footnote in the text acknowledging Davies’s use of Barnard’s scholarship in his discussion of U.S. companies incorporated under Delaware law. The recommendation for further reading for this chapter is also extremely limited.

¶27 Once again, we must remember that this text was written for students, not for academics or practitioners. I would recommend it to law schools and law faculty where it might be used as a text to accompany a course on the EU or as a model for compiling teaching materials. *EU Internal Market Law* does not provide enough depth of coverage for the practitioner, so I would not recommend it for state, court, or county law libraries; nor for private law libraries.

Dean, Meryll. *Japanese Legal System*. 2d ed. London; Sydney: Cavendish Publishing Limited, 2002. 674p. £75.

*Reviewed by Charlotte Bynum*

¶28 The *Japanese Legal System*, now in its second edition, is a teaching text in the UK tradition. It is written and compiled by Meryll Dean, a barrister and senior lecturer in law at Sussex University. As there are a limited number of recent traditional reference sources on Japanese law in English, it is fortunate that this book does double-duty as both a textbook and a reference work.

¶29 Japanese law is a hot topic of interest both to academic and private law libraries, with the increase in prominence of Asian law and increased global trade. Although legal practitioners will not find the nuts and bolts of Japanese corporate or financial transactions within its covers, the introduction to the culture and law provided by this book is essential knowledge for anyone working with Japanese clients or lawyers.

¶30 Japanese law has always been a fascinating case study for the comparativist, given the historical influence of Chinese law and religion, civil law, and more recently U.S. law (first largely imposed at the end of the Second World War and now more readily adopted, at least at the textual level). We are now in a period of active government and legal reform, which makes a recent book like this both necessary and, at the same time, out of date almost from the time it is published.

¶31 Dean has taken the interesting approach of not changing the text from the

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8. Catherine Barnard, *Social Dumping and the Race to the Bottom: Some Lessons for the EU from Delaware*, 25 EUR. L. REV. 57 (2000).

original edition,<sup>9</sup> but incorporating footnotes to accommodate the new material. Each chapter begins with an extensive, crisp, and concise overview of the topic. Next are readings from multidisciplinary sources, often with differing points of view. Dean characterizes her approach as employing the “medium of comparative discourse,” as opposed to the traditional one of “textual judgment” (p.ix).

¶32 The topics covered include Japan’s historical development, its sources of law, the governmental construction and approach to law, the legal profession, the courts and alternative dispute resolution, and the constitutional law framing the government and legal system. Librarians researching Japanese law will particularly appreciate the discussion of the sources of law and the role they play within Japanese culture.

¶33 We are truly fortunate to have the recent, coherent treatment Dean has provided. I recommend *Japanese Legal System* for any academic library and for the library of any firm that does business with the Japanese.

Evans, Malcolm D., and Rachel Murray. *The African Charter on Human and Peoples’ Rights: The System in Practice, 1986–2000*. Cambridge, U.K.; New York: Cambridge University Press, 2002. 397p. \$75.

*Reviewed by Daniel L. Wade*

¶34 This volume is comprised of eleven essays devoted to the African system of human rights. Its contributors include not only academics, but individuals working intimately with the system, such as members of the African Commission on Human and Peoples’ Rights, the African Team Coordinator for the UN High Commissioner, and directors of nongovernmental organizations promoting human rights. In the preface, the editors emphasize that the work is intended to examine the system from a practical point of view and is timely due to the increasing amount of jurisprudence<sup>10</sup> and other important material emanating from the commission and its various institutions (p.xi).

¶35 The scope of coverage is quite broad and the essays deal with such important issues as future trends in human rights in Africa, evidence and fact finding by the African Commission, civil and political rights in the African Charter on Human and Peoples’ Rights, and the implementation of economic, social, and cultural rights under the charter. The volume has a number of useful tools such as a table of cases, a list of abbreviations, a bibliography, and an index. Appendixes contain the text of the charter, its protocol establishing the court, and the Grand Bay (Mauritius) Declaration and Plan of Action.<sup>11</sup>

¶36 *The African Charter on Human and Peoples’ Rights: The System in Practice,*

9. MERYLL DEAN, *JAPANESE LEGAL SYSTEM: TEXT AND MATERIALS* (1997).

10. *E.g.*, INST. FOR HUMAN RIGHTS & DEV., *AFRICAN COMM’N ON HUMAN & PEOPLE’S RIGHTS, COMPILATION OF DECISIONS ON COMMUNICATIONS OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLE’S RIGHTS: EXTRACTED FROM THE COMMISSION’S ACTIVITY REPORTS, 1994–2001* (2d ed. 2002).

11. O.A.U. Grand Bay (Mauritius) Declaration and Plan of Action, P 12, CONF/HRA/DECL(I) 1999.

1986–2000 is recommended for those who desire an in-depth exploration of the major issues involving the regional human rights system for Africa. While it is not, perhaps, the most appropriate resource for those learning about the system for the first time,<sup>12</sup> it thoughtfully touches on many aspects of this complex human rights system. The audience best served by the work are readers studying or utilizing the system, particularly those individuals responsible for carrying out its functions.

Hamilton, Carolyn, and Alison Perry, eds. *Family Law in Europe*. 2d ed. London: Butterworths, 2002. 849p. \$200.

*Reviewed by Jean M. Wenger*

¶37 Family law resources for foreign jurisdictions definitely get my attention. Foreign and international commercial law publications flood the market, but titles relating to personal and family law issues are scarcer commodities. Increased numbers of people moving across national borders result in a corresponding increase in the number of marriage, divorce, and child welfare matters involving foreign legal systems. Accordingly, a considerable number of practitioners are looking for resources to educate themselves about foreign family law.

¶38 Carolyn Hamilton, professor of law at the University of Essex, barrister (Gray's Inn), and director of the Children's Legal Centre, was an editor of the first edition published in 1995.<sup>13</sup> According to Hamilton and co-editor Kate Standley, the genesis of the first edition was a request by a British solicitor for a seminar on European family law (p.ix). Their perusal of the resources showed that very little material existed relative to non-English language countries (p.ix). The need for a second edition in 2002 arose because of the addition of new European Union (EU) members and the continuing ratification by European countries of several international conventions affecting family law.

¶39 The presentation is straightforward. The chapters are a systematic collection of country reports. Each chapter encompasses a different country, and eighteen discrete national jurisdictions are covered, including all members of the EU except Luxembourg. For the United Kingdom, individual reports are published for England and Wales, Northern Ireland, and Scotland. The editors also include Norway and Switzerland. According to the preface, the law stated is current as of February 28, 2002. This standardizing feature is particularly useful with contributions from individual authors and is unfortunately overlooked in many publications. The contributors for each chapter are attorneys practicing or teaching family law in that jurisdiction. The work provides complete contact information for each contributor including address, e-mail, and if available, Web site. Biographical information is not available in the volume but can be found for most contributors at their Web sites.

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12. See, e.g., VINCENT O. NMEHILLE, *THE AFRICAN HUMAN RIGHTS SYSTEM: ITS LAWS, PRACTICE, AND INSTITUTIONS* (2001).

13. *FAMILY LAW IN EUROPE* (Carolyn Hamilton & Kate Standley eds., 1995).

¶40 Each chapter employs the following schematic. Part 1 is an introduction outlining sources of family law, courts, adjudication of disputes, lawyers, legal aid, and domicile. Part 2 details marriage, validity, nullity, and recognition of foreign marriages. Specifically covered are the legal consequences of marriage, financial provision during marriage, property during marriage, and property considerations on the death of a spouse. Part 3 deals with obtaining a divorce and the legal consequences of divorce, including property and maintenance. Part 4 addresses child welfare, including the issues of custody, legitimacy, representation, guardianship, visitation, maintenance, and child abduction. Part 5 discusses cohabitation and how it is treated under national family law.

¶41 The buzzword we often hear in relation to Europe is harmonization. Family law is largely national law and is very closely tied to national culture. However, the winds of harmonization are touching many areas, particularly jurisdiction and the recognition and enforcement of judgments. In response to this developing phenomenon, Europe is included as a separate chapter. The first part of this chapter discusses the impact of European and international conventions on national family law. The second part addresses the impact of European Community law. This chapter marginally steps beyond the surveylike presentation in the national chapters. It briefly attempts to illustrate how supranational instruments and institutions are beginning to redefine national family law.

¶42 Each chapter concludes with a listing of “useful contacts” and recommended reading. Useful contacts cover relevant government agencies, courts, and attorney associations related to the practice of family law. The recommended reading lists are brief, generally fewer than ten entries, with mostly non-English language titles for countries outside the United Kingdom and Ireland.

¶43 Appendixes contain the text of European, United Nations, and Hague conventions dealing with human rights, rights and protection of the child, child abduction, maintenance, intercountry adoption, and legal aid. The index is arranged by country and convention. Tables of materials cited in the work include national statutes, statutory instruments, European legislation and United Nations conventions, and cases arranged by country.

¶44 Scattered footnotes refer readers to relevant code sections and laws, but the full text of laws is not included. The reader may be frustrated by the omission of English translations of European civil codes or related family laws. What makes this work a useful reference source is that it highlights pertinent features of European family law for the English-speaker.

¶45 As stated in the foreword by Rt. Hon. Lord Justice Thorpe, this volume “seeks and attains practical goals” (p.v). The presentation of the material is an objective summary of the law; it does not contain critical analysis. No practice pointers or procedural strategies for handling an actual family law case are presented. However, for the practitioner or academic needing an overview of European family law in English, this work is a first-stop reference tool. Any law

library that collects European legal materials or supports a family law practice will find this a unique and valuable resource. The second edition of *Family Law in Europe* is a welcome addition to my stacks.

Kennedy, Daniel L. M., and James D. Southwick, eds. *The Political Economy of International Trade Law: Essays in Honour of Robert E. Hudec*. Cambridge, U.K.; New York: Cambridge University Press, 2002. 696p. \$110.

*Reviewed by Lyonette Louis-Jacques*

¶46 Eons ago when I was a new foreign and international legal reference librarian at the University of Minnesota Law School Library, I had the pleasure of working with Professor Robert E. Hudec. On one occasion I sought his help in creating a guide to researching the General Agreement on Tariffs and Trade (GATT).<sup>14</sup> He explained the complex machinations of the GATT in straightforward language that made the subject almost fascinating. On the occasion of his retirement from the faculty at the University of Minnesota Law School, the school held a conference in September 2000 to pay tribute to Professor Hudec for his scholarly and practical contributions to the field of international trade law.

¶47 The present volume compiles thirty-one essays originally presented as papers at that conference. The authors comprise an interdisciplinary group of academics, lawyers, and government officials from the United States, Canada, Germany, the Netherlands, and Switzerland. They include some of the major experts in the field of international trade law, such as John H. Jackson, Ernst-Ulrich Petersmann, Robert Howse, Sylvia Ostry, Frederick M. Abbott, William J. Davey, and Michael J. Trebilcock. The authors pay tribute to Professor Hudec by approaching the problems of international trade law, and the World Trade Organization (the WTO succeeded the GATT in 1994) in particular, from political and economic perspectives. Unfortunately, all the authors share the perspective of developed countries and thus the book lacks the perspective of developing countries. This somewhat diminishes the tribute to Hudec since he promoted the interests of developing countries under the GATT legal system.

¶48 The essays succeed in “transcending the ostensible” by demonstrating the underlying, often surprising, interactions within and without the WTO that are the sources of its problems and its strengths as part of the international trade regime. A variety of divergent views and conflicting interests collide within the WTO. The authors often mention the “North-South divide,” the differences between developed and developing countries, and sometimes “North-North” deadlocks. Also, nonstate actors in the private sector and civil society (nongovernmental organizations concerned with the environment, for instance) affect the effectiveness of the WTO.

¶49 The book is divided into four parts. Part 1 covers “The Constitutional Developments of International Trade Law”; part 2 includes essays on “The Scope

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14. General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A3, 55 U.N.T.S. 187.

of International Trade Law: Adding New Subjects and Restructuring Old Ones”; part 3 tackles “Legal Relations between Developed and Developing Countries”; and part 4 concludes with essays on “The Operation of the WTO Dispute Settlement Procedure.” Responsive comments and bibliographies follow some of the essays. The book concludes with a bibliography of Hudec’s writings and a detailed index.

¶50 Generally, the essays are rich sources on the many issues facing the WTO. The Uruguay Round negotiations of 1986–94 expanded the jurisdiction of the WTO to include new subject areas such as trade and services, and trade and intellectual property rights.<sup>15</sup> The WTO’s membership has grown since that time. The failure of the ministerial conference in Seattle brought to light the problems created by these new areas of business and an enlarged WTO. The problems discussed in the text include dissatisfaction by some existing members with the new agreements, particularly the Agreement on Trade-Related Intellectual Property Rights or TRIPS,<sup>16</sup> but also with the disagreement on additional new areas for the WTO to handle such as competition or antitrust law, and reforms needed to give a voice to developing countries and new members in WTO decision-making processes. Underlying all the essays is the background tension between national sovereignty and the need for an international body to govern trade relations. The authors also address some popular concerns about the legitimacy of the WTO, which can appear to be nondemocratic.

¶51 *The Political Economy of International Trade Law* is a worthy tribute to one of the foremost experts in the field. It highlights the underlying political and economic factors influencing the working of the WTO. It teaches the reader what the WTO is, how it appears to work, and how it really works. It also includes aspirational essays that recommend changes to improve the effectiveness and public acceptance of the WTO. It is a valuable collection of essays that belongs in any academic research library.

Polat, Necati. *Boundary Issues in Central Asia*. Ardsley, N.Y.: Transnational Publishers, 2002. 282p. \$115.

*Reviewed by Liz Larson*

¶52 In this fairly compact book, Necati Polat manages to cover the entire spectrum of boundary issues in the five formerly Soviet nations of Central Asia: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. He covers the history and current state of boundary issues between these five countries themselves, as well as between each of these countries and their neighbors, particularly China, Russia, Afghanistan, and Iran.

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15. Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, Apr. 15, 1994, Legal Instruments—Results of the Uruguay Round vol. 1 (1994), 33 I.L.M. 1125 (1994).

16. Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, Legal Instruments—Results of the Uruguay Round vol. 31, 33 I.L.M. 81 (1994).

¶53 In addition to demographic issues and disputes over land, Polat details the fight for control of Central Asia's water. The two main rivers in this region originate in the mountains of Kyrgyzstan and Tajikistan and eventually make their way to the Aral Sea, which straddles the border between Kazakhstan and Uzbekistan. Thanks to Soviet-era irrigation projects (built to water the enormous expanse of land devoted to cotton production), very little water now actually reaches the Aral Sea. The result has been environmental devastation on a grand scale, both to the sea itself and the regions and populations surrounding it.

¶54 Another water issue that Polat covers is the need for hydro power during the wintertime in the two upriver countries, which conflicts with the summertime need to irrigate crops in the downriver countries. Polat also details the long, complicated history of disputes over the rights to oil in the Caspian Sea. The Caspian holds vast reserves of oil, but the four nations that border it have failed time and time again to reach an agreement to apportion these deposits among themselves.

¶55 I was very impressed throughout this book with Polat's ability to make complicated topics easy to understand. This is especially true of the chapter titled "Succession to the Ex-USSR." Succession is a topic within international law that focuses on the rights and obligations under international agreements that a successor state inherits from its predecessor state. Having recently taken a course called "Politics and Society in Central Asia," I was familiar with most of the material covered in this book. However, the issue of succession was completely new and because of its complicated nature, potentially very confusing to me. Fortunately, Polat expertly identifies the basic issues and laws of succession, and then clearly and succinctly explains how these issues and laws affected the nations of Central Asia when the USSR disintegrated in 1991.

¶56 The book includes six maps and twenty appendixes, comprised of boundary agreements entered into by Russia or the USSR from 1860 through 1957. These agreements might otherwise be very difficult to find, making this book a valuable resource for anyone researching the history of present-day boundary issues in Central Asia. Given the area's growing significance in world affairs, I would also recommend this book for the collection of any academic law library and for the libraries of firms that do business in Central Asia. It offers a very well-written, thorough examination of the complicated disputes that make it such a fascinating region.

Scott, Rosamund. *Rights, Duties and the Body: Law and Ethics of the Maternal-Fetal Conflict*. Oxford, England: Hart Publishing, 2002. 436p. \$95.

*Reviewed by Sara E. Kelley*

¶57 *Rights, Duties and the Body* by Rosamund Scott is an anomaly in the literature on the legal status of pregnant women and fetuses in that it contains relatively little discussion of abortion law. Scott is a barrister and a lecturer in law at Kings College, London. She has an academic background in philosophy as well as law. Her book is an erudite examination of the law of treatment refusal as it applies to

pregnant women in the United States, United Kingdom, and, to a lesser extent, Canada. It explores both the moral and legal issues surrounding the conflict of interest between maternal and fetal interests in the treatment-refusal context. It is probably too scholarly to serve as a good introduction to the issues for someone with little or no background in the subject, but it is likely to be considered an essential work by academic specialists in the field.

¶58 The book is divided into three parts: part 1, “The Moral Relationship between a Pregnant Woman and Her Fetus”; part 2, “The Legal Arguments from Rights”; and part 3, “The Legal Arguments from Duty.” In part 1, Scott defines the terms that form the basis for the rest of the book (e.g., autonomy, rights, and duties). She also describes and critiques several competing theories on the moral status of the fetus. Part 2 traces the basic law of treatment refusal in the United States and the United Kingdom, and shows how several forced Caesarean cases in the two countries diverged from the standard law of treatment refusal. Scott then explores the values underlying a pregnant woman’s right to refuse treatment. Finally, in part 3, Scott examines the applicability of precedents from three other areas of law—abortion law, tort law, and rescue law.

¶59 The book has a decent, but not lengthy, subject index. It also has an “Index of Names” for looking up persons mentioned or cited, and tables of cases and legislation. For citations to secondary materials, the book provides a lengthy “Bibliography of Works Cited” in addition to extensive footnotes. Scott, who is British, does make occasional minor errors in citing to U.S. legal materials. For example, she refers to *American Law Reports* as “Annotated Law Reports” (p.125), and to the Supreme Court of Queens County, New York, as the “Superior Court” (p.186 n.3). However, these errors are never significant enough to prevent the reader from locating the cited materials. The book is an essential purchase for libraries whose collections emphasize health and reproductive rights law.

Zegveld, Liesbeth. *Accountability of Armed Opposition Groups in International Law*. Cambridge, U.K.; New York: Cambridge University Press, 2002. 260p. \$65.

*Reviewed by William Ryan*

¶60 In *Accountability of Armed Opposition Groups in International Law*, Liesbeth Zegveld, an international criminal attorney, surveys the current status and future of international humanitarian law, international human rights, and international criminal law to determine who is accountable for the acts of armed opposition groups involved in internal conflicts. Her work is particularly relevant in that many, if not most, of today’s conflicts are internal rather than international in nature. To reach her conclusions, Zegveld examines both treaty law and customary international law, particularly the practice of international organizations. While the prose can be dense at times, the thesis is well thought-out, argued, and documented.

¶61 Relative to the rules of international humanitarian law, Zegveld concludes that for a number of reasons—for example, the sentiment that people are deserving

of the same types of protection in internal conflicts as they are in external ones and the belief that rules governing conduct in internal conflicts were too rudimentary and too few to be effective—the law has evolved to include nonstate actors. She determines that international humanitarian law, specifically common article 3 of the several Geneva Conventions,<sup>17</sup> which is directed at parties to an internal conflict, as well as Additional Protocol II of these conventions,<sup>18</sup> is applicable to armed opposition groups as both treaty law and as customary international law. She argues that if a state involved in an internal conflict is a party to the conventions and Additional Protocol II, then by analogy the armed opposition group is bound as well. She further argues that while common article 3 of the Geneva Conventions has become a norm of customary international law, only those articles of Additional Protocol II that reflect those same norms that were expressed in article 3 have also become customary international law. She also contends that other humanitarian rules have become norms of customary law and have been applied to armed opposition groups in internal conflicts, thereby expanding the coverage of international humanitarian law to a much greater degree than was previously thought. As a result, international humanitarian law has evolved to encompass armed opposition groups—nonstate actors—in addition to states who are the traditional subjects of international law. For me, this discussion of how international humanitarian law has grown to encompass nontraditional subjects of international law was the most interesting section of the study.

¶62 In international human rights law, Zegveld determines that when international organizations have examined whether armed opposition groups are or should be bound by human rights norms, they have concluded that these groups should not be bound. She argues that here the organizations have made a distinction based on the fact that these groups are not states and that the treaties were designed to delineate responsibilities of states to their citizens. Unlike humanitarian law which specially includes nonstate actors as seen in common article 3, human rights law makes no explicit mention of nonstate actors. Zegveld argues that the goals of human rights and humanitarian law, such as regulating the state's responsibilities to its citizens and regulating conduct in armed conflict, are so different as to be unresolvable. She does indicate that there is some precedent for applying human rights laws in situations where the armed opposition group exercises governmental functions over territory within the state.

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17. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287.

18. Protocol Additional to the Geneva Conventions of August 12, 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts, June 8, 1977, 1125 U.N.T.S. 609, 16 I.L.M. 1442 (1977).

¶63 Finally, in regard to international criminal law, it is clear that individual leaders of armed opposition groups may be held responsible for the activities of their members under current international criminal law. Both the statutes for the Yugoslavia<sup>19</sup> and Rwanda<sup>20</sup> tribunals provide for the trial of nonstate actors. The situation regarding group accountability is less clear. Zegveld argues that the Nuremberg Charter<sup>21</sup> and the draft statute of the International Criminal Court allowed the prosecution of armed opposition groups as groups. The former allowed for the criminalization of membership in certain groups, while the latter provided for jurisdiction over legal as well as natural persons.<sup>22</sup> However, during the final negotiations in Rome the provision of the statute was changed to “juridical persons” meaning corporations.<sup>23</sup> When the statute was finally adopted, neither provision was included.<sup>24</sup> Zegveld concludes that the existing civil responsibility of armed oppositions groups under common article 3 along with the evolving criminal responsibility of individual leaders and group members under current international criminal law should be adequate to ensure coverage under international law.

¶64 Zegveld provides an extensive bibliography and good index as well as tables of cases, treaties, and other documents. Overall, this is a very good study of a still evolving and important area of international law. This is a book that most academic law libraries with both human rights and humanitarian law collections should have.

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19. Statute of the International Tribunal, 32 I.L.M. 1192, adopted by S.C. Res. 827, U.N. SCOR, 48th Sess., 3217th mtg. at 6, U.N. Doc. S/RES/827 (1993), 32 I.L.M. 1203.
  20. Statute of the International Tribunal for Rwanda, 33 I.L.M. 1602, adopted by S.C. Res. 955, U.N. SCOR, 49th Sess., 3453d mtg. at 3, U.N. Doc. S/RES/955 (1994), 33 I.L.M. 1600.
  21. Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis. Aug. 8, 1945, 59 Stat. 1544, 82 U.N.T.S. 279.
  22. Report of the Preparatory Committee on the Establishment of an International Criminal Court, U.N. Doc. A/Conf.183/2/Add.1 (1998).
  23. Report of the Working Group on General Principles of Criminal Law, U.N. Doc. A/Conf.183/C.1/WGGP/L.5/Rev.2 (July 3, 1998).
  24. Rome Statute of the International Criminal Court, July 17, 1998, U.N. Doc. A/Conf. 183/9 (1998), 37 I.L.M. 999.