

New from Hart Publishing

Religion, Race, Rights

Landmarks in the History of
Modern Anglo-American Law

Eve Darian-Smith

'Eve Darian-Smith takes us on an amazing journey covering four centuries that brilliantly illuminates the continuously evolving interplay of law, religion, and race in the Anglo-American experience.'

Richard Falk, Albert G. Milbank Professor of International Law Emeritus, Princeton University

'...an ambitious work of scholarship, one which, by virtue of brush strokes at once deft and broad, challenges us to understand the legal underpinnings of our world in new ways.' *John Comaroff, University of Chicago*

This book highlights the interconnections between three framing concepts in the development of modern western law: religion, race, and rights.

Eve Darian-Smith is Professor of Global & International Studies at the University of California Santa Barbara.

May 2010 332pp Pbk
9781841137292 £17.95 / €24

The Iran Nuclear Issue

Yaël Ronen

This volume documents the Iranian nuclear issue, tracing the evolution of international interest and concern with Iran's nuclear policy since the 1970s, when Iran began earnest efforts to acquire nuclear capabilities. Emphasis is placed on events since 2002-2003, when it was established that Iran had concealed certain aspects of its nuclear activities from IAEA.

Dr Yaël Ronen is Assistant Professor at Sha'arei Mishpat College, Israel and a former diplomat in the Israeli Foreign Service.

May 2010 502pp Hbk
9781841137568 £50 / €65

Previous Convictions at Sentencing

Theoretical and Applied Perspectives

*Edited by Julian V Roberts
and Andrew von Hirsch*

This latest volume in the Penal Theory and Penal Ethics series addresses one of the oldest and most contested questions in the field of criminal sentencing: should an offender's previous convictions affect the sentence, and how? Several authors explore the theory underlying the practice of mitigating the punishments for first offenders, while others put forth arguments for enhancing sentences for recidivists. The practice of sentencing repeat offenders in two jurisdictions (England and Wales, and Sweden) is also examined in detail.

Julian Roberts is Professor of Criminology at the University of Oxford.

Andrew von Hirsch is Honorary Professor of Penal Theory and Penal Law at the University of Cambridge.

June 2010 204pp Hbk
9781849460422 £40 / €52

Terrorism

Ben Saul

International anti-terrorism measures existed long before the 11th September 2001 and have increased markedly since. Legal efforts aimed at curbing terrorism stem from a wide variety of sources, over a substantial period of time, and it is timely to draw the key documents together into a single reference work. This book brings the documents together and preserves them for future reference. It also enables scholars, practitioners and students to more easily and quickly compare and contrast various documents.

Ben Saul is Director of the Sydney Centre for International Law at Sydney University and a barrister.

July 2010 1576pp Pbk
9781841139869 £45 / €58.50

Hart Publishing, 16C Worcester Place, Oxford, OX1 2JW, UK **Tel** 01865 517530
Fax 01865 510710 **E-mail** mail@hartpub.co.uk **Website** www.hartpub.co.uk
Website for Customers in USA www.HartPublishingUSA.com

Hart Publishing Ltd. is registered in England No. 3307205



HART
PUBLISHING

CAMBRIDGE

Outstanding New Scholarship in LAW

Widening Horizons

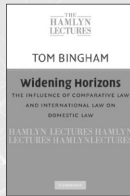
The Influence of Comparative Law and International Law on Domestic Law

THOMAS H. BINGHAM

The Hamlyn Lectures

\$50.00; Hb: 978-0-521-19935-3

\$23.99; Pb: 978-0-521-13802-4; 100 pp.

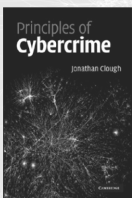
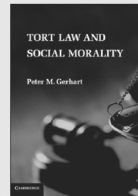


Tort Law and Social Morality

PETER M. GERHART

\$90.00; Hb: 978-0-521-76896-2

\$34.99; Pb: 978-0-521-75974-8; 288 pp.



Principles of Cybercrime

JONATHAN CLOUGH

\$125.00; Hb: 978-0-521-89925-3

\$59.00; Pb: 978-0-521-72812-6; 496 pp.



Baby Markets

Money and the New Politics of Creating Families

EDITED BY

MICHELE BRATCHER GOODWIN

\$94.99; Hb: 978-0-521-51373-9

\$28.99; Pb: 978-0-521-73510-0; 336 pp.

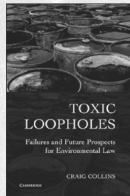
Toxic Loopholes

Failures and Future Prospects for Environmental Law

CRAIG COLLINS

\$90.00; Hb: 978-0-521-76085-0

\$29.99; Pb: 978-0-521-14302-8; 312 pp.



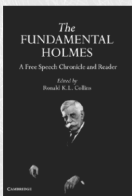
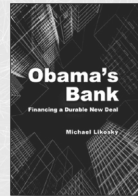
Obama's Bank

Financing a Durable New Deal

MICHAEL LIKOSKY

\$75.00; Hb: 978-0-521-19754-0

\$24.99; Pb: 978-0-521-14711-8; 288 pp.



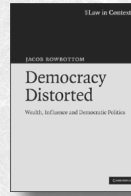
The Fundamental Holmes

A Free Speech Chronicle and Reader Selections from the Opinions, Books, Articles, Speeches, Letters and Other Writings by and about Oliver Wendell Holmes, Jr.

EDITED BY RONALD K. L. COLLINS

\$95.00; Hb: 978-0-521-19460-0

\$29.99; Pb: 978-0-521-14389-9; 350 pp.



Democracy Distorted

Wealth, Influence and Democratic Politics

JACOB ROWBOTTOM

Law in Context

\$95.00; Hb: 978-0-521-87665-0

\$37.99; Pb: 978-0-521-70017-7; 272 pp.

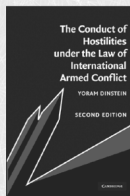
SECOND EDITION!

The Conduct of Hostilities under the Law of International Armed Conflict

YORAM DINSTEIN

\$120.00; Hb: 978-0-521-19813-4

\$50.00; Pb: 978-0-521-12131-6; 325 pp.



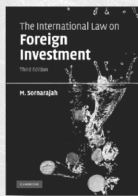
THIRD EDITION!

The International Law on Foreign Investment

M. SORNARAJAH

\$150.00; Hb: 978-0-521-76327-1

\$75.00; Pb: 978-0-521-74765-3; 544 pp.



Prices subject to change.

www.cambridge.org/us/law



CAMBRIDGE
UNIVERSITY PRESS



International Journal of Law in Context

The companion journal of the Law in Context book series

International Journal of Law in Context

is available online at:

<http://journals.cambridge.org/ijc>

To subscribe contact Customer Services

in Cambridge:

Phone +44 (0)1223 326070

Fax +44 (0)1223 325150

Email journals@cambridge.org

in New York:

Phone +1 (845) 353 7500

Fax +1 (845) 353 4141

Email

subscriptions_newyork@cambridge.org

Editors-in-Chief

Michael Freeman, University College London, UK

Carrie Menkel-Meadow, Georgetown University, USA

International Journal of Law in Context is a forum for interdisciplinary legal studies and offers intellectual space for ground-breaking critical research. It publishes contextual work about law and its relationship with other disciplines including but not limited to science, literature, humanities, philosophy, sociology, psychology, ethics, history and geography.

Price information is available at:
<http://journals.cambridge.org/ijc>

Free email alerts

Keep up-to-date with new material – sign up at
<http://journals.cambridge.org/alerts>

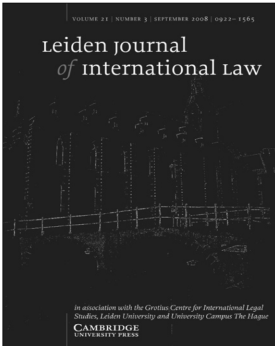
For free online content visit:
<http://journals.cambridge.org/ijc>



**CAMBRIDGE
UNIVERSITY PRESS**

CAMBRIDGE

JOURNALS



Leiden Journal of International Law

Published for the
Foundation of the Leiden Journal of International Law

Leiden Journal of International Law

is available online at:

<http://journals.cambridge.org/ljl>

Editor-in-Chief

Larissa van den Herik, Leiden University, The Netherlands

To subscribe contact Customer Services

in Cambridge:

Phone +44 (0)1223 326070

Fax +44 (0)1223 325150

Email journals@cambridge.org

in New York:

Phone (845) 353 7500

Fax (845) 353 4141

Email

subscriptions_newyork@cambridge.org

Firmly established as one of Europe's leading journals in the field, the *Leiden Journal of International Law (LJL)* provides a forum for two vital areas, namely international legal theory and international dispute settlement. It is unique in providing the most comprehensive coverage of the world's most important international tribunals in The Hague and elsewhere.

Price information is available at:
<http://journals.cambridge.org/ljl>

Free email alerts

Keep up-to-date with new material – sign up at
<http://journals.cambridge.org/register>

For free online content visit
<http://journals.cambridge.org/ljl>



CAMBRIDGE
UNIVERSITY PRESS



NETHERLANDS INTERNATIONAL LAW REVIEW

Marketed and distributed for T.M.C. Asser Press

Netherlands International Law Review

is available online at:
<http://journals.cambridge.org/nlr>

**To subscribe contact
Customer Services**

in Cambridge:
Phone +44 (0)1223 326070
Fax +44 (0)1223 325150
Email journals@cambridge.org

in New York:
Phone +1 (845) 353 7500
Fax +1 (845) 353 4141
Email
subscriptions_newyork@cambridge.org

Editor-in-Chief

P. Vlas, Free University of Amsterdam, The Netherlands

The *Netherlands International Law Review (NILR)* addresses relevant topics and recent trends in international law and the conflict of laws, including their comparative legal aspects. Articles are combined with English-language reports on topical Dutch judicial decisions, survey of the case law on the topic of civil jurisdiction and enforcement of judgments in Europe, an update on the current developments regarding The Hague's international tribunals, an overview of the Hague Conventions on Private International Law, book reviews, and occasionally, a short commentary on case law or legislation.

Price information is available at:
<http://journals.cambridge.org/nlr>

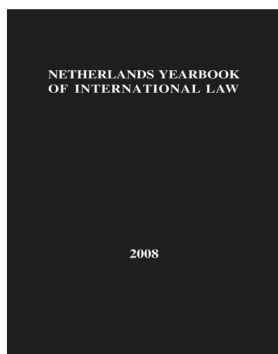
Free email alerts

Keep up-to-date with new material – sign up at
<http://journals.cambridge.org/alerts>

For free online content visit:
<http://journals.cambridge.org/nlr>



**CAMBRIDGE
UNIVERSITY PRESS**



Netherlands Yearbook of International Law

Marketed and distributed for T.M.C. Asser Press

Netherlands Yearbook of International Law

Abstracts are available online at:
<http://journals.cambridge.org/nyl>

To subscribe contact Customer Services

in Cambridge:

Phone +44 (0)1223 326070
Fax +44 (0)1223 325150
Email journals@cambridge.org

in New York:

Phone +1 (845) 353 7500
Fax +1 (845) 353 4141
Email
subscriptions_newyork@cambridge.org

General Editors

I. F. Dekker, Utrecht University, The Netherlands
P. A. Nollkaemper, University of Amsterdam, The Netherlands

The *Netherlands Yearbook of International Law* offers a forum for the publication of scholarly articles of a general nature in public international law, including the law of the European Union. Additionally, it responds to the demand for information on state practice in international law.

Price information is available at:
<http://journals.cambridge.org/nyl>

Free email alerts

Keep up-to-date with new material – sign up at
<http://journals.cambridge.org/alerts>

For free online content visit:
<http://journals.cambridge.org/nyl>



**CAMBRIDGE
UNIVERSITY PRESS**

CAMBRIDGE

JOURNALS



European Constitutional Law Review

Marketed and distributed for T.M.C. Asser Press

European Constitutional Law Review

is available online at

<http://journals.cambridge.org/ecl>

To subscribe contact Customer Services

in Cambridge:

Phone +44 (0)1223 326070

Fax +44 (0)1223 325150

Email journals@cambridge.org

in New York:

Phone +1 (845) 353 7500

Fax +1 (845) 353 4141

Email

subscriptions_newyork@cambridge.org

Editor-In-Chief

W. T. Eijsbouts, University of Amsterdam, The Netherlands

Marketed in distributed for T.M.C. Asser Press.

The *European Constitutional Law Review*, a peer reviewed English language journal, is a platform for advancing the study of European constitutional law, its history and evolution. Its scope is European law and constitutional law, history and theory, comparative law and jurisprudence. Published triannually, it contains articles on doctrine, scholarship and history, plus jurisprudence and book reviews.

Price information is available at
<http://journals.cambridge.org/ecl>

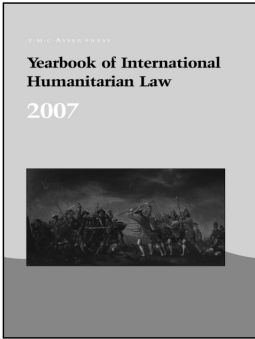
Free email alerts

Keep up-to-date with new material – sign up at
<http://journals.cambridge.org/alerts>

For free online content visit
<http://journals.cambridge.org/ecl>



CAMBRIDGE
UNIVERSITY PRESS



Yearbook of International Humanitarian Law

Marketed and distributed for T.M.C. Asser Press

Yearbook of International Humanitarian Law

Abstracts available online at:
<http://journals.cambridge.org/yhl>

To subscribe contact Customer Services

in Cambridge:

Phone +44 (0)1223 326070
Fax +44 (0)1223 325150
Email journals@cambridge.org

in New York:

Phone +1 (845) 353 7500
Fax +1 (845) 353 4141
Email
subscriptions_newyork@cambridge.org

General Editor

Tim McCormack, University of Melbourne, Australia

Managing Editor

Jann Kleffner, Amsterdam University Law School, The Netherlands

The *Yearbook of International Humanitarian Law* provides a truly international forum for high-quality, peer-reviewed articles, commentaries on current developments, reports on state practice and documentation that have international humanitarian law as their focal point.

Price information is available at:
<http://journals.cambridge.org/yhl>

Free email alerts

Keep up-to-date with new material – sign up at
<http://journals.cambridge.org/alerts>

For free online content visit:
<http://journals.cambridge.org/yhl>



CAMBRIDGE
UNIVERSITY PRESS

NOTES FOR CONTRIBUTORS

Communications concerning Articles (not exceeding 10,000 words, including footnotes) and Shorter Articles (not exceeding 4000 words, including footnotes) should be addressed to the Editor, Professor J. Bell, Faculty of Law, University of Cambridge, 10 West Road, Cambridge CB3 9DZ (clj.editor@law.cam.ac.uk); and those concerning notes (not exceeding 1000 words) to Professor G. J. Virgo, Downing College, Cambridge CB3 1DQ (clj.notes@law.cam.ac.uk).

Books for review should be sent to the Book Review Editor, Mr. J. Rowbottom, Faculty of Law, University of Cambridge, 10 West Road, Cambridge CB3 9DZ (clj.reviews@law.cam.ac.uk).

Notes for Contributors are reproduced at the end of Part 3 of the journal annually. Copies and additional notes are available from the Editor at the above address or at <http://www.law.cam.ac.uk>. Prospective contributors are urged to observe the guidelines carefully.

Copying. This journal is registered with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923. Organisations in the USA who are also registered with CCC may therefore copy material (beyond the limits permitted by sections 107 and 108 of US Copyright law) subject to payment to CCC of the per-copy fee of \$15.00. This consent does not extend to multiple copying for promotional or commercial purposes. Code 0008–1973/2010/5/\$15.00.

ISI Tear Sheet Service, 3501 Market Street, Philadelphia, PA 19104, USA, is authorised to supply single copies of separate articles for private use only.

For all other use, permission should be sought from Cambridge or the American Branch of Cambridge University Press.

Internet access. *The Cambridge Law Journal* is included in the Cambridge Journals Online service which can be found at <http://journals.cambridge.org/>. For further information on other Press titles access <http://www.cambridge.org/>.

This journal issue has been printed on FSC-certified paper and cover board. FSC is an independent, non-governmental, not-for-profit organization established to promote the responsible management of the world's forests. Please see www.fsc.org for information.

BOOK REVIEWS

ALAN BOGG: <i>The Democratic Aspects of Trade Union Recognition</i>	411	BARTOSZ WOJCIECHOWSKI, MAREK ZIRK-SADOWSKI AND MARIUSZ GOLECKI: <i>Multicentrism as an Emerging Paradigm in Legal Theory</i>	417
VERNON BOGDANOR: <i>The New British Constitution</i>	413		
SARAH GREEN AND JOHN RANDALL: <i>The Tort of Conversion</i>	415		
BARTOSZ WOJCIECHOWSKI, MAREK ZIRK-SADOWSKI AND MARIUSZ GOLECKI: <i>Between complexity of Law and Lack of Order: Philosophy of Law in the Era of Globalization</i>	417		

CAMBRIDGE UNIVERSITY PRESS
The Edinburgh Building, Cambridge CB2 8RU, United Kingdom
32 Avenue of the Americas, New York, NY 10013–2473, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia

Printed and bound by Cambridge University Press, UK

THE CAMBRIDGE LAW JOURNAL

July 2010

CASE AND COMMENT

Human rights – statutory duties	<i>Ali v. Birmingham City Council</i>	215
Secondary legislation – anti-terrorism	<i>Ahmed et al v. HM Treasury</i>	217
Anti-discrimination – faith school	<i>R (E) v. Governing Body of JFS</i>	220
Extradition – right to family life	<i>Norris v. Government of the United States of America</i>	223
Extradition – European Arrest Warrant	<i>Symeou v. Public Prosecutor's Office, Patras</i>	225
Tort – causation	<i>Spencer v. Wincanton</i>	228
Contract – battle of the forms	<i>Tekdata Interconnection Ltd v. Amphenol</i>	230
Unjust enrichment – overpaid tax	<i>Test Claimants in the Franked Investment Group Litigation v. Commissioners of the Inland Revenue</i>	
	<i>F J Chalke Ltd v. The Commissioners for Her Majesty's Revenue and Customs</i>	232
Sale of goods – <i>nemo dat</i> rule	<i>Rohit Kulkarni v. Manor Credit (Davenham) Ltd</i>	236
Land – village greens	<i>R (on the application of Lewis) v. Redcar & Cleveland Borough Council</i>	238
Pension trusts – discretionary powers	<i>Independent Trustee Services Ltd v. Hope</i>	240
Conflict of laws – arbitration agreements	<i>National Navigation Co v. Endesa Generacion SA</i>	242
Conflict of laws – foreign copyright jurisdiction	<i>Lucasfilm Ltd v. Ainsworth</i>	245
Competition law – market integration	<i>GlaxoSmithKline v. Commission</i>	248
International law – treaty interpretation	<i>Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua)</i>	250

SHORTER ARTICLE

“Construction” and Rectification after <i>Chartbrook</i> : RICHARD BUXTON	253
---	-----

ARTICLES

No-Fault Compensation on the Roads in 20 th Century Britain: PETER BARTTRIP	263
The Remedial Principle of <i>Keech v. Sandford</i> reconsidered: ANDREW D. HICKS	287
Proportionality and the Public's Sense of Justice: AUSTIN LOVEGROVE	321
The Nature and Domain of Aggravated Damages: JOHN MURPHY	353
Company Law and Free Movement of Capital: WOLF-GEORG RINGE	378

